



May 5, 2017

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Via ECF

REPLY TO MINNEAPOLIS

The Honorable Susan Richard Nelson
U.S. District Judge, United States District Court
774 Federal Building
316 N. Robert Street
St. Paul, MN 55101

Re: ***In Re: National Hockey League Players' Concussion Injury Litigation***
Court File No. 14-2551 (SRN/JSM)

Dear Judge Nelson:

On April 27, 2017, after five months of preparation, the NHL filed, in opposition to Plaintiffs' motion for class certification, 103 total documents, consisting of nearly 7,000 pages, including 19 expert declarations, five "*Daubert*" motions (one on each of Plaintiffs' experts), and two motions for summary judgment arguing that two of the Named Plaintiffs were inadequate class representatives. Defendant's filing is clearly excessive given the already generous word limits applicable to this motion.

Although Plaintiffs recognize the Court's desire to decide class certification as soon as practicable, Plaintiffs cannot possibly depose the NHL's 19 experts, oppose five expert motions *in limine*, obtain rebuttal expert declarations from our own experts, and reply to the NHL's 96-page opposition brief by June 29, 2017.

Given the obvious time required to fairly respond, Plaintiffs propose that the best course to respond to the NHL's massive filing is to *stay* all deadlines regarding: (1) Plaintiffs' reply to the opposition to class certification; (2) depositions of the NHL's 19 experts; (3) Plaintiffs' opposition to 5 *Daubert* motions; (4) Plaintiffs' opposition to two motions for summary judgment; and (5) the date of the class certification hearing. Instead, given the NHL's voluminous filings, we propose that during the stay the parties prepare and try two or three bellwether cases that will aid the Court and the parties in assessing the real issues in play on class certification. For example, bellwether trials will inform the Court of the issues susceptible to common proof, which experts are really necessary to the class certification issues, and will provide the Court a chance to rule on the admissibility of such expert opinions in the proper context. At the same time, it will afford the parties and the Court a better appreciation of the merits of the parties' various claims and defenses.

Plaintiffs believe this proposal will materially advance this litigation and the class certification process at the same time. If the Court is amenable to this proposal, the parties can meet and confer on the selection of bellwether plaintiffs and the creation of a trial schedule.

Very truly yours,

ZIMMERMAN REED LLP

A handwritten signature in black ink, appearing to read "CSZ", with a long horizontal line extending to the right.

Charles S. Zimmerman

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CSZ:lah

cc: All Counsel of Record (*via ECF*)