

NO. CC-16-02729-E

STRIKES FOR KIDS,

Plaintiff,

V.

NATIONAL FOOTBALL LEAGUE,

Defendant.

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IN THE COUNTY COURT

AT LAW NO. _____

OF DALLAS COUNTY, TEXAS

**PLAINTIFF’S ORIGINAL PETITION
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Strikes for Kids, Plaintiff herein, and files this *Plaintiff’s Original Petition and Request for Disclosure* against the National Football League, Defendant herein, and in support thereof, shows the court the following:

I. Discovery Control Plan

1. Pursuant to Rule 190.2 of the Texas Rules of Civil Procedure, Plaintiff requests a Level I discovery control plan.

II. Parties & Service

2. Plaintiff, Strikes for Kids, is a 501(c)(3) nonprofit corporation formed under the laws of the State of California with a principal place of business in Elk Grove, California.

3. Defendant National Football League (“NFL” or “Defendant”) is an unincorporated 501(c)(6) association with two members in the State of Texas and a principal place of business at 345 Park Avenue, New York, New York 10154. Defendant may be served with process by serving the Texas Secretary of State by certified mail at Service of Process, Secretary of State, P.O. Box

12079, Austin, Texas 78711-2079, and the Secretary of State forwarding a copy of the process by certified mail return receipt requested to 345 Park Avenue, New York, New York 10154.

III. Jurisdiction & Venue

4. The subject matter in controversy is within the jurisdictional limits of this Court. Plaintiff seeks only monetary relief of \$100,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

5. This Court has subject matter jurisdiction because Plaintiff seeks an amount of damages within the jurisdictional limits of this Court.

6. Venue in Dallas County is proper pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002(a)(3). The principal office of one of Defendant's members is located in this county.

7. All parties to this matter are subject to the personal jurisdiction of the court by either specific or general personal jurisdiction, and their joinder in this case does not offend traditional notions of fair play and substantial justice. This case results from their activities in the State of Texas or targeting the State of Texas.

IV. Request for Disclosure Pursuant to Rule 194

8. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff requests Defendant to disclose, within fifty (50) days of service of this request, the information and material described in Rule 194.2 of the Texas Rules of Civil Procedure. Plaintiff specifically requests the responding party to produce responsive documents at the undersigned law offices within fifty (50) days of service of this request.

V. Request for Disclosure Pursuant to Rule 190.2(b)(6)

9. Pursuant to Rule 190.2(b)(6) of the Texas Rules of Civil Procedure, Plaintiff requests Defendant to disclose, within fifty (50) days of service of this request, all documents,

electronic information, and tangible items that the Defendant has in its possession, custody, or control and may use to support its claims or defenses. Plaintiff specifically requests the responding party to produce responsive documents at the undersigned law offices within fifty (50) days of service of this request.

VI. Facts

10. Strikes for Kids was founded by Joseph Allen (“Allen”) in 2012. Strikes for Kids is a nonprofit organization that partners with more than 125 NFL players with the goal of benefiting youth organizations and enriching the lives of students in communities across the United States. Strikes for Kids coordinates bowling, golf, and softball events that allows fans, families, and local businesses an opportunity to meet professional athletes while making an impact in the community.

11. In 2015, Strikes for Kids organized “The Second Annual Las Vegas All-Star Classic” (the “charity event”). The charity event was scheduled to have more than twenty-five (25) NFL players participating with the potential of national coverage from ESPN by anchor Kenny Mayne. The event was to have the NFL players bowl alongside representatives from local businesses, fans, families, and more than one hundred kids that had been invited to participate from The Boys & Girls Clubs of Southern Nevada. Since March of 2015, the charity event was set to be held at the Strike Zone, a bowling alley that is a part of the larger Sunset Station Hotel & Casino complex (“Sunset Station”).

12. On June 18, 2015, Allen was contacted by Brook Gardiner (“Gardiner”) from the NFL’s office in New York. It had been brought to Gardiner’s attention that the charity event was to take place within Sunset Station, which apparently caused the NFL some concern.

13. On June 23, 2015, Allen received an email from Gardiner asking for additional information including five questions that needed to be answered in order for Gardiner to make a

decision on whether or not the charity event could continue as planned. In response to these questions, Allen informed Gardiner that the Strike Zone was separated from the casino and a person could enter the Strike Zone without passing the sportsbook or the actual casino floor.

14. Despite providing the requested clarification, the NFL claimed it would be against NFL rules and regulations for NFL players to attend the charity event at the Strike Zone, and that Strikes needed to change the venue of the charity event. Allen informed Gardiner of the overwhelming cost difference and the amount of revenue that would be lost by moving the venue of the charity event, but Gardiner insisted that the charity event needed to be moved or no NFL player would be permitted to participate.

15. Seeing no other option, Strikes for Kids changed the venue for the charity event from the Strike Zone to Brooklyn Bowl, a venue that Gardiner and the NFL found acceptable. The Strike Zone has 72 lanes and is advertised as the largest bowling alley in Las Vegas. In contrast, the Brooklyn Bowl only had 16 lanes available for the charity event. Strikes for Kids was therefore forced to immediately shut down sales as it had already committed all of the available lanes to The Boys & Girls Clubs of Southern Nevada and to its sponsors. Additionally, Strikes for Kids had to give refunds to participants who had paid to bowl with NFL players, but for which the venue could no longer accommodate their attendance. Not only did Strikes for Kids suffer lost revenue because of the last minute change in venue, but Strikes for Kids also could not fulfill its promise to provide the full number of \$100 gift cards to be given to the children of The Boys & Girls Clubs of Southern Nevada, and which is part of Strikes for Kids' charitable purpose.

16. After the charity event, by letter dated July 22, 2015, the NFL and Roger Goodell sent hush money to Strikes for Kids in the form of a \$5,000 check. The letter read, in part: “[o]n behalf of Commissioner Goodell and the National Football League Foundation, enclosed is a check

in the amount of \$5,000 to help support Strikes for Kids' recent Las Vegas All-Star Bowling Classic at Brooklyn Bowl." A true and correct copy of this letter is attached hereto as **Ex. A.**

17. Brooklyn Bowl, the venue that the NFL found acceptable, was a part of The Linq Hotel & Casino complex.

VII. Cause of Action: Fraud

18. Plaintiff repeats and re-alleges the allegations set forth in all preceding paragraphs of this Petition as if fully set forth herein.

19. A defendant commits fraud if (1) a material representation was made; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party thereby suffered injury.

20. The NFL represented that if Strikes for Kids did not move its event from the Strike Zone then NFL players would not be permitted to attend the event. This representation was false. When the representation was made, the NFL knew it was false or made is recklessly without any knowledge of the truth and as a positive assertion. The NFL made the representation with the intent that Strikes should act upon it. Strikes acted in reliance on the representation, and thereby suffered injury.

VIII. Exemplary Damages

21. Plaintiff is entitled to an award of exemplary damages because the NFL committed fraud when it caused the Plaintiff's damages.

IX. Conditions Precedent

22. All conditions precedent to Plaintiff's suit have occurred or have been performed.

X. Jury Demand

23. Plaintiff respectfully asserts the right to a trial by jury under Texas Constitution article 1, § 15, and makes this demand for a jury trial at least thirty (30) days before the date this case is set for trial, in accordance with Texas Rule of Civil Procedure 216.

XI. Prayer

24. WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that:

- a. Defendant be cited to appear and answer;
- b. That the Court empanel a jury to determine any issue of fact, and that upon final hearing of this cause, Plaintiff have judgment against Defendant for:
 - i. Actual damages to be determined by a jury;
 - ii. Judgment against Defendant for exemplary damages as determined at trial on the merits;
 - iii. Pre-judgment and post-judgment interest at the highest rates allowed by law;
 - iv. Court costs; and
- c. Such other and further relief, at law or in equity or by statute, to which Plaintiff may be justly entitled.

Respectfully Submitted,

THE PETTIT LAW FIRM

By: /s/ Julie Pettit

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ATTORNEYS FOR PLAINTIFF

EX. A



July 22, 2015

Mr. Joe Allen
Strikes for Kids
PO Box 581567
Elk Grove, CA 95758

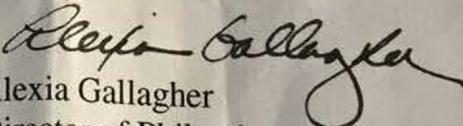
Dear Joe:

On behalf of Commissioner Goodell and the National Football League Foundation, enclosed is a check in the amount of \$5,000 to help support Strikes for Kids' recent Las Vegas All-Star Bowling Classic at Brooklyn Bowl.

We are pleased to hear the event was a great success.

Should you have any questions regarding this contribution, please do not hesitate to contact me directly at 212-450-2030 or Alexia.Gallagher@nfl.com.

Sincerely,


Alexia Gallagher
Director of Philanthropy

Encl.