

1 **GERAGOS & GERAGOS**

2 A PROFESSIONAL CORPORATION
3 LAWYERS
4 HISTORIC ENGINE Co. No. 28
5 644 SOUTH FIGUEROA STREET
6 LOS ANGELES, CALIFORNIA 90017-3411
7 TELEPHONE [REDACTED]
8 FACSIMILE [REDACTED]
9 GERAGOS@GERAGOS.COM

10 **MARK J. GERAGOS** SBN 108325
11 **BEN J. MEISELAS** SBN 277412
12 **TINA GLANDIAN** SBN 251614
13 Attorneys for Claimant **COLIN KAEPERNICK**

14 **IN THE MATTER OF ARBITRATION OF**

15 COLIN KAEPERNICK,
16 CLAIMANT,
17 vs.
18 NATIONAL FOOTBALL LEAGUE, *et al.*,
19 RESPONDENTS.

No.:
**CLAIMANT COLIN
KAEPERNICK'S DEMAND FOR
ARBITRATION**

20 **TO THE NATIONAL FOOTBALL LEAGUE AND ALL 32 TEAMS**

21 **COMPRISING THE LEAGUE:**

22 **PLEASE TAKE NOTICE THAT CLAIMANT COLIN KAEPERNICK** hereby
23 commences an Enforcement Proceeding pursuant to Articles 15 and 17 of the National
24 Football League ("NFL") Collective Bargaining Agreement ("CBA"). CBA Article 17,
25 Section 1 states:

26 No club, its employees or agents shall enter into any agreement, express or
27 implied, with the NFL, or any other Club, its employees, or agents to restrict or
28 limit individual Club decision making as follows:

(i) whether to negotiate or not to negotiate with any player; . . .

(iii) whether to offer or not to offer a Player Contract to any player; . . . or

1 (v) concerning the terms or conditions of employment offered to any player for
2 inclusion, or included in, a Player Contract.

3 CBA Art. 17, § 1.

4 During the 2017 NFL season and continuing to the present, the NFL, by and through
5 all NFL team owners, NFL employees, and team employees, have entered into and enforced,
6 implied and/or express agreements to specifically deprive Claimant Colin Kaepernick from
7 employment in the NFL, as well as from practicing with and/or trying out for NFL teams for
8 which Mr. Kaepernick is eminently qualified. Respondents NFL and NFL Team Owners
9 have colluded to deprive Mr. Kaepernick of employment rights in retaliation for Mr.
10 Kaepernick's leadership and advocacy for equality and social justice and his bringing
11 awareness to peculiar institutions still undermining racial equality in the United States.
12 Further, Respondents have retaliated against Mr. Kaepernick in response to coercion and
13 calculated coordination from the Executive Branch of the United States government. Colin
14 Kaepernick demands the prompt selection of a System Arbitrator pursuant to Article 15 of
15 the CBA, expedited discovery including depositions and document production pursuant to
16 Article 15, and a prompt Article 17 enforcement proceeding.

17
18
19
20 **PLEASE TAKE FURTHER NOTICE THAT** pursuant to the CBA and the Federal
21 Rules of Evidence, you are required by law to preserve all documents, emails, text messages,
22 memoranda, notes, and all other electronically stored information (ESI) which is reasonably
23 calculated to lead to the discovery of admissible evidence in this action. Any deletion of or
24 tampering with evidence shall be deemed willful spoliation and will subject you and your
25 agents to the fullest extent of penalties permitted by law.
26
27
28

1 **I. FACTUAL BACKGROUND**

2 1. After setting numerous athletic records at the University of Nevada, Reno, Mr.
3 Kaepernick began his professional football career in 2011, when he was selected by the San
4 Francisco 49ers during the 2011 NFL draft.

5 2. Mr. Kaepernick quickly rose to the position of starting quarterback for the 49ers in
6 2012.

7 3. Mr. Kaepernick ultimately led his team to the National Football Conference
8 (“NFC”) Championship and to its first Super Bowl in nearly two decades.

9 4. Mr. Kaepernick continued to perform as a top tier quarterback while playing with
10 the 49ers.

11 5. During the 2016 season, following numerous instances of police brutality against
12 minority individuals, Mr. Kaepernick opted not to stand during the national anthem in an
13 effort to raise awareness of racial inequality and minority oppression in the United States
14 through a silent and peaceful protest of a nation that was not living up to its ideals of
15 freedom and equality guarantees to all citizens. In addition to his silent and peaceful
16 expression of protest by kneeling, Mr. Kaepernick also pledged to donate \$1 million of his
17 2016–2017 season salary to support organizations helping communities in need.

18 6. To date, and specifically from the 2016 season through the present, there has been
19 no NFL rule prohibiting players from kneeling during the national anthem. Mr. Kaepernick
20 has a constitutionally protected First Amendment right to engage in a silent and peaceful
21 protest.
22
23
24
25
26
27
28

1 7. Mr. Kaepernick’s actions gained nationwide attention. Numerous other members
2 of the NFL also began kneeling or making comparable gestures in peaceful protest during
3 performances of the national anthem at professional sporting events.

4 8. Mr. Kaepernick became a free agent on or around March 3, 2017. Based on his
5 consistently exceptional career performance, his age, and all other objective metrics, Mr.
6 Kaepernick was an ideal candidate—and, in fact, the best-qualified candidate—to fill the
7 vacant starting quarterback positions on many NFL teams, or at the very least, the numerous
8 vacant backup positions. Goodell himself has been quoted as stating that the NFL is about
9 “meritocracy and opportunity.”
10

11 9. However, during his free agency period, the purportedly “free market”—whose
12 natural function should have resulted in a bidding war (or at least high-level interest) for a
13 quarterback of Mr. Kaepernick’s caliber—instead functioned as a peculiar institution with
14 suspicious design and objective.
15

16 10. NFL teams exhibited unusual and bizarre behavior regarding Mr. Kaepernick’s
17 prospective employment. Multiple NFL head coaches and general managers stated that they
18 wanted to sign Mr. Kaepernick, only to mysteriously go silent with no explanation and no
19 contract offer made to Mr. Kaepernick. Other NFL teams stated they had no interest in Mr.
20 Kaepernick and refused to explain why. NFL teams who ran offensive systems favorable to
21 Mr. Kaepernick’s style of play instead employed retired quarterbacks or quarterbacks who
22 had not played in a regular season game in years, and signed them to significant contracts
23 while prohibiting Mr. Kaepernick from even trying out or interviewing for those jobs.
24

25 11. On or around September 22, 2017, during a campaign rally speech in Alabama,
26
27 President Donald Trump referred to NFL players that knelt during the national anthem, as
28

1 sons of b****es (implying that Mr. Kaepernick was a “son of a b****”) and demanded that
2 NFL teams fire these players. Since then, President Trump and Vice President Mike Pence
3 have posted Tweets and engaged in various public relations stunts designed to retaliate
4 against Mr. Kaepernick and other players that have joined in Kaepernick’s peaceful
5 protest. Following Trump’s September 22, 2017 campaign rally, NFL owners and affiliates
6 feigned concern for players by either kneeling alongside them or joining them in locking
7 arms, and were even featured on the cover of Sports Illustrated Magazine doing the
8 same. However, such conduct by NFL owners proved to be a public relations stunt, designed
9 to appear empathetic to players; in reality, NFL owners threatened players with fines and
10 suspension if they refused to stand for the national anthem in the following weeks.

11
12
13 12. On or around October 10, 2017, NFL Commissioner Goodell announced a
14 proposed NFL rule change requiring players to stand during the national anthem, thereby
15 conceding there was no such prior rule in place.

16
17 13. The owners of Respondent NFL Teams have been quoted describing their
18 communications with President Trump, who has been an organizing force in the collusion
19 among team owners in their conduct towards Mr. Kaepernick and other NFL
20 players. Owners have described the Trump Administration as causing paradigm shifts in
21 their views toward NFL players.

22
23 14. The mere suspicion of collusion against Mr. Kaepernick has risen to the level of
24 concrete and actual collusion. It is no longer a statistical anomaly but instead a statistical
25 impossibility that Mr. Kaepernick has not been employed or permitted to try out for any NFL
26 team since the initiation of his free agency period. NFL General Managers and team leaders
27 have referred to directives from NFL owners to not let Mr. Kaepernick so much as practice
28

1 with a team. In a league that is seventy percent (70%) African American, with not a single
2 African American owner, the NFL and its owners have colluded to deprive Mr. Kaepernick
3 of employment for the purpose of making him an example to other players of the
4 repercussions of challenging the NFL power paradigm, even by peaceful protest. It is with a
5 heavy heart that Mr. Kaepernick submits this Demand for Arbitration, as he has been
6 saddened to confirm the baleful machinations that underlie the professional administration of
7 America's pastime.
8

9 **II. VIOLATION OF COLLECTIVE BARGAINING AGREEMENT—**
10 **ANTI-COLLUSION**

11 15. Claimant Colin Kaepernick incorporates the above-referenced allegations as
12 though set forth fully herein.
13

14 16. Respondent NFL and all 32 constituent Respondent NFL Teams are in violation
15 of the CBA's anti-collusion provisions, as set forth in Article 17.
16

17 17. Article 17 states:

18 No Club, its employees or agents shall enter into any agreement, express or
19 implied, with the NFL or any other Club, its employees or agents to restrict or
20 limit individual Club decision-making as follows:

21 (i) whether to negotiate or not to negotiate with any player; . . .

22 (iii) whether to offer or not to offer a Player Contract to any player; . . . or

23 (v) concerning the terms or conditions of employment offered to any player for
24 inclusion, or included, in a Player Contract.

25 CBA Art. 17, § 1.

26 18. Respondents have engaged in express or implied collusion by prohibiting Mr.
27 Kaepernick from practicing with any team, prohibiting Mr. Kaepernick from trying out with
28 any team, and prohibiting Mr. Kaepernick from being employed by any team despite his

1 qualifications. Respondents have undertaken said collusive conduct in retaliation for Mr.
2 Kaepernick's invocation of his rights under the First Amendment and his leadership in
3 bringing attention to racial inequality and social injustice. Said conduct has been manifest in
4 NFL team owner communications with each other, with the Executive Branch of the United
5 States government, on social media, and through efforts announced by NFL Commissioner
6 Goodell on October 10, 2017 to *nunc pro tunc* enact rules and regulations, not previously on
7 the books, to prohibit and preclude Mr. Kaepernick and other players from kneeling.
8

9 19. Claimant Colin Kaepernick requests all relief permitted by Article 17 of the CBA.
10

11 20. Based on the public statements made by NFL Owners and NFL Commissioner
12 Goodell regarding the foregoing matters, Claimant Colin Kaepernick respectfully requests
13 that the NFL and its team owners waive such confidentiality requirements as may exist under
14 Article 15, Section 10 and permit all proceedings to be presumptively open to the public.
15

16 DATED: October 15, 2017

GERAGOS & GERAGOS, APC

17
18
19 By: /s/ Mark J. Geragos
20 MARK J. GERAGOS
21 BEN J. MEISELAS
22 TINA GLANDIAN
23 Attorneys for Claimant
24 COLIN KAEPERNICK
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 644 South Figueroa Street Los Angeles, California 90017-3411.

On October 15, 2017, I served the foregoing document described as:
CLAIMANT COLIN KAEPERNICK’S DEMAND FOR ARBITRATION on the interested parties listed below:

SEE ATTACHED SERVICE LIST

METHOD OF SERVICE

VIA US MAIL - Placing the envelope for collection and mailing on the date and at our business address following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

VIA FACSIMILE TRANSMISSION – I caused the above described document to be transmitted via electronic facsimile to only those number(s) provided above on October 12, 2017.

VIA PERSONAL SERVICE) - I caused such envelope to be delivered by hand to the offices of the above addressee(s) on October 12, 2017.

VIA EMAIL - I caused the above-described documented to be transmitted via email to only the email(s) provided above on October 12, 2017.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 15, 2017, at Los Angeles, California 90017.

GABY PRECIADO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

1. The National Football League Management Council
345 Park Avenue New York, NY 10154
Attention: Executive Vice President Labor & League Counsel

2. National Football League Players Association
63 Gene Upshaw Place 1133 20th Street, NW
Washington, D.C. 20036
Attention: General Counsel

3. Baltimore Ravens
1 Winning Drive
Owings Mills, Maryland 21117
Attention: President

4. Buffalo Bills
One Bills Drive Orchard Park
New York 14127-2296
Attention: President

5. Cincinnati Bengals
One Paul Brown Stadium
Cincinnati, Ohio 45202-3492
Attention: President

6. Cleveland Browns
76 Lou Groza Blvd.
Berea, Ohio 44017
Attention: President

7. Denver Broncos
13655 Broncos Parkway
Englewood, Colorado 80112
Attention: President

8. Houston Texans
Two NRG Park
Houston, Texas 77054
Attention: President

9. Indianapolis Colts
P.O. Box 535000
Indianapolis, Indiana 46253

- 1 Attention: President
- 2 10. Jacksonville Jaguars
- 3 One EverBank Field Drive
- 4 Jacksonville, Florida 32202
- Attention: President
- 5 11. Kansas City Chiefs
- 6 The University of Kansas Health System Training Complex
- 7 One Arrowhead Drive
- 8 Kansas City, Missouri 64129
- Attention: President
- 9 12. Los Angeles Chargers
- 10 3333 Susan Street
- 11 Costa Mesa, California 92626
- Attention: President
- 12 13. Miami Dolphins
- 13 7500 S.W. 30th Street
- 14 Davie, Florida 33314
- Attention: President
- 15 14. New England Patriots
- 16 Gillette Stadium
- 17 One Patriot Place
- 18 Foxborough, Massachusetts 02035
- Attention: President
- 19 15. New York Jets
- 20 1 Jets Drive
- 21 Florham Park, New Jersey 07932
- Attention: President
- 22 16. Oakland Raiders
- 23 1220 Harbor Bay Parkway
- 24 Alameda, California 94502
- Attention: President
- 25 17. Pittsburgh Steelers
- 26 3400 South Water Street
- 27 Pittsburgh, Pennsylvania 15203
- Attention: President
- 28 18. Tennessee Titans

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

460 Great Circle Road
Nashville, Tennessee 37228
Attention: President

19. Arizona Cardinals
8701 S. Hardy Drive
Tempe, Arizona 85284
Attention: President

20. Atlanta Falcons
4400 Falcon Parkway
Flowery Branch, Georgia 30542
Attention: President

21. Carolina Panthers
800 South Mint Street
Charlotte, North Carolina 28202-1502
Attention: President

22. Chicago Bears
Halas Hall at Conway Park
1920 Football Drive
Lake Forest, Illinois 60045
Attention: President

23. Dallas Cowboys
The Star in Frisco, 1 Cowboys Way
Frisco, Texas 75034
Attention: President

24. Detroit Lions
222 Republic Drive
Allen Park, Michigan 48101
Attention: President

25. Green Bay Packers
Lambeau Field Atrium
1265 Lombardi Avenue
Green Bay, Wisconsin 54304
Attention: President

26. Los Angeles Rams
29899 Agoura Road
Agoura Hills, CA 91301
Attention: President

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 27. Minnesota Vikings
9520 Viking Drive
Eden Prairie, Minnesota 55344
Attention: President
- 28. New Orleans Saints
5800 Airline Drive
Metairie, Louisiana 70003
Attention: President
- 29. New York Giants
Quest Diagnostics Training Center
1925 Giants Drive
East Rutherford, New Jersey 07073
Attention: President
- 30. Philadelphia Eagles
NovaCare Complex
One NovaCare Way
Philadelphia, Pennsylvania 19145
Attention: President
- 31. San Francisco 49ers
4949 Marie P. DeBartolo Way
Santa Clara, California 95054
Attention: President
- 32. Seattle Seahawks
Virginia Mason Athletic Center
12 Seahawks Way
Renton, Washington 98056
Attention: President
- 33. Tampa Bay Buccaneers
One Buccaneer Place
Tampa, Florida 33607
Attention: President
- 34. Washington Redskins
Inova Sports Performance Center at Redskins Park
21300 Redskin Park Drive
Ashburn, Virginia 20147
Attention: President