

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

KEVIN WILLIAMS and PAT WILLIAMS,)	Case No. 08-CV-6255-PAM-JJG
)	
Plaintiffs,)	
)	
v.)	
)	AMENDED COMPLAINT
THE NATIONAL FOOTBALL LEAGUE,)	
JOHN LOMBARDO, M.D., BRIAN FINKLE,)	JURY TRIAL DEMANDED
and ALDOPHO BIRCH,)	
)	
Defendants.)	
_____)	

Kevin Williams and Pat Williams (“Players”), by their attorneys, Crowell & Moring LLP and Fulbright & Jaworski LLP, as and for their Amended Complaint in the above-referenced action, state and allege as follows:

NATURE OF THE ACTION

1. This is an action seeking damages for the harm suffered as a result of the negligence, breach of fiduciary duty, fraud, constructive fraud, negligent misrepresentation, and vicarious liability perpetrated on the Players by the National Football League (“NFL”) and the individual Defendants, all of whom acted, at all relevant times, as representatives and agents of the NFL. The Players seek injunctive relief, compensatory and punitive damages.

THE PARTIES

2. Plaintiff Kevin Williams is a 6-year veteran of the NFL, a husband and a father of two children, and a pillar of his community of Minneapolis, Minnesota, where he resides.

3. Plaintiff Pat Williams is a 12-year veteran of the NFL, a husband and a father of three children, and a pillar of his community of Monroe, Louisiana, where he resides in the off-season, as well as of Minneapolis, Minnesota, where he resides during the NFL season.

4. Defendant NFL is an unincorporated association comprised of the employer member clubs of the NFL, one of which is the Minnesota Vikings, which is located in this district. The NFL derives revenue from the State of Minnesota through, among other things, advertising, ticket sales, merchandizing and broadcasting revenue.

5. Defendant John Lombardo, M.D. is designated as the Independent Administrator of the NFL Policy on Anabolic Steroids and Related Substances (the "Program"). Dr. Lombardo assumed a position of trust with all parties involved with the Program, creating fiduciary duties and obligations. In fact, Dr. Lombardo was selected by, answers to and is controlled by, the NFL and, as alleged below, as a matter of course provides information about the Program to the NFL while excluding the National Football League Players Association ("NFLPA") from receipt of such information, even when the information relates to the health and safety of the players and the integrity of the Program. Dr. Lombardo owed to all parties to the Program fiduciary duties and obligations, including duties of fair dealing, fair disclosure and avoidance of conflicts of interest.

6. Defendant Brian Finkle is the Consulting Forensic Toxicologist to the Program and, upon information and belief, is a resident of the State of Utah. Defendant Finkle assumed a position of trust with all parties involved with the Program, creating fiduciary duties and obligations. Like Dr. Lombardo, the NFL selected Defendant Finkle for his position in the Program and his position depends upon the continuing approval of the NFL. Defendant Finkle owed to all parties to the Program fiduciary duties and obligations, including duties of fair dealing, fair disclosure and avoidance of conflicts of interest.

7. Defendant Adolpho Birch is the Vice President of Law and Labor Policy at the NFL, is a resident, upon information and belief, of the State of New York, and works, literally,

within several yards of Jeff Pash, the Hearing Officer who rendered the suspension of the Players and within the same proximity to Roger Goodell, the Commissioner of the NFL. Defendant Birch owed to all parties to the Program fiduciary duties and obligations, including duties of fair dealing, fair disclosure and avoidance of conflicts of interest.

FACTUAL BACKGROUND

8. The Program was designed to protect the integrity of the game of football and to protect the health and safety of its players.

9. The NFL and individual Defendants have wantonly ignored the two basic tenets of the Program and, as a result, the Players have suffered irreparable injury to their reputations and livelihood, and are threatened with continuing and future injury if the Defendants are not enjoined from taking the threatened actions described below.

10. The NFL, on December 2, 2008, suspended at least two of its players, Plaintiffs Kevin Williams and Pat Williams, despite its acknowledgment that neither Player testified positive for anabolic steroids, knowingly ingested any substance banned by the Program, or ever tested positive for anabolic steroids during their long and productive years in the NFL despite frequent and random drug testing. The NFL rationalized the decision by stating that it is enforcing a strict liability standard imposed by the terms of the Program.

11. The NFL has unfairly and wrongfully compromised the Players' reputations, their place in the community, the compensation they have spent years building towards and the opportunity for their Team to be successful during the 2008 NFL season, based upon a series of circumstances that included an unexplained and irrational cover-up by top NFL executives that was certain to entrap and otherwise compromise NFL players, as well as to jeopardize the Players' health and welfare.

12. Actions by top NFL officials included as follows:

(a) As early as 2006, the “Independent Administrator” in charge of the Program, Defendant Lombardo, learned that: (1) several NFL players were using a product called StarCaps as a weight-loss aid; (2) StarCaps was advertised as having only “natural ingredients”; (3) StarCaps in fact contained a controlled substance, Bumetanide; and (4) detection of Bumetanide in a player being tested under the Program would yield a positive result for a banned substance, thereby subjecting the Player to suspension.

(b) By sometime in late 2006, the NFL had confirmed that: (1) StarCaps contained Bumetanide; (2) Bumetanide presented a potentially “acute” medical threat to any person unwittingly ingesting the substance; and (3) the issue was sufficiently dangerous that the NFL encouraged a more thorough scientific review of the situation, which confirmed the presence of Bumetanide in StarCaps and resulted in a top NFL lawyer, Defendant Birch, undertaking the responsibility to warn the Food & Drug Administration (“FDA”) of the presence of Bumetanide in StarCaps while overtly discouraging a scientist involved in the scientific review from making the disclosure.

(c) Notwithstanding the above, the NFL did not (1) warn NFL players, Teams, the NFLPA or anyone else associated with the NFL, with the possible exception of other top ranking NFL executives, and perhaps Commissioner Goodell (although Defendant Birch has refused to disclose whether he did or did not inform Commissioner Goodell) of the presence of Bumetanide in StarCaps; or

(2) alert the FDA of the presence of Bumetanide in StarCaps despite Defendant Birch undertaking the responsibility to do so.

(d) More concerned about the commercial aspect of the NFL than the health and safety of the players and the integrity of the Program, the NFL, in December 2006, circulated a memorandum barring NFL personnel from endorsing products manufactured by Balanced Health Products, the manufacturer of StarCaps, but did not warn players – or anyone else – that StarCaps contained Bumetanide, nor did the NFL release a specific advisory, as it does from time to time, warning players not to use StarCaps.

(e) Upon information and belief, although the December 2006 memorandum about Balanced Health Products may have been forwarded to the NFLPA, it was not distributed to the Teams, or at least Team trainers, and was not directly distributed to any NFL players.

13. The NFL, as with all sports organizations, has been increasingly scrutinized by, among others, public officials regarding the use of banned substances, and most especially anabolic steroids. The failure to warn players of the content of StarCaps can only rationally be explained in this context. The instant suspensions provide the NFL with a politically palatable solution to convincing public officials that the League is seriously policing the use of steroids.

14. The NFL, in a very public way, has now shown public officials that the NFL will not make any exceptions for violations of the Program. This political message was accomplished at the expense of brandishing the Players, among others, as being “violators” of the Program. But the “violators” were not users of anabolic steroids, and thus the NFL has been able to deliver its political message without providing any evidence that football players in fact

“cheat” to enhance performance to public officials who are warning the NFL of greater outside regulation and scrutiny.

15. Neither Plaintiff has ever taken anabolic steroids. Neither Plaintiff has ever masked or otherwise diluted a urine sample taken as part of the administration of the Program in order to disguise the use of any substance. Neither Plaintiff has ever violated the Program.

16. Neither Plaintiff would have used StarCaps had the NFL disclosed to players that the product contained a banned substance or that its label and advertising was erroneous.

17. Both Players suffer from medical conditions that could have been exacerbated by the ingestion of Bumetanide.

18. Each Plaintiff made good faith efforts to abide by the Program’s rules and regulations and each Plaintiff knew or had reason to know that the NFL outlets for information, including its Supplement “hotline” telephone line, were essentially useless.

19. NFL officials have stated that, without Bumetanide, the use of StarCaps would not violate the Program.

NEED FOR EXIGENT INJUNCTIVE RELIEF

20. The Program’s random testing disclosed that, on July 26, 2008, both Plaintiffs had in their system a banned substance, Bumetanide. The testing also revealed that neither Plaintiff had any trace of an anabolic steroid or showed any sign of diluting their urine samples or masking any other substance.

21. Over four months later, the NFL upheld a suspension barring each Plaintiff from participating in four NFL games, from practicing, or from collecting their salaries. Moreover, suspension under the Program would have precluded inclusion on the NFL Pro Bowl team and each Plaintiff’s contract contains bonus clauses triggered by being selected to the Pro Bowl team.

22. The NFL actions, moreover, severely compromise the Players' reputations and standing in the community. Despite the fact that the administration of the Program is supposed to remain confidential, the NFL proposed the four-game suspension in late September and early October, and, within hours of that recommendation, news of the NFL's proposed action was broadcast throughout the world on sports channels such as NFL Network and ESPN.

23. With only four regular season games remaining and in the middle of a battle to make the playoffs for the first time since the 2004 season, the NFL, notwithstanding its own complicity in the current situation, threatened the success of the Minnesota Vikings Football Team, the financial success of the City of Minneapolis as well as surrounding cities and towns, and the general enjoyment of Vikings' fans throughout this region and the country.

COUNT I

(Injunctive Relief)

24. Paragraphs 1 through 23 are incorporated herein and made a part of this claim.

25. The Players have demonstrated a likelihood of ultimate success on the merits based on the allegations set forth herein.

26. The Players will suffer irreparable injury if the injunctive relief sought is withheld or lifted.

27. The sanctions that would be imposed on the Players by the NFL's December 2, 2008 decision, which was to take effect immediately, would cause the Players substantial irreparable injury that could not be remedied with monetary compensation. The NFL's decision to bar the Players from participating in four NFL games, from practicing, attending team and individual meetings, training at the Minnesota Vikings' practice facility, spending anytime at the Minnesota Vikings' practice facility, communicating with teammates or members of the coaching staff, attending team functions, attending Minnesota Vikings' games as a spectator and

from collecting their salaries would cause the Players not only to lose their weekly wages but also to miss one of the most competitive seasons of their short professional careers. This would impact the Player's sports records and impact their eventual ability to be inducted into the Professional Football Hall of Fame.

28. Suspension under the Program would have precluded the Players from being included in the NFL Pro Bowl team, an all-star football team that is a prestigious honor. The opportunity to "make-up" the time lost is not an option. The Players would simply never have the ability to participate in these lost games and practices again. Moreover, being selected for the NFL Pro Bowl has significant implications for Kevin Williams' compensation under his current contract that could not be recuperated.

29. The Players' contracts also contain bonus clauses that would necessarily be affected by punishment wielded by the Defendants. The monetary losses due to compromising the acceleration and bonus clauses cannot be accurately calculated for purposes of an injunction because of the snowball effect the NFL's suspension would have on the reputations, earning potential, and NFL standing of the Players. The games, including the Pro Bowl, once forgone can never be recovered.

30. The NFL's actions severely compromise the Plaintiffs' reputations and standing in their community, among their fellow athletes, and in the public.

31. Despite the fact that the administration of the Program is supposed to remain confidential, the NFL proposed the four-game suspension in late September and early October, and, within hours of that recommendation, news of the NFL's proposed action was broadcast throughout the country. Moreover, the NFL's own press release, as well as the hundreds of spin-off reports by the mass media, makes clear that the Players were suspended for violating the

NFL's "anti-doping policy" without any substantive provision to assure that it is clear and undisputed that the Players did not use steroids or otherwise try to ingest banned substances. The Player's reputations are irreparably being smeared.

32. The Players' playoff season was also placed in jeopardy, since the suspensions threatened the success of the Minnesota Vikings Football Team's chances to qualify for the 2008 playoffs.

33. The financial success of the City of Minneapolis as well as surrounding cities and towns, and the general enjoyment of Vikings' fans throughout the country is at jeopardy.

34. The balance of the equities tips in favor of the Players rather than the Defendants.

35. The Players are the only parties who have and will continue to suffer from the NFL's proposed suspension. Their reputations are forever tainted and their career paths may be irreparably altered.

36. The relief herein sought would cause minimal hardship to the NFL because it receives no benefit from the suspension. Moreover, even if the NFL were to prevail on the merits in this action, which it will not, it can always move forward and institute the suspension at the resolution of this case. The relief sought herein only seeks to maintain the *status quo*, and provide the Players with the opportunity to defend their good names and expose the bad acts of the NFL.

COUNT II

(Breach of Fiduciary Duty) (Against the NFL, Lombardo, Finkle and Birch)

37. Paragraphs 1 through 36 are incorporated herein and made a part of this claim.

38. Individual Defendants, as professionals with a heightened knowledge and expertise, and a relationship of trust with the Players who relied on the doctors' and the lawyer's

and the NFL's expertise in establishing, maintaining and administering the Program, have a fiduciary duty to the Players, which encompasses a duty to act honestly, openly, fairly, and in the best interests of the Players.

39. By failing to disclose the fact that StarCaps contains Bumetanide, needlessly exposing the Players to the harsh sanctions of the Program and potential acute physical suffering, and continuing to withhold the true information about the ingredients in StarCaps, Defendants intentionally, knowingly and in bad faith breached their fiduciary duties to the Players.

40. In committing their breach of fiduciary duty as alleged herein, Defendants acted with reckless disregard for their duties and responsibilities, in conscious disregard for the Player's interests, and with malice and oppression so as to justify an award of punitive damages.

41. As a result of the bad faith breach of the Defendants' fiduciary duties, the Players will suffer compensatory damages in excess of \$10,000,000.

42. As a result of the bad faith breach of the Defendants' fiduciary duties, the Players have suffered and will suffer continuing damage to their reputation and ability to make a living.

COUNT III

(Aiding and Abetting Breach of Fiduciary Duty) (Against the NFL)

43. Paragraphs 1 through 42 are incorporated herein and made a part of this claim.

44. Defendants Lombardo, Finkle and Birch owed a fiduciary duty to the Players as alleged above. By failing to inform the Players of the known risks associated with StarCaps, failing to exercise proper management and control over medical information released to the Players, and deliberately misleading the Players as to the NFL's goal to protect NFL players' health, Defendants Lombardo, Finkle and Birch breached their fiduciary duties to the Players.

45. By knowingly endorsing the misrepresentations and omissions of Defendants Lombardo, Finkle and Birch and knowingly failing to protect against potential harm to Players, the NFL actively participated in, assisted in, and also had actual knowledge of, the other Defendants' breaches of their fiduciary duties to the Players.

46. By knowingly failing to protect against these misdeeds, the NFL actively participated in, assisted in, and also had actual knowledge of the breaches of fiduciary duties to the Plaintiffs by Lombardo, Finkle and Birch.

47. As a result of the other Defendants' breaches of their fiduciary duties as alleged herein, and the NFL's acts and omissions in aiding and abetting these breaches, the Players have suffered damages in an exact amount to be determined at trial.

48. In aiding and abetting the other Defendants' breaches of their fiduciary duties to the Plaintiffs as alleged herein, the NFL acted in reckless disregard for the truth, in conscious disregard for the Players' rights and with malice and oppression so as to justify an award of punitive damages.

COUNT IV

(Violation of Public Policy) (Against the NFL)

49. Paragraphs 1 through 48 are incorporated herein and made a part of this claim.

50. Defendant NFL's recent decision to punish the Players for violations of the Program, where the Players were only in violation of the Program as a direct result of the Defendants' breach of their fiduciary duties to the Players, has the effect of sanctioning Defendants' breach of fiduciary duty. Defendant NFL's sanction of the breach of fiduciary duty owed by the individual Defendants to Players is in direct violation of the public policy of Minnesota.

51. In fact, Defendant NFL's sanctioning of the individual Defendants' breach of fiduciary duty operates to grant the individual Defendants unwarranted protection for their actions and to create an opportunity for fiduciaries to operate in a duty-free zone. Such sanctioning by the NFL is in direct contravention of the longstanding public policy of the State of Minnesota.

52. As a result, the Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial and damage to their reputation in an amount to be determined at trial.

COUNT V

(Fraud)

(Against the NFL, Lombardo, Finkle and Birch)

53. Paragraphs 1 through 52 are incorporated herein and made a part of this claim.

54. In making public statements during the period of 2006-2008 to players, agents, teams in the NFL – and the general public – the NFL stated that the goal of the NFL's Program was to “protect the health and well being of the NFL players.” These statements were knowingly and intentionally false.

55. When making these misrepresentations, the Defendants knowingly and intentionally pursued and attempted to solidify a public appearance of non-tolerance for use of anabolic steroids. This unstated goal to set an example of unwitting NFL players for public appearance purposes resulted in draconian and inflexible enforcement of the Program. The Defendants had actual and certain knowledge that NFL players were in fact using StarCaps and that such use could result in a violation of the Program, as well as serious physical harm. The Defendants omitted to make that crucial knowledge available to the Players.

56. The resulting inflexible enforcement of the Program caused the Players harm.

57. The NFL and the individual Defendants knowingly omitted relevant and necessary health information from the Players while continuing the appearance of a “strict liability policy” irrespective of actual steroid use.

58. The Players reasonably relied upon the statements referenced herein as well as the purported integrity of the Defendants.

59. The Players reasonably relied on these misrepresentations and omissions when they reviewed and assessed the information available to them before making the decision to take StarCaps.

60. The Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial, and damage to their reputation in an amount to be determined at trial.

61. In committing their fraud as alleged, Defendants acted in reckless disregard for the truth, in conscious disregard for the Players’ rights, and with malice and oppression so as to justify an award of punitive damages.

COUNT VI

**(Constructive Fraud)
(Against the NFL, Lombardo, Finkle and Birch)**

62. Paragraphs 1 through 61 are incorporated herein and made a part of this claim.

63. As a result of their duties and responsibilities to the Players, among others, the individual Defendants had a duty to convey to the Players the information about the hidden contents of the product StarCaps.

64. The individual Defendants knowingly failed to reveal the true contents of StarCaps, and, notwithstanding, continued to make the false statement that the Program was designed and being administered to protect the health and safety of all NFL players.

65. Specifically, the Defendants had a duty to disclose the information it learned about the secret inclusion of Bumetanide in StarCaps to the Players because the NFL had superior knowledge of the inclusion of that banned substance in a product that the NFL was aware a significant number of the players were taking.

66. All NFL players, including the Players, relied upon the representations and purported goals of the NFL and its executives, including the individual Defendants, about the Program and its administration. The Defendants made material misrepresentations of an existing fact with knowledge of the falsity of their statements and material omissions.

67. By upholding the punishment against the Players, despite the breach of the NFL's own duties and obligations, and despite the NFL being in possession of material information that could have prevented the Players from ingesting a substance that not only resulted in Players' alleged non-compliance with the Program but put their health and welfare in danger, the NFL has sanctioned the breach of duties by the individual Defendants, violated its own duties and obligations, and acted in a manner inconsistent with public policy of the State of Minnesota.

68. The Defendants' failure to disclose the fact that StarCaps contains Bumetanide for two years after it became aware of the information materially affected the Players' actions. Disclosure would have prevented the Players from taking StarCaps altogether.

69. In committing their fraud as alleged, Defendants acted in reckless disregard for the truth, in conscious disregard for Plaintiffs' rights, and with malice and oppression.

COUNT VII

(Negligent Misrepresentation) (Against the NFL, Lombardo, Finkle and Birch)

70. Paragraphs 1 through 69 are incorporated herein and made a part of this claim.

71. The NFL was in a unique position in its relationship with the Players. The NFL had material information that could have helped the Players to comply with the terms of the contract all parties had agreed to. The NFL had knowledge and independent scientific confirmation of the material information for nearly two years without disclosing it to the football community or to the American public.

72. In its Memorandum dated December 2006, the NFL advised players that they were prohibited from endorsing products manufactured by Balanced Health Products, the manufacturer of StarCaps.

73. The NFL continued to advise players of banned substances and alert players when products joined the banned substances list as it had done in the past during the two years between the time the NFL learned that StarCaps contains Bumetanide and the present.

74. The NFL never advised the Players, or anyone in the football community who might have alerted the Players, that StarCaps contains Bumetanide and that taking the product could result in non-compliance with the Program.

75. The NFL was aware that the Players needed the secret information about the true ingredients of StarCaps in order to maintain compliance with the Program and to avoid serious health risks. The NFL was aware that Players would not and did not have access to the information that StarCaps contains Bumetanide through any other source.

76. Had the NFL disclosed the fact that StarCaps contains a banned substance that could result in non-compliance with the Program at any time during the past two years, or had the Players become aware of that information independently, the Players would have stopped taking StarCaps immediately.

77. The Players reasonably relied on the information disclosed by Balanced Health Products, the manufacturer of StarCaps, about the ingredients in StarCaps.

78. The Players reasonably relied on the NFL to share and disseminate information that would have a material impact on the Players' ability to comply with the Program.

79. As a result, the Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial and damage to their reputation in an amount to be determined at trial.

COUNT VIII

(Negligence)

(Against the NFL, Lombardo, Finkle and Birch)

80. Paragraphs 1 through 79 are incorporated herein and made a part of this claim.

81. Defendants had duties and obligations to the Players.

82. Defendants by their negligence breached their duties and obligations to the Players.

83. As a result, the Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial and damage to their reputation in an amount to be determined at trial.

COUNT IV

(For Gross Negligence)

(Against the NFL, Lombardo, Finkle and Birch)

84. Paragraphs 1 through 83 are incorporated herein and made a part of this claim.

85. By the Defendants' failure and/or refusal to release critical medical information to the Players regarding StarCaps, despite knowledge that StarCaps could result in an unwitting violation of the Program and could cause potential physical harm to the Players, Defendants

acted with reckless and deliberate disregard constituting gross negligence of Players' rights as members of the NFL.

86. As a result, the Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial and damage to their reputation in an amount to be determined at trial.

COUNT X
(Intentional Inflict of Emotion Distress)
(Against the NFL, Lombardo, Finkle and Birch)

87. Paragraphs 1 through 86 are incorporated herein and made a part of this claim.

88. At all times relevant to this litigation, Defendants NFL, Lombardo, Finkle and Birch engaged in conduct that was extreme and outrageous.

89. The conduct in which Defendants NFL, Lombardo, Finkle and Birch engaged was intentional or reckless.

90. The conduct of Defendants NFL, Lombardo, Finkle and Birch caused the Players severe emotional distress.

91. As a result, the Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial and damage to their reputation in an amount to be determined at trial.

COUNT XI
(Vicarious Liability/Respondeat Superior)
(Against the NFL)

92. Paragraphs 1 through 91 are incorporated herein and made a part of this claim.

93. At all times relevant to this litigation, Defendants Lombardo, Finkle and Birch were agents or employees of the NFL acting within the scope of their employment by, or responsibilities to, Defendant NFL and in the furtherance of Defendants' business. As

Defendants Lombardo, Finkle and Birch's employer or nominal employer, Defendant NFL is responsible for the individual Defendants' actions and responsibilities within the scope of their employment and/or responsibilities.

94. As a result of Defendants Lombardo, Finkle and Birch's torts within the scope of their employment with, or responsibilities to, Defendant NFL as alleged above, Players have suffered and will continue to suffer compensatory damages in excess of \$10,000,000.

COUNT XII

(Violation of Minnesota Drug and Alcohol Testing in the Workplace Act) (Against the NFL, Lombardo, Finkle and Birch)

95. Paragraphs 1 through 94 are incorporated herein and made a part of this claim.

96. The Defendants have violated the Minnesota Drug and Alcohol Testing in the Workplace Act.

97. The Players have certain rights and remedies pursuant to the Minnesota Drug and Alcohol Testing in the Workplace Act.

98. Defendants have violated the Players' substantive and procedural rights under the Minnesota Drug and Alcohol Testing in the Workplace Act.

99. Defendants' violations of the Minnesota Drug and Alcohol Testing in the Workplace Act were knowing and reckless.

100. As a result, the Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial, reputation damage in an exact amount to be determined at trial, and attorneys' fees in this matter.

COUNT XIII

(Violation of Minn.Stat. § 181.938) (Against the NFL, Lombardo, Finkle and Birch)

101. Paragraphs 1 through 100 are incorporated herein and made a part of this claim.

102. For purposes of Minn.Stat. § 181.938, the Players are employees of the NFL.

103. The Players consumed StarCaps, which the Players justifiably believed to be a lawful consumable product, during non-work hours.

104. The Defendants have attempted to take disciplinary action against the Players for the Players' consumption of StarCaps, in violation of Minn.Stat. § 181.938.

105. As a result, the Players have suffered compensatory damages in excess of \$10,000,000, in an exact amount to be determined at trial, and reputation damage in an exact amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, the Players respectfully pray the Court to grant them judgment for the following relief:

1. Compensatory damages;
2. Punitive damages;
3. Injunctive relief; and
4. Such other relief as the Court deems just and proper.

Dated: January 2, 2009

CROWELL & MORING LLP

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