

White v. National Football League, 822 F.Supp. 1389 (D. Minn. 1993)

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White v. National Football League,

822 F.SUPP. 1389 (D. MINN. 1993).

Introduction

Several National Football League players filed timely objections to a settlement agreement between plaintiffs (White) and defendants (National Football League). The objectors alleged that the plaintiffs did not adequately represent their interests and that various provisions of the settlement agreement violated antitrust laws. The United States District Court for the District of Minnesota overruled all objections and held that the settlement agreement was fair, reasonable, and adequate to the entire class.

Facts

The relevant facts in this case are best understood in light of the much publicized case, *McNeil v. National Football League*.¹ Freeman McNeil was a professional football player for the New York Jets. He and seven other football players, whose contracts expired on February 1, 1990, brought a class action suit against the National Football League (“NFL”) alleging that the NFL’s right of first refusal/compensation component of Plan B violated Section 1 of the Sherman Antitrust Act.² On February 1, 1989, the NFL, without the consent of the National Football League Players Association (“NFLPA”), had imposed a new system of player restraints called “Plan B.” One component to Plan B controlled the system of free agency within the NFL. Under this component, unsigned veteran players who received offers from other NFL teams were subject to a right of first refusal by their current employers. Additionally, if a player did eventually sign with another NFL team, then that team was required to compensate the former team by giving it two first round draft picks. The *McNeil* plaintiffs claimed that the magnitude of this compensation scheme inhibited NFL teams from actively pursuing free agents and effectively restricted a player’s movements and the amount of compensation to which he would otherwise be entitled.

After a ten week trial, the jury returned a special verdict regarding the NFL’s right of first refusal/compensation system under Plan B. The jury found that the rules in Plan B: 1) had a substantially harmful effect on competition for the services of professional football players; 2) significantly contributed to “competitive balance” in the NFL; 3) were more restrictive than reasonably necessary in order to achieve “competitive balance” in the NFL; and 4) were the

1. *McNeil v. National Football League*, 1992 LEXIS 21561 (D. Minn. 1992).

2. 15 U.S.C. § 1 (1988).

direct result of the plaintiff's economic injury.³ The jury, however, only awarded damages to four of the eight *McNeil* plaintiffs. One theory as to why the jury only awarded monetary damages to four of the eight plaintiffs was the jury's reluctance to compensate already highly paid, successful athletes.

Less than two weeks after the jury verdict in *McNeil*, Reggie White and four other plaintiffs brought a class action suit and sought to bar the NFL from imposing the right of first refusal/compensation system on any veteran football player whose contract was set to expire on February 1, 1993. However, before the district court entered final judgment in the *McNeil* case, the *White* plaintiffs reached a tentative settlement agreement. On January 6, 1993, the *White* plaintiffs and the NFL entered into a Stipulation and Settlement Agreement which, *inter alia*, brought an end to the present litigation. The substance of the agreement provided that any NFL player with five or more years of experience, whose contract had expired, would be allowed to negotiate with any NFL team as an unrestricted free agent during an annual "signing period" which would run from approximately March 1st to August 15th.⁴

On February 26, 1993, the district court granted preliminary approval of the settlement agreement and set a final approval hearing for April 16, 1993. Various players, one NFL team, and one player agent filed motions objecting to the terms of the Stipulation and Settlement Agreement. The objectors did not believe that the *White* plaintiffs adequately represented their interests and did not believe that the settlement provisions were fair to all players. The objectors believed they could receive more compensation by litigating claims of antitrust violations individually, rather than through a class action settlement negotiation.

Legal Analysis

Initially, in order to determine whether the Stipulation and Settlement Agreement was acceptable, the district court employed the two-stage process from the Manual for Complex Litigation.⁵ According to the manual, a court must determine: 1) whether the settlement is "within the range of possible approval" and 2) whether adequate notice and time was given to class members to file objections prior to the final approval hearing. On February 26, 1993, the district court determined that the proposed settlement fell within the range of possible approval and granted preliminary approval. Consequently, the district court set April 16, 1993, as the date for final approval.

The district court then determined whether adequate notice and time was given to the class members. According to *Grunin v. International House of Pancakes*, the actual procedure of the notice processes are left to the court, subject only to standards of reasonableness.⁶ The court noted that the objectors had nearly five weeks from February 26, 1993, the date of preliminary approval, to

3. *McNeil*, 1992 Lexis 21561 at *1-2.

4. *White v. National Football League*, 822 F. Supp. 1389, 1403 (D. Minn. 1993).

5. MANUAL FOR COMPLEX LITIGATION, §§ 30.44 at 241-42 (2d ed. 1985).

6. *Grunin v. International House of Pancakes*, 513 F.2d 114 (8th Cir. 1987).

April 2, 1993, the date of the deadline, to file an objection. Additionally, on March 8, 1993, the plaintiffs published a notice of the Stipulation and Settlement Agreement in the USA today. This publication gave objectors nearly four weeks to file an objection. Finally, on March 12, 1993, plaintiffs mailed a notice of the class action settlement to all class members. This notice gave objectors three weeks to file an objection. These procedures alone sufficed to give all class members adequate notice of the Stipulation and Settlement Agreement. However, in February, 1993, the plaintiffs mailed information concerning the settlement agreement to 670 player agents, who represented over 95% of all players. Also, on March 1, 1993, the plaintiffs conducted a seminar concerning the settlement agreement with approximately 175 agents. Lastly, due to intense media coverage, nearly every major newspaper printed portions of the settlement agreement. Based on the following reasons, the district court held that adequate notice was given to class members.

Next, the District Court determined the standard for evaluating the Stipulation and Settlement Agreement. Although voluntary settlement agreements are strongly encouraged by the federal courts, Federal Rule of Civil Procedure 23(e) prohibits settlements of class action lawsuits without court approval. According to the holding in *Van Horn v. Trickey*, the primary responsibility of the court is ensure that the settlement is "fair, reasonable, and adequate."⁷ Several factors determine whether a settlement agreement is fair, reasonable, and adequate. These factors include: 1) the strength of the plaintiffs' case balanced against the benefit to the class members from the settlement; 2) the opinions of the participants; 3) the complexity, expense, and duration of continued litigation; 4) the extent of discovery completed at the time of this proceeding; 5) any evidence of fraud or collusion; and, 6) the plan for distributing settlement proceeds to the class members.⁸

With regard to the first factor, the District Court stated that although the plaintiffs had a strong case in that the jury in the *McNeil* case found defendants liable for the improper imposition of the right of first refusal/compensation system under Plan B, the NFL indicated their intent to appeal. An appeal would cause both great expense and delay for the *White* plaintiffs. Also, because the *McNeil* case only litigated the right of first refusal/compensation component of Plan B, the plaintiffs would have to prove the defendant's liability concerning the other components of Plan B, namely the college draft and the NFL's pre-season pay policies. Assuming that the plaintiffs could also establish liability for these components, the plaintiffs would still have difficulty proving damages. This difficulty was reflected in the *McNeil* case, where the jury awarded monetary damages to only four of the eight named plaintiffs. All of these factors diminished the strength of the plaintiffs' case.

The court then looked at the benefits that the class members received from the settlement. Free agency enables a veteran football player to offer his talents to

7. *Van Horn v. Trickey*, 840 F.2d 604, 606 (8th Cir. 1988).

8. *Holden v. Burlington Northern, Inc.*, 665 F. Supp. 1398, 1407 (D. Minn. 1987).

the team with the highest contract offer, rather than choosing between accepting an inequitable contract from his current football team or holding out until he receives a better contract. Theoretically, if a veteran football player was eligible for free agency, then another football team could make him an offer. However, the economic consequences of Plan B inhibited most NFL teams from choosing this course. The court, however, found that the settlement provided the class members a radically modified free agency system for veteran players. For example, players previously restricted under Plan B were subject to both the right of first refusal and compensation of two first round draft picks. Under the proposed settlement, most players would only be subject to a right of first refusal. At worst, players would be subject to the right of first refusal and compensation of only one first round draft pick. The savings realized by restricting a free agent to only one draft pick would encourage more NFL teams to enter into the free agency market. Also, players would become eligible for free agency after five years experience. Additionally, owners would have to tender substantially higher offers in order to restrict a player's mobility. Under the current "Franchise Player" rules, in order to restrict an unsigned free agent, an owner's offer would have to equal the average of the salaries of the top five highest paid players at that position.

In addition, the class members would be entitled to monetary damages of \$115 million dollars. Each class member would receive an average settlement of \$100,000. This average was nearly twenty-five times higher than the average share class members received in a similar lawsuit.⁹ Based on the numerous benefits which class members would receive under the Stipulation and Settlement Agreement, and the uncertainty of plaintiffs' success if litigation continued, the district court determined that the proposal was fair, reasonable, and adequate.

The court also found that over 98% of class members as well as class counsel supported the proposed settlement. Also, the district court found that this settlement was the product of an arm's length transaction, negotiated in good faith, by experienced attorneys. Lastly, the court determined that the allocation of settlement funds were fair and reasonable. The allocation formula was based on a point system. Players who negotiated contracts after being restricted under Plan B received more points than players who negotiated contracts before being restricted.

Finally, the court addressed the objectors concerns that the proposed settlement violated antitrust laws. According to *Grunin*, unless the provisions of a proposed settlement agreement are *per se* violations of antitrust laws, a court should approve the settlement.¹⁰ The District Court then concluded that absent a full trial on the merits of the case, it was unlikely that the settlement *per se* violated any antitrust laws.

9. *Alexander v. National Football League, 1977-2 Trade Cas. (CCH), 1977 WL 1497, at *18-19 (D. Minn. 1977).*

10. *Grunin, supra note 6, at 124.*

1993]

WHITE v. NFL

143

Conclusion

Having found the Stipulation and Settlement agreement to be fair, reasonable, and adequate, the district court overruled all objections to the settlement and gave its final approval to the settlement. Thus, the settlement provided a modified free agency system for veteran football players as well as settlement payments averaging roughly \$100,000 per class member.

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