

A Less Perfect Union

By Reg P. Wydeven
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When I was in college, my buddies and I would ease the stress of term papers and finals by playing the “Madden NFL Football” video game on my roommate’s Sega Genesis. I wasn’t very good at the game overall, but I hardly ever lost. The reason? Barry Sanders.

Each of us had permanent dibs on one team. I always played with the Detroit Lions, and no one could stop Barry Sanders. I would make Barry use so many spin and juke moves in the game he would have gotten motion sickness in real life. I would have over 400 rushing yards and 0 passing yards.

I would still win when my buddies would play with Madden’s greatest players of all-time team. Not even Lawrence Taylor, Dick Butkus and Ronnie Lott could stop Barry.

Madden Football was awesome because it was the only place you could pit former greats against modern stars. The former greats, however, weren’t quite as enthused.

In fact, former Green Bay Packer and Hall of Famer Herb Adderly initiated a class-action lawsuit on behalf of 2,062 retired players against the NFL Players Association. Filed more than two years ago in federal court in San Francisco, the lawsuit alleged that the union ignored contracts that provided for payments to retired players for the use of their images in products such as video games, trading cards and sports apparel.

The two-week trial did not address the highly-publicized dispute between retired players and the union regarding pension, disability and medical benefits. In addition, the judge instituted a gag order that prohibited the parties from discussing the case.

The smoking shotgun in this case was a 2001 letter uncovered by former players from a union executive that directed Electronic Arts Inc., the manufacturer of Madden NFL Football, to scramble images of retired players to avoid having to pay them royalties from sales of the game.

The trial’s 10-member jury returned a unanimous verdict in favor of the retirees, ordering the NFL Players Association to pay them \$28.1 million in damages for violating the contracts, which amounts to about \$13,000 per player. The jury awarded \$7.1 million in actual damages and \$21 million in punitive damages. The judge and the lawyers must still decide how to divide the payment, including attorneys’ fees.

The jury found the union to be guilty of certain counts that included such phrases as “malicious and oppressive conduct with evil motive,” and “conduct that was outrageous and grossly fraudulent.”

Representatives for the union will purportedly request the judge to overturn the jury’s verdict. If the judge denies the request, the union intends to appeal the decision.

Many of the players feel this decision paves the way for Congress to explore their allegations of the union’s wrongful denials of benefits. Some players have even lobbied in Washington for a federal investigation into how the union and league treat former players.

I may start a union for retired Madden NFL players.