

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

PRO-FOOTBALL, INC.,

Plaintiff,

v.

AMANDA BLACKHORSE, MARCUS
BRIGGS-CLOUD, PHILLIP GOVER,
JILLIAN PAPPAN and COURTNEY
TSOTIGH,

Defendants.

Civil Action No.: 1:14-cv-1043-GBL-IDD

**DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION
FOR PARTIAL SUMMARY JUDGMENT ON COUNTS 1, 2, AND 7**

Jesse A. Witten (*pro hac vice*)
Jeffrey J. Lopez (VA Bar No. 51058)
Adam Scott Kunz (VA Bar No. 84073)
Tore T. DeBella (VA Bar No. 82037)
Jennifer T. Criss (VA Bar No. 86143)
DRINKER BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005-1209
Telephone: (202) 842-8800
Facsimile: (202) 842-8465
Jesse.Witten@dbbr.com
Jeffrey.Lopez@dbbr.com
Adam.Kunz@dbbr.com
Tore.DeBella@dbbr.com
Jennifer.Criss@dbbr.com

*Counsel for Defendants Amanda Blackhorse,
Marcus Briggs-Cloud, Phillip Gover, Jillian
Pappan and Courtney Tsotigh*

TABLE OF CONTENTS

INTRODUCTION.....1

PROCEDURAL BACKGROUND3

THE *BLACKHORSE* RECORD AND SUPPLEMENTATION.....4

MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE.....5

 A. PFI Adopted The Current Team Name In 1933 To Avoid Confusion With
 The Boston Braves Baseball Team, Not To Honor Native Americans.5

 B. Dictionaries, Reference Works, Other Written Sources, and Native
 Americans Expressly Recognize the Disparaging Nature Of The Term
 “Redskin.”6

 1. Dictionaries6

 2. Other Written Sources.....7

 3. Native Americans Have Experienced The Slur.9

 C. Evidence Of Usage Reveals The Negative Connotations Of “Redskin.”10

 1. “Redskin” Is More Closely Associated With Negative
 Modifiers Than Positive Modifiers.10

 2. In *Harjo*, Dr. Nunberg Demonstrated That “Redskin” Was
 Not Used In Late 20th Century Newspapers To Refer To
 Native Americans, Indicating That It Is A Disparaging
 Term.12

 D. Plaintiff’s Expert Lexicographer Admitted That As Of 1967, 1975 and
 1985, “Redskin” “Certainly Might Be Offensive.”14

 E. Native American Individuals And Organizations Have Long Understood
 “Redskin” As A Slur And Have Opposed Plaintiff’s Team Name.....15

 1. At Haskell Institute in 1962, “Almost All the Students
 Resent[ed] Being Called Redskins.”15

 2. In 1972, A “Delegation of American Indian Leaders” From
 The National Congress of American Indians And Other
 Organizations Met With The PFI President To Demand A
 Change In Team Name.16

 3. Native American Groups and Individuals Continued to
 Oppose The Team’s Name And The Term “Redskin” as
 Offensive.20

 F. A 1996 Survey Showed That A Majority Of Native Americans Found The
 Term “Redskins” To Be Offensive To Themselves Or Others.....25

G. PFI Has Used The “Redskins” Team Name And The Marks In Ways That Mock Native Americans.27

LEGAL STANDARD29

ARGUMENT30

I. THE TTAB DID NOT ERR IN FINDING THAT THE MARKS CONTAIN MATTER THAT “MAY DISPARAGE” NATIVE AMERICANS OR THAT BRING THEM INTO CONTEMPT OR DISREPUTE. THEREFORE, DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT ON COUNTS 1 AND 2.....30

A. There Is No Genuine Issue Of Material Fact That The Trademarks Contain Matter That “May Disparage.”31

1. Section 2(a) Does Not Require Proof of Actual Disparagement or Bad Intent, But Rather Only That the Term “*May*” Disparage the Target Group.31

2. The Record Evidence Clearly Demonstrates That the Term “Redskins” May Disparage Native Americans.....32

a. “Redskins,” as Used in the Marks, Refers to Native Americans.33

b. The Term “Redskins” Is One That May Disparage Native Americans.....34

B. There Is No Genuine Issue Of Material Fact That The Trademarks Contain Matter That Bring Native Americans Into “Contempt Or Disrepute.”36

II. DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT ON COUNT 7.....37

A. Laches Does Not Apply Because Of The Public Interests At Stake.....37

B. Defendants Did Not Unreasonably Delay In Petitioning The TTAB.....37

C. PFI Can Not Prove Prejudice From Any Delay.....38

CONCLUSION39

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Anderson v. Liberty Lobby, Inc.</i> , 477 U.S. 242 (1986).....	31
<i>Blackhorse v. Pro-Football, Inc.</i> , No. 92046185, 2014 WL 2757516 (T.T.A.B. 2014)	<i>passim</i>
<i>Bonds v. Leavitt</i> , 629 F.3d 369 (4th Cir. 2011)	31
<i>Brittingham v. Jenkins</i> , 914 F.2d 447 (4th Cir. 1990)	38
<i>In re Geller</i> , 751 F.3d 1355 (Fed. Cir. 2014), <i>cert. denied</i> , No. 14-175, 2015 WL 132962 (U.S. Jan. 12, 2015)	31, 33, 37
<i>Glynn v. EDO Corp.</i> , 710 F.3d 209 (4th Cir. 2013)	31
<i>Harjo v. Pro-Football, Inc.</i> , 284 F. Supp. 2d 96 (D.D.C. 2003).....	33, 35
<i>Harjo v. Pro-Football, Inc.</i> 415 F.3d 44 (D.C. Cir. 2005).....	38, 39
<i>Harjo v Pro-Football, Inc.</i> , 50 U.S.P.Q.2d 1705, 1999 WL 375907 (T.T.A.B. 1999).....	<i>passim</i>
<i>Harjo v. Pro-Football, Inc.</i> , 565 F.3d 880 (D.C. Cir. 2009).....	38
<i>In re Heeb Media, LLC</i> , No. 78558043, 2008 WL 5065114 (T.T.A.B. 2008)	<i>passim</i>
<i>In re Lebanese Arak Corp.</i> , No. 77072261, 2010 WL 766488 (T.T.A.B. 2010)	32, 34
<i>In re McGinley</i> , 660 F.2d 481 (C.C.P.A. 1981)	35, 40
<i>Ray Commc'ns, Inc. v. Clear Channel Commc'ns, Inc.</i> , 673 F.3d 294 (4th Cir. 2012)	39

Resorts of Pinehurst, Inc. v. Pinehurst Nat’l Corp.,
148 F.3d 417 (4th Cir. 1998)38

Ritchie v. Simpson,
170 F.3d 1092 (Fed Cir. 1999).....35

Sara Lee Corp. v. Kayser-Roth Corp.,
81 F.3d 455 (4th Cir. 1996)38

In re Squaw Valley Dev. Corp.,
Nos. 76511144, 76511145, 2006 WL 1546500 (T.T.A.B. 2006).....32, 35, 37

Swatch AG v. Beehive Wholesale, LLC,
739 F.3d 150 (4th Cir. 2014)4, 5

In re Tam,
No. 85472044, 2013 WL 5498164 (T.T.A.B. 2013)32, 34, 35, 37

Tisch Hotels, Inc. v. Americana Inn, Inc.,
350 F.2d 609 (7th Cir. 1965)39

STATUTES, RULES & REGULATIONS

15 U.S.C. § 1052(a) (Lanham Act § 2(a)) *passim*

15 U.S.C. § 1064.....3

15 U.S.C. § 1071(b)4, 5

Fed. R. Civ. P. 56(a)31

Fed. R. Civ. P. 56(c)31

Lanham Act, § 2(a)3, 32, 33, 35

OTHER AUTHORITIES

H. Rep. No. 2283 (77th Cong. 2d Sess.) (June 25, 1942).....33

Hearings before the Comm. on Patents, House of Representatives, 78th Cong., 1st
Sess. (Apr. 7-8, 1943)33

Hearings before the Subcomm. of the Comm. on Patents, 78th Cong., 2d Sess.
(Nov. 15-16, 1944).....33

House of Representatives, 76th Cong. 1st Sess. (March 28, 29 and 30, 1939)33

House of Representatives, 77th Cong., 1st Sess. (Nov. 4, 12, 13 and 14, 1941).....33

INTRODUCTION

On June 18, 2014, the Trademark Trial and Appeal Board (“TTAB”) ruled that six trademark registrations of Plaintiff Pro-Football, Inc. (“PFI”) should be cancelled. PFI is the owner of the Washington NFL football team, and Defendants are five Native American individuals who petitioned the TTAB to cancel the registrations.

The TTAB found that the trademarks contain matter that “may disparage” Native Americans or bring them into contempt or disrepute, and that the registrations were therefore issued in violation of 15 U.S.C. § 1052(a). *See Blackhorse v. Pro-Football, Inc.*, No. 92046185, 2014 WL 2757516 (T.T.A.B. 2014); 15 U.S.C. § 1052(a) (trademarks containing matter that “may disparage” persons are not eligible for registration). The matter that may disparage is the term “redskin,” which is an ethnic slur of Native Americans.

In finding that the trademarks “may disparage,” the TTAB relied upon dictionaries and other reference sources stating that “redskin” is a slur term, *id.* at *12-14, *25-26; the fact that “redskin” on its face refers to the real or imagined skin color of Native Americans, *id.* at *25; continuous opposition to the team’s name by the National Congress of American Indians (“NCAI”) (the oldest and largest national Native American organization) and the American Indian Movement (“AIM”) (an activist Indian advocacy organization), *id.* at *17-21, *26-27; a data compilation by expert linguist Dr. Geoffrey Nunberg showing that “redskin” is never used in late twentieth century newspapers as a neutral term to refer to Native Americans, *id.* at *15-16, *26; and an admission by PFI’s expert lexicographer that from 1967-85 the term “redskin” “certainly might be offensive,” *id.* at *17.

In this proceeding, Defendants have supplemented the record with additional evidence that the trademarks contain matter that “may disparage” Native Americans, establishing the

following: (1) in 1962, “almost all the students at Haskell Institute resent[ed] being called redskins” (at the time, Haskell was a post-secondary vocational school for American Indians, with 1,000 students); (2) the NCAI, AIM, and other diverse Indian organizations found common ground to fight the team name and met with PFI’s President in 1972 to demand that PFI change the team name; (3) in 1972, the University of Utah dropped the name “Redskins” due to concern that the term was offensive; (4) further efforts by NCAI over decades to bring about a change in PFI’s team name; (5) declarations from prominent Native Americans regarding their own experiences with “redskin” used as a slur, their understanding of the term, and the basis for their understanding; and (6) an additional data analysis by Dr. Nunberg demonstrating the negative connotations of “redskin.”

The evidence establishes that there is no genuine issue of material fact that PFI’s trademarks contain matter that *may disparage* Native Americans. Using the framework of analysis employed by the TTAB and the Federal Circuit in cases under 15 U.S.C. § 1052(a), there is no genuine issue of material fact that the trademarks contain matter that may be viewed as disparaging by a “substantial composite” of Native Americans.

Furthermore, there is no genuine issue of material fact that the TTAB did not err in its alternative ruling that the trademarks bring Native Americans into contempt or disrepute.

Finally, PFI’s argument that the TTAB erred by not dismissing Defendants’ petition due to laches has no merit. Laches does not apply because the petition raised issues of broad public interest, Defendants did not unreasonably delay in bringing their petition, and PFI cannot demonstrate reliance on any unreasonable delay.

For these reasons, the Court should grant summary judgment to Defendants on Counts 1, 2, and 7.

PROCEDURAL BACKGROUND

PFI owns the Washington NFL football team. Between 1967 and 1990, the United States Patent and Trademark Office (“USPTO”) granted PFI’s applications to register six trademarks that contain “Redskins” or a derivation of that term. One registration was issued in 1967, three were issued in 1974, one in 1978, and an additional one in 1990. [Dkt. 1] ¶ 21.

In August 2006, pursuant to 15 U.S.C. § 1064, five Native Americans – Amanda Blackhorse, Marcus Briggs-Cloud, Phillip Gover, Jillian Pappan and Courtney Tsotigh¹ (the Defendants in this case) – petitioned the TTAB to cancel PFI’s registrations. [Dkt. 1] ¶ 20. They sought cancellation on grounds that PFI’s marks contain matter (specifically the term “Redskins” or derivation of “Redskins”) that “may disparage” Native Americans or bring them into contempt or disrepute and were therefore ineligible for registration under 15 U.S.C. § 1052(a), Section 2(a) of the Lanham Act.

On June 18, 2014, the TTAB granted the petition to cancel PFI’s six trademark registrations, finding that the marks contain matter that both “may disparage” Native Americans and bring them into contempt or disrepute. [Dkt. 1] ¶ 33; *see Blackhorse v. Pro-Football, Inc.*, 2014 WL 2757156 (T.T.A.B. 2014).

The TTAB’s decision in *Blackhorse* was the second time that the TTAB had granted a petition to cancel PFI’s trademark registrations. Previously, in 1992, Suzan Shown Harjo and six other Native Americans petitioned the TTAB to cancel the registrations. [Dkt. 1] ¶ 16. In 1999, the TTAB granted the *Harjo* petition to cancel, also on grounds that the marks contain matter that “may disparage” Native Americans or bring them into contempt or disrepute. [Dkt. 1] ¶ 17;

¹ Ms. Blackhorse is a member of the Navajo Nation; Mr. Briggs-Cloud is a member of the Muscogee Nation of Florida; Mr. Gover is a member of the Paiute Indian Tribe of Utah; Ms. Pappan is a member of the Omaha Tribe of Macy, Nebraska; and Ms. Tsotigh is a member of the Kiowa Tribe of Oklahoma. [Dkt. 51].

Harjo v Pro-Football, Inc., 50 U.S.P.Q.2d 1705, 1999 WL 375907, at *48 (T.T.A.B. 1999). PFI appealed to the District Court for the District of Columbia, which held that the TTAB's decision was not supported by substantial evidence and that the TTAB erred in not dismissing the *Harjo* petition due to laches. After two trips to the D.C. Circuit, the decision was affirmed only as to laches. The federal proceedings in *Harjo* did not conclude until 2009. [Dkt. 1] ¶¶ 16-19, 24-26. Thus, the *Blackhorse* petition was filed in August 2006 while *Harjo* was on appeal to the federal courts; however, the TTAB suspended action in *Blackhorse* until after the *Harjo* federal litigation proceedings concluded. *Id.* ¶¶ 20-23.

On August 14, 2014, PFI filed this action under 15 U.S.C. § 1071(b) seeking to overturn the TTAB's June 18, 2014 decision. A § 1071(b) action is a new civil action in which the parties may introduce new evidence to supplement the record created during the TTAB proceeding. *See Swatch AG v. Beehive Wholesale, LLC*, 739 F.3d 150, 156 (4th Cir. 2014).

PFI alleges that the TTAB erred in granting the *Blackhorse* petition. Counts 1 and 2 allege that the TTAB erred in finding that its marks contain matter that "may disparage" Native Americans or bring them into contempt or disrepute. Counts 3 through 6 assert Constitutional arguments. Count 7 alleges that the TTAB erred in failing to dismiss the *Blackhorse* petition on grounds of laches.

Defendants request partial summary judgment on Counts 1, 2, and 7. PFI has moved for partial summary judgment on Counts 3-6, its Constitutional arguments, *see* [Dkt. 54], and Defendants will oppose that motion and cross-move for summary judgment on those Counts in accordance with the Court's briefing schedule, *see* [Dkt. 53].

THE BLACKHORSE RECORD AND SUPPLEMENTATION

In the *Blackhorse* TTAB proceeding, the parties agreed that, with certain exceptions, the

Harjo TTAB record would serve as the *Blackhorse* TTAB record. [Dkt. 1] ¶ 28. In addition, the parties agreed to waive all non-relevance evidentiary objections as to the evidence in the *Harjo* record (except as to evidence the TTAB ruled inadmissible in *Harjo*). See Ex. A Declaration Of Jennifer T. Criss In Support Of Defendants' Motion For Partial Summary Judgment On Counts 1, 2, and 7 ("Criss Decl.") Ex. 2.

Pursuant to 15 U.S.C. § 1071(b)(3), this Court is to review the TTAB's decision *de novo* based on the TTAB *Blackhorse* record as well as any additional evidence that the parties introduce. See [Dkt. 37]; *Swatch*, 739 F.3d at 156.

Defendants support their motion for summary judgment with excerpts from the *Blackhorse* TTAB record and supplemental evidence. Evidence from the *Blackhorse* TTAB record is identified as such in the Declaration of Jennifer T. Criss.

MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE

A. PFI Adopted The Current Team Name In 1933 To Avoid Confusion With The Boston Braves Baseball Team, Not To Honor Native Americans.

1. PFI's first year in the NFL was 1932, when the team played in Boston and was known as the Boston Braves. At the time, there was also a Boston Braves professional baseball team (now the Atlanta Braves), and PFI played at Braves Field, the home of the baseball team. In 1933, PFI's owner, George Preston Marshall, changed the football team's name to "Boston Redskins," and moved the team to Fenway Park, home to the Boston Red Sox. [Dkt. 1] ¶ 34; Criss Decl. Ex. 3 at Request Nos. 1, 2.

2. Marshall changed the name from "Braves" to "Redskins" in order "to distinguish it from the professional baseball team," Boston Braves. [Dkt. 1] ¶ 34. Marshall explained at the time that he was changing the name to avoid confusion with the baseball team and not because of any Native Americans associated with the team: "The fact that we have in our head coach, Lone

Star Dietz, an Indian, together with several Indian players, has not, as may be suspected, inspired me to select the name Redskins.” Criss Decl. Ex. 4. As a 1972 game program explained, when Marshall “switched playing sites, he wanted to change names but keep the Indian motif. Since he was now sharing a park with the Red Sox and at the same time liked Harvard’s crimson jerseys, Redskins seemed appropriate.” Criss Decl. Ex. 5. In 1937, Marshall moved the team to Washington. [Dkt. 1] ¶ 34.

B. Dictionaries, Reference Works, Other Written Sources, and Native Americans Expressly Recognize the Disparaging Nature Of The Term “Redskin.”

1. Dictionaries

3. Many dictionaries – dating back to 1898 – contain usage labels indicating that “redskin” is an offensive, contemptuous or disparaging way to refer to Native Americans:

- *Webster’s Collegiate Dictionary* (1898): “often contemptuous.”
- *The Random House Dictionary of the English Language* (1966): “Often Offensive.”
- *Thorndike-Barnhart Intermediate Dictionary* (1974): “a term often considered offensive.”
- *Oxford American Dictionary* (1980): “contemptuous.”
- *The American Heritage Dictionary of the English Language* (1982): “Offensive Slang.”
- *Webster’s Ninth New Collegiate Dictionary* (1983): “usu[ally] taken to be offensive.”
- *Merriam-Webster Collegiate Dictionary* (1983): “usu[ally] taken to be offensive.”
- *Collier’s Dictionary* (1986): “considered offensive.”

Criss Decl. Exs. 6-11; Ex. 12 at 23:18-26:11; Ex. 14 at 143:13-25, 183:15-184:16; Ex. 13 at 11.

4. These dictionaries were published either before or during the period in which PFI obtained its registrations. Furthermore, the parties’ expert linguists, Dr. Geoffrey Nunberg for

Defendants and Ronald Butters for Plaintiff, agree that dictionaries tend to lag in updating usage labels for ethnic slurs. Criss Decl. Ex. 15 at 56:18-57:7, 216:24-218:1; Ex. 16 at 56-57; Ex. 17 at 146:13-147:4.

2. Other Written Sources.

5. Numerous scholarly articles, newspaper articles and other written sources recognize that “redskin” is a disparaging term.

6. For instance, a 1962 article in *The American Journal of Sociology* published by the University of Chicago Press identified “redskin” as an “ethnophaulism,” a “racial or ethnic group derogatory nickname for another.” The article gives examples of such derogatory names used by one group to refer to another: “whites call Negroes ‘niggers,’” “the Spanish-speaking are called ‘spics,’” “Gentiles call Jews ‘Yids,’” and “[w]hites call Indians ‘redskins.’” Criss Decl. Ex. 18 at 442 (emphasis added).

7. Similarly, the sociologist Irving Lewis Allen has written a well-regarded scholarly book that cites “redskin” as an example of an ethnic slur. In his book, *Unkind Words: Ethnic Labeling From Redskin to WASP* (1990), Allen identified “redskin” as a “slur-name” and a “racial epithet” – and used “Redskin” in the book’s title as an example of a slur. Criss Decl. Ex. 19 at 3, 18. Plaintiff’s expert linguist, Ronald Butters, described Allen as “an authoritative sociologist who is respected within the general field of ethnic labeling” and Butters testified that *Unkind Words* “certainly is a respected source.” Criss Decl. Ex. 17 at 141:7-143:21.

8. Additional scholarly works and written sources describing “redskin” as a disparaging epithet include:

- *Encyclopedia Britannica* (1911) at 452 (“Other popular terms for the American Indians which have more or less currency are ‘red race,’ ‘Red man,’ ‘Redskin,’ *the last not in such good repute* as the corresponding German *Routhäute*, or French *Peaux-rouges*, which have scientific standing.”).

- Alden Vaughan, “From White Man to Redskin: Changing Anglo-American Perceptions of the American Indian,” *American Historical Review* (October 1982) at 942, 949 (“redskins” is an “epithet.”).
- Haig Bosmajian, Defining the ‘American Indian’: A Case Study in the Language of Suppression, in *Exploring Language*, G. Goshgarian, Ed. (1983) at 295 (“Our language includes various phrases and words which relegate the Indian to an inferior status,” including “Redskins”).
- Robert Keller, “Hostile Language: Bias in Historical Writing About American Indian Resistance,” *Journal of American Culture* (1986) at 15 (providing “redskin” as an example of “deprecatory language.”).
- Michigan Civil Rights Commission Report, “Use of Nicknames, Logos and Mascots Depicting Native American People in Michigan Education Institutions” (1988) at 45, 91 (“Redskins” assigns an “inferior status,” and is a “blatantly stereotypic name.”)
- Jay Coakley, *Sport in Society: Issues and Controversies* (1990) at 206 (“The use of the name Redskins cannot be justified under any conditions. To many native Americans, redskin is as derogatory as ‘nigger’ is for black Americans.”).
- Robert Jensen, “Banning ‘Redskins’ From the Sports Page: The Ethics and Politics of Native American Nicknames,” *Journal of Mass Media Ethics* (1994) at 21 (“redskin” is “derogatory name,” a “racist term that has been used against an oppressed group”).

Criss Decl. Exs. 20-26.

9. Another scholarly essay reflecting the slur nature of “redskin” is a famous 1939 article by literary critic Philip Rahv, entitled *Paleface and Redskin*. Rahv divided American writers into two groups: “redskins” and “palefaces,” doing so in a way that demonstrates the wild, primitive connotations of “redskins.” According to Rahv, paleface writers are erudite and intellectual, whereas “redskin” writers are “low-brow,” “primarily emotional, spontaneous and lacking in personal culture,” with a “habitual hostility to ideas.” Rahv further bemoaned that “[a]t present, the redskins are in command of the situation, and literary life in America has seldom been so deficient in intellectual power.” Criss Decl. Ex. 27 at 2, 4.

10. In addition, many newspaper articles between 1967 and 1990 mention or reflect the fact that “redskin” is a disparaging term to refer to Native Americans. For example, a 1972

article in *The Washington Star* discussing the controversy over the team's name contrasted the slur, "redskin," with the neutral term, "Indian": "Of course, the names and symbols differ. They range from the name Indian all the way to Redmen and Redskins, and the symbols go from strong and gallant caricatures, to silly war-whooping idiots." Criss Decl. Ex. 28.

11. Other editorials, columns and articles expressing the understanding that "redskin" is an ethnic slur were published between 1967 and 1990 in, among other places, *The Washington Post*, *The Baltimore Evening Sun*, *The Chicago Tribune*, *The Wall Street Journal*, and *Sports Illustrated*. See, e.g., Criss Decl. Ex. 29-55. One writer noted that the name of the Washington team was "the most glaring example" of a one-dimensional caricature of Native Americans as "savage warmonger[s]." Criss Decl. Ex. 35. A repeated observation was that the team name should shock the conscience just as much as it would to name a team after a disparaging term for any other ethnic group, and that "Redskins" was the most offensive name still in use. See Criss Decl. Exs. 30, 43, 48.

3. Native Americans Have Experienced The Slur.

12. Native Americans attest to what the dictionaries and other reference sources declare – that "redskin" is a slur term. Attached as Exhibits B-E are Declarations of four prominent Native Americans – Raymond Apodaca (former VP of the National Congress of American Indians (NCAI) and Governor of his pueblo), Leon Cook (former NCAI President and former Council Member and Tribal Administrator of his tribe), Kevin Gover (prominent attorney, former Director of the Bureau of Indian Affairs, and Executive Director since 2007 of the Smithsonian National Museum of the American Indian), and Suzan Shown Harjo (former NCAI Executive Director and recipient of the Presidential Medal of Freedom) – averring their understanding that "redskin" is a slur term and recounting their experiences being called a "redskin" as a slur. See Ex. B, Apodaca Decl. ¶ 4-7; Ex. C, Cook Decl. ¶ 4; Ex. D, Gover Decl.

¶ 5; Ex. E, Harjo Decl. ¶¶ 5, 19. Mr. Apodaca was told at a bus stop in Lubbock, Texas, that he must eat his lunch outside and not at the lunch counter because he was a “redskin.” Ex. B, Apodaca Decl. ¶ 15. Mr. Gover was called a “dirty redskin” on the playground in elementary school and a “redskin” on the football field by members of opposing teams in order to bully him. Ex. D, Gover Decl. ¶ 5. Growing up in rural Oklahoma, Ms. Harjo was called a “redskin” as an insult dozens of times, at the same time that “No Indians or Dogs Allowed” signs were posted in stores near where she lived. Ex. E, Harjo Decl. ¶¶ 5-6.

C. Evidence Of Usage Reveals The Negative Connotations Of “Redskin.”

1. “Redskin” Is More Closely Associated With Negative Modifiers Than Positive Modifiers.

13. “Redskin” is not a synonym used interchangeably with “Indian,” but rather a term correlated with negative stereotypes of Native Americans. Expert linguist, Geoffrey Nunberg, Ph.D.,² studied the connotations of the term “redskin.” A word’s connotations are the associations—positive, negative or otherwise—that accompany a word beyond the word’s literal meaning. His study revealed that “redskin” has negative connotations when compared with the neutral term “Indian.”

14. Dr. Nunberg compared the relative frequencies with which “redskin” and “Indian” were modified by negative or positive terms. For this study, Dr. Nunberg used the newspaperarchive.com database, which includes records from 6,200 newspapers, drawn from

² Dr. Nunberg is an Adjunct Full Professor at the School of Information at the University of California at Berkeley. He was previously a Consulting Professor of Linguistics at Stanford University and a principal scientist at the Xerox Palo Alto Research Center, a usage editor for the *American Heritage Dictionary*, and was the Chair of the usage panel of that dictionary. His areas of specialization include Lexical Semantics (the study of the use of words) and Lexicography (the study of dictionaries and the procedures involved in producing dictionaries). He has also done work in Computational Linguistics and, in particular, in the use of techniques of information retrieval with regard to large-scale text databases, and has published numerous articles in the field of linguistics. Criss Decl. Ex. 15 at 10:4-12:18; Ex. 56 at 1-15.

every state, from the colonial era to the present. Dr. Nunberg queried the archive from 1920 until 1979 to determine how frequently various positive and negative terms were used to modify either “redskin” or “Indian.” Since throughout that period “Indian” was used much more frequently than “redskin” in the database, Dr. Nunberg focused not on the absolute numbers of uses of each word, but rather on how the ratio of uses of “Indian” and “redskin” varied based on whether Native Americans were being discussed in positive or negative ways. Criss Decl. Ex. 15 at 82:16-84:25, 224:11-225:6; Ex. 16 at 8-11.

15. The following table shows the results of Dr. Nunberg’s queries:

Table 1: Ratio of *Indian* to *redskin* in selected linguistic contexts, newspaperarchive.com

Linguistic context	Modifying <i>redskin</i>	Modifying <i>Indian</i>	Ratio
___ princess	4	5403	1350.8
friendly	16	4628	289.3
contemporary	7	1598	228.3
loyal, *faithful	2.5	265	106.0
*courageous, brave	1.5	154	102.7
hostile	79	3042	38.5
marauding	39	1104	28.3
savage	69	1849	26.8
treacherous	6	133	22.2
bloodthirsty	17	332	19.5
screaming, yelling, shrieking, whooping	10	195	19.5
murderous	9	100	11.1
thieving	5	42	8.4
crafty, wily	58	233	4.0
noble	92	332	3.6
___bit the dust	85	52	0.6
Pesky, infernal	50	22	0.44

*No actual hits for redskin in this period.³

Criss Decl. Ex. 15 at 82:16-84:25, 224:11-225:6; Ex. 16 at 10; Ex. 57 at 10.

16. Dr. Nunberg's work demonstrates that "redskin" carries negative connotations. The Indian-to-Redskin ratio is much higher when positive modifiers are used than when negative modifiers are used. Thus, if a negative modifier like "pesky, infernal, '___ bit the dust,' thieving, murderous, screaming, yelling, shrieking, whooping, treacherous, save, marauding and hostile" is used, it is more likely that a Native American will be referred to as "redskin" instead of "Indian" than if a positive modifier like "___ princess, friendly, loyal, faithful, courageous and brave" is used. In contrast, the reverse is true for positive modifiers. For every "friendly redskin," there are 289 references to "friendly Indian," but for every "pesky/infernal/crafty/wily redskin" there are only 2.3 references to "pesky/infernal/crafty/wily Indian." This means that the probability that an author will choose "redskin" over "Indian" is 125 times greater ($289 \div 2.3$) if the word is modified by "pesky/infernal/crafty/wily" than if the word is modified by "friendly."⁴

2. In *Harjo*, Dr. Nunberg Demonstrated That "Redskin" Was Not Used In Late 20th Century Newspapers To Refer To Native Americans, Indicating That It Is A Disparaging Term.

17. As an expert in *Harjo*, in 1996, Dr. Nunberg queried a Dialog database (a tool on which he relied at that time in the ordinary course of his work as a linguist, with a billion words of text and containing the text of 60 newspapers dating from 1982) to evaluate the use of the

³ "The ratios for *courageous* and for *faithful* are lower limits. These terms do not in fact occur with *redskin* in this period. The ratios given are based on an assignment of 0.5 to non-occurring terms and their comparators for purposes of calculation (i.e., a ratio of 71 to 0 is entered as 71.5 to 0.5). This is a standard work-around in such cases." Criss Decl. Ex. 16 at 10.

⁴ The modifier "noble" was used with "redskin" with similar relative frequency as negative modifiers. Dr. Nunberg explained that "noble redskin" is used as a subtype of the stereotypical "noble savage:" either a stock figure representing naïve wisdom, or an object of derision where "noble" is only applied ironically. Criss Decl. Ex. 16 at 38-40.

term “redskin” in newspapers. Criss Decl. Ex. 58 at 305:6-305:20, 314:22-315:4. Dr. Nunberg’s research demonstrated that newspaper writers avoid the word redskin(s) because it is not a neutral term, but is a pejorative term.

18. After filtering out articles about the football team and redskin potatoes, Nunberg’s research uncovered a mere 71 stories in which “redskin(s)” was used in reference to American Indians. *Id.* at 306:22-307:8. This numerical result is significant in and of itself. The finding of only 71 articles using “redskin(s)” to refer to American Indians, compared with 74,000 instances of “American Indian(s)” and 73,000 instances of “Native American(s),” means that “redskin(s)” is very rarely used in newspapers to refer to Native American individuals or groups. *Id.* at 307:12-308:2. There were also over one million instances in the database of “Indian” (although that figure also includes references to individuals from the Asian subcontinent). *Id.* at 308:3-308:11. Thus, the data show that writers in newspapers intentionally avoid using the term “redskin,” opting instead for “Indian,” “American Indian,” or “Native American.” *Id.* at 307:12-308:11.

19. Furthermore, none of the 71 articles involved the use of “redskin(s)” as a straightforward denotative or neutral reference to American Indians. For instance, as Dr. Nunberg put it, “there were no sentences in the form ‘there are five redskins on the panel’ or ‘redskins have moved into the region in increasing numbers’ or ‘redskin actor Jay Silverheels was honored last night’ in the sense you might expect which [sic: if it] was an ordinary neutral term that was not disparaging.” *Id.* at 308:16-308:22. Most of the 71 stories involved “mentions” of the term “redskin” as opposed to “uses” of the term “redskin,” *i.e.*, the term was not used to refer to anyone but was discussed only as a term and often included in quotation marks. *Id.* at 308:23-309:3. For example, on mention from *The San Francisco Chronicle*

stated, “[i]n almost every movie the bad guy bit the dust and that was the end of their story. Another cartoon figure had been erased from the script. As we rejoiced in their agony and cheered their demise, it never occurred to us that the ‘redskins,’ ‘krauts,’ and ‘japs’ represented real people.” *Id.* at 309:4-309:23.

D. Plaintiff’s Expert Lexicographer Admitted That As Of 1967, 1975 and 1985, “Redskin” “Certainly Might Be Offensive.”

20. David K. Barnhart is a lexicographer, an expert in creation and interpretation of dictionaries, retained by PFI to testify in both *Harjo* and this action.

21. Counsel for PFI asked Mr. Barnhart about his opinions of the “word redskin in 1967 as applied to American Indian persons,” based on Mr. Barnhart’s consideration of Dr. Nunberg’s testimony, Mr. Barnhart’s own research, and his consideration of all the accepted scientific basis used in the field of linguistics by lexicographers. In his response, Mr. Barnhart admitted that the term “redskin” “*certainly might be offensive.*” Criss Decl. Ex. 14 at 180:20-181:12 (emphasis added). Mr. Barnhart testified that his opinion was the same for 1975 and 1985. *Id.* at 182:4-12.⁵

⁵ Mr. Barnhart opined that the term “redskin” was not disparaging because intent to offend is required for disparagement. Criss Decl. Ex. 14 at 181:13-182:3. As a matter of law, the TTAB rejected Mr. Barnhart’s construction of “disparaging” as requiring intent. *See* Blackhorse, 2014 WL 2757156 at*13 (“... Mr. Barnhart’s conclusion is based on too narrow a construction because he views the label ‘disparaging’ as requiring intent”) & *17 (“Mr. Barnhart testifies that while the term ‘redskin(s)’ was not disparaging ‘as applied to American Indian persons’ in 1967-85 it might have been offensive. As noted above, Mr. Barnhart attaches intent of the speaker to the word disparaging and his view of offensive is more in line with the meaning of disparaging in the context of Section 2(a) [15 U.S.C. § 1062(a)].”).

E. Native American Individuals And Organizations Have Long Understood “Redskin” As A Slur And Have Opposed Plaintiff’s Team Name.

1. At Haskell Institute in 1962, “Almost All the Students Resent[ed] Being Called Redskins.”

22. In 1962, Haskell Institute was a post-secondary coeducational vocational training school for Indians operated by the United States government. In 1962, more than 1,000 American Indian students attended Haskell Institute from at least 80 different tribes covering 30 states. Criss Decl. Ex. 59 at 7:10-8:9; Ex. 60 at 3-5; Ex. 61 at 270.⁶

23. Alan Dundes, a Professor of Folklore at University of California-Berkeley, and C. Fayne Porter, an Instructor at Haskell Institute in Lawrence, Kansas, published a scholarly article in *American Speech: A Quarterly in Linguistic Usage* regarding their research of the use of slang by American Indian students at Haskell in 1962. Dundes and Porter observed that almost all of the students at Haskell Institute resented being called “redskins:”

A great number of the slang expressions in common use at Haskell appear to be either neologisms or new combinations of old words. Some of the most interesting tend to be a type of *blazon populaire*, or ethnic slur. Navaho students are called *Nava-Joes* or simply *Joes*. Students from Alaska are labeled *polar bears*, *huskies*, *seal herders*, or *Alaskamos*. Students from Montana or Wyoming are *sheep herders*. Oklahoma Indians like to be called *Okies*, but are more often called *ditch diggers* and *dust bowlers*. North Carolinians are *moonshiners*. Floridians are known as *gators*, and an individual (Seminole) may be a *gator boy* or a *gator girl*. The Sioux are *dog-eaters*. ***Almost all the students resent being called redskins.***

⁶ Professor James Riding In earned a Ph.D. in U.S. history, with an emphasis in American Indian history, from the University of California Los Angeles (UCLA), a Master’s degree in American Indian Studies, with a concentration in history and law, from UCLA, a Bachelor’s degree in history from Fort Lewis College, and Associate of Arts degree from Haskell Indian Nation Junior College. He is a member of the Pawnee Nation. Since 1990 he has taught at Arizona State University, and since 2004 he has been an Associate Professor of American Indian Studies teaching courses on American Indian concerns ranging from Indian sovereignty and the U.S. courts to struggles over repatriation, sacred sites, and human rights. Criss Decl. Ex. 60 at 1.

Criss Decl. Ex. 61 at 271 (emphasis added).⁷

24. In the 1960s, Haskell was a microcosm of the national American Indian population given its geographic and tribal diversity (aside from the fact that the students were young). According to Professor Riding In (who attended Haskell from 1972-74), in light of the geographic and tribal diversity of Haskell, the finding that “almost all” the students at Haskell Institute in 1962-63 “resented being called *redskins*” would most assuredly apply to the national American Indian population. Criss Decl. Ex. 59 at 131:23- 133:8; Ex. 60 at 5.⁸

25. Dundes and Porter were writing a scholarly piece intended for publication and therefore would have had every reason to be accurate in their statements, including the statement that “almost all the students resent being called *redskins*.” The authors were not advocating for any cause or purpose but merely recording and memorializing the use of language at Haskell in 1962-63. Criss Decl. Ex. 60 at 4.

2. In 1972, A “Delegation of American Indian Leaders” From The National Congress of American Indians And Other Organizations Met With The PFI President To Demand A Change In Team Name.

26. In 1972, a delegation of American Indian leaders consisting of the leadership of major national Native American organizations met with then-President of PFI, Edward Bennett Williams, to demand that PFI change the team name. The organizations included the NCAI, AIM, and the National Indian Youth Council (“NIYC”), among others. The effort was led by Leon Cook, then-President of the NCAI. Ex. C, Cook Decl. ¶¶ 8-14.

⁷ Alan Dundes, now deceased, was one of the most eminent 20th century American folklorists. Criss Decl. Ex. 15 at 190:10-190:12. *American Speech* is a well-regarded publication. Criss Decl. Ex. 17 at 113:22-114:3.

⁸ The school was Haskell Indian Nation Junior College when Professor Riding In attended; it is now Haskell Indian Nations University. Criss Decl. Ex. 60 at 1.

27. From the 1960s to the present, NCAI has been the largest and most prominent national American Indian organization. NCAI was founded in 1944 to represent the interests and needs of Indian governments and communities. Criss Decl. Ex. 60 at 6; Ex. C, Cook Decl. ¶ 5; Ex. B, Apodaca Decl. ¶¶ 7, 12; Ex. E, Harjo Decl. ¶ 11.

28. In the late 1960s and the years thereafter, the NCAI had approximately 150 tribes as members; these tribes comprised approximately 50% of all American Indians. Criss Decl. Ex. 62 at 79:16-80:20, 93:14-22; Ex. C, Cook Decl. ¶ 6. There were 277 federally recognized tribes as of 1979 (apparently, the first year the Department of the Interior published a list). Criss Decl. Ex. 63. In 1972, NCAI's member tribes comprised between 300,000 and 350,000 Native Americans. Criss Decl. Exs. 52-53.

29. AIM was founded in 1968 in Minneapolis to combat police violence against Indians. By the early 1970s, AIM had become the country's largest militant Indian organization with thousands of members, supporters, and sympathizers from virtually all Indian tribes. AIM became involved in many of the most pressing issues facing Indian peoples and nations. Criss Decl. Ex. 59 at 152:8-11; Ex. 60 at 8-9; Ex. C, Cook Decl. ¶ 10.

30. NIYC was founded in 1961 by Indian college students to address educational and social issues relevant to Native Americans. In the early 1970s, NIYC advocated the use of activism to promote change and had hundreds of members from many different Indian tribes throughout the country. Criss Decl. Ex. 60 at 8-9; Ex. C, Cook Decl. ¶ 10.

31. Other Native American advocacy groups during this period included Americans for Indian Opportunity, run by LaDonna Harris (a Comanche and wife of then-U.S. Senator Fred Harris), and the Indian Legal Information Development Service ("ILIDS"), an educational and

legislative oversight organization run by Harold Gross (who previously served as Staff Counsel for NCAI). Criss Decl. Ex. 64 at 7:20-8:17, 37:2-7; Ex. 59 at 152:12-15; Ex. 60 at 7-9.

32. In 1971, Leon Cook was elected President of NCAI on a platform of increased cooperation between NCAI and other advocacy groups like AIM and NIYC. Ex. C, Cook Decl. ¶¶ 6-10. In January 1972, he invited leaders of AIM and NIYC to join NCAI Officers and Area Representatives to identify issues of common interest. Together, the leadership of NCAI, AIM, and NIYC agreed “wholeheartedly” to take on the Washington NFL team name. Ex. C, Cook Decl. ¶ 9-10. The issue was chosen as a priority for the organizations because, among the disparaging names and images used for Native Americans, the Washington team name was “the worst of the worst.” Ex. C, Cook Decl. ¶ 10.

33. On January 18, 1972, Harold Gross of ILIDS, who was also an NCAI volunteer and former in-house counsel, wrote to PFI President Edward Bennett Williams, objecting strenuously to the team’s name:

... I ask you to imagine a hypothetical National Football League, in which the other teams are known as the New York Kikes, the Chicago Polocks, the San Francisco Dagoes, the Detroit Niggers, the Los Angeles Spics, etc.

Such a league would shortly be out of business, since the number of people properly outraged by such ethnic slurs would be sizeable enough to force its closing. Yet, the term ‘Redskin’ is no less stereo-type provoking and no less insulting to American Indians than the others which I have used solely to make my point....

Born at a time in our history when the national policy was to seize Indian land and resources, and hunt down Indian people who stood in the way, the term ‘Redskin’ has been perpetuated through such media as western movies and television. Most often, the term is coupled with other derogatory adjectives, as ‘dirty Redskin’ or ‘pesky Redskin’ which is used interchangeably with the word ‘savage’ to portray a misleading and denigrating image of the Native American....

Criss Decl. Ex. 64 at 7-10; Ex. 65; Ex. C, Cook Decl. ¶¶ 11.

34. This letter resulted in a meeting with Williams in March 1972 attended by NCAI, AIM, and NIYC leaders and other prominent Native American leaders (“Williams meeting”). Criss Decl. Ex. 3 at Request No. 61. The Native American delegation that attended the Williams meeting included: (1) Leon Cook, President of NCAI; (2) Dennis Banks, National Director of AIM; (3) Ron Aguilar, District Representative of NIYC; (3) LaDonna Harris, President of Americans for Indian Opportunity; (4) Richard LaCourse, Washington Bureau of the American Indian Press Association; (5) Laura Wittstock, Editor of Legislative Review for ILIDS; (6) Hany Geigomah, Assistant to the Commissioner of Indian Affairs and the Youth Representative from the Bureau of Indian Affairs; and (7) Ron Petite, AIM. Criss Decl. Ex. 64 at 18:6-19:5; Ex. 66.

35. At the Williams meeting, the Native American leaders argued that the name of the team needed to change. Criss Decl. Ex. 64 at 19-23; Ex. C, Cook Decl. ¶¶ 12-13. The next day, Williams wrote a letter to NFL Commissioner Pete Rozelle to inform him that he met with a “delegation of American Indian leaders who are vigorously objecting to the continued use of the name Redskins.” Criss Decl. Ex. 3 at Request Nos. 73-74; Ex. 64 at 23; Ex. 67. Citing and enclosing Harold Gross’s letter, Williams admitted that the Native American leaders “set[] out their position quite cogently.” Criss Decl. Ex. 67.

36. PFI, of course, did not change its team name. In response to the meeting, however, Williams decided that the team’s cheerleaders would no longer wear Indian-style wigs that stereotyped Native American women and changed language in the team’s fight song, “Hail to the Redskins” because he recognized that some of the lyrics were “mocking.” Criss Decl. Ex. 54; Ex. 3 at Request No. 82; Ex. 46 ; Ex. C, Cook Decl. ¶ 13. (The fight song and cheerleader outfits are discussed further below, at pages 28-29.)

3. Native American Groups and Individuals Continued to Oppose The Team's Name And The Term "Redskin" as Offensive.

37. The Williams meeting was not an isolated event. As a 1972 editorial in *The Baltimore Sun* observed, "for several years, Indian organizations have been trying to get such teams as the Redskins, the Indians, the Braves, etc. to change their names." Criss Decl. Ex. 55. Since at least 1967, NCAI has worked to challenge "false, derogatory, and harmful" depictions of Native Americans in mass media. Criss Decl. Ex. 68. By 1988, after many years of protests against the name, *Chicago Tribune* columnist Clarence Page noted that complaints and protests over the team's name "have become a hardy perennial." Criss Decl. Ex. 43.

38. In 1971 and 1972, numerous newspaper articles and columns in newspapers reported on the controversy surrounding the Washington NFL team's name, including the NCAI's and other Native Americans' opposition to the team name. These articles appeared in Washington, D.C. local newspapers as well as national newspapers. Criss Decl. Exs. 52, 69-75. One Washington columnist summarized the extensive opposition to the team name: "[P]articularly annoying to the 750,000 American Indians is the word 'redskin.' To them, the word is a racist slur, no more acceptable than the word 'nigger' is to a black man and no more acceptable than the term 'white trash' is among the poor in the south." Criss Decl. Ex. 30.

39. In 1972, PFI recognized the significance of the Native American opposition to the team name. A November 1972 game program contained a lengthy article discussing Native American opposition to Indian team names generally, and the "Redskins" team name in particular. Criss Decl. Ex. 5.

40. Meanwhile, in 1972, the University of Utah decided to drop the name "Redskins" due to concern that the name disparaged Native Americans. Criss Decl. Ex. 60; *see* Criss Decl. Exs. 76, 77. Other universities around this time also eliminated Indian-themed team names due

to Native American opposition, including Dartmouth College and Stanford University. Criss Decl. Ex. 60 at 118-20; Exs. 78-80.

41. One Native American who voiced his opposition to the team name was a young Comanche named Billy Kevin Gover, who wrote to the PFI President in 1972 to make it clear that “Redskins is offensive to [him] and others. You can take a stand that would show you and the team as true believers in civil rights, or you can continue to carry a name that keeps alive a threatening stereotype to Indian people. People, Mr. Williams. We don’t want the Redskins!” Ex. D, Gover Decl. ¶ 6 and Ex. A thereto.

42. Although NCAI President Leon Cook could not convince Mr. Williams to change the team name in 1972, the NCAI’s opposition to the team name has continued ever since. At the 1973 NCAI annual convention in Tulsa, Reuben Snake, the Winnebago Tribal Chairman, addressed the convention and introduced a resolution calling for an end to racism in sports and especially an end to the Washington team’s name. Ex. C, Cook Decl. ¶ 14; Ex. E, Harjo Decl. ¶ 15. The convention with voted unanimously in favor of the report. Ex. C, Cook Decl. ¶ 14; Ex. E, Harjo Decl. ¶ 15.

43. Native American opposition to the team name continued through a PFI ownership change in the 1980s. Suzan Harjo, in her elected role as Executive Director of NCAI from 1984 through 1989, served with a series of NCAI Presidents. Throughout her tenure as NCAI Executive Director, Harjo “reflected and carried out the position of NCAI to oppose the name of the Washington NFL team and to call for its elimination.” Ex. E, Harjo Decl. ¶ 13. During this time, NCAI voiced its opposition to the team name as disparaging “in statements, speeches, telephone calls, interviews, educational outreach, and coalition-building meetings,” Ms. Harjo sent “notes to the team’s then co-owner, Edward Bennett Williams (1984-1985), in an effort to

renew NCAI's request to change the team's name, and to the team's then primary owner, Jack Kent Cooke (1984-1989), in an attempt to set up a meeting to discuss reasons for Native American opposition to the offensive team name and to encourage him to change it." *Id.* at ¶ 16. Cooke never responded to or met with Native Americans, but publicly acknowledged the controversy over the team name by stating to United Press International there was "not a chance in hell" that the name would be changed. *Id.* While she was Executive Director, the NCAI had over 300 tribal members. *Id.* at ¶ 13.

44. NCAI's opposition has continued for decades. As reported in a September 1992 article in *The Lakota Times* newspaper (a newspaper with primarily Native American readership), "[t]he National Congress of American Indians has been battling against the racist use of Indians as mascots for decades." Criss Decl. Ex. 81; *see* Criss Decl. Ex. 60 at 11. The Michigan Civil Rights Commission reported in 1988 that "[t]he National Congress of American Indians, the oldest and largest national Indian group in the U.S. also supports ... efforts to have the Washington team's name changed." Criss Decl. Ex. 24 at 6.

45. Indeed, past NCAI leaders who have been outspoken in their opposition to the Washington NFL team name include: Vine Deloria (NCAI Executive Director, 1964-1967 and *Harjo* petitioner); Leon Cook (NCAI President, 1971-73); Raymond Apodaca (Regional VP, 1990-1993); Joseph B. DeLaCruz (NCAI President 1984-1985); Reuben A. Snake, Jr. (NCAI President 1985-1987); John F. Gonzales (NCAI President 1987-1989); Suzan Harjo (NCAI Executive Director, 1984-1989); and gaiashkibos (NCAI President, 1992). Criss Decl. Ex. 62 at 1, 4:12-15, 79:16-20; Ex. 82; Ex. B, Apodaca Decl. ¶ 7; Ex. C, Cook Decl. ¶¶ 6, 15; Ex. E, Harjo Decl. ¶ 13. JoAnn Chase, Executive Director of NCAI in 1996 testified in *Harjo* that the issue of the "Washington Redskins" team name is an issue of "national significance, and which

would be of concern to at least every Indian person I have ever had contact with....” Criss Decl. Ex. 83 at 68:19-21.

46. As the Washington Redskins football team played in the 1988 playoffs and Super Bowl, NCAI supported protest efforts, including a “Change The Name” banner towed by a small plane above the NFC Conference Championship game in January 1988 and protests at the Super Bowl a few weeks later. Criss Decl. Exs. 24, 42, 43, 84. Many Native Americans and others protested the team name during the playoffs and Super Bowl. *See* Criss Decl. Exs. 38-43, 46, 84-86.

47. One influential voice in Indian country speaking out against the team’s name was Tim Giago, editor of *The Lakota Times*. With a national readership during the 1980s and early 1990s, the *Lakota Times* (renamed *Indian Country Today* in 1992) was a leading independent news outlet for critical analysis of Native American issues. Criss Decl. Ex. 60 at 11. Giago’s editorials for the *Lakota Times* were nationally syndicated in the mainstream press. *Id.* Mr. Giago wrote multiple editorials in *The Lakota Times* and elsewhere denouncing the “Washington Redskins.” *See, e.g.,* Criss Decl. Exs. 87-91. In a widely reprinted 1988 editorial, Giago wrote that “Redskins is, and was intended to be a very strong epithet against American Indians,” and stated that it would be no more racist to call the team the “Blackskins” and have fans “paint their faces Black, put on Afros, don colorful dashikis, and cavort around the football field like a bunch of wild savages.” Criss Decl. Exs. 33, 92-95.

48. Native Americans also influenced elected representatives to give voice to their opposition to the team name. In 1988, Senator Rudy Boschwitz of Minnesota, at the urging of his constituents, wrote to PFI’s owner to relay their concern that “Redskins” is “demeaning and offensive to Native Americans.” Criss Decl. Ex. 96. Three years later, Senator Dennis

DeConcini of Arizona, noting that he had “almost 300,000” Native Americans constituents, wrote the NFL Commissioner to complain that “Redskins” was “culturally insensitive.” Criss Decl. Ex. 97.

49. As in 1988, the team’s appearance in the 1992 playoffs spurred Native American protests. At the 1992 Super Bowl in Minnesota, Native American organizations led large protests of the team name. Among the speakers at these protests was NCAI President known by his Native American name “gaiashkibos,” AIM leaders, and Mr. Giago. Criss Decl. Exs. 82, 98-99. Around the same time, *The Lakota Times* reported that “Indian Tribes and organizations,” had made “vociferous calls” for a change in the team name, and that “[m]ost Indian groups consider the team moniker racist and demeaning,” specifically pointing out NCAI’s opposition. Criss Decl. Ex. 100.

50. In 1993, Senator Ben Nighthorse Campbell, then one of the country’s most prominent Native Americans, sought to force PFI to change the name by introducing legislation that would have prevented PFI from using U.S. Department of Interior land for a new stadium unless the Team name were changed. Criss Decl. Exs. 101-107.

51. Also in 1993, the NCAI adopted two formal resolutions declaring the organization’s continued opposition to Team name on grounds that “redskin” disparages Native Americans. In January 1993, the NCAI, acting through its Executive Council, adopted a resolution supporting the *Harjo* cancellation petition and declaring the organization’s position that “redskins” has always been and continues to be a slur:

[T]he term REDSKINS is not and has never been one of honor or respect, but instead it has always been and continues to be a pejorative, derogatory, denigrating, offensive, scandalous, contemptuous, disreputable, disparaging and racist designation for Native American[s].

Criss Decl. Ex. 83 at 50:18-51:20; Ex. 108. The NCAI further declared that the registered marks at issue in this petition are “offensive, disparaging . . . and damaging” to Native Americans. Criss Decl. Ex. 108.

52. Eleven months later, in December 1993, the NCAI General Assembly adopted a separate resolution objecting to the “Washington Redskins” team name. The resolution expressed support for the bill introduced by Senator Campbell to prevent the use of federal land for a new stadium unless the Team changed its name. Criss Decl. Ex. 83 at 39:7-40:3, 46:21-48:7; Ex. 109.

53. At times and over time, protest efforts against the term “Redskins” have borne fruit. In 1988, sixteen years after the University of Utah dropped “Redskins,” Southern Nazarene College did so as well. Criss Decl. Ex. 60 at 11. In addition, in 1991-93, following objections from Native Americans, another university and two school systems dropped “Redskins” – Miami University in Ohio, the Grand Forks, North Dakota, and the Naperville, Illinois, high schools. Criss Decl. Exs. 110-112. Altogether, eleven high school districts dropped “Redskins” as a team name in the 1990s and another 18 have done so since 2000. Criss Decl. Ex. 60 at 20.

F. A 1996 Survey Showed That A Majority Of Native Americans Found The Term “Redskins” To Be Offensive To Themselves Or Others.

54. A poll designed and supervised by Dr. Ivan Ross, an expert retained in *Harjo*, showed that a majority of Native Americans found the term “redskins” offensive.⁹

⁹ Criss Decl. Ex. 113 at 19:21-20:18. Dr. Ross is deceased. As of 1996, when he performed his work, Dr. Ross was President of Ross Research, a former Professor of Marketing and Adjunct Professor of Psychology with the Carlson School of Management of the University of Minnesota for 27 years, and a Fellow with the Society for Consumer Psychology, the American Psychological Association, and the American Psychological Society. He had designed and conducted numerous studies for academic research, corporate clients, and litigated disputes;

55. In 1996, Dr. Ross conducted a survey of attitudes regarding various different words associated with Native Americans, including “redskin.” Criss Decl. Exs. 114-115. The survey tabulated responses from the general American public and from American Indians. Criss Decl. Ex. 115. For the Native American portion of the survey, Dr. Ross created a stratified probability sample by drawing from the 20 states with the highest Native American populations, selecting counties and census tracts within those states to arrive at a set of areas which would fairly represent both rural and urban areas, and using a randomized telephone draw to select the individual respondents. Criss Decl. Ex. 113 at 15:11-18:20. Dr. Ross testified to his expert opinion that the methodology used for the survey of Native Americans resulted in responses that “fairly represented” the views of the Native American population of the United States, and that the methods are accepted within his field. *Id.*

56. As a way to address any reluctance by respondents to reveal their personal feelings about the terms surveyed, Dr. Ross had respondents answer not only whether they would personally be offended by the terms but also whether they believed other people would be offended. Criss Decl. Ex. 116 at 77:8-79:13; Ex. 117 at 30:10-32:20, 37:1-38:23, 56:1-57:16, 110:4-113:7. This technique is an accepted way to illuminate a respondent’s true feelings about a sensitive issue. Criss Decl. Ex. 117 at 30:10-32:22.

57. According to the results of the survey, 36.6 percent of American Indians responded that they would be personally offended by the use of the word “redskin,” and 52.5 percent perceived that the word “redskin” would “offend others.” In total, 60.3 percent of Native Americans perceived the term “redskin” to be either offensive to themselves or to others. Criss

consulted for multiple U.S. government agencies; and been qualified as an expert in survey design on numerous occasions in federal court. *Id.* at 4:19-9:20.

Decl. Exs. 114-115. Based on these results, Dr. Ross concluded that approximately 60 percent of Native Americans consider the term “redskin” offensive. Criss Decl. Ex. 115.

G. PFI Has Used The “Redskins” Team Name And The Marks In Ways That Mock Native Americans.

58. PFI has used its trademarks in ways that make light of – or outright mock – Native American people and cultures, illustrated by halftime “entertainment,” the team’s fight songs, the band’s uniforms, and the former costumes used by the cheerleaders.

59. The most extreme example may be a video clip (produced by PFI in *Harjo* discovery) of half-time “entertainment.” The clip features an almost-naked “Indian” on a giant drum at midfield dancing violently in a mocking mimicry of Native Americans, and another “Indian” dancing with a horse. Criss Decl. Ex. 118 at 2:48 to 2:55. A written account of half-time “entertainment” states that “[b]etween the ‘halves,’ Indian bands march on the field and present all forms of pageantry, which may not make much sense but is highly diverting to the crowd. Mr. Marshall [the former owner] also has a swing band in a giant wigwam up over the stands, all in their customary war feathers, smoke emanating from this elevated tepee as [certain star players] and all the other ‘braves’ of the local professional entry go through their act on the field.” Criss Decl. Ex. 119.

60. The team’s original fight song included these lyrics that stereotyped and mocked the speech of Native Americans (and urged the team to fight for “old Dixie.):

Hail to the Redskins,
Hail Vic-to-ry!
Braves on the warpath,
Fight for old Dixie.
Scalp ‘em swamp ‘em,
We will take ‘em big score.
Read ‘em, Weep ‘em,
Touch-down we want heap more.

See Criss Decl. Ex. 3 at Request Nos. 75, 76; Ex. 120. As noted, PFI changed the lyrics in 1972 in response to opposition by Native American leaders. *See* ¶ 37, above. The fight song has continued to refer to the team as “braves on the warpath,” however. Criss Decl. Ex. 121.

61. The outfits of the team’s cheerleaders also mocked Native Americans. The costumes of the team’s cheerleaders were designed to allude to purported Native American attire, jewelry, or hairstyles. Criss Decl. Ex. 3 at Request No. 8. The cheerleaders used to wear stereotyped black braided-hair wigs and Indian-themed costumes as they entertain the crowds wearing faux-Indian outfits. Criss Decl. Exs. 122-130. From 1962 until as late as 1979, the cheerleading uniform included an Indian dress and Indian beaded headband. Criss Decl. Ex. 131 at No. 18. The cheerleaders stopped wearing the black-braided hair wigs in 1972, at the same time the fight song lyrics changed, also due to the meeting with the American Indian leaders. Criss Decl. Ex. 54.

62. The “Redskins marching band” also makes light of Native American culture; the band members march around wearing Indian headdresses full of feathers and play Indian-themed music (evoking stereotypes of tribal drumbeat war music). Criss Decl. Ex. 118 at 0:51 to 1:30; Ex. 130, 132-137. PFI gives the band permission to perform during games. Criss Decl. Ex. 3 at Request No. 178 (for at least the period between 1967 and 1990).

63. On different occasions, team players and PFI administrative personnel dressed up like Indians. Criss Decl. Exs. 138-146. Many covers of game programs feature caricatures of buffoonish-looking Native Americans. Criss Decl. Exs. 147-149. PFI even has a mocking “cigar store” Indian in the PFI corporate offices. Criss Decl. Ex. 150 at 126:21-127:18.

64. Numerous news articles and published advertisements mock Native American culture, such as by reporting that the “Washington Redskins” had “scalped” or “ambushed”

another team (or vice-versa), were “on the warpath,” were “brewing special Kickapoo Juice” for their opponents, or that they had been “massacred” by another team (sometimes to avenge the defeat of General Custer). Criss Decl. Exs. 120; 140; 151-270. Some articles use pidgin English or otherwise mock or stereotype Native American manner of speech. Criss Decl. Exs. 120; 140; 170; 176; 180-81; 251; 254; 256; 262; 267. Newspapers also published mocking caricatures of Native Americans in connection with the team and referred to the former team owner as the “Big Chief” or “Great White Father.” Criss Decl. Exs. 30; 176; 226; 254-271. Furthermore, the fans of the team frequently dress up like stereotyped Native Americans, with Indian headdresses and face paint, and shout war whoops. Criss Decl. Exs. 232-247; 272-279. PFI has encouraged this behavior; it has even rewarded one fan with free tickets to games so that he would continue to attend in Indian costume as “Chief Z.” Criss Decl. Ex. 280 at 118:21-119:10.

LEGAL STANDARD

“The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “Summary judgment is appropriate when ‘the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact.’” *Bonds v. Leavitt*, 629 F.3d 369, 380 (4th Cir. 2011) (quoting Fed. R. Civ. P. 56(c)). The Court should view “the facts and the reasonable inferences therefrom in the light most favorable to the nonmoving party,” *id.*, while requiring the movant to “go beyond the ‘mere existence of a scintilla of evidence.’” *Glynn v. EDO Corp.*, 710 F.3d 209, 213 (4th Cir. 2013) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252 (1986)).

ARGUMENT

I. THE TTAB DID NOT ERR IN FINDING THAT THE MARKS CONTAIN MATTER THAT “MAY DISPARAGE” NATIVE AMERICANS OR THAT BRING THEM INTO CONTEMPT OR DISREPUTE. THEREFORE, DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT ON COUNTS 1 AND 2.

Plaintiff contends in Count 1 that the TTAB erred in ruling that its trademarks contain matter that “may disparage” Native Americans and contends in Count 2 that the TTAB erred in ruling that its trademarks contain matter that bring Native Americans into “contempt or disrepute.” *See* [Dkt. 1] ¶¶ 130-131; 15 U.S.C. § 1052(a).

As explained below, the TTAB did not err in finding that Plaintiff’s trademarks were subject to cancellation under 15 U.S.C. § 1052(a). Rather, the TTAB’s ruling is consistent with decisions in a line of ethnic disparagement cases. *See In re Geller*, 751 F.3d 1355, 1360-61 (Fed. Cir. 2014), *cert. denied*, No. 14-175, 2015 WL 132962, (U.S. Jan. 12, 2015) (finding “Stop The Islamisation of America” may disparage Muslim Americans); *In re Tam*, No. 85472044, 2013 WL 5498164, at *7 (T.T.A.B. 2013) (finding “slants” may disparage Asian Americans), *on appeal*, No. 2014-1203 (Fed. Cir.); *In re Lebanese Arak Corp.*, No. 77072261, 2010 WL 766488, at *4 (T.T.A.B. 2010) (finding “Khoran” when used with wine may disparage Muslims); *In re Heeb Media, LLC*, No. 78558043, 2008 WL 5065114, at *1 (T.T.A.B. 2008) (finding “heeb” may disparage Jews); *In re Squaw Valley Dev. Corp.*, Nos. 76511144, 76511145, 2006 WL 1546500, at *10 (T.T.A.B. 2006) (finding “squaw,” in context of apparel and retail store services may disparage Native Americans).

A. There Is No Genuine Issue Of Material Fact That The Trademarks Contain Matter That “May Disparage.”

1. Section 2(a) Does Not Require Proof of Actual Disparagement or Bad Intent, But Rather Only That the Term “May” Disparage the Target Group.

Section 2(a) of the Lanham Act provides that a trademark is not eligible for registration if it consists of or comprises “matter which *may* disparage” persons. 15 U.S.C. § 1052(a) (emphasis added). Therefore, to cancel a trademark registration, a petitioner need only demonstrate that the mark contains matter that *may* disparage, not actual disparagement.

Congress’s insertion of “may” before “disparage” was deliberate. To refuse registration of an immoral, deceptive, or scandalous mark, Section 2(a) requires that the mark contain matter that *actually is* “immoral, deceptive, or scandalous.” The contrast is plain:

[Registration is to be refused to a trademark that:] Consists of or comprises immoral, deceptive, or scandalous matter; or matter which *may disparage* or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute....

15 U.S.C. § 1052(a) (emphasis added). *See in re Lebanese Arak Corp.*, 2010 WL 766488 at *2 (“The structure of Section 2(a), with various refusals and, therefore, different tests, interwoven into its various parts, is the result of its legislative development.”).

The drafting history further demonstrates that Congress made a deliberate choice in inserting “may” before disparage. Initial House and Senate bills provided that a trademark is ineligible for registration if it “tends to” disparage.¹⁰ In 1942, the House Committee on Patents

¹⁰ Criss Decl. Ex. 281, Hearings before the Subcomm. on Trademarks Comm. on Patents, House of Representatives, 76th Cong. 1st Sess. (March 28, 29 and 30, 1939) at 1 (Section 2(a) of bill contains “tends to disparage” standard); Criss Decl. Ex. 282, Hearings before the Subcomm. on Trademarks Comm. on Patents, House of Representatives, 77th Cong., 1st Sess. (Nov. 4, 12, 13 and 14, 1941) at 1-2 (Section 2(a) of H.R. 102, which is “identical” to S. 895, contains a “tends to disparage” standard) & at 15 (by contrast, H.R. 5461 contains “may disparage” standard).

marked up a Senate bill and substituted “may” in place of “tends to” in front of “disparage.”¹¹ Subsequent bills¹² and the enacted legislation contained the “may disparage” standard instead of “tends to disparage.” 15 U.S.C. § 1052(a); *see Doe v. Chao*, 540 U.S. 614, 622 (2004) (relying on drafting history to interpret statute).

In addition, intent to disparage is not required for a trademark to be ineligible for registration under 15 U.S.C. § 1052(a). *See In re Lebanese Arak Corp.*, 2010 WL 766488 at *8 (“intent [to disparage] is not necessary in order to find that the mark does, in fact, disparage [Muslims] or their beliefs”); *In re Heeb Media*, 2008 WL 5065114 at *8 (“good intentions” do not save a mark that may disparage an ethnic group); *In re Tam*, 2013 WL 5498164, at *5 (same).

2. The Record Evidence Clearly Demonstrates That the Term “Redskins” May Disparage Native Americans.

The TTAB has established a two-part test to determine whether a trademark contains matter that “may disparage” a group:

1. What is the meaning of the matter in question, as it appears in the marks and as those marks are used in connection with the goods and services identified in the registrations?
2. Is the meaning of the marks one that may disparage the referenced group [here, Native Americans]?

Blackhorse, 2014 WL 2756516, at *4; *In re Heeb Media, LLC*, 2008 WL 5065114, at *4

(T.T.A.B. 2008). The TTAB has held that both questions are to be answered as of the date of the

¹¹ Criss Decl. Ex. 283, H. Rep. No. 2283 (77th Cong. 2d Sess.) (June 25, 1942) at 2 (recommending passage of S. 895 with certain amendments, including: “strike out ‘tends to’ and insert in lieu ‘may’” before “disparage”).

¹² *See, e.g.*, Criss Decl. Ex. 284, Hearings before the Comm. on Patents, House of Representatives, 78th Cong., 1st Sess. (Apr. 7-8, 1943) at 2; Criss Decl. Ex. 285, Hearings before the Subcomm. of the Comm. on Patents, 78th Cong., 2d Sess. (Nov. 15-16, 1944) at 2.

registration of the involved marks. *Blackhorse*, 2014 WL 2756516, at *4. Courts have employed the TTAB's two-part test where the parties did not argue for another interpretation. *In re Geller*, 751 F.3d 1355 at 1358, and *Harjo v. Pro-Football, Inc.*, 284 F. Supp. 2d 96, 125 (D.D.C. 2003). Our research has found no other federal court decision interpreting the "may disparage" prong of 15 U.S.C. § 1052(a).

a. "Redskins," as Used in the Marks, Refers to Native Americans.

As to the first question in the two-part test, there can be no dispute that the meaning of the "matter in question," *i.e.*, the term "redskins" or a derivation of "redskins" in each of the trademarks, refers to Native Americans. PFI admits that "redskin" alludes to Native Americans, that two of the marks contain an image of a man in profile that alludes to Native Americans, that a spear in one of the marks alludes to Native Americans, and that the Team's football helmets contain an image of a Native American in profile. Criss Decl. Ex. 3 at 6-7. The team's band wears Indian headdresses, the cheerleaders have worn Indian-themed outfits, and PFI's publications have used Indian imagery. Criss Decl. Exs. 118; 124-143. Accordingly, as the TTAB stated, "the evidence overwhelmingly support a determination that the term REDSKINS as it appears in the marks retains the meaning Native American." *Blackhorse*, 2014 WL 2756516, at *8; *Harjo*, 1999 WL 375907, at *40 (stating that it would be "factually incomplete and disingenuous" to ignore the substantial evidence of Native American imagery used by [PFI], as well as by the media and [PFI's] fans, in connection with [PFI's] football team and entertainment services). The district court in *Harjo* agreed that the "meaning of the matter in question" refers to Native Americans. *See Harjo*, 284 F. Supp. 2d at 126-27.

b. The Term “Redskins” Is One That May Disparage Native Americans.

In deciding the second question – is the meaning of the marks one that “may disparage” the referenced group – the TTAB looks to the views of the referenced group, which are “‘reasonably determined by the views of a substantial composite thereof.’” *Blackhorse*, 2014 WL 2756516, at *5. Although “substantial composite” is an expression that the TTAB uses in Section 2(a) cases, the term does not come from the statute and does not alter the statutory directive that marks with matter that “may disparage” persons are not eligible for registration.

In using the term “substantial composite,” the TTAB has repeatedly explained that a minority of the referenced group may constitute a substantial composite. *See In re Tam*, 2013 WL 5498164, at *4 (T.T.A.B. 2013); *In re: Heeb Media*, 2008 WL 5065114, at *8; *In re Squaw Valley Dev. Corp.*, 2006 WL 1546500, at *18 n.12; *see also Ritchie v. Simpson*, 170 F.3d 1092, 1094 (Fed Cir. 1999) (To determine “[w]hether a mark comprises immoral or scandalous matter, ...the relevant viewpoint is not necessarily that of a majority of the general public, but of a ‘substantial composite’”); *In re McGinley*, 660 F.2d 481, 485 (C.C.P.A. 1981) (substantial composite of general public, relevant to evaluating whether a mark contains “scandalous” matter, may be a minority of the general public).

Furthermore, the TTAB has explained that under the “substantial composite” inquiry, evidence of the general public’s perception of a term, such as dictionary evidence, can “serve to support a finding that the referenced group finds the term to be disparaging.” *Blackhorse*, 2014 WL 2757516, at *4 n.15; *see also In re Tam*, 2013 WL 5498164, at *1-2, *7 & n.3 (relying in part on dictionaries to find that “slants” is viewed as disparaging by a substantial composite of the referenced group); *In re Heeb Media*, 2008 WL 5065114, at *1 (same as to “heeb”); *In re Squaw Valley Dev. Co.*, 2006 WL 1546500, at *13 (same, as to “squaw”). It is common sense

that an ethnic slur will be viewed as disparaging by a substantial composite of the referenced group. *See Blackhorse*, 2014 WL 2757516, at *9 n.43 (“There is no case in our review where a term found to be a racial slur in general was found not to be disparaging when used in the context of specific services”).

Here, there can be no dispute that the trademarks in question contain matter that “may disparage” Native Americans, as determined by the views of a substantial composite or otherwise. Dictionaries and reference sources identify “redskin” as a disparaging term. *See supra* at ¶¶ 3-13. A 1962 scholarly article observed that “almost all the students [at Haskell Institute] resent being called redskins.” *Supra* at ¶ 24. The evidence of usage, as shown by the analytic work of Dr. Geoffrey Nunberg, reveals the negative connotations of the term. *See supra* at ¶¶ 13-20. The NCAI, and other Native American organizations such as the AIM and the NIYC, and prominent Native American individuals like Suzan Shown Harjo, Kevin Gover, Leon Cook, Raymond Apodaca, other former NCAI Presidents, and Tim Giago, have consistently objected to the Washington NFL team’s name from the 1960s to the 1970s. *See supra* at ¶¶ 23-54. Native American leaders met with the PFI President in 1972 to demand a change to the Team name and tried to meet with PFI in the 1980s to raise the issue again with new PFI ownership, and Native Americans publicly protested in 1988 and 1992 when the team played in the Super Bowl. *See supra* at ¶¶ 27-37, 47. Even PFI’s expert lexicographer admitted that “redskin” “certainly may be offensive.” *Supra* at ¶¶ 21-22. And, as a result of the disparaging nature of the term and Native American concerns, the University of Utah in 1972, and other schools and universities subsequently have dropped “Redskins” as their team names. *Supra* at 40-41.

These undisputed facts are sufficient to demonstrate that the marks in question contain matter that “may disparage” Native Americans. *See In re Geller*, 751 F.3d at 1358- 59 (citing dictionaries as among evidence that “Stop The Islamisation of America” may disparage); *In re Tam*, 2013 WL 5498164, at *7 (citing dictionaries, reference works, and the position of the Asian American Youth Leadership Council as among evidence that “slants” may disparage), *on appeal*, No. 2014-1203 (Fed. Cir.); *In re Heeb Media, LLC*, 2008 WL 5065114, at *1-2 (citing dictionaries, statement of the associate director of the Anti-Defamation League, statements by a professor and radio talk show host, and a newspaper editorial as evidence that “heeb” may disparage); *In re Squaw Valley Dev. Corp.*, 2006 WL 1546500, at *10-13 (citing statements of Native American groups and individuals, dictionary definitions, and examples of state governments dropping “squaw” as the name of geographic locations, as evidence that “squaw” may disparage).

Accordingly, because there is no dispute that the trademarks contain matter that “may disparage” Native Americans, Defendants are entitled to summary judgment on Count 1.

B. There Is No Genuine Issue Of Material Fact That The Trademarks Contain Matter That Bring Native Americans Into “Contempt Or Disrepute.”

The TTAB also correctly found that the marks in question contain matter that brings Native Americans into “contempt or disrepute,” having previously held that the legal test is indistinguishable from the legal test for determining whether a mark may disparage. *Blackhorse*, 2014 WL 2577516, at *7 n.33. The parties did not disagree with this proposition before the TTAB, and Defendants are unaware of any authority that interprets the “contempt or disrepute” prong separately from the “may disparage” prong.

Under the plain meaning of “contempt or disrepute,” and under the legal standard for “may disparage,” discussed above, Defendants are entitled to summary judgment on Count 2.

There is no genuine issue of disputed fact that the marks contain matter that brings Native Americans into contempt or disrepute.

II. DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT ON COUNT 7.

In Count 7, PFI contends that the TTAB erred in failing to dismiss the petition to cancel under the equitable doctrine of laches. In fact, the TTAB properly rejected the laches argument and Defendants are entitled to summary judgment on Count 7.

A. Laches Does Not Apply Because Of The Public Interests At Stake.

The TTAB properly rejected PFI's laches defense because "courts and the [TTAB] have routinely held that where there is a broader public policy concern at issue, the equitable defense of laches does not apply." *Blackhorse*, 2014 WL 2757516, at *31 (citing cases). Similarly, the Fourth Circuit has held that the public interest is a factor that weighs against application of laches. *See Resorts of Pinehurst, Inc. v. Pinehurst Nat'l Corp.*, 148 F.3d 417, 423 (4th Cir. 1998); *Sara Lee Corp. v. Kayser-Roth Corp.*, 81 F.3d 455, 461-62 (4th Cir. 1996).¹³ Here, as the TTAB explained, "it cannot be disputed that there exists a broader public interest...." *Blackhorse*, 2014 WL 2757516, at *32. "[T]here is an overriding public interest in removing from the register marks that are disparaging to a segment of the population beyond the individual petitioners." *Id.* Because of the public interests at stake, the TTAB did not err in rejecting PFI's laches argument, and Defendants are entitled to summary judgment on Count 7.

B. Defendants Did Not Unreasonably Delay In Petitioning The TTAB.

In order to prevail in its laches defense, PFI must prove that, after turning age 18, each Defendant unreasonably delayed in petitioning the TTAB. *Brittingham v. Jenkins*, 914 F.2d 447,

¹³ In *Harjo*, the D.C. Circuit did not consider whether or not laches applies in cases raising broader public interest concerns. *See Harjo v. Pro-Football, Inc.*, 565 F.3d 880 (D.C. Cir. 2009); *Harjo v. Pro-Football, Inc.* 415 F.3d 44 (D.C. Cir. 2005).

456 (4th Cir. 1990); *Pro-Football, Inc. v. Harjo*, 415 F.3d 44, 48-49 (D.C. Cir. 2005) (holding that laches does not begin to run until party reaches age of majority).

Here, each of the Defendants was under age 18 in April 1999 when the TTAB granted the *Harjo* petition to cancel. *See* [Dkt. 51] at 2; [Dkt. 1] ¶ 17. The *Harjo* proceedings in federal court lasted until 2009. [Dkt. 1] ¶¶ 25-26. As the TTAB reasoned, the entire period that *Harjo* was pending “provided excusable delay.” *Blackhorse*, 2014 WL 2757516, at *33. Defendants filed their petition with the TTAB in 2006, during this period of excusable delay. It would be nonsensical and wasteful to insist that Defendants needed to file their petition before *Harjo* was concluded. Any other rule would invite the filing of excessive and unnecessary petitions.

Furthermore, Courtney Tsotigh was 18 years old and Ms. Pappan was 19 years, 3 months old. It is indisputable that these two young adults did not unreasonably delay as they were “entitled to assess the situation” for a reasonable period of time as adults before deciding whether to file a petition. *Blackhorse*, 2014 WL 2757516, at *33.

C. PFI Can Not Prove Prejudice From Any Delay.

PFI’s laches defense also fails for the separate reason that PFI cannot demonstrate material prejudice resulting from any delay by Defendants in filing their petition. *See Ray Commc’ns, Inc. v. Clear Channel Commc’ns, Inc.*, 673 F.3d 294, 305 (4th Cir. 2012). Mere continued expenditure to promote a challenged name is not sufficient to show economic prejudice. *See id.*; *Tisch Hotels, Inc. v. Americana Inn, Inc.*, 350 F.2d 609, 615 (7th Cir. 1965). PFI has known since long before the Defendants reached the age of majority that its trademark registrations were vulnerable to cancellation, since the TTAB granted the *Harjo* cancellation petition in 1999. Any money spent to promote the trademarks after the TTAB ruled in *Harjo* was expended at PFI’s peril. “[O]ne who uses debatable marks does so at the peril that his mark may not be entitled to registration.” *In re McGinley*, 660 F.2d 481, 485, 211 U.S.P.Q. 668, 672

n.7 (C.C.P.A. 1981). Accordingly, PFI cannot show any material prejudice arising from any delay by Defendants in filing their TTAB petition.

CONCLUSION

For the foregoing reasons, Defendants' Motion for Partial Summary Judgment on Counts 1, 2, and 7 should be granted.

Dated: February 26, 2015.

Respectfully submitted,

/s/ Jeffrey J. Lopez

Jesse A. Witten (*pro hac vice*)
Jeffrey J. Lopez (VA Bar No. 51058)
Adam Scott Kunz (VA Bar No. 84073)
Tore T. DeBella (VA Bar No. 82037)
Jennifer T. Criss (VA Bar No. 86143)
DRINKER BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005-1209
Telephone: (202) 842-8800
Facsimile: (202) 842-8465
Jesse.Witten@dbr.com
Jeffrey.Lopez@dbr.com
Adam.Kunz@dbr.com
Tore.DeBella@dbr.com
Jennifer.Criss@dbr.com

*Counsel for Defendants Amanda Blackhorse,
Marcus Briggs-Cloud, Phillip Gover, Jillian
Pappan and Courtney Tsotigh*

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 2015, the foregoing pleading or paper was filed and served electronically by the Court's CM/ECF system upon all registered users in this action:

/s/ Jeffrey J. Lopez
Jeffrey J. Lopez
DRINKER BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, D.C. 20005-1209
Telephone: (202) 842-8800
Facsimile: (202) 842-8465
Email: Jeffrey.Lopez@dbb.com
*Counsel for Defendants Amanda Blackhorse,
Marcus Briggs-Cloud, Phillip Gover, Jillian
Pappan and Courtney Tsotigh*

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

PRO-FOOTBALL, INC.,

Plaintiff,

v.

AMANDA BLACKHORSE, MARCUS
BRIGGS-CLOUD, PHILLIP GOVER,
JILLIAN PAPPAN and COURTNEY
TSOTIGH,

Defendants.

Civil Action No. 1-14-cv-1043-GBL-IDD

**DECLARATION OF JENNIFER T. CRISS IN SUPPORT OF DEFENDANTS’
MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNTS 1, 2 AND 7**

I, JENNIFER T. CRISS, declare:

1. I am an associate attorney in the Washington, DC, office of Drinker Biddle & Reath LLP, counsel for Defendants in the above-captioned proceeding. From July 2008 to September 2013 I was a paralegal for the firm and assisted with the *Blackhorse* (T.T.A.B.) proceeding. I became an associate at the firm in September 2013. I submit this Declaration in support of Defendants’ Motion for Partial Summary Judgment on Counts 1, 2, and 7 (the “Motion”). I have personal knowledge of the facts set forth herein and would testify under oath consistent with this Declaration if called upon to do so.

2. On November 12, 2014, this Court ordered that the record of the cancellation proceeding before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office (“PTO”) in *Blackhorse v. Pro-Football, Inc.*, Cancellation No. 92/046,185

(the “TTAB Record”) “be assembled and transmitted to the Court forthwith and made part of the record of and admitted in these proceedings.” (Dkt. 37 at 1).

3. On February 4, 2015, a representative of the PTO sent a notice to the Court, copying counsel for the parties, submitting to the Court a certified version of the TTAB Record in both hard copy and CD forms. A true and correct copy of that letter is attached hereto as **Exhibit 1**.

4. The PTO numbered the top of each page of the certified record with the designations A00001–A14157. Each exhibit herein drawn from the TTAB record is listed with the corresponding PTO record designation.

5. During the TTAB proceeding, the parties stipulated that with limited exceptions they would waive all non-relevance objections to the admission of the record from *Harjo et al v. Pro-Football, Inc.*, No. 21,069 (TTAB). A true and correct copy of this stipulation is attached hereto as **Exhibit 2**.

6. Exhibits herein that were not part of the TTAB record as transmitted to this Court are additional exhibits that Defendants are relying upon pursuant to 15 U.S.C. 1071(b)(1), which permits the introduction of additional evidence.

7. Attached hereto as **Exhibit 3** is a true and correct copy of Pro-Football, Inc.’s Objections and Responses to Defendants’ First Set of Requests For Admission to Pro-Football, Inc., served electronically on Defendants on February 13, 2015.

8. Attached hereto as **Exhibit 4** is a true and correct copy of “Boston Braves Grid Men Become ‘Redskins,’” *The Hartford Courant* (July 6, 1933).

9. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the Redskins Edition of Pro! Magazine (Nov. 20, 1972), introduced into the Blackhorse record

before the T.T.A.B. as BLA-TTAB-01375-78 and transmitted to this Court as A1736-39.

Attached is a more legible copy of excerpts from same edition of Pro! Magazine, with additional pages included for context, as produced by Pro-Football, Inc. (“PFI”) in response to a document request. This copy has been Bates numbered PFI-EDVA-00381-512.

10. Attached hereto as **Exhibit 6** is a true and correct copy of an excerpt from Webster’s Collegiate Dictionary (1898), bearing Bates stamp EDVA-DEF-0002574-81.

11. Attached hereto as **Exhibit 7** is a true and correct copy of an excerpt from The Random House Dictionary of the English Language (1966), introduced into the Blackhorse record before the T.T.A.B. as BLA-TTAB-00163-65 and transmitted to this Court as A504-06.

12. Attached hereto as **Exhibit 8** is a true and correct copy of an excerpt from the Thorndike-Barnhart Intermediate Dictionary (1974), bearing Bates stamp EDVA-DEF-0002796-805.

13. Attached hereto as **Exhibit 9** is a true and correct copy of an excerpt from the Oxford American Dictionary (1980), bearing Bates stamp EDVA-DEF-0002981-92.

14. Attached hereto as **Exhibit 10** is a true and correct copy of an excerpt from The American Heritage Dictionary of the English Language, 3rd Edition (1982).

15. Attached hereto as **Exhibit 11** is a true and correct copy of an excerpt from the Webster’s Ninth New Collegiate Dictionary (1983).

16. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from the deposition of David K. Barnhart on December 19, 1996.

17. Attached hereto as **Exhibit 13** is a true and correct copy of the Report “Linguistic Analysis of the Term Redskin,” introduced as into the Blackhorse record before the T.T.A.B. as Exhibit 3 to his Deposition on December 19, 1996 and transmitted to this Court as A10505-531.

18. Attached hereto as **Exhibit 14** is a true and correct copy of excerpts from the deposition of David K. Barnhart on April 9, 1997.

19. Attached hereto as **Exhibit 15** is a true and correct copy of excerpts from the deposition of Dr. Geoffrey Nunberg on December 18, 2014.

20. Attached hereto as **Exhibit 16** is a true and correct copy of the Report of Geoffrey Nunberg, introduced as Exhibit 3 to his Deposition on December 18, 2014.

21. Attached hereto as **Exhibit 56** is a true and correct copy of Dr. Nunberg's curriculum vitae, introduced with his Report as Exhibit 3 to his Deposition on December 18, 2014.

22. Attached hereto as **Exhibit 57** is a true and correct copy of Corrections to Page 10 of Dr. Nunberg's Report, introduced as Exhibit 12 to his Deposition on December 18, 2014.

23. Attached hereto as **Exhibit 58** is a true and correct copy of excerpts from the deposition of Dr. Geoffrey Nunberg on February 18, 1997.

24. Attached hereto as **Exhibit 17** is a true and correct copy of excerpts from the deposition of Ronald Butters on January 22, 2015.

25. Attached hereto as **Exhibit 18** is a true and correct copy of E. Palmore, *Ethnophaulisms and Ethnocentrism*, American Journal of Sociology (Jan. 1962), introduced as Exhibit 7 to the deposition of Ronald Butters on January 22, 2015.

26. Attached hereto as **Exhibit 19** is a true and correct copy of excerpts from Irving Lewis Allen, Unkind Words: Ethnic Labeling from Redskin to WASP (1990), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01908-82 and transmitted to this Court as A2308-82.

27. Attached hereto as **Exhibit 20** is a true and correct copy of excerpts from *The Encyclopedia Britannica* (11th ed. 1910), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00128-60 and transmitted to this Court as A469-501.

28. Attached hereto as **Exhibit 21** is a true and correct copy of Alden Vaughan, *From White Man to Redskin: Changing Anglo-American Perceptions of the American Indian*, American Historical Review (October 1982), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01831-67 and transmitted to this Court as A2228-64.

29. Attached hereto as **Exhibit 22** is a true and correct copy of Haig Bosmajian, *Defining the 'American Indian': A Case Study in the Language of Suppression* in Exploring Language (1983), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01884-88 and transmitted to this Court as A2281-85.

30. Attached hereto as **Exhibit 23** is a true and correct copy of Robert Keller, *Hostile Language: Bias in Historical Writing About American Indian Resistance*, Journal of American Culture (Winter 1986), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01890-905 and transmitted to this Court as A2287-302.

31. Attached hereto as **Exhibit 24** is a true and correct copy excerpts from the Michigan Civil Rights Commission Report, "Use of Nicknames, Logos and Mascots Depicting Native American People in Michigan Education Institutions" (1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-02213-310 and transmitted to this Court as A2619-716.

32. Attached hereto as **Exhibit 25** is a true and correct copy of an excerpt from Jay Coakley, Sport in Society: Issues and Controversies (1990), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-02553-56 and transmitted to this Court as A2965-68.

33. Attached hereto as **Exhibit 26** is a true and correct copy of Robert Jensen, *Banning 'Redskins' from the Sports Page: The Ethics and Politics of Native American Nicknames*, Journal of Mass Media Ethics (1994), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-02042-46 and transmitted to this Court as A2445-49.

34. Attached hereto as **Exhibit 27** is a true and correct copy of Philip Rahv, *Paleface and Redskin*, excerpted from Image and Idea: Twenty Essays on Literary Themes by Philip Rahv (1957), introduced by PFI into the Blackhorse record before the T.T.A.B. and transmitted to this Court at A11344-50.

35. Attached hereto as **Exhibit 28** is a true and correct copy of Paul Kaplan, *Do We Defame Native Americans?*, Washington Star (Aug. 13, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00826-27 and transmitted to this Court as A1157-58. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000057-58.

36. Attached hereto as **Exhibit 29** is a true and correct copy of Tom Quinn, *Indians are starting to fight back*, Washington Daily News (Jan. 28, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00828 and transmitted to this Court as A1159. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000059.

37. Attached hereto as **Exhibit 30** is a true and correct copy of Russ White, *No Reservations - Williams' Answer: What's In A Name?*, Evening Star (Jan. 27, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00830 and transmitted to this Court as A1161. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000061.

38. Attached hereto as **Exhibit 31** is a true and correct copy of Tom Quinn, *Redskins Face Suit* and *The Quest for Dignity*, Washington Daily News (Feb. 18, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00831 and transmitted to this Court as A1162. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000059.

39. Attached hereto as **Exhibit 32** is a true and correct copy of Tom Quinn, *What's in a nickname? In Washington, plenty of trouble, possibilities*, Washington Daily News (Feb. 29, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00832 and transmitted to this Court as A1163. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000063.

40. Attached hereto as **Exhibit 33** is a true and correct copy of Tim Giago, *If the name Redskins doesn't bother team owner, how about Blackskins?*, Sioux Falls Argus Leader (Feb. 21, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00843 and transmitted to this Court as A1174.

41. Attached hereto as **Exhibit 34** is a true and correct copy of Rose Gutfeld, *A Native American Group Lobbies NFL's Redskins to Change Name*, The Wall Street Journal (1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00845 and transmitted to this Court as A1176.

42. Attached hereto as **Exhibit 35** is a true and correct copy of an editorial, *'Redskins' is racist*, Stanford Daily (Feb. 2, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00880 and transmitted to this Court as A1211.

43. Attached hereto as **Exhibit 36** is a true and correct copy of Ron Martz, *Stereotypes of Indians Ingrained in America*, Atlanta Constitution (Dec. 7, 1986), and a more

legible reprint of the same article, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00891-92, 878-79 and transmitted to this Court as A1222-23, A1209-10.

44. Attached hereto as **Exhibit 37** is a true and correct copy of Don Boxmeyer, *Humboldt Urged to Leave Indians in Peace*, St. Paul Pioneer Press (Nov. 29, 1987), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00893 and transmitted to this Court as A1224.

45. Attached hereto as **Exhibit 38** is a true and correct copy of John Slupski, *Native Americans get unsportsmanlike rep* (1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00894-95 and transmitted to this Court as A1225-26.

46. Attached hereto as **Exhibit 39** is a true and correct copy of Gary Fallesen, *'Racist' name taints game with stupidity*, Democrat and Chronicle (1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00896 and transmitted to this Court as A1227.

47. Attached hereto as **Exhibit 40** is a true and correct copy of *Group Calls Indian Names Racist*, Watertown Public Opinion (Jan. 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00898 and transmitted to this Court as A1229.

48. Attached hereto as **Exhibit 41** is a true and correct copy of AP, *Indian Group Fights 'Racist' Team Names*, St. Cloud Daily Times (Jan. 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00899 and transmitted to this Court as A1230.

49. Attached hereto as **Exhibit 42** is a true and correct copy of Mark Grossman, *'Redskins' Irks Indians; Protests Planned*, Fairfax Journal (Jan. 21, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00900-01 and transmitted to this Court as A1231-32.

50. Attached hereto as **Exhibit 43** is a true and correct copy of Clarence Page, *It'll be the Broncos vs. a racial slur*, Chicago Tribune (Jan. 24, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00902 and transmitted to this Court as A1233. Also attached is a plain text copy of the article, Bates numbered EDVA-DEF-0000104-05.

51. Attached hereto as **Exhibit 44** is a true and correct copy of Paul O. Sand, *Do not continue to smear American Indians in team names*, Saint Paul Pioneer Press Dispatch (Jan. 28, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00903 and transmitted to this Court as A1237.

52. Attached hereto as **Exhibit 45** is a true and correct copy of Pat Helmberger, *Consider Religious Significance*, Pioneer (Bernidji, MN) (Feb. 5, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00905 and transmitted to this Court as A1239.

53. Attached hereto as **Exhibit 46** is a true and correct copy of Bob Bernotas, *American Indian Group Wants Sports Names Changed*, Baltimore Jewish Times (Feb. 12, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00907-08 and transmitted to this Court as A1241-42.

54. Attached hereto as **Exhibit 47** is a true and correct copy of Don Coldsmith, *Horsin' Around . . . Racism Topic of Athletic Concern*, Grass and Green (Manhattan, Kansas) (Mar. 8, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00909 and transmitted to this Court as A1243.

55. Attached hereto as **Exhibit 48** is a true and correct copy of Richard Cohen, *Redskin Reservations*, Wash. Post (Apr. 17, 1988), introduced into the Blackhorse record before

the T.T.A.B. at BLA-TTAB-00910 and transmitted to this Court as A1244. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000106.

56. Attached hereto as **Exhibit 49** is a true and correct copy of Erik Brady, *Indians: A People, Not a Nickname*, USA Today (Aug. 15, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00912 and transmitted to this Court as A1246.

57. Attached hereto as **Exhibit 50** is a true and correct copy of Rick Telander, *This Was a Magic Year*, Sports Illustrated (Dec. 26, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00913 and transmitted to this Court as A1247.

58. Attached hereto as **Exhibit 51** is a true and correct copy of Sam Thorp, *Mascot Could Be Part of Bigger Problem*, Penn (IUP) (Dec. 8, 1989), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00914 and transmitted to this Court as A1248.

59. Attached hereto as **Exhibit 52** is a true and correct copy of S. Coffey, *Indians Open War on Redskins*, Wash. Post (Mar. 30, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00886-88 and transmitted to this Court as A1217-19. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000069-70.

60. Attached hereto as **Exhibit 53** is a true and correct copy of Tom Quinn, *Williams, Indians in Showdown*, Washington Daily News (Mar. 30, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00834 and transmitted to this Court as A1165. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000065.

61. Attached hereto as **Exhibit 54** is a true and correct copy of George Solomon, *Redskins Keep Names, Will Change Lyrics*, Wash. Post (Jul. 18, 1972), introduced into the

Blackhorse record before the T.T.A.B. at BLA-TTAB-00837 and transmitted to this Court as A1168. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000071.

62. Attached hereto as **Exhibit 55** is a true and correct copy of *The Double Eagle Ticket*, Baltimore Sun (Jul. 20, 1972), bearing Bates stamp EDVA-DEF-0002566

63. Attached hereto as **Exhibit 59** is a true and correct copy of excerpts from the deposition of James Riding In on January 7, 2015.

64. Attached hereto as **Exhibit 60** is a true and correct copy of the Report of James Riding In, introduced as Exhibit 1 to his Deposition on January 7, 2015.

65. Attached hereto as **Exhibit 61** is a true and correct copy of Alan Dundes and C. Fayne Porter, *American Indian Student Slang*, American Speech, Vol. 38, No. 4 (Dec. 1963), introduced with the Report of James Riding In as Exhibit 1 to his Deposition on January 7, 2015.

66. Attached hereto as **Exhibit 76** is a true and correct copy of Minutes of Athletic Board Meeting, Univ. of Utah (Mar. 8, 1972), introduced with the Report of James Riding In as Exhibit 1 to his Deposition on January 7, 2015.

67. Attached hereto as **Exhibit 77** is a true and correct copy of a letter from Michael K. Young, Pres., Univ. of Utah, to Bernard Franklin, VP, NCAA (Aug. 31, 2005), introduced with the Report of James Riding In as Exhibit 1 to his Deposition on January 7, 2015.

68. Attached hereto as **Exhibit 62** is a true and correct copy of excerpts from the deposition of Vine Deloria on March 4, 1996.

69. Attached hereto as **Exhibit 63** is a true and correct copy of *Indian Tribal Entities That Have a Government-to-Government Relationship with the United States*, 44 Fed. Reg. 7235 (Jan. 31, 1979).

70. Attached hereto as **Exhibit 64** is a true and correct copy of excerpts from the deposition of Harold Gross on March 4, 1996, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-03530- 602 and transmitted to this Court as A3958-4030.

71. Attached hereto as **Exhibit 65** is a true and correct copy of a letter from Harold Gross to the President of PFI, Edward Bennett Williams (Jan. 18, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01640-42 and transmitted to this Court as A2031-33.

72. Attached hereto as **Exhibit 66** is a true and correct copy of an attendee list of the 1972 meeting with Edward Bennett Williams, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-05848 and transmitted to this Court as A6313.

73. Attached hereto as **Exhibit 67** is a true and correct copy of a letter from Edward Bennett Williams to Commissioner Pete Rozelle (Mar. 30, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-05860 and transmitted to this Court as A6325.

74. Attached hereto as **Exhibit 68** is a true and correct copy of *NCAI Wages War on Indian Images, NCAI Sentinel*, v. 14 no. 1 (Winter-Spring, 1969), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00881-83 and transmitted to this Court as A1212-14.

75. Attached hereto as **Exhibit 69** is a true and correct copy of Tom Quinn, *Redskins, Rednecks*, Washington Daily News (Nov. 5, 1971), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00825 and transmitted to this Court as A1156. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000056.

76. Attached hereto as **Exhibit 70** is a true and correct copy of *'Redskins' Target of Movement*, Evening Star (Jan. 19, 1972), introduced into the Blackhorse record before the

T.T.A.B. at BLA-TTAB-01643 and transmitted to this Court as A2034. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000137.

77. Attached hereto as **Exhibit 71** is a true and correct copy of Morris Siegel, *Siegel at Large*, Washington Star (Jan. 26, 1972), introduced into the Blackhorse record before the T.T.A.B. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000060.

78. Attached hereto as **Exhibit 72** is a true and correct copy of William M. Carley, *Is Chief Noc-A-Homa Racist? Many Indians Evidently Think He Is*, Wall Street Journal (Jan. 27, 1972).

79. Attached hereto as **Exhibit 73** is a true and correct copy of John McKelway, *The Rambler . . . Ponders Name For the Redskins*, Evening Star (Jan. 28, 1972).

80. Attached hereto as **Exhibit 74** is a true and correct copy of Tom Quinn, *More on the Redskins*, and *Williams to Meet With Indians*, Washington Daily News (Mar. 22, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00833 and transmitted to this Court as A1164. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000064.

81. Attached hereto as **Exhibit 75** is a true and correct copy of Steve Guback, *Indians Take On Williams*, Wash. Post (Mar. 30, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00835 and transmitted to this Court as A1166. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000066-68.

82. Attached hereto as **Exhibit 78** is a true and correct copy of A. Seidenbaum, *Stanford's Last Stand*, Los Angeles Times (Mar. 14, 1972).

83. Attached hereto as **Exhibit 79** is a true and correct copy of Calvin Trillin, *U.S. Journal: Hanover, N.H. - The Symbol is a Symbol*, New Yorker (May 7, 1979), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00889 and transmitted to this Court as A1220.

84. Attached hereto as **Exhibit 80** is a true and correct copy of *The National Indian Education Association unanimously supports Stanford's elimination of their Indian mascot*, Stanford University News Service (Dec. 6, 1979), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-02207 and transmitted to this Court as A2613.

85. Attached hereto as **Exhibit 81** is a true and correct copy of Avis Little Eagle, *Action taken to chop 'Redskins' trademark*, Lakota Times (Sept. 16, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00987-88 and transmitted to this Court as A1321-22.

86. Attached hereto as **Exhibit 82** is a true and correct copy of Eric Haase, *3,000 rally against racist mascots*, Lakota Times (Jan. 28, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00956-63 and transmitted to this Court as A1290-97.

87. Attached hereto as **Exhibit 83** is a true and correct copy of excerpts from the deposition of JoAnn Chase on April 26, 1996, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-02771-887 and transmitted to this Court as A3192-308.

88. Attached hereto as **Exhibit 84** is a true and correct copy of Amy Baker, *Redskins won? Not if this group has anything to say about it!*, Christian Science Monitor (Feb. 5, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00906 and transmitted to this Court as A1240. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000106.

89. Attached hereto as **Exhibit 85** is a true and correct copy of a letter from Phillip St. John, Concerned American Indian Parents, to Jack Kent Cooke (Jan. 6, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00249 and transmitted to this Court as A593.

90. Attached hereto as **Exhibit 86** is a true and correct copy of a letter from Christopher Burke, Fans Against Indian Racism, to Jack Kent Cooke (Jan. 15, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00250 and transmitted to this Court as A594.

91. Attached hereto as **Exhibit 87** is a true and correct copy of Tim Giago, *Using sham rituals to boost sports teams belittles Native Americans' culture*, Saint Paul Pioneer Press (Oct. 22, 1991), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01003 and transmitted to this Court as A1340.

92. Attached hereto as **Exhibit 88** is a true and correct copy of Tim Giago, *Talk Radio: Ignorance adds insult to injury*, Lakota Times (Oct. 30, 1991), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01004 and transmitted to this Court as A1341.

93. Attached hereto as **Exhibit 89** is a true and correct copy of Tim Giago, *I Hope the Redskins Lose*, Newsweek (Jan. 27, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01005 and transmitted to this Court as A1342.

94. Attached hereto as **Exhibit 90** is a true and correct copy of Tim Giago, *Brave redskins? Gee, Mr. Cooke, very bigot of you*, Lakota Times (Feb. 4, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01006 and transmitted to this Court as A1343.

95. Attached hereto as **Exhibit 91** is a true and correct copy of Tim Giago, *Mascot issue won't go away and neither will Indian people*, Lakota Times (Apr. 1, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01007 and transmitted to this Court as A1344.

96. Attached hereto as **Exhibit 92** is a true and correct copy of a letter from D. Tobbin to J. Cooke (Feb. 1988) (with attached article: T. Giago, *We Are Human Beings, Not Mascots*, Great Falls Tribune, Feb. 16, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00252 and transmitted to this Court as A596.

97. Attached hereto as **Exhibit 93** is a true and correct copy of a note from R. Schmidt to J. Cooke, (Feb. 16, 1988) (with attached article: T. Giago, *What's In a Name? Racism*, Grand Forks Herald, Feb. 13, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00253 and transmitted to this Court as A597.

98. Attached hereto as **Exhibit 94** is a true and correct copy of a letter from L. Ottinger, et al. to J. Cooke (Feb. 21, 1988) (with attached article: T. Giago, *If the name Redskins doesn't bother team owner, how about Blackskins?*, Sioux Falls Argus Leader, Feb. 21, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00261-62 and transmitted to this Court as A605-06.

99. Attached hereto as **Exhibit 95** is a true and correct copy of a letter from Roxanna Puchner to Jack Kent Cooke (Feb. 22, 1988) (with attached article: T. Giago, *A Clever Nickname Cannot Disguise a Racial Slur*, Lakota Times, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00273-75 and transmitted to this Court as A617-19.

100. Attached hereto as **Exhibit 96** is a true and correct copy of a letter from Sen. Rudy Boschwitz to Jack Kent Cooke (Mar. 22, 1988), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00295 and transmitted to this Court as A639.

101. Attached hereto as **Exhibit 97** is a true and correct copy of a letter from Sen. Dennis DeConcini to Paul Tagliabue, Comm'r, NFL, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00315-16 and transmitted to this Court as A659-60.

102. Attached hereto as **Exhibit 98** is a true and correct copy of Randy Furst, *Wellstone urges end to Washington 'Redskins'*, Star Tribune (Jan. 23, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00949 and transmitted to this Court as A1283. Attached is a plain text copy of the article, Bates numbered EDVA-DEF-0000121-23.

103. Attached hereto as **Exhibit 99** is a true and correct copy of Leonard Inskip, *Redskins: good team, bad name*, Star Tribune (Jan. 26, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00954 and transmitted to this Court as A1288. Attached is plain text copy of the article, Bates numbered EDVA-DEF-0000126-27.

104. Attached hereto as **Exhibit 100** is a true and correct copy of Bunty Anquoe, *'Redskins' new site on Interior land*, Lakota Times (Jan. 21, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00946-47 and transmitted to this Court as A1280-81.

105. Attached hereto as **Exhibit 101** is a true and correct copy of *Change Nickname, Redskins Told - Congressman's Bill Targets Stadium*, Wash. Post (Jul. 3, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00863 and transmitted to this Court as A1194. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000088-90.

106. Attached hereto as **Exhibit 102** is a true and correct copy of AP Denver, *Senate Bill Could Force Redskins Name Change* (Jul. 3, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00864 and transmitted to this Court as A1195.

107. Attached hereto as **Exhibit 103** is a true and correct copy of *Mayor favors renaming Redskins*, Washington Times (Aug. 24, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00865 and transmitted to this Court as A1196. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000091-92.

108. Attached hereto as **Exhibit 104** is a true and correct copy of Avis Little Eagle, *Sen. Nighthorse Stalks Redskins*, Indian Country Today (Jul. 8, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00996 and transmitted to this Court as A1333.

109. Attached hereto as **Exhibit 105** is a true and correct copy of Bunty Anquoe, *'Redskins' on the Run... Bill Seeking Name Change*, Indian Country Today (Aug. 4, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00997-98 and transmitted to this Court as A1334-35.

110. Attached hereto as **Exhibit 106** is a true and correct copy of Ruben Castaneda, *Protesters Condemn Redskins Name*, Wash. Post (Sept. 7, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00867 and transmitted to this Court as A1198. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000097.

111. Attached hereto as **Exhibit 107** is a true and correct copy of S. Kovaleski, *Delays Push Back Stadium's Chances for 1995 Opening*, Wash. Post (Oct. 28, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00868-69 and transmitted to this Court as

A1199. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000098-99.

112. Attached hereto as **Exhibit 108** is a true and correct copy of National Congress of American Indians, Resolution No. EX DC-93-11 (Jan. 18-19, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00236-42 and transmitted to this Court as A580-86.

113. Attached hereto as **Exhibit 109** is a true and correct copy of National Congress of American Indians, Resolution No. NV-93-143 (Dec. 3, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-04727-28 and transmitted to this Court as A5171-72.

114. Attached hereto as **Exhibit 110** is a true and correct copy of Pat Doyle, *'Chop' is Spreading, but Indians Disagree on what is Offensive; Most Decry 'Redskins' Nickname*, Star Tribune (Nov. 1, 1991), introduced into the Blackhorse record before the T.T.A.B. both at BLA-TTAB-000920 and 932 (plain text) and transmitted to this Court as A1254, 1256.

115. Attached hereto as **Exhibit 111** is a true and correct copy of Avis Little Eagle, *Protesters meet Kansas 'Chiefs' at training camp; Mascots: a history of cultural insensitivity and A chronology of the mascot controversy*, Lakota Times (Jul. 29, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00982-83 and transmitted to this Court as A1316-17.

116. Attached hereto as **Exhibit 112** is a true and correct copy of J. Markiewicz, *'Redskins' Banned by University Senate - Proposal Forbids Use in Any Publication, Moves to Risser, Trustees For Approval*, Miami Student (Apr. 13, 1993), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00995 and transmitted to this Court as A1332.

117. Attached hereto as **Exhibit 113** is a true and correct copy of excerpts from the deposition of Dr. Ivan Ross on February 20, 1997, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-04247-387 and transmitted to this Court as A4684-824.

118. Attached hereto as **Exhibit 114** is a true and correct copy of the Expert Disclosure of Dr. Ivan Ross, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-04860-69 and transmitted to this Court as A5307-16.

119. Attached hereto as **Exhibit 115** is a true and correct copy of the Native American Study Results Table prepared by Dr. Ivan Ross, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-04885 and transmitted to this Court as A5332.

120. Attached hereto as **Exhibit 116** is a true and correct copy of excerpts from the deposition of Dr. Ivan Ross on December 12, 1996, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-03118-366 and transmitted to this Court as A3543-791.

121. Attached hereto as **Exhibit 117** is a true and correct copy of excerpts from the deposition of Dr. Ivan Ross on June 11, 1997, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-04389-539 and transmitted to this Court as A4829-980.

122.

123. Attached hereto as **Exhibit 118** is a true and correct copy of the NFL Film “Hail to the Redskins,” introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-02376 and transmitted to this Court as A2785.

124. Attached hereto as **Exhibit 119** is a true and correct copy of *Heap Big Injuns*, (Oct. 1940), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00601 and transmitted to this Court as A923.

125. Attached hereto as **Exhibit 120** is a true and correct copy of excerpts from a 1962 Game Program, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01190-91 and transmitted to this Court as A1533-34.

126. Attached hereto as **Exhibit 121** is a true and correct copy of Leonard Shapiro, *Offensive Penalty Called on 'Redskins'*, Wash. Post (Nov. 3, 1991), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00848-49 and transmitted to this Court as A1179-80. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000074-75.

127. Attached hereto as **Exhibit 122** is a true and correct copy of a newspaper photograph of Redskinettes in Native American costume with the caption "Four fumbles take the cheer out of Washington's Redskinettes," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00699 and transmitted to this Court as A1024.

128. Attached hereto as **Exhibit 123** is a true and correct copy of a photograph of Redskinettes cheerleaders wearing stereotyped black braided hair wigs and Native American costumes, The Redskin magazine, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01166 and transmitted to this Court as A1509.

129. Attached hereto as **Exhibit 124** is a true and correct copy of excerpts from The Redskin magazine (Sept. 30, 1962), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01250-54 and transmitted to this Court as A1599-603.

130. Attached hereto as **Exhibit 125** is a true and correct copy of excerpts from The Redskin magazine (Oct. 7, 1962), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01261-64 and transmitted to this Court as A1610-13.

131. Attached hereto as **Exhibit 126** is a true and correct copy of excerpts from The Redskin magazine (Sept. 29, 1963), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01275-77 and transmitted to this Court as A1624-26.

132. Attached hereto as **Exhibit 127** is a true and correct copy of excerpts from The Redskin magazine (Oct. 6, 1963), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01278-81 and transmitted to this Court as A1627-30.

133. Attached hereto as **Exhibit 128** is a true and correct copy of excerpts from The Redskin magazine (Nov. 17, 1963), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01285-88 and transmitted to this Court as A1637-40.

134. Attached hereto as **Exhibit 129** is a true and correct copy of excerpts from The Redskin magazine (Nov. 17, 1968), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01355-59 and transmitted to this Court as A1713-17.

135. Attached hereto as **Exhibit 130** is a true and correct copy of excerpts from Redskins magazine (Nov. 25, 1962), including a photograph of the Redskins Marching Band, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01269-70 and transmitted to this Court as A1618-19.

136. Attached hereto as **Exhibit 131** is a true and correct copy of Respondent's Fourth Supplemental Response to Petitioners' First, Second and Third Sets of Interrogatories, Harjo v. Pro-Football Inc. No. 21,069 (TTAB) (Dec. 20, 1996), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-02632-42 and transmitted to this Court as A3047-57.

137. Attached hereto as **Exhibit 132** is a true and correct copy of photographs of the "Washington Redskins Marching Band," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01139-67 and transmitted to this Court as A1478-96, A1500-10.

138. Attached hereto as **Exhibit 133** is a true and correct copy of excerpts from Redskins magazine (Dec. 1, 1963), including a photograph of the Redskins Marching Band, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01289-92 and transmitted to this Court as A1641-44.

139. Attached hereto as **Exhibit 134** is a true and correct copy of excerpts from Redskins magazine (Oct. 29, 1967), including a photograph of the Redskins Marching Band, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01349-50 and transmitted to this Court as A1707-08.

140. Attached hereto as **Exhibit 135** is a true and correct copy of excerpts from Redskins magazine (Oct. 13, 1968), including a photograph of the Redskins Marching Band, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01355-56 and transmitted to this Court as A1713-14.

141. Attached hereto as **Exhibit 136** is a true and correct copy of Photographs of the members of the “Redskins marching band” from “Redskin ‘76 Yearbook,” introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01410-13 and transmitted to this Court as A1774-77.

142. Attached hereto as **Exhibit 137** is a true and correct copy of photographs of the members of the “Redskins marching band” from 1988 “Redskins” Yearbook,” introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01473-74 and transmitted to this Court as A1846-47.

143. Attached hereto as **Exhibit 138** is a true and correct copy of a photograph of players wearing headdresses captioned “Feathers Are Only Decorative But Players Bear D.C.

Football Hope,” Washington Times Herald, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00676 and transmitted to this Court as A1001.

144. Attached hereto as **Exhibit 139** is a true and correct copy of an AP photograph of PFI players wearing headdresses captioned “Heap, Heap Horray! For Redskins,” Wash. Post, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00677 and transmitted to this Court as A1002.

145. Attached hereto as **Exhibit 140** is a true and correct copy of photos of players wearing “typical aborigine headdress” during practice, Washington Star, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00678 and transmitted to this Court as A1003.

146. Attached hereto as **Exhibit 141** is a true and correct copy of a photo of PFI players wearing headdresses, Washington Daily News, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00679 and transmitted to this Court as A1004.

147. Attached hereto as **Exhibit 142** is a true and correct copy of a photos of fans, players, and the Team marching band, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00680 and transmitted to this Court as A1005.

148. Attached hereto as **Exhibit 143** is a true and correct copy of Ev Gardner, *How George Preston Marshall Boosted Racing*, with photo of Team owner wearing headdress, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00684 and transmitted to this Court as A1009.

149. Attached hereto as **Exhibit 144** is a true and correct copy of *Redskins Clip Eagles 27-21, As Baugh Ends Career*, Washington Times Herald (Dec. 15, 1952) (with photograph),

introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00695-96 and transmitted to this Court as A1020-21.

150. Attached hereto as **Exhibit 145** is a true and correct copy of a photograph of George Preston Marshall crowning twin sisters as Miss Redskins 1954, Evening Star (Oct. 6, 1954), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00697 and transmitted to this Court as A1022. Attached is a more legible photocopy, Bates numbered EDVA-DEF-0000020.

151. Attached hereto as **Exhibit 146** is a true and correct copy of a photograph of PFI publicity aide Joan Adams wearing a headdress, Evening Star (Sep. 22, 1959), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00698 and transmitted to this Court as A1023. Attached is a more legible photocopy, Bates numbered EDVA-DEF-0000021.

152. Attached hereto as **Exhibit 147** is a true and correct copy of excerpts from a 1959 Team game program, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01226-29 and transmitted to this Court as A1572-75.

153. Attached hereto as **Exhibit 148** are true and correct copies of covers from Team game programs, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00757-70, 772, 774-75 and transmitted to this Court as A1085-98, A1100, A1102-03.

154. Attached hereto as **Exhibit 149** is a true and correct copy of a cover from the Team game program (Sept. 21, 1958), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00776 and transmitted to this Court as A1104.

155. Attached hereto as **Exhibit 150** is a true and correct copy of excerpts from the deposition of John Kent Cooke on March 27, 1996.

156. Attached hereto as **Exhibit 151** is a true and correct copy of an advertisement for Hecht's "Scalp the Cowboys!: Hecht's Fearless Prediction: The Redskins will cream "America's Team," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00598 and transmitted to this Court as A920.

157. Attached hereto as **Exhibit 152** is a true and correct copy of "All chiefs, no Indians," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00599 and transmitted to this Court as A921.

158. Attached hereto as **Exhibit 153** is a true and correct copy of J. Sell, *Washington Team's Powerful Attack Routs Local Team - Scalped!*, Pittsburgh Post Gazette (Oct. 7, 1940), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00600 and transmitted to this Court as A922.

159. Attached hereto as **Exhibit 154** is a true and correct copy of *Redskins Scalp Army Gridders*, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00602 and transmitted to this Court as A924.

160. Attached hereto as **Exhibit 155** is a true and correct copy of *Redskins, Scalped by Steelers*, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00603 and transmitted to this Court as A925.

161. Attached hereto as **Exhibit 156** is a true and correct copy of a photograph with caption "Skins Scalp Yanks, 17 to 14" (Nov. 11, 1946), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00604 and transmitted to this Court as A926.

162. Attached hereto as **Exhibit 157** is a true and correct copy of H. Autz, *College Stars Give Redskins Scalping*, 27-7, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00605 and transmitted to this Court as A927.

163. Attached hereto as **Exhibit 158** is a true and correct copy of J. McNae, *Skins After Dummy's Scalp in Next Session*, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00606 and transmitted to this Court as A928.

164. Attached hereto as **Exhibit 159** is a true and correct copy of *Tribe Figured Best In East With Foe Tops In West*, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00607 and transmitted to this Court as A929.

165. Attached hereto as **Exhibit 160** is a true and correct copy of D. Slattery, *GP's Set to Scalp if His Redskins Don't*, Washington Daily News (Oct. 23, 1948), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00608 and transmitted to this Court as A930.

166. Attached hereto as **Exhibit 161** is a true and correct copy of C. Chamberlain, *Tribe Is Inspired by Memory of 73-0 Defeat*, Washington Evening Star (Nov. 23, 1942), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00609 and transmitted to this Court as A931.

167. Attached hereto as **Exhibit 162** is a true and correct copy of a photograph with caption "Hail to the Redskins," Washington Times-Herald (Nov. 4, 1947), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00610 and transmitted to this Court as A932.

168. Attached hereto as **Exhibit 163** is a true and correct copy of a photograph with caption "35,676 (Count 'Em) Fans See Redskins Scalped in Pro Football Exhibition", Washington Post, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00611 and transmitted to this Court as A933.

169. Attached hereto as **Exhibit 164** is a true and correct copy of an excerpt of the article *36,006 See Redskins Topple Bears for Title and Bears Will Go Through With 'Pro Bowl' Clash If They Beat Skins* (Dec. 14, 1942), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00612-13 and transmitted to this Court as A934-35.

170. Attached hereto as **Exhibit 165** is a true and correct copy of E. Prell, *Redskin Chief Wants Showdown on Future*, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00614-15 and transmitted to this Court as A936-37.

171. Attached hereto as **Exhibit 166** is a true and correct copy of J. King, *Skins'd Even Scalp Bears if the Kickoff Were Today* (June 14, 1943), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00616 and transmitted to this Court as A938.

172. Attached hereto as **Exhibit 167** is a true and correct copy of headlines including *Grid Loop on Warpath Over Redskins' Demands*, Pittsburgh Press (June 21, 1943), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00617 and transmitted to this Court as A939.

173. Attached hereto as **Exhibit 168** is a true and correct copy of D. Slattery, *Skins Stage Another Boston Massacre, 59-21*, Washington Daily News (Monday, November 1, 1948), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00618-19 and transmitted to this Court as A940-41.

174. Attached hereto as **Exhibit 169** is a true and correct copy of an advertisement for "The Redskins Show," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00620 and transmitted to this Court as A942.

175. Attached hereto as **Exhibit 170** is a true and correct copy of D. Slattery, *Giants Massacre Redskins: Gen. Custer Avenged*, Washington Daily News (October 11, 1954),

introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00621 and transmitted to this Court as A943.

176. Attached hereto as **Exhibit 171** is a true and correct copy of A. Costello, *Redskins Hit Warpath To Coast Camp Today*, Washington Times-Herald (Dec. 16, 1950), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00622 and transmitted to this Court as A944.

177. Attached hereto as **Exhibit 172** is a true and correct copy of photograph “Redskin Chiefs Pow-Wow” (1950), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00623 and transmitted to this Court as A945.

178. Attached hereto as **Exhibit 173** is a true and correct copy of D. Slattery, *Wigwam Chit-Chat*, Washington Daily News (Jan. 31, 1951), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00624 and transmitted to this Court as A946.

179. Attached hereto as **Exhibit 174** is a true and correct copy of D. Slattery, *Redskins on the Warpath*, The Washington Daily News (Oct. 29, 1951), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00625 and transmitted to this Court as A947.

180. Attached hereto as **Exhibit 175** is a true and correct copy of *Skins Scalp Steelers, 22-7, For 3rd Win*, Baltimore Sun (Nov. 11, 1951), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00626 and transmitted to this Court as A948.

181. Attached hereto as **Exhibit 176** is a true and correct copy of a photograph with caption “Big Chief Welcomes Todd Back to Redskin Teepee” (1952), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00627 and transmitted to this Court as A949.

182. Attached hereto as **Exhibit 177** is a true and correct copy of a photograph with caption “Redskins’ Offensive Line Ready to Hit Warpath in Old D.C. Today,” Washington Times-Herald (Oct. 12, 1952), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00628 and transmitted to this Court as A950.

183. Attached hereto as **Exhibit 178** is a true and correct copy of Ev Gardner, *Optimism in the Tepee*, Washington Daily News (Nov. 28, 1952), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00629 and transmitted to this Court as A951.

184. Attached hereto as **Exhibit 179** is a true and correct copy of D. Slattery, *Tribe Quarterbacks Go Back to School*, Washington Daily News (August 8, 1953), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00630 and transmitted to this Court as A952.

185. Attached hereto as **Exhibit 180** is a true and correct copy of D. Slattery, *Tribe Thinks a Heap of Its Old Braves*, Washington Daily News (Aug. 15, 1953), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00631 and transmitted to this Court as A953.

186. Attached hereto as **Exhibit 181** is a true and correct copy of D. Slattery, *Redskins Brewing Special Kickapoo Juice for Browns*, Washington Daily News (Oct. 1953), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00632 and transmitted to this Court as A954.

187. Attached hereto as **Exhibit 182** is a true and correct copy of D. Slattery, *Wigwam Wigwags*, Washington Daily News (Oct. 22, 1953), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00633 and transmitted to this Court as A955.

188. Attached hereto as **Exhibit 183** is a true and correct copy of the headline D. Slattery, *Scalped Redskins Scratched: They're Out of Title Race*, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00634 and transmitted to this Court as A956.

189. Attached hereto as **Exhibit 184** is a true and correct copy of D. Slattery, *Redskins Ambushed*, Washington Daily News (Aug. 20, 1957), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00635 and transmitted to this Court as A957.

190. Attached hereto as **Exhibit 185** is a true and correct copy of W. Thompson, *Joy in Teepee: Papoose Platoon Set For Rough NFL Wars*, Charlotte Observer (1957), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00636 and transmitted to this Court as A958.

191. Attached hereto as **Exhibit 186** is a true and correct copy of D. Slattery, *Tribe's Sloppy Play Makes Curly Erupt*, The Washington Daily News (Aug. 16, 1954), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00637 and transmitted to this Court as A959.

192. Attached hereto as **Exhibit 187** is a true and correct copy of D. Slattery, *The Redskins Resembled Cigar Store Indians*, The Washington Daily News (Oct. 6, 1953), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00638 and transmitted to this Court as A960.

193. Attached hereto as **Exhibit 188** is a true and correct copy of H. Clark, *Lo! The Vanishing Redskins! Speedy Steeds Outrun, Outgun Injuns*, Baltimore News-Post (October 27, 1958), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00639-40 and transmitted to this Court as A961-62.

194. Attached hereto as **Exhibit 189** is a true and correct copy of T. Yorke, *Redskins First In Trail-Blazing*, The Washington Daily News (April 4, 1959), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00641 and transmitted to this Court as A963.

195. Attached hereto as **Exhibit 190** is a true and correct copy of M. Muileman, *Beware, Colts! Redskins In Ambush, The Charlotte (N.C.) News* (Nov. 7, 1959), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00642 and transmitted to this Court as A964.

196. Attached hereto as **Exhibit 191** is a true and correct copy of *Nixon's on the Redskin Warpath*, Charlotte News (Dec. 3, 1959), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00643 and transmitted to this Court as A965.

197. Attached hereto as **Exhibit 192** is a true and correct copy of an excerpt from *Redskins Start Bloodletting Today*, Washington Post (July 10, 1969), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00644 and transmitted to this Court as A966.

198. Attached hereto as **Exhibit 193** is a true and correct copy of a photograph with caption "Darkness Descends on Redskin Ruins, 34-0" (Jan. 7, 1970), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00645 and transmitted to this Court as A967.

199. Attached hereto as **Exhibit 194** is a true and correct copy of *Cards Massacre Redskins, 44 to 7*, Washington Times-Herald (Nov. 8, 1960), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00646 and transmitted to this Court as A968.

200. Attached hereto as **Exhibit 195** is a true and correct copy of T. Yorke, *Tribe Brass Seek Answers*, Washington Daily News (Nov. 10, 1960), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00647 and transmitted to this Court as A969.

201. Attached hereto as **Exhibit 196** is a true and correct copy of T. Yorke, *Colts Are Scalping Redskins at the Gate*, The Washington Daily News (May 23, 1961), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00648 and transmitted to this Court as A970.

202. Attached hereto as **Exhibit 197** is a true and correct copy of a photograph captioned "The New Indian Rope Trick," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00649 and transmitted to this Court as A971.

203. Attached hereto as **Exhibit 198** is a true and correct copy of D. Brady, *Redskins Will Be Good Warriors if Huff Gets Linebacking Help*, Washington Post (July 12, 1964), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00650 and transmitted to this Court as A972.

204. Attached hereto as **Exhibit 199** is a true and correct copy of D. Brady, *Optimism Ramptant as 1965 Openers Near - Hostility of Redskins Intrigues Patient Fans*, Washington Post (Sept. 12, 1965), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00651 and transmitted to this Court as A973.

205. Attached hereto as **Exhibit 200** is a true and correct copy of J. Tomlinson, *Tom-Toms* (with drawing of Native American with small wood fire), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00652 and transmitted to this Court as A974.

206. Attached hereto as **Exhibit 201** is a true and correct copy of L. Atchison, *Bow-and-Arrow Arsenal Fails: Redskins and Coaches Stunned By Debacle*, Evening Star (Oct. 11,

1965), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00653-54 and transmitted to this Court as A975-76.

207. Attached hereto as **Exhibit 202** is a true and correct copy of T. Yorke, *Our Injuns Get Tuneup; Sonny the Spark Plug*, Washington Daily News (Oct. 25, 1965), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00655 and transmitted to this Court as A977.

208. Attached hereto as **Exhibit 203** is a true and correct copy of T. Yorke, *McPeak Is Facing the Tomahawk*, Washington Daily News (Dec. 6, 1965), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00657 and transmitted to this Court as A979.

209. Attached hereto as **Exhibit 204** is a true and correct copy of T. Yorke, *Did Tribe Panic on Paluck Deal?*, Washington Daily News (Aug. 18, 1966), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00658 and transmitted to this Court as A980.

210. Attached hereto as **Exhibit 205** is a true and correct copy of D. Brady, *Redskins Scalp 49ers, Plan Cowboy Ambush*, Pro Football Weekly (Nov. 13, 1967), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00659 and transmitted to this Court as A981.

211. Attached hereto as **Exhibit 206** is a true and correct copy of D. Brady, *Lombardi's Messages Come Through Loud and Clear*, Washington Post (July 10, 1969) (with photograph captioned "Redskins on Warpath,"), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00660-61 and transmitted to this Court as A982-83.

212. Attached hereto as **Exhibit 207** is a true and correct copy of L. Atchison, *More Cuts Likely to Follow Full-Scale Redskin Warfare*, Evening Star (Aug. 13, 1969), introduced into

the Blackhorse record before the T.T.A.B. at BLA-TTAB-00663 and transmitted to this Court as A988.

213. Attached hereto as **Exhibit 208** is a true and correct copy of S. Hershey, “The Scalp Hunters,” *Evening Star* (Nov. 9, 1972), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00664 and transmitted to this Court as A989.

214. Attached hereto as **Exhibit 209** is a true and correct copy of W. Claiborne, *Skin Fans Scalped By Ticket Owners / Some Ticket Owners Scalp ‘Skins Fans*, The Washington Post (Dec. 16, 1973), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00665 and transmitted to this Court as A990.

215. Attached hereto as **Exhibit 210** is a true and correct copy of advertisement “How Many Redskins Does It Take To Clean a Fish?” for Woodward & Lothrop (1983), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00666-67 and transmitted to this Court as A991-92.

216. Attached hereto as **Exhibit 211** is a true and correct copy of B. Levey, *Bob Levey’s Washington: A Redskin ‘Salesman’ Gets Scalped*, Wash. Post (Oct. 21, 1985), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00668 and transmitted to this Court as A993. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000014.

217. Attached hereto as **Exhibit 212** is a true and correct copy of *Sweet Revenge* (Nov. 25, 1986), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00669 and transmitted to this Court as A994.

218. Attached hereto as **Exhibit 213** is a true and correct copy of M. Zad, *Redskins Back On the Warpath*, Wash. Post (Aug. 5, 1990), introduced into the Blackhorse record before

the T.T.A.B. at BLA-TTAB-00670 and transmitted to this Court as A995. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000015-16.

219. Attached hereto as **Exhibit 214** is a true and correct copy of *Santa Claus Misses Wigwam Goal*, Times-Herald (Washington D.C.) (Dec. 15, 1947), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00672 and transmitted to this Court as A997.

220. Attached hereto as **Exhibit 215** is a true and correct copy of an AP photograph of George Preston Marshall with cigar store Indian caption: "So You Won't Talk, Eh?" introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00673 and transmitted to this Court as A998.

221. Attached hereto as **Exhibit 216** is a true and correct copy of a photograph of George Preston Marshall captioned "Cigar Store Indian Part of Marshall's Ballyhoo," Milwaukee Journal, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00674 and transmitted to this Court as A999.

222. Attached hereto as **Exhibit 217** is a true and correct copy of photos of marching band captioned "Dress Rehearsal for Another Season of Hailing," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00675 and transmitted to this Court as A1000.

223. Attached hereto as **Exhibit 218** is a true and correct copy of a photo of PFI players wearing headdresses, Washington Daily News, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00682 and transmitted to this Court as A1007.

224. Attached hereto as **Exhibit 219** is a true and correct copy of W. Haight, *Redskins' Backfield Star Talks Indian, Signs His Right Name* and *Haight Meets Farkas, Becomes Better Man*, Wash. Post (Feb. 6, 1940), introduced into the Blackhorse record before the T.T.A.B. at

BLA-TTAB-00683 and transmitted to this Court as A1008. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000017-18.

225. Attached hereto as **Exhibit 220** is a true and correct copy of a photo of marching band with director dressed in Native American costume captioned “Champion Drum Major Scores Hit With Band,” introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00685 and transmitted to this Court as A1010.

226. Attached hereto as **Exhibit 221** is a true and correct copy of Photograph with caption “Layden Sits In on Annual Banquet of Redskin Band,” Washington Times-Herald (May 5, 1941), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00686 and transmitted to this Court as A1011.

227. Attached hereto as **Exhibit 222** is a true and correct copy of a photo of man standing next to Native American statue in PFI office with caption “As One Indian to Another, Says Redskin Rookie,” Washington Times-Herald (Jun. 23, 1942), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00687 and transmitted to this Court as A1012.

228. Attached hereto as **Exhibit 223** is a true and correct copy of a photograph with caption “The Admiral Gets His Orders” with coach and George Preston Marshall and a statue in the background, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00689 and transmitted to this Court as A1014.

229. Attached hereto as **Exhibit 224** is a true and correct copy of *AAC Won’t Puff on GP’s Peace Pipe*, Washington Daily News (Dec. 3, 1949), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00690 and transmitted to this Court as A1015.

230. Attached hereto as **Exhibit 225** is a true and correct copy of a photo of George Preston Marshall smoking a peace pipe, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00691 and transmitted to this Court as A1016.

231. Attached hereto as **Exhibit 226** is a true and correct copy of a photograph of potential player wearing headdress with caption "Big Chief Choo-Choo He Ponder" Washington Times-Herald (Aug. 3, 1950), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00692 and transmitted to this Court as A1017.

232. Attached hereto as **Exhibit 227** is a true and correct copy of a photo of Amoco president signing contract to sponsor radio broadcasts of games, in front of statues, Wash. Post (Mar. 13, 1952), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00693 and transmitted to this Court as A1018. Attached is a more legible and more complete copy of the picture, Bates numbered EDVA-DEF-0000019.

233. Attached hereto as **Exhibit 228** is a true and correct copy of D. Slattery, *Three Redskins Due for Ax*, Washington Daily News (Mar. 13, 1952), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00694 and transmitted to this Court as A1019.

234. Attached hereto as **Exhibit 229** is a true and correct copy of *Globe Helps Washington Redskins*, Globe (August 1964), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00700 and transmitted to this Court as A1025.

235. Attached hereto as **Exhibit 230** is a true and correct copy of M. Siegel, *Redskins' Band To Drop Dixie*, Evening Star (Aug. 16, 1965), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00701 and transmitted to this Court as A1026.

236. Attached hereto as **Exhibit 231** is a true and correct copy of T. Seppy, *Skins' Pow Wow Fading?*, Dallas Morning News (Nov. 21, 1978), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00702 and transmitted to this Court as A1027.

237. Attached hereto as **Exhibit 232** is a true and correct copy of photos of Super Bowl XXVI Championship game with fans dressed as Native Americans, Washington Times (1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00704-05 and transmitted to this Court as A1029-30.

238. Attached hereto as **Exhibit 233** is a true and correct copy of B. Harden, *500,000 Frenzied Fans Revel in the Rain for Redskins*, Wash. Post (Feb. 3, 1983), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00707 and transmitted to this Court as A1032. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000024-26.

239. Attached hereto as **Exhibit 234** is a true and correct copy of P.E. Bauer and J. Mintz, *Unbelievers in an Alien Land* and *Touchdown Gallup Sparks Jubilation in Washington*, Wash. Post (Jan. 11, 1981), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00708-09 and transmitted to this Court as A1033-34. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000027-28.

240. Attached hereto as **Exhibit 235** is a true and correct copy of J. Cook, *The Chief of Victory*, Great Times (Arundel, MD) (Aug. 25, 1983), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00710 and transmitted to this Court as A1035.

241. Attached hereto as **Exhibit 236** is a true and correct copy of photos of Washington v. Dallas NFC Championship game with caption "A Fan's First Impressions" (Jan.

1983), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00711 and transmitted to this Court as A1036.

242. Attached hereto as **Exhibit 237** is a true and correct copy of C. Williams, *A City's Soul on a Roll*, Wash. Post (Jan. 31, 1983), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00712 and transmitted to this Court as A1037. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000029-31.

243. Attached hereto as **Exhibit 238** is a true and correct copy of newspaper photos of fans during Washington football game including photo of Zema Williams ("Chief Z") (Jan. 13, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00713 and transmitted to this Court as A1038.

244. Attached hereto as **Exhibit 239** is a true and correct copy of *Shame on you, Redskins!*, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00714 and transmitted to this Court as A1039.

245. Attached hereto as **Exhibit 240** is a true and correct copy of D. Kindred, *...Washington Reacts Quizzically*, Wash. Post (Sept. 4, 1983) (with photograph), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00715 and transmitted to this Court as A1040. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000032-33.

246. Attached hereto as **Exhibit 241** is a true and correct copy of M. Kimel, *The Lullaby of Washington - 'Hail to the Redskins' - Music that Soothes the Savage Breast of a City*, Wash. Post (Jan 13, 1991), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00716 and transmitted to this Court as A1041. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000034.

247. Attached hereto as **Exhibit 242** is a true and correct copy of V.L. Dorsey, *Indian Mascots Stir Sensitivity Debate*, USA Today (Oct. 23, 1991), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00717 and transmitted to this Court as A1042.

248. Attached hereto as **Exhibit 243** is a true and correct copy of K. Swisher, *Undefeated 'Skins Fans on the Store Path*, Wash. Post (Oct. 26, 1991), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00718 and transmitted to this Court as A1043. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000035-36.

249. Attached hereto as **Exhibit 244** is a true and correct copy of a photo of Washington football fans wearing headdress during Super Bowl (1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00719 and transmitted to this Court as A1044.

250. Attached hereto as **Exhibit 245** is a true and correct copy of B. Molinero, *Redskins Leave No Doubts*, The Virginian Pilot (Jan. 27, 1992) (with photograph), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00720-21 and transmitted to this Court as A1045-46.

251. Attached hereto as **Exhibit 246** is a true and correct copy of Newspaper photo of fan Samu Qureshi dressed in Native American costume surrounded by team memorabilia (1994), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00722 and transmitted to this Court as A1047.

252. Attached hereto as **Exhibit 247** is a true and correct copy of L. Woellert, *Movable Feasts - Redskins Fans Bring Party to Parking Lots at RFK*, Washington Times (Sept. 5, 1994), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00723 and transmitted

to this Court as A1048. Attached is a more legible and more complete copy of the article, Bates numbered EDVA-DEF-0000039.

253. Attached hereto as **Exhibit 248** is a true and correct copy of a newspaper cartoon by J. Berryman caricature of player with feather in helmet (1940), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00779 and transmitted to this Court as A1107.

254. Attached hereto as **Exhibit 249** is a true and correct copy of a newspaper cartoon by Reinert captioned "Rams Fight to Bring Cleveland Its Second Pro Football Title" (1940s), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00781 and transmitted to this Court as A1109.

255. Attached hereto as **Exhibit 250** is a true and correct copy of a newspaper cartoon showing caricature of Native American preparing to ambush a covered wagon labeled "All-Stars" (1940s), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00782 and transmitted to this Court as A1110.

256. Attached hereto as **Exhibit 251** is a true and correct copy of a newspaper cartoon by J. Berryman captioned "C'mon out and play, Chief" (1940s), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00783 and transmitted to this Court as A1111.

257. Attached hereto as **Exhibit 252** is a true and correct copy of a newspaper cartoon by J. Berryman captioned "Red, White - and Blue!", Evening Star (Dec. 1, 1942), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00784 and transmitted to this Court as A1112. Attached is a more legible and more complete copy of the cartoon, Bates numbered EDVA-DEF-0000041.

258. Attached hereto as **Exhibit 253** is a true and correct copy of a newspaper cartoon by J. Berryman captioned "A Bold Challenge - With Reservations", Sunday Star (Dec. 13,

1942), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00785 and transmitted to this Court as A1113. Attached is a more legible and more complete copy of the cartoon, Bates numbered EDVA-DEF-0000042.

259. Attached hereto as **Exhibit 254** is a true and correct copy of *Wholesale Changes Coming in 1941, Declares Marshall Charging His Team Quit*, Washington Star (Dec. 9, 1940), (with cartoon captioned “The Vanishing American”), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00786-87 and transmitted to this Court as A1114-15. Attached is a more legible and more complete copy, Bates numbered EDVA-DEF-0000043.

260. Attached hereto as **Exhibit 255** is a true and correct copy of a newspaper cartoon by J. Berryman captioned “Still Sitting - But Not Pretty!”, Evening Star (Nov. 17, 1941), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00788 and transmitted to this Court as A1116. Attached is a more legible and more complete copy of the cartoon, Bates numbered EDVA-DEF-0000044.

261. Attached hereto as **Exhibit 256** is a true and correct copy of *Redskins Unawed by Giants Vaunted Superiority, Likely Handicap of Wet Grid*, Evening Star (Nov. 23, 1941) (with cartoon by J. Berryman), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00789 and transmitted to this Court as A1117. Attached is a more legible and more complete copy, Bates numbered EDVA-DEF-0000045.

262. Attached hereto as **Exhibit 257** is a true and correct copy of Newspaper ad for theater show captioned “Everybody Gets A Kick Out of Janie” with letter from Marshall supporting show and caricatures of Native Americans, New York Times (Oct. 29, 1942), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00790 and transmitted to this Court as A1118.

263. Attached hereto as **Exhibit 258** is a true and correct copy of A. Ward, *In the Wake of the Night*, (Aug. 19, 1943) (with cartoon), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00791 and transmitted to this Court as A1119.

264. Attached hereto as **Exhibit 259** is a true and correct copy of a newspaper cartoon by J. Berryman captioned “Something to Shout About”, Evening Star (Oct. 19, 1943), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00792 and transmitted to this Court as A1112. Attached is a more legible and more complete copy, Bates numbered EDVA-DEF-0000046.

265. Attached hereto as **Exhibit 260** is a true and correct copy of a newspaper cartoon by J. Berryman captioned “No time for Shadow-Boxing”, Sunday Star (Nov. 14, 1943), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00793 and transmitted to this Court as A1121. Attached is a more legible and more complete copy, Bates numbered EDVA-DEF-0000047.

266. Attached hereto as **Exhibit 261** is a true and correct copy of a handwritten leaflet with caricature of Native American with tomahawk chasing football player carrying football (Nov. 17, 1957), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00794 and transmitted to this Court as A1122.

267. Attached hereto as **Exhibit 262** is a true and correct copy of a newspaper cartoon by J. Berryman captioned “Full of Food And Fight,” Washington Star (Nov. 24, 1950), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00795 and transmitted to this Court as A1123.

268. Attached hereto as **Exhibit 263** is a true and correct copy of *The Redskins Are Coming!*, Charlotte News (Aug. 1959) (with cartoon), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00797 and transmitted to this Court as A1125.

269. Attached hereto as **Exhibit 264** is a true and correct copy of a cartoon by Pat Coffey captioned “Get the Message?”, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00798 and transmitted to this Court as A1126.

270. Attached hereto as **Exhibit 265** is a true and correct copy of T. Yorke, *Jurgensen to Be Out Two to Three Weeks*, Washington Daily News (Aug. 6, 1964) (with cartoon), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00799 and transmitted to this Court as A1127.

271. Attached hereto as **Exhibit 266** is a true and correct copy of T. Yorke, *McPeak Shakes Up the Troops, Cuts Atkins - Redskins Don't Figure to Be as Nervous Without Pervis*, Washington Daily News (Oct. 14, 1965) (with cartoon), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00800 and transmitted to this Court as A1128.

272. Attached hereto as **Exhibit 267** is a true and correct copy of an editorial cartoon by Baccerra captioned “The Medicine Man,” Yonkers Herald Statesman (Feb. 7, 1969), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00801 and transmitted to this Court as A1129.

273. Attached hereto as **Exhibit 268** is a true and correct copy of a cartoon of game vs. Cowboys captioned “Viewpoints,” Fort Worth Star-Telegram (Nov. 21, 1979), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00802 and transmitted to this Court as A1130.

274. Attached hereto as **Exhibit 269** is a true and correct copy of an editorial cartoon by Garner with picture of “scalped” man saying “I got tickets to the playoff!,” Washington Times (1990s), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00803 and transmitted to this Court as A1131.

275. Attached hereto as **Exhibit 270** is a true and correct copy of a cartoon by Snyder captioned “Anne Arundel Viewpoints,” Baltimore Sun (Dec. 18, 1994), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00804 and transmitted to this Court as A1132.

276. Attached hereto as **Exhibit 271** is a true and correct copy of UPI, *George Marshall, Redskins Chief, Dies*, The Pittsburgh Press (Aug. 10, 1969), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00819 and transmitted to this Court as A1150.

277. Attached hereto as **Exhibit 272** is a true and correct copy of *The Nickname Controversy*, Washington Times, introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00844 and transmitted to this Court as A1175.

278. Attached hereto as **Exhibit 273** is a true and correct copy of B. Alexander Jr., *Why This Football Lover Passed Up the Super Bowl*, Wash. Post (Feb. 23, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00850 and transmitted to this Court as A1181. Attached is a plain text copy, Bates numbered EDVA-DEF-0000076-78.

279. Attached hereto as **Exhibit 274** is a true and correct copy of Les Suzukamo, *Indians Plan Super Protest of Redskins Name*, Saint Paul Pioneer Press (Jan. 22, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00851 and transmitted to this Court as A1182.

280. Attached hereto as **Exhibit 275** is a true and correct copy of Dick Heller and Tom Knott, *Should the Redskins Change Their Name?*, Washington Times (Mar. 4, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00856-57 and transmitted to this Court as A1178-88. Attached is a more legible and more complete copy, Bates numbered EDVA-DEF-0000083-85.

281. Attached hereto as **Exhibit 276** is a true and correct copy of B. Molinaro, *Please, Stop Calling Them 'Redskins'*, Virginian-Pilot (Oct. 4, 1992), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-00861-62 and transmitted to this Court as A192-93.

282. Attached hereto as **Exhibit 277** is a true and correct copy of D. Matheny, *The Year of a Super Bowl, a Final 4 and a 'Hugedale'*, Star Tribune (Dec. 31, 1992) (with photograph), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01133 and transmitted to this Court as A1473.

283. Attached hereto as **Exhibit 278** is a true and correct copy of excerpts from the "Official 1983 Team Yearbook," introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01429-32 and transmitted to this Court as A1796-1800.

284. Attached hereto as **Exhibit 279** is a true and correct copy of photographs of fans with face paint and feathered headbands, from GAMEDAY Program (Nov. 27, 1983), introduced into the Blackhorse record before the T.T.A.B. at BLA-TTAB-01440 and transmitted to this Court as A1807.

285. Attached hereto as **Exhibit 280** is a true and correct copy of excerpts from the deposition of John Kent Cooke on March 26, 1996.

286. Attached hereto as **Exhibit 281** is a true and correct copy of excerpts from Hearings before the Subcomm. on Trademarks Comm. on Patents, House of Representatives, 76th Cong. 1st Sess. (March 28, 29 and 30, 1939).

287. Attached hereto as **Exhibit 282** is a true and correct copy of excerpts from Hearings before the Subcomm. on Trademarks Comm, on Patents, House of Representatives, 77th Cong., 1st Sess. (Nov. 4, 12, 13 and 14, 1941).

288. Attached hereto as **Exhibit 283** is a true and correct copy of excerpts from H. Rep. No. 2283 (77th Cong. 2d Sess.) (June 25, 1942).

289. Attached hereto as **Exhibit 284** is a true and correct copy of excerpts from Hearings before the Comm. on Patents, House of Representatives, 78th Cong., 1st Sess. (Apr. 7-8, 1943).

290. Attached hereto as **Exhibit 285** is a true and correct copy of excerpts from Hearings before the Subcomm. of the Comm. on Patents, 78th Cong., 2d Sess. (Nov. 15-16, 1944).

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on February 26, 2015 in Washington, DC.

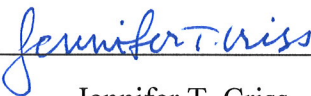

Jennifer T. Criss

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

PRO-FOOTBALL, INC.,

Plaintiff,

v.

**AMANDA BLACKHORSE, MARCUS
BRIGGS-CLOUD, PHILLIP GOVER,
JILLIAN PAPPAN and COURTNEY
TSOTIGH,**

Defendants.

Civil Action No.: 1:14-cv-1043-GBL-IDD

DECLARATION OF RAYMOND D. APODACA

1. My name is Raymond D. Apodaca. The facts stated in this declaration are true and correct and based on my personal knowledge.

2. I was born on October 15, 1946, am an enrolled member of the federally recognized Ysleta Del Sur Pueblo, and grew up in Las Cruces, New Mexico, near the reservation of my tribe.

3. In 1969, I received my undergraduate degree in Government and, in 1976, I received a Master's degree in Government/Public Administration, both from New Mexico State University ("NMSU"). While attending NMSU, both in 1965-69 and 1974-76, I was active with the Native American Students Association ("NMSU-NASA"). As a graduate student, I served on the board of directors of the NMSU-NASA, including a term as President during the 1975-76 school year. I served in the United States Air Force from 1969 until December 1972, when I was honorably discharged.

4. I have served in numerous employed, volunteer, and elected positions in the Native American community. From 1976-1977, I served as Education Director for the Ysleta Del Sur Pueblo. From 1977-1982, I served as the Texas Indian Commission (an agency of the State of Texas) Reservation Superintendent (state trust officer and program administrator) for the Tigua Indian Reservation. From 1982-1989, I served as Executive Director of the Texas Indian Commission. From 1989-1991, I was the Tribal Planner for the Ysleta Del Sur Pueblo.

5. From 1991-1992, I was the Tribal Administrator for the Ysleta Del Sur Pueblo. At the time, the Tribal Administrator was the highest administrative role within the tribe, overseeing its day-to-day operations. Simultaneously, I was elected for three consecutive terms as the Tribal Governor for the Ysleta Del Sure Pueblo, from 1990-1992. Tribal Governor is the highest executive role of the tribe and the equivalent of other tribes' Tribal Chairman or Chief. I have remained an active member of my tribe throughout my life.

6. From 1973 to the present day, I have been an active member of the National Congress of American Indians ("NCAI").

7. NCAI is the oldest and the preeminent Native American organization, representing the majority of Native Americans on a variety of political, cultural, and social policy issues. I have served in a number of leadership roles for NCAI, including as Chairman of the NCAI Commission on Human Rights and Religious and Cultural concerns, from 1986-1999, and as Albuquerque Area Vice President for two consecutive, two-year terms, from 1990-1993.

8. An Area Vice President is a delegate to the NCAI Executive Council. The Executive Council is made up of the President, First Vice President, Secretary, Recording Treasurer, and 11-12 Area Vice Presidents. The Executive Council is charged with identifying policy matters and issues to be brought before the body of NCAI, to set NCAI goals, and to

administer NCAI affairs. The “areas” of NCAI mirror the 11-12 organizational regions of the Bureau of Indian Affairs. Each Area Vice President represents the tribes within his or her region. As Albuquerque Area Vice President, I represented the NCAI member tribes located in New Mexico, Colorado, and West Texas.

9. NCAI membership has both tribes as members, as well as individual membership. The entirety of the membership is known as the General Assembly, which reviews and votes on resolutions, position papers, and other matters of NCAI. These General Assembly meetings usually occur at NCAI annual and semi-annual conferences. Each individual member receives one vote. Each tribal member receives a number of votes based on population. For example, the Navajo or Cherokee Nations would receive more votes than tribes with smaller populations. Although General Assembly meetings are open to the public, only voting members, tribal or individual, are permitted to cast a vote.

10. One of the matters on which the General Assembly may vote is the passing of resolutions. An NCAI resolution identifies and memorializes the position of NCAI on any given issue. A final resolution reflects the assimilation of the various drafts of the committees charged with reviewing the resolution.

11. NCAI is one of a number of organizations interested in Native American issues. The National Indian Youth Council (“NIYC”) is a youth organization advocating and promoting a positive experience for Native American youth. The American Indian Movement (“AIM”) is a group of Indian activists formed in the 1960s, actively advocating for national and international changes to Native American policies. The National Tribe Chairmen Association (“NTCA”) is a defunct organization consisting of a group of tribal chairmen.

12. Of these organizations, NCAI is the most representative and has been so since at least the late 1960s. Through its tribal memberships, NCAI represents the majority of Native Americans in federally recognized Native American tribes. If one wanted to know the consensus position of Native Americans on a given issue, NCAI would be the best organization to consult.

13. I have addressed many Native American issues over my career, including protection of religious practices, promoting effective educational policies, and identifying solutions to widespread poverty. Among these matters, the use of terms and images offensive to Native Americans has been an important one, particularly the use of the term “redskin” by the Washington football team. The term “redskin,” whether as a term in everyday use or as a name for a football team, is derogatory, disparaging, and demeaning to Native Americans.

14. My understanding of the term “redskin” comes from my own personal experience, growing up in the 1960s and 1970s in the Southwest. I understood growing up that the term “redskin” was a racial slur against Native Americans. I formed that understanding in the same from the daily use of the English language by me and the people around me, from the media, and from reading.

15. I have heard the term “redskin” or “redskins” used on many occasions to refer to Native Americans in a disparaging way. In one very memorable occasion, when I was in high school, I was at a bus stop in Lubbock, Texas, which had racially segregated lunch counters. At that time, I was told that I was “a redskin” and that I would need to eat my lunch outside the bus stop, and leave through the door marked “Black,” as opposed to sitting at the “White,” “Mexican,” or “Other” counter. On another occasion, while attending a dinner at a National Indian Education Association conference in the 1970s in Minneapolis, Minnesota, my colleagues

and I were called “disgruntled Redskins” by a fellow dinner patron when we objected to an inappropriate, racially-charged song specifically “dedicated” to us by the dinner band.

16. The majority of Native American individuals in my circle of acquaintances, friends, and family share my understanding that “redskin” is derogatory.

17. I do not see a difference between the use of the term on an individual level or its use as the name of the Washington football team.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 24, 2015 in Las Cruces, Mexico.



Raymond D. Apodaca

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

PRO-FOOTBALL, INC.,

Plaintiff,

v.

**AMANDA BLACKHORSE, MARCUS
BRIGGS-CLOUD, PHILLIP GOVER,
JILLIAN PAPPAN and COURTNEY
TSOTIGH,**

Defendants.

Civil Action No.: 1:14-cv-1043-GBL-IDD

DECLARATION OF LEON COOK

1. My name is Leon Cook. The facts stated in this declaration are true and correct and based on my personal knowledge.

2. I was born on July 30, 1939, am an enrolled member of the Red Lake Band of Chippewa Indians, and grew up on the Red Lake Chippewa reservation in Red Lake, Minnesota.

3. I received a Bachelor's degree in Psychology from St. John's University in Minnesota in 1963 and a Master's degree in Social Work from the University of Minnesota in 1966. After graduate school, I first worked for the Anti-Poverty Programs in Minneapolis and Duluth, Minnesota. From 1968 to 1970, I worked for the U.S. Economic Development Administration in Phoenix, Arizona. In 1970, I moved to Washington, D.C., and worked for the Bureau of Indian Affairs, until 1971.

4. I have remained an active member of the Native American community throughout my life. I have served as Director of Indian Education for the Minneapolis Public Schools; as Tribal Council Representative for the Red Lake Nation, an elected member of the tribal

governing council; as Tribal Administrator for the Red Lake Nation; and as Human Resources Director for the Red Lake Nation. Although I am retired, today I continue to actively volunteer my time to the Red Lake Nation.

5. Beginning in 1966, I have been and remain an active member and participant in the National Congress of American Indians (“NCAI”). NCAI is the oldest and the preeminent Native American organization, founded in 1944 in order to, among other thing, secure and preserve American Indian sovereign rights under treaties and agreements with the United States, to promote and enhance the quality of life of American Indian people, and to educate the general public regarding American Indian people and rights. NCAI represents its individual and tribal members, on a variety of political, cultural, and social policy issues.

6. I was elected President of NCAI in November of 1971. While I was President, NCAI had approximately 150 tribal members; those tribes constituted a majority of the Native American population. During my deposition, I stated that NCAI had at least 100 tribes as members during my tenure. Having considered the question further, I now believe 150 is a more accurate count.

7. I was elected President by the NCAI membership at the annual conference in 1971. At the annual conference in November 1971, I was nominated as a candidate and elected by an overwhelming majority of tribal and individual members. Under NCAI voting rules, votes for tribes are apportioned by population – the bigger the tribe the greater total number of votes. Individual members receive only one vote. The tribal members, representing thousands of Native Americans, almost unanimously voted in favor of my election.

8. As NCAI President, I led the NCAI Executive Council, a representative body made up of 15-16 individuals: President, First Vice President, Secretary, Recording Treasurer,

and 11 Regional Vice Presidents representing 11 regions around the United States. These regions cover all of the federally recognized tribes and the 11 Regional Vice Presidents represent the tribes of their respective regions. The Executive Council identifies issues of concern to the Native Americans membership and develops strategies to address those issues.

9. At the January 1972 NCAI Executive Council meeting, I led a discussion about the issues that NCAI sought to prioritize for the coming year. I invited representatives of a number of other Native American organizations to attend, including the American Indian Movement (“AIM”), the National Indian Youth Council (“NIYC”), and the Americans for Indian Opportunity (“AIO”).

10. At the time of my election as NCAI President, NCAI, NIYC, AIO and AIM had disparate priorities and goals with regard to Native American issues. NCAI’s priority was to act as one voice for the Native American population on political, social, and cultural matters. NIYC was focused on improving the educational and social experience of Native American youth. AIO was focused on promoting economic opportunities for Native Americans. AIM was an organization that took a more radical and confrontational approach to Native American issues. I felt that we could all be more effective if the different organizations cooperated and worked together more. In an effort to unite these different organizations around a common cause, I proposed at the January 1972 NCAI Executive Council meeting that the organizations identify an issue on which they shared a common interest. Each of the members of the 1972 NCAI Executive Council and the leaders of the other organizations agreed that the Washington football team’s name was bigoted, discriminatory, and offensive to Native Americans. And all agreed that opposing the Washington football team’s name, and seeking a change in that name, would be the first issue on which we could unite in a common effort. Accordingly, all members of the

NCAI Executive Council and the other organizations agreed that opposition to offensive characterizations of Native Americans should be the top priority, starting with efforts to bring about a change in the name of the Washington NFL team. At the meeting, it was decided that the next step would be to contact the Washington football team directly to begin a dialogue aimed at changing the team's name, as well as other insensitive depictions of Native Americans by the team.

11. Through the efforts of Harold Gross, an attorney who worked with NCAI and who, at that time, headed the Indian Legal Information Development Service ("ILIDS"), a meeting was set between the various Native American organizations and the Washington football team. Mr. Gross wrote to the Washington football team's then-President Edward Bennett Williams, explaining that Native Americans understood the name to be a racial epithet and identical in character to other racial slurs leveled against other minorities. After Mr. Gross sent the letter, a meeting was held in March 1972. I attended on behalf of NCAI, with the knowledge and support of the NCAI Executive Council. Also in attendance were LaDonna Harris, the President of AIO; Ron Aguila, the District Representative for NIYC; Dennis Banks, the District Representative for AIM; Hanay Geigomah, the Director of Youth Programs for the Bureau of Indian Affairs; Richard LaCourse, the Washington bureau chief for the American Indian Press Association; and Laura Wittstock, Editor of the ILIDS Legislative Review, as well as some others. The Washington football team was represented by Edward Bennett Williams.

12. At the meeting, each of the leaders of the various organizations took turns explaining our united reason as to why the Washington football team's name should be changed, namely that we all believed the name to be discriminatory, demeaning, and offensive to Native Americans. As President of NCAI, I was representing the entire membership in our opposition to

the name. Although Mr. Williams did not at first appear to be receptive to our message, by the end of the meeting, we believe he understood our sincere view that the team name was deeply offensive.

13. Although Mr. Williams refused to change the name after this meeting, he did have the football team's cheerleader costumes altered to remove the fake Cherokee hair extensions and the team also changed the lyrics of its fight song to eliminate certain stereotypical and language.

14. At the 1973 NCAI annual conference in Tulsa, Rueben Snake, the Chairman of the Winnebago tribe and a delegate to the convention on behalf of his tribe, introduced a resolution before the NCAI General Assembly calling for the Washington football team to change its offensive and discriminatory name. The General Assembly enthusiastically voted in favor of Mr. Snake's resolution.

15. After my tenure as President of NCAI ended in 1973, NCAI maintained its opposition to the Washington team's name. To my knowledge, NCAI never changed its views toward the Washington team name and even formalized its opposition in resolutions in the early 1990s.

16. Throughout my life, I have maintained my opposition to the Washington football team's name. I believe that use of the term "redskin" in any context – professional athletics or otherwise – is derogatory, disparaging, and demeaning to Native Americans. Over the last 40 years of my involvement in the Native American community and my active opposition to the Washington team name, I have met and associated with thousands of Native Americans. As President and as Past President of NCAI, a leader within my own tribe, and a leader within the Native American community in Minnesota, I have traveled extensively throughout Indian

country, met with Native American leaders on dozens of reservations, and talked with Native Americans from all walks of life. I have only rarely encountered a Native American who has expressed disagreement with my understanding that the Washington football team's name is disparaging, discriminatory, and offensive to Native Americans.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/23/, 2015 in Chandler, Arizona.



Leon F. Cook

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

PRO-FOOTBALL, INC.,

Plaintiff,

v.

AMANDA BLACKHORSE, MARCUS
BRIGGS-CLOUD, PHILLIP GOVER,
JILLIAN PAPPAN and COURTNEY
TSOTIGH,

Defendants.

Civil Action No.: 1:14-cv-1043-GBL-IDD

DECLARATION OF KEVIN GOVER

1. My name is Kevin Gover. The facts stated in this declaration are true and correct and based on my personal knowledge.

2. I am a citizen of the Pawnee Indian Nation, as was my father. I am the father of Phillip Gover, who was one of the petitioners in *Blackhorse v. Pro-Football, Inc.*, before the Trademark Trial and Appeal Board, and who is a defendant in the above-captioned case.

3. I was born in 1955 in Lawton, Oklahoma, on land that was formerly the Kiowa and Comanche reservation. In 1967, I moved with my family to Norman, Oklahoma.

4. I understood growing up that the term "redskin" was an unacceptable term to call Indians because it is a racial slur. I formed that understanding in the same way as I came to learn the meanings and connotations of any word – from the daily use of the English language by me and the people around me, from the media and from reading. I recall the term's use in movies, specifically Westerns, as a slur term against Native Americans.

5. Throughout my life, I have from time to time heard derogatory references to Indians, such as “redskins,” “Injuns” and “savages,” in one setting or another. These terms were common parlance in Oklahoma when I grew up. I did not regularly hear the slur “redskin” directed at me, but there were occasions when it was. I vividly recall a time when I was in fourth grade when another child called me a “dirty redskin” on the playground. In addition, when I played for my junior high school football team, members of opposing teams sometimes would call me a “redskin” as a form of bullying or “trash talking” on the field.

6. I began to spend time in Washington, D.C., after my parents moved there in 1971 in order for my father to take a job with the non-profit organization Americans for Indian Opportunity. As a result, I came to hear “redskins” used in connection with the Washington football team. I remember my parents and other Indians in their social circle expressing their dismay that the local NFL football team used an ethnic slur against Native Americans as its team name. Aware of the controversy over the team name, in 1972, I wrote a letter to Edward Bennett Williams who was then the President of the Team, to object to the team name and implore him to change the team name as a matter of civil rights. A copy of my letter is attached as “Exhibit A.”

7. I graduated from law school at the University of New Mexico in 1981 and, after a judicial clerkship, began to practice Federal Indian law, meaning that I represented Indian organizations in tribes in many matters, but especially legal matters unique to American Indians under American law. In 1986, I founded my own law firm in Albuquerque, which grew into one of the largest Indian-owned law firms in the country. I continued to specialize in Indian law and represent Indian tribes until President Clinton nominated me to serve as Assistant Secretary of the Interior for Indian Affairs, where I oversaw the Bureau of Indian Affairs.

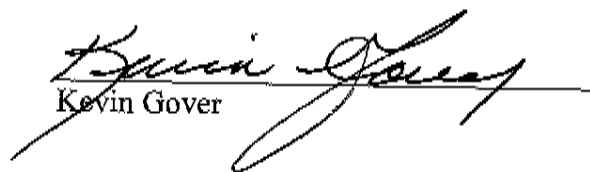
8. After leaving the Bureau of Indian Affairs, I resumed the private practice of law. In 2003, I became a Professor of Law at the Sandra Day O'Connor College of Law at Arizona State University, where I also served as the co-executive director of the American Indian Policy Institute and an Affiliate Professor in the American Indian Studies Program at Arizona State University.

9. From 2007 until the present, I have served as the Director of the Smithsonian Institution's National Museum of the American Indian.

10. In my experience growing up in Oklahoma among Native Americans, in thousands of conversations with Native Americans, and throughout my entire professional career, which I have spent working with Native American people, institutions, governments, tribes, agencies, and enterprises, I have had many conversations regarding the name of the Washington football team. With only a very small number of exceptions, the Native Americans with whom I spoke shared my understanding that the Washington NFL team name is objectionable because "redskin" is a slur term.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 24, 2015 in Seattle, Washington.


Kevin Gover

78678656-8

Exhibit A

To Gover Declaration

July 18, 1972

Mr. Edward Bennett Williams
21000 Hill Building
839 17th Street NW
Washington, D.C.

Dear Mr. Williams,

Since you continue not to believe that the term "Redskins" is not offensive to anyone, let me make this clear: The name "Redskins" is very offensive to me and shows little human interest or taste.

I am a Comanche Indian from Oklahoma. Indians are having enough trouble trying to erase misconceptions about themselves without having to be hit in the face with it every day in the form of a football team or baseball team.

If you think you are preserving our culture or your history, then may I suggest a change? To live up to your name, your team would field only two men to the opponents eleven. Your player's wives would be required to face the men of the opposing team. After having lost every game in good faith, you would be required to remain in RFK stadium's end zone for the rest of your life living off what the other teams had left you. (Which wouldn't be much.)

Since you would probably find this as distasteful as 300,000 Indians do, I would suggest a change in name. In sticking to your ethnic theme, I would suggest the Washington Niggers as a start. After all, Washington does have the greatest number of Blacks per capita than any other city in the U.S. (That is, cities with N.F.L. teams of course.) This would start a fantastic trend in the league. We would soon be blessed with the San Francisco Chinks, New York Jews, Dallas Wetbacks, Houston Greasers, and the Green Bay Crackers. Great, huh?

Mr. Williams, these would be very offensive to many people, just as Redskins is offensive to myself and others. You can take a stand that would show you and the team as true believers in civil rights, or you can continue to carry a name that keeps alive a threatening stereotype to Indian people. People, Mr. Williams. We don't want the Redskins!

WC0004

Harjo, et al. v.
Pro-Football, Inc.
Case No. 21,069
Petitioners' Ex.

Sincerely Offended,

Billy Kevin Leroy

32.002

EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

PRO-FOOTBALL, INC.,

Plaintiff,

Civil Action No.: 1:14-cv-1043-GBL-IDD

v.

**AMANDA BLACKHORSE, MARCUS
BRIGGS-CLOUD, PHILLIP GOVER,
JILLIAN PAPPAN and COURTNEY
TSOTIGH,**

Defendants.

DECLARATION OF SUZAN SHOWN HARJO

1. My name is Suzan Shown Harjo. The facts stated in this declaration are true and correct and based on my personal knowledge.
2. I am currently the President and Executive Director of The Morning Star Institute, a Native American cultural organization that is dedicated to Native Peoples' traditional and cultural rights, historical research and arts promotion.
3. I was born in 1945. I am a citizen and enrolled member of the Cheyenne and Arapaho Tribes of Oklahoma. Both of my parents were Indians. My mother was Cheyenne and Pawnee, and a citizen of the Cheyenne and Arapaho Tribes of Oklahoma. My father was an enrolled Muscogee (Creek) Nation citizen. I participate in social events of myriad tribes and nations and in ceremonial activities of many tribes, nations, and pueblos, including those of the Muscogee (Creek) Nation and the Cheyenne and Arapaho Tribes.
4. I was born and lived part of my childhood in El Reno, Oklahoma, within the exterior boundaries of the Medicine Lodge Creek Treaty and the Cheyenne and Arapaho Tribes

Reservation created by a Treaty between the Cheyenne and Arapaho Nations and the United States, to which my mother's great-grandfather, Cheyenne Chief and Dog Men Society Leader Bull Bear, was the first signatory. I also grew up in part on a family farm between Okmulgee and Beggs on land allotted to citizens of the Muscogee (Creek) Nation by the United States. In El Reno, I lived amongst my Cheyenne and other Indian relatives on my mother's side, as well as many non-Indian people also living in El Reno. On Muscogee land, I lived amongst my father's relatives and other members of the Nuyakv Ground and the Muscogee community, as well as many non-Indians also living in Beggs and Okmulgee.

5. Growing up in El Reno, I heard the term "redskin" used often as a slur. Many times, my friends, family members and I would be called the epithet "redskin" or, more frequently, a "lazy redskin" or a "dirty redskin." In the 1950s, my brothers, cousins and Cheyenne friends were often called "redskins" by white children at school (an El Reno public school) and sometimes by their parents. On one especially upsetting and painful occasion, an elementary school teacher argued with me about my family history and the Battle of Little Big Horn, and he angrily called me names, including "redskin." He also slandered my great-great-grandfather, Chief Bull Bear, and called him a "redskin" and pushed me into a rosebush. I also remember shopkeepers calling me the epithet "redskin." Altogether, white people probably called me the slur "redskin," or called the group I was with "redskins," at least 100 times.

6. The use of slurs by many whites against Native Americans came during a time when many in small towns in rural Oklahoma displayed overt racism against Native Americans. I recall "No Indians or Dogs Allowed" signs posted in stores in El Reno, Oklahoma as I was growing up. I also have seen that sign – and "No Indians or Dogs" or "No Indians" signs – in many other towns and states, most recently in 1978 in Sturgis, South Dakota.

7. As I was growing up in Oklahoma, I had heard of the Washington NFL football team. I recall members of the Indian community where I lived complaining about the name of the Washington NFL team, often referring to it as one more harmful thing that those in Washington, D.C. were doing to our Native Peoples.

8. My father served in the Army and was stationed with NATO's Allied Forces Southern Europe in Naples, Italy from 1956 through 1960, so I spent several years there as a teenager. It was a shock to return from Italy and once again experience the anti-Indian sentiment, slurs, and hostility that existed in parts of Oklahoma from many whites, and the "No Indians or Dogs Allowed" signs.

9. I recall Clyde Warrior (Ponca), who would later co-found the National Indian Youth Council and lead the Oklahoma chapter, speaking to my senior class in high school in 1962 in Oklahoma City, where I lived with an aunt and uncle after my family returned from Italy. Clyde spoke out passionately against anti-Indian racist images and stereotypes in popular culture, and he especially spoke out against the horrible name of the Washington NFL team.

10. Also in 1962, I was selected by the Business Committee of the Cheyenne and Arapaho Tribes of Oklahoma to be part of a tribal delegation to federal meetings in Washington, D.C., including a tribal meeting of the National Congress of American Indians ("NCAI"). One boy and I were selected as high school members of the delegation; the rest of the delegation was older men and women. As my tribal delegation walked and drove through the city, we saw many signs on newspaper stands, garbage cans, merchandise, and elsewhere, promoting the Washington NFL team. The others in the group complained about all the "Redskins" signs and references; I remember the tribal leaders saying "No wonder such bad Indian policy comes out of D.C.; look what bad things they call us," or words to that effect.

11. I have been an active member of the NCAI since 1962. The NCAI is the largest and most prominent national organization representing Native American tribes, nations, and individuals.

12. Over the years, I have served in numerous volunteer and paid positions for the NCAI, including as Legislative Assistant, Communications Director, chairwoman of the Resolutions Committee, co-chair of the Litigation and Legislation Committee, a commissioner of the Cultural Concerns Commission, co-chair of the Human, Religious and Cultural Concerns Subcommittee, and the coordinator of the National Indian Litigation Committee. NCAI has honored me with its 2015 Native Leadership Award.

13. From March 1984 to November 1989, I served as Executive Director of the NCAI, which was first an elected position and then an elected and contracted position. As Executive Director, I ran the day-to-day operations of the NCAI and the NCAI Fund and served as one of a five-person Administrative Board. I was the sole official spokesperson for NCAI and the NCAI Fund and served with three 16-member NCAI Executive Committees. NCAI positions, policies, and rules are set by the NCAI membership during the Convention (which is held annually in the fall at elected locations around the United States), the Mid-Year Conference (which is held every June in the United States) and the Executive Council Annual Meeting (which is held during the first quarter of each year in Washington, D.C.). The NCAI Executive Committee takes interim actions, with the exception that no positions, policies, or rules may override those made by the tribal and individual membership at the NCAI Convention. I served with NCAI President Joseph B. DeLaCruz (Quinault Nation President and Affiliated Tribes of Northwest Indians President) from March 1984 to November 1985; NCAI President Reuben A. Snake, Jr. (Winnebago Tribe Chairman and Native American Church Roadman) from November 1985 to November 1987; and NCAI President John F. Gonzales (San Ildefonso Pueblo Governor

and All Indian Pueblo Council Chairman) from November 1987 to November 1989. During my tenure as NCAI Executive Director, I reflected and carried out the position of NCAI to oppose the name of the Washington NFL team and to call for its elimination. All the NCAI Presidents I served with also opposed the dreadful name of the Washington NFL team and called for its elimination. We carried out this opposition in statements, speeches, telephone calls, interviews, educational outreach, and coalition-building meetings, as well as in performances of the "Average Savage Review" (a satirical, musical performance group focusing on Native American issues) and other forms of available communications, including failed attempts to contact the Washington NFL team's owner. When I was Executive Director, we served over 300 Member-Tribes and over 3,000 individual Members at the annual Conventions.

14. While I am aware over my long association with NCAI and other organizations that some few Native American individuals have expressed support for the Washington NFL team's name, the overwhelming majority of Native American people and organizations with whom I have discussed the subject have agreed with my viewpoint that "redskin(s)" is a racial epithet and that the Washington NFL team's name is abominable.

15. My discussions with others at NCAI, including in our area caucuses and issue sessions, regarding the Washington NFL team date back to at least 1967 (in addition the conversations within my tribal delegation in 1962 referred to above). I attended the NCAI Annual Convention in Tulsa in 1973, as the American Indian Press Association representative, handling press for the NCAI, working as a volunteer but attending many sessions. During that Convention, I remember a great deal of "buzz" about whether there could be a change to the Washington team name. Attendees were mindful of the recent decision of the University of Oklahoma to retire its Little Red mascot and reported that many other schools had or were considering eliminating their "Indians" sports stereotypes. Many schools had or were about to

eliminate “Indian” team names, Dartmouth College, Stanford University, and the “Redskins” at the University of Utah, and it seemed possible to many that the Washington NFL football team could be persuaded to change its name, too. During the 1973 Convention, Rueben A. Snake, Jr., the Winnebago Tribal Chairman and a Delegate to the Convention, gave a rousing presentation calling for an end to “name-calling” against Native Americans. Chairman Snake cited the Washington NFL team as the prime example of the name-calling that needed to end. The Convention voted unanimously by voice vote in favor of a resolution that he proposed condemning name-calling against American Indians in the media and especially condemning the Washington football franchise.

16. For as long as I have been involved in the NCAI, the NCAI has held and articulated the position that the Washington team name is a slur. While I was Executive Director of NCAI from 1984 to 1989, I made many telephone calls and sent notes to the team’s then co-owner, Edward Bennett Williams (1984-1985), in an effort to renew NCAI’s request to change the team’s name, and to the team’s then primary owner, Jack Kent Cooke (1984-1989), in an attempt to set up a meeting to discuss reasons for Native American opposition to the offensive team name and to encourage him to change it, but he never responded to or met with us. Mr. Cooke only acknowledged our position through the media, to a UPI reporter, answering it by saying there was “not a chance in hell” that the name would be changed.

17. As noted, the NCAI has both member tribes and individual members. The Convention of the NCAI consists of the entire membership of NCAI. Only enrolled citizens of American Indian nations and tribes can be NCAI voting members. The NCAI Executive Committee is composed of the NCAI President, First Vice President and Recording Secretary, who are elected at large; the NCAI Treasurer, who is elected by the NCAI Executive Council; and twelve Area Vice Presidents, who are elected by their Area Caucuses. The NCAI Executive

Council is comprised of one Delegate of each Member-Tribe and the sixteen Executive Committee Members. NCAI positions, rules and policies are set by the NCAI membership during the Convention (which is held annually in the fall at elected locations around the United States), the Mid-Year Conference (which is held every June in the US) and the Executive Council Annual Meeting (which is held during the first quarter of each year in Washington, DC). The NCAI Executive Committee takes interim actions, with the exception that no positions, rules or policies may override those made by the tribal and individual membership at the NCAI Convention.

18. Since 1984, I also have served as President of The Morning Star Institute. Our national Board of Directors voted unanimously in 1984 to establish the "Just Good Sports" project to oppose the name of the Washington football team and to provide assistance to efforts nationwide to end "Indian" sports stereotypes, in 1992 to sue Pro Football, Inc., and in 2006 to support the *Blackhorse* plaintiffs in their suit against Pro Football, Inc.


19. Based on my life experiences, as an English speaker, as an active member of the Cheyenne and Muscogee communities and the national Native American community, my interactions with other Native Americans on the topic, and my personal experiences with the term "redskin," I have always understood the term to be a racial slur used to refer pejoratively to Native American Peoples. It is the most awful slur that can be used to refer to Native American nations, tribes, and persons.

20. In November 2014, President Obama awarded me a 2014 Presidential Medal of Freedom for my work on behalf of Native Americans, work that has included, but has been much

more extensive than, advocating for an end to Indian-themed sports teams. I understand that the Presidential Medal of Freedom is the highest civilian honor of the United States Government.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 24, 2015 in Washington, D.C.



Suzan Shown Harjo