

1 ANDREW A. KASSOF, P.C. (*Pro Hac Vice*)
2 MARTIN L. ROTH (*Pro Hac Vice* pending)
3 DIANA M. WATRAL (*Pro Hac Vice* pending)
KIRKLAND & ELLIS LLP
300 N. LaSalle Street
Chicago, IL 60654
4 Telephone: 312-862-2000
5 Facsimile: 312-862-2200
andrew.kassof@kirkland.com
6 martin.roth@kirkland.com
diana.watral@kirkland.com

7 Attorneys for Defendants
8 DEREK FISHER and JAMIE WIOR

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF ALAMEDA**

11 G. WILLIAM HUNTER,

12 Plaintiff,

13 v.

14 DEREK FISHER, as President of the Executive
15 Committee of the National Basketball Players
Association and in his individual capacity,
16 JAMIE WIOR, THE NATIONAL
BASKETBALL PLAYERS ASSOCIATION, a
17 Delaware corporation, and DOES 1 THROUGH
10, inclusive,

18 Defendants.

Case No. RG 13679736

Assigned For All Purposes To:
Judge Frank Roesch

**DECLARATION OF DEREK FISHER IN
SUPPORT OF DEFENDANTS' ANTI-
SLAPP MOTIONS**

Action Filed: May 16, 2013

1 I, Derek Fisher, declare as follows:

2 1. I am over 21 years of age. I have personal knowledge of the facts set forth herein
3 and, if called as a witness, could and would testify competently thereto.

4 2. I am a professional basketball player and have played in the NBA for seventeen
5 seasons for the Los Angeles Lakers, Golden State Warriors, Utah Jazz, Dallas Mavericks, and most
6 recently, the Oklahoma City Thunder.

7 3. I have served as President of the National Basketball Players Association since 2007.
8 As President of the NBPA, I am an officer and member of the NBPA Executive Committee.

9 **The NBPA's Audit and Investigation into G. William Hunter**

10 4. G. William Hunter was the Executive Director of the NBPA from 1996 until February
11 2013. As Executive Director, Mr. Hunter was to report to the NBPA Executive Committee and
12 Player Representatives.

13 5. Beginning even before I became President in 2007, NBA players were raising
14 questions about the NBPA's business practices and effectiveness as a whole. Players and others
15 communicated that they recognized the need to improve the organization's infrastructure and
16 practices.

17 6. Concern for the NBPA's structure continued to be expressed during and after the
18 lock-out in 2011. It was important, however, at this time, for the Union to remain focused on the
19 negotiations with the League. Once those negotiations were concluded, it was an opportunity to
20 address some of the concerns with the Union's business practices. Thus, on April 13, 2012, a
21 quorum of elected NBA players on the NBPA Executive Committee discussed whether to conduct a
22 full review of the organization. I did not specifically identify any bad practices by Mr. Hunter or the
23 organization. As a result of the conference call, the Executive Committee voted and passed a
24 resolution calling for a thorough review of the NBPA as a whole.

25 7. When Mr. Hunter learned of the resolution he claimed a similar audit already existed,
26 that I was on a "fishing expedition," and requested my removal as NBPA President.

27 8. On April 25, 2012, the U.S. Attorney's Office for the Southern District of New York
28 issued a subpoena calling for the production of Union financial and other business records. Also on

1 April 24 and 25, 2012, several media reports questioned Mr. Hunter's business practices and
2 compensation as Executive Director of the NBPA.

3 9. It is my understanding that on or about April 26, 2012, Mr. Hunter directed the
4 NBPA's Executive Committee to form a six-member Special Committee in which he selected the
5 members charged with supervising the internal investigation. I was not aware of this nor was I a
6 member of this Special Committee and had no involvement in the decision to form the Special
7 Committee.

8 10. It is my understanding that on or about April 27, 2012, the Special Committee
9 retained Paul, Weiss, Rifkind, Wharton & Garrison LLP, per Mr. Hunter's direction, to conduct an
10 independent investigation and respond to the government subpoena

11 11. I later understood that Paul Weiss was in direct communication with the U.S.
12 Attorney's Office during its investigation and Paul Weiss requested to interview me. Although I had
13 no objection to being interviewed by the Paul Weiss attorneys, I also believed that I was required to
14 speak with them and answer their questions, and I did so honestly and to the best of my recollection.

15 12. On January 17, 2013, Paul Weiss released its 229-page report to the Union's
16 membership and the general public. I received it the same time as the public. In late January 2013,
17 the Interim Executive Committee asked Jamie Wior to serve as an advisor (a role the Executive
18 Committee later asked her to continue temporarily). On February 16, 2013, I attended a meeting of
19 the NBPA Player Representatives and Executive Committee. At that meeting, after lengthy
20 discussion of the Paul Weiss report, the NBPA Board of Player Representatives voted unanimously,
21 24-0, to terminate Mr. Hunter's employment based on the report's findings and their own
22 experiences with the NBPA and Mr. Hunter. Therefore, on February 17, 2013, the NBPA Executive
23 Committee voted unanimously, 9-0, to terminate Mr. Hunter's employment per the direction of the
24 Player Representatives.

25 **Hunter's Allegations Regarding Purportedly Defamatory Statements**

26 13. I never told anyone that Mr. Hunter committed a crime or would be subject to
27 criminal liability. I was aware, however, of ongoing concern among NBA players and staff, which I
28 shared with the appropriate advisors, authorities and counsel, regarding Mr. Hunter's conduct and

1 affairs as Executive Director of the NBPA. Once the vote for a business review was reversed, I
2 advised Executive Committee members in April 2012 that it would be best for everyone if I did not
3 discuss information that I had learned up to that point and, instead, that we should allow the
4 independent investigation and review to go forward and reach its own findings and conclusions.

5 14. During my interview with Paul Weiss as part of its investigation, I was open and
6 forthcoming in response to the questions asked.

7 15. In particular, in response to a question from Paul Weiss, I told them that I did not
8 believe I was aware that Mr. Hunter's daughter was employed at the law firm that Mr. Hunter had
9 retained to represent the NBPA until the firm had already been hired and I was at their offices
10 discussing the Collective Bargaining Agreement and Mr. Hunter's daughter was present. I was
11 asked whether I was aware of that fact, and I responded truthfully that I did not believe I was. I was
12 not trying to imply anything; I answered the question truthfully.

13 16. Similarly, I recall being asked questions from Paul Weiss about a gift of a watch
14 Mr. Hunter gave me. I advised Paul Weiss that Mr. Hunter's gift, and particularly the timing of it,
15 made me uncomfortable. I told Mr. Hunter that I was not comfortable with it at the time and
16 attempted to give it back, however Mr. Hunter said that all NBPA Presidents receive a watch for
17 their service to the Union and at that time I trusted he was telling me the truth. My statement to Paul
18 Weiss was truthful at the time I made it and still is.

19 17. On February 16, 2013, I read from a prepared statement at a press conference during
20 All-Star weekend to inform the public but more importantly the 400 plus player body of the NBPA's
21 decision to terminate Mr. Hunter and the Executive Committee's commitment to building a better
22 organization moving forward. As the transcript from that press conference reflects, I did not identify
23 or state that Mr. Hunter had lied, misled or misinformed the Union. I believed the comments I read
24 from the statement to be true when I made them and still are today.

25 **Hunter's Allegations Regarding the 2011 NBA Lock-Out**

26 18. As President of the NBPA, I attended meetings and negotiation sessions during the
27 2011 labor dispute between NBA owners and players that led to the 2011 lockout. I actively
28 participated in meetings, conference calls and correspondence during this time. I attempted to work

1 with Mr. Hunter to develop and implement a plan for the NBPA to serve the best interests of its
2 membership of over 400 players.

3 19. Mr. Hunter's accusation that I had engaged in or even proposed or considered a "side
4 deal" or "secret agreement" with certain owners on the collective bargaining issues or for my own
5 personal gain is absolutely false. There were no side agreements or side deals. Mr. Hunter's
6 allegations and accusations are categorically false. The agreement reached between the NBPA and
7 the owners was a result of a vote of Player Representatives, not one individual, and, based on the
8 circumstances and as communicated to me, what Mr. Hunter felt was the best deal. The public
9 statements I made during and after the resolution of the lockout denying Mr. Hunter's accusations
10 were true when I made them and are true today.

11 20. Similarly, Mr. Hunter's allegations that my loyalties were somehow divided during
12 the lock-out and I was motivated by my self-interest are both insulting and absolutely false. At all
13 times during my tenure as President of the NBPA I have been committed to representing *all*
14 members of the NBPA. That was and remains my only motivation as President of the NBPA.

15 21. I have retained Jamie Wior as my business manager and media relations advisor for
16 many years. During this period she worked under my direction and/or the direction of the Interim
17 Executive Committee and then Executive Committee as I and we carried out our duties as President
18 and Executive Committee members of the NBPA. Prior to 2009, Wior served as a media relations
19 and branding advisor to me during her tenure at an independent firm.

20 **Hunter's Allegations Regarding His Proposed 2010 Contract Extension**

21 22. On or about June 23, 2010, the NBPA's then General Counsel Gary Hall presented
22 the Executive Committee with a proposed contract of employment for Mr. Hunter with the NBPA. I
23 did not write the proposed employment contract, and in fact I do not recall ever seeing any drafts of
24 it before the NBPA's former General Counsel Gary Hall presented the final version to the Executive
25 Committee for vote and subsequently me for signature.

26 23. When I signed the proposed employment contract, I believed I was acting pursuant to
27 my role as President under the NBPA's Constitution and By-Laws. When Mr. Hall gave me the
28

1 proposed employment contract to sign, he told me I should sign it and that it was proper for me to
2 sign it. I relied on Mr. Hall's statements and signed it.

3 24. No one, including Mr. Hall and Mr. Hunter, ever told me that my signature dispensed
4 with any requirements in the NBPA's Constitution and By-Laws for the employment contract of the
5 Executive Director to be valid and enforceable. I never believed that by signing the proposed
6 contract, I was binding the NBPA in any way beyond what the Constitution and By-Laws allowed.

7 25. I understand that in this lawsuit, Mr. Hunter is claiming that I misrepresented that I
8 had the authority to sign the proposed employment contract. I disagree. I believed then, and I
9 continue to believe now, that I had the authority to sign the proposed employment contract as
10 President of the NBPA at the direction of our counsel; however, as specified in the Bylaws,
11 additional steps would need to be taken to approve this agreement. At the time I signed the proposed
12 employment contract, I had no intention to nor did I misrepresent anything to Mr. Hunter, including
13 my own authority as NBPA President. In fact, I would have relied on Mr. Hunter's and Mr. Hall's
14 far greater knowledge of legal issues, since they were both lawyers and responsible for dealing with
15 the legalities in their respective roles with the NBPA. I am not a lawyer and I have never had any
16 formal legal training.

17 26. To my knowledge, Mr. Hunter's proposed employment contract was never voted on
18 or approved by the combined NBPA Board of Player Representatives and Executive Committee.

19 27. During the time I have been President, and excluding only the meeting in February
20 2013 at which the Player Representatives voted to terminate Mr. Hunter's employment, to my
21 knowledge Mr. Hunter always prepared or oversaw the preparation of the agenda for meetings of the
22 Board of Player Representatives with the advice and participation of the General Counsel. Neither
23 Mr. Hunter nor the General Counsel stated or led me to believe it was my responsibility to make sure
24 that Mr. Hunter's proposed employment contract was approved pursuant to the NBPA's Constitution
25 and By-Laws.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12

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

Executed this 28 day of June, 2013.

A handwritten signature in black ink, appearing to read 'Derek Fisher', with a stylized, cursive script.

DEREK FISHER