

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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WARREN GLOVER,

Plaintiff,

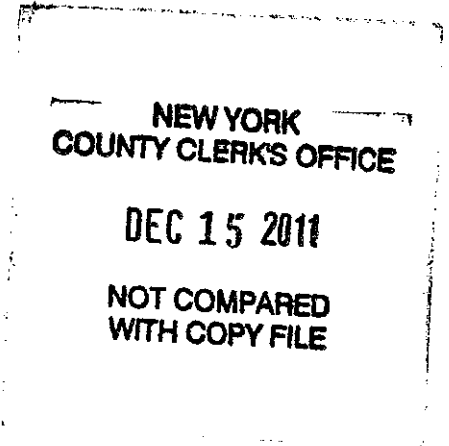
Index No. 114063/11

**VERIFIED COMPLAINT  
JURY TRIAL DEMANDED**

-against-

NATIONAL BASKETBALL ASSOCIATION, INC.,  
BERNARD TOLBERT, individually and as an employee  
of the NATIONAL BASKETBALL ASSOCIATION, INC.,  
GREGORY ROBINSON, individually and as an employee  
of the NATIONAL BASKETBALL ASSOCIATION, INC.,  
and JAMES CAWLEY, individually and as an employee of the  
NATIONAL BASKETBALL ASSOCIATION, INC.,

Defendants.  
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Plaintiff Warren J. Glover, by and through his attorneys, Newman Ferrara LLP, as and for his  
Complaint, alleges upon knowledge, information, and/or belief as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action for retaliatory employment discrimination against Defendants under the New York State Human Right Law ("NYHRL"), N.Y. Executive Law § 296 *et seq.* and the New York City Human Rights Law ("NYCHRL"), N.Y.C. Administrative Code § 8-107 *et seq.*, and seeks monetary and injunctive relief, disbursements, costs, and fees.

2. Plaintiff alleges that Defendants discriminated against him as a result of his communication to his employer, supervisors, and/or human resources employees numerous complaints that he received from female employees that alleged they were subjected to employment discrimination on the basis of gender by their supervisors and co-workers. Plaintiff

further alleges that Defendants discriminated against him as a result of his testimony at a deposition in a federal employment discrimination suit entitled *Annette Smith v. National Basketball Association, Inc., and Bernard Tolbert*, Index No. 08CV7888 (WHP)(S.D.N.Y. 2009).

3. Plaintiff alleges that Defendants engaged in the aforementioned discrimination in the operation of the Defendants' work environment by creating a hostile work environment, denying him promotions, job benefits, appropriate salary and other emoluments, subjecting him to adverse actions, including, but not limited to, threats, reprimands, unjustified negative evaluations, harassments, discharge, and otherwise depriving him of rights secured under the aforementioned provisions of state and/or local law.

4. As a direct and proximate result of the foregoing violations of law and/or deprivations, Plaintiff seeks an award of compensatory damages, an award of back pay and front pay, punitive damages, injunctive relief, and such other relief as the Court deems just and proper.

#### PARTIES

5. Plaintiff Warren J. Glover ("Plaintiff" or "Mr. Glover") is a male citizen of the United States who resides in New York, New York. Mr. Glover is a former Lieutenant Commander of the New York City Police Department's civil litigation unit. Beginning on June 18, 2001, and at all times relevant to the allegations in the Complaint, Mr. Glover was employed by the National Basketball Association. On May 27, 2009, Mr. Glover submitted testimony at a deposition in a federal employment discrimination suit brought against the National Basketball Association and Bernard Tolbert. Mr. Glover was discharged from his position at NBA on July 22, 2011, and at the time of his discharge, Mr. Glover was a Director in the Security Department.

6. Defendant National Basketball Association (“NBA”) is a domestic not-for-profit corporation with its principle place of business at 645 Fifth Avenue, New York, New York, 10022.

7. Defendant Bernard Tolbert (“Tolbert”) is a male citizen of the United States. At all times relevant to the allegations in the complaint, Tolbert was the Senior Vice President of Security for the NBA. In his capacity as Senior Vice President of Security, Tolbert was responsible for managing all aspects of security for NBA operations, including, but not limited to, facility, arena, personnel, and fan security. Tolbert was a named defendant in a complaint filed by Annette Smith, a former NBA Security Department employee, alleging gender discrimination. Tolbert was Mr. Glover’s ultimate supervisor.

8. Defendant Gregory Robinson (“Robinson”) is a male citizen of the United States. In 2006, Robinson was hired by NBA and appointed to the position of Senior Director of Security. In his capacity as Senior Director of Security, Robinson was Mr. Glover’s direct supervisor and was responsible for conducting Mr. Glover’s annual performance development reviews. Robinson was Mr. Glover’s immediate supervisor.

9. Defendant James Cawley (“Cawley”) is a male citizen of the United States. At all times relevant to the allegations in the complaint, Cawley was the Senior Vice President of Security for the NBA and assumed that position after Tolbert’s discharge or resignation. Cawley assumed all of the duties of Tolbert and was Mr. Glover’s ultimate supervisor.

## FACTUAL ALLEGATIONS

10. On June 19, 2001, Warren Glover began his employment in the NBA's security department (the "Department") as a Security Manager. In 2003, he was promoted to Senior Manager.

11. In 2003, Senior Director Larry Richardson ("Richardson") prepared Mr. Glover's Performance Development Plan ("PDP"). The PDP reflected high evaluation scores in all categories, and Richardson commented that Mr. Glover "is a flexible person who relates well to everyone and is easy to work with. His dedication to the job is unquestioned."

12. Richardson also prepared Mr. Glover's PDP in 2004, which likewise illustrated that Mr. Glover met and/or exceeded expectations in all evaluation categories. Further, Richardson commented, "[Mr. Glover] is committed to his job and has always been a great team player. He understands the dynamics of the organization and strives and is successful at producing the best work product available." Richardson also recommended Mr. Glover for a promotion from Senior Manager to Director, which he received.

13. In October of 2004, Mr. Glover received a telephone call from Kelley Hardwick, Senior Manager, NBA Security Department, wherein Ms. Hardwick advised Mr. Glover that Selma Allsop, a female NBA employee had complained to her regarding allegations of sexual harassment and discriminatory treatment. After the phone call from Ms. Hardwick, Mr. Glover spoke with Ms. Allsop ("Allsop"), alleging discriminatory behavior and sexual harassment by a male NBA employee, Security Director John Daniels ("Daniels"), which included offensive verbal remarks relating to her manner of dress, intelligence, and national origin. Ms. Allsop alleged that Mr. Daniels' hostile and discriminatory conduct commenced after she had rebuffed his unwelcome advance.

14. Mr. Glover then relayed Allsop's complaint to Tolbert, who replied that Allsop's allegations were false and malicious. Tolbert further expressed frustration towards Allsop for attempting to harm Daniels's career. Tolbert stated that a similar complaint had been made against him when Tolbert was employed by the Federal Bureau of Investigation.

15. In the summer of 2005, Mike Verden ("Verden"), Mr. Glover's immediate supervisor subsequent to Richardson, conducted Mr. Glover's PDP. Mr. Glover again received outstanding evaluation scores in all categories, and Verden commented, "[Mr. Glover] has the work experience, institutional knowledge, discipline and motivation to exceed as a security professional. There are no limits to his potential and he possesses the qualities and characteristics of an individual deserving of consideration for future promotion."

16. Verden's favorable review was coupled with a recommendation to Tolbert that Mr. Glover be promoted to Senior Director; however, following a conversation with Tolbert, Verden informed Mr. Glover that he was no longer being considered for the promotion.

17. Upon inquiry, Tolbert informed Mr. Glover that the Senior Director position was to be filled by an individual with international travel experience. At the time of this conversation, Mr. Glover had extensive experience within the department, which included travel to a number of international destinations. The position was ultimately filled by Tolbert's selection, Robinson, who became Mr. Glover's immediate supervisor. Mr. Glover was denied promotion in retaliation for his bringing the Allsop complaint to Tolbert's attention.

18. In the summer of 2006, Robinson conducted Mr. Glover's PDP for the first time since becoming Senior Director. The PDP evaluation indicated that Robinson shared Richardson's and Verden's high opinion of Mr. Glover, describing him as "one of the best security professionals [Robinson had] ever worked with." Robinson rated Mr. Glover's overall

performance as excellent and recommended him for a promotion to Senior Director; however, Tolbert again denied Mr. Glover the promotion, this time without providing Mr. Glover reasoning for the denial. Mr. Glover was denied this promotion in retaliation for his bringing the Allsop complaint to Tolbert's attention.

19. In 2007, Laurie McMurray ("McMurray") complained to Robinson, alleging sexual harassment by Daniels, including offensive and intimidating verbal remarks and the display of pornographic material on his office computer, viewed on Daniels's monitor on repeated occasions when he called McMurray into his office. However, Robinson neither took action on the matter, nor did he report the incident to Tolbert, as was protocol.

20. Frustrated by the lack of action following her complaint, McMurray recited her complaint to Joel Downing, ("Downing"), McMurray's immediate supervisor. Downing reported the complaint to Mr. Glover, who in turn reported the complaint to Robinson. Robinson, who was already familiar with McMurray's allegations, informed Mr. Glover that he would not be reporting the allegations to Tolbert because he didn't want to get involved, and he did not want to harm another manager's career. Mr. Glover then reported the allegations to Tolbert via email. Tolbert discarded Mr. Glover's email and requested a copy after an investigation into McMurray's complaint had been initiated.

21. Following McMurray's repeated complaints, Daniels spoke with Robinson. Immediately thereafter, Daniels, visibly upset, entered Mr. Glover's office and threateningly told him that he would "handle" the situation.

22. Sometime later, Tolbert spoke to Mr. Glover concerning McMurray's allegations. During the conversation, Tolbert delivered a thinly veiled threat to Mr. Glover, assuring him that

anyone who had informed McMurray of Allsop's previous allegations against Daniels would be fired.

23. In the summer of 2007, Robinson conducted Mr. Glover's PDP, giving Mr. Glover the lowest evaluation score he had received during his tenure with NBA. In September of 2007, Mr. Glover contested the results of the review, which did not reflect his contributions to the department. Such contributions include, but are not limited to, contributions to the following: (1) the All Star Jam Session; (2) the Rookie Transition Program; (3) the NBA Hall of Fame; (4) multiple security conferences; (5) all NBA player training; (7) non-NBA game scheduling; and (8) management of twenty (20) security personnel.

24. Mr. Glover reported the inconsistent evaluation to Kim Colbert ("Colbert"), of Human Resources, and after several meetings with Colbert, Mr. Glover's PDP was nominally improved.

25. From 2005-2008, Annette Smith, Mr. Glover's administrative support, complained to him regularly about Tolbert's discriminatory conduct against her, including, but not limited to, denial of promotions, his demeaning attitude and conduct towards women, including Ms. Smith, and the hostile work environment created by Tolbert's discriminatory behavior.

26. On numerous occasions, Mr. Glover brought Ms. Smith's complaints to the attention of Tolbert. Tolbert failed to address or correct his own conduct or behavior towards Ms. Smith, and on one occasion stated, "If she doesn't like it, she can quit. One monkey don't stop no show."

27. In 2008, Annette Smith ("Smith") resigned from her position at NBA, and on September 10, 2008, she filed a complaint against the NBA and Tolbert, alleging sexual

discrimination. In her complaint, Smith alleged that the NBA had a pattern of discriminating against women, that she had been denied promotions due to her complaints concerning Tolbert and his demeaning attitude and conduct towards women, and that she had been forced to prepare at Tolbert's request a presentation for rookie NBA players containing what she considered pornographic images.

28. After Smith filed the complaint, Mr. Glover was called into Robinson's office, where Mr. Glover was informed that his name was listed throughout the complaint as a witness against Tolbert. In fact, Mr. Glover's name was not contained in the complaint. Robinson then told Mr. Glover that he was in trouble, and implied that Mr. Glover's participation in the action would be detrimental to his career. Shortly thereafter, Robinson conducted Mr. Glover's 2008 PDP, continuing to give Mr. Glover negative evaluation scores. Further, Mr. Glover was not assigned replacement administrative support staff for over a year following Smith's resignation and complaint.

29. Following the conversation with Robinson, Mr. Glover arranged to meet with Tolbert's supervisor, President of League Operations Joel Litvin ("Litvin"), to discuss Robinson's statement and contest his negative 2008 PDP. During the meeting with Litvin, Mr. Glover complained about Tolbert's and Robinson's retaliatory behavior and expressed his concern that he was being negatively impacted for reporting the sexual harassment complaints. Litvin halted the meeting and directed Mr. Glover's complaints to Human Resources.

30. Mr. Glover then met with Senior Vice President of Human Resources Kerry Chandler ("Chandler") and, in the presence of NBA attorney Neal Stern ("Stern"), outlined the negative treatment he had been subjected to following his diligent reporting of sexual harassment



claims. Mr. Glover also prepared a list of questions to be asked of Robinson, Tolbert, and the other parties involved, in order to aid Chandler in conducting an investigation.

31. Following the meeting with Chandler and Stern, Mr. Glover returned to his office, where he witnessed Robinson and Daniels openly mocking him for filing a complaint. Mr. Glover immediately reported the incident to Chandler, who told him not to worry about it.

32. Chandler conducted an investigation, and although Robinson admitted to telling Mr. Glover he was in trouble regarding the Smith complaint, Chandler ultimately concluded that the statements were unrelated to Mr. Glover's negative PDP. Chandler made no indication that any of the questions Mr. Glover prepared pursuant to the investigation had been used, and refused to tell Mr. Glover what, if any, action would be, or had been, taken in response to his allegation of retaliation.

33. Mr. Glover then arranged to meet with Tolbert at Chandler's request to discuss the unwarranted negative PDP. During the meeting, Tolbert was unmoved by Mr. Glover's protests and informed him that if he was unhappy, he should find another job. Tolbert further stated that Mr. Glover shouldn't complain because he was permitted to visit his ill wife during his lunch break without being fired.

34. With the assistance of an attorney, Mr. Glover then prepared a formal rebuttal to his negative PDP for 2008, in which he alleged disparate treatment from his supervisors due to his reporting of sexual harassment complaints.

35. On May 27, 2009, Mr. Glover testified in a deposition for the Smith case, affirming that Litvin, Chandler, Stern, Tolbert, and Robinson were all aware of Smith's sexual harassment complaints. Shortly thereafter, Mr. Glover was in Orlando, FL with Tolbert and Randy Inniss ("Inniss") for the NBA Finals. During the trip, Inniss, and Tolbert were discussing

the Smith case in Mr. Glover's presence when Tolbert turned to Mr. Glover and stated, "It's all your fault. You testified for your girl."

36. That summer, Robinson again prepared Mr. Glover's PDP, further decreasing the evaluation score, despite the positive comments included in the evaluation. As a result of the unjustified negative evaluation, Mr. Glover refused to sign the PDP, despite being told by Robinson that he would not receive a bonus unless he signed.

37. During the same time, Tolbert informed Mr. Glover that he was once again being overlooked for a promotion to Senior Director, despite Mr. Glover's performance of tasks and responsibilities attributed to the position, such as supervising another employee, Joel Downing, who held the same title as Mr. Glover. Further, Mr. Glover requested to take part in the NBA Human Resources Department's meetings and studies concerning employee relations and workplace issues; however, Tolbert denied Mr. Glover's request.

38. In July 2010, McMurray alleged continued harassment by Daniels, stating that he used the office security cameras to spy on women in the office. Mr. Glover relayed the complaints to Tolbert via email.

39. Around the same time, Mr. Glover received another negative PDP from Robinson, which he again refused to sign.

40. In October 2010, following a sizable settlement awarded to Smith case, Tolbert was discharged or resigned from his position at the NBA.

41. Following Tolbert's termination, Robinson stated that his past negative behavior towards Mr. Glover and the poor performance review scores were all conducted at Tolbert's request. Robinson further stated that on several occasions he met with Tolbert to review Robinson's evaluation of Mr. Glover and that Tolbert had instructed Robinson to lower Mr.

Glover's final performance rating. Robinson further alleged that he himself had filed a complaint against Tolbert with Human Resources.

42. However, in 2011, Mr. Glover received another negative review from Robinson, and again protested the score. Contacting Chandler, Mr. Glover restated that while the comments concerning his performance were positive, the overall review score had steadily decreased each year that Glover reported sexual harassment occurring within the department. However, Mr. Glover's contest was again to no avail, and he was told that because Tolbert was no longer employed by NBA, he should just "let it go."

43. In April of 2011, Mr. Glover discussed the negative review with Robinson and requested to meet with Senior Vice President of Security James Cawley ("Cawley") to further discuss the persistent negative PDPs. Mr. Glover met with Cawley, who had revised the evaluation to reflect significantly poorer performance than the initial evaluation.

44. Among the negative comments included in the evaluation, Cawley criticized Mr. Glover's performance at the NBA All-Star Jam Session. Such criticism was inconsistent with Cawley's previous statements, in which he praised Mr. Glover's efforts at the Jam Session and approved a congratulatory dinner for Mr. Glover's staff. Cawley also criticized Mr. Glover's performance on duties that were not assigned to him, such as the Mail Handling Program and office manual updating, and for not completing a Master's program, despite the cancellation of NBA's tuition reimbursement program.

45. When Mr. Glover attempted to refute Cawley's judgment with positive feedback forms completed by managers and staff who attended the Jam Session, Cawley immediately disregarded the information, and submitted the negative PDP without consideration of Mr. Glover's objections. Cawley's negative evaluation was a continuation of the pattern and practice

of retaliation against Mr. Glover for his complaining to his supervisors about gender discrimination against female employees of the NBA.

46. On June 20, 2011, Mr. Glover received a congratulatory letter from NBA Commissioner David J. Stern, praising him for a decade of service to NBA's Security Department. Along with the letter, Mr. Glover received a gold watch as a token of Commissioner Stern's appreciation for his efforts.

47. On July 22, 2011, Mr. Glover arrived at his office and was met by Cawley, who requested that Mr. Glover speak with him in a conference room. Cawley informed Mr. Glover that he was being terminated as a result of his poor performance. Cawley's excuse for discharging Mr. Glover was pretextual and a continuation of the pattern and practice of NBA and Mr. Glover's supervisors of discrimination and retaliation against him for raising issues of gender discrimination against women in the NBA Security Department

48. Mr. Glover was allotted thirty (30) minutes to retrieve his belongings from his office; however, Mr. Glover was unable to remove many of his belongings, as he was rushed from the building by security.

49. At the time of his termination, Mr. Glover was the lowest paid NBA security directors, despite having been with the department for a decade, having contributed to many successful NBA programs, and having supervised other security personnel of the same rank. Further, Mr. Glover was the first person to be terminated following the NBA lockout, and the only security personnel to ever be fired during a lockout in the history of the NBA.

## **CAUSES OF ACTION AGAINST DEFENDANT NBA**

### **First Cause of Action**

#### ***Violation of New York State Human Rights Law***

50. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

51. NBA, Tolbert, Cawley, and Robinson created a hostile work environment wherein Mr. Glover was demeaned, treated differently from other employees who did not complain about sexual harassment or discrimination against women, was denied promotions due to his advocacy on behalf of female employees, was subjected to retaliatory evaluations, and was discharged in retaliation for his continued advocacy on behalf of female employees.

52. NBA condoned, acquiesced in the foregoing terms and conditions and is responsible under the doctrine of *respondeat superior* for the discriminatory conduct of Tolbert, Cawley, and Robinson, and other supervisory employees.

53. NBA has a pattern and practice of discriminating against women with respect to terms and conditions of employment and tolerates a culture of complicity and retaliation against those who complain about such disparate treatment.

54. Plaintiff is entitled to relief based upon Defendant NBA's violations of New York State Human Rights Law's prohibitions against hostile work environments and retaliatory actions against an employee who reports or opposes the discriminatory practices of the employer made illegal under the same.

## **Second Cause of Action**

### ***Violation of New York City Human Rights Law***

55. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

56. Defendant NBA's aforementioned violations of New York State Human Rights Law also constitutes a violation of New York City Human Rights Law, N.Y.C. Administrative Code § 8-107 *et seq.*.

57. Plaintiff is entitled to relief based upon Defendant NBA's violation of New York City Human Rights Law's prohibitions against hostile work environments and retaliatory actions against an employee who reports or opposes the discriminatory practices of the employer made illegal under the same.

## **CAUSES OF ACTION AGAINST DEFENDANTS TOLBERT, CAWLEY, AND ROBINSON**

### **Third Cause of Action**

#### ***Violation of New York State Human Rights Law***

58. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

59. Defendants Tolbert, Cawley, and Robinson violated New York State Human Rights Law, N.Y. Executive Law § 296 *et seq.* by engaging in retaliatory behavior towards Plaintiff following his diligent reporting of sexual discrimination complaints made by other NBA employees.

60. Defendants Tolbert's, Cawley's and Robinson's retaliatory behavior includes, but is not limited to, creating a hostile work environment; unjustified denial of promotions, job benefits, appropriate salary, and other emoluments; subjecting Mr. Glover to adverse actions, including, but not limited to, threats, reprimands, unjustified negative evaluations, harassments, discharge; and otherwise depriving him of rights secured under New York State law.

61. Plaintiff is entitled to relief based upon Defendants Tolbert's, Cawley's, and Robinson's violation of New York State Human Rights Law prohibitions against hostile work environments and retaliatory actions against an employee who reports or opposes the discriminatory practices of the employer made illegal under the same.

#### **Fourth Cause of Action**

##### ***Violation of New York City Human Rights Law***

62. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

63. Defendants Tolbert's, Cawley's, and Robinson's aforementioned violations New York State Human Rights Law also constitute a violation of New York City Human Rights Law, N.Y.C. Administrative Code § 8-107 *et seq.*

64. Plaintiff is entitled to relief based upon Defendants Tolbert's, Cawley's and Robinson's violation of New York City Human Rights Law's prohibition against hostile work environments and retaliatory actions against an employee who reports or opposes the discriminatory practices of the employer made illegal under the same.

### **DAMAGES**

65. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

66. The actions of the Defendants, and each of them, were committed intentionally, wantonly, and with malice, warranting the imposition of punitive damages.

67. As a result of the actions of the Defendants, and each of them, Plaintiff has suffered emotional distress, humiliation, degradation, depression, and loss of income and the benefits of employment.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks the following relief:

- A. Compensatory damages
- B. An award of back pay;
- C. An award of front pay;
- D. Punitive damages;
- E. Costs, disbursements, expert fees and attorneys' fees;
- F. Any and all other relief that the Courts deems proper and just.



**JURY DEMAND**

Plaintiff demands a trial by jury

DATED: New York, NY  
December 13, 2011

**NEWMAN FERRARA LLP**

By: 

Randolph M. McLaughlin  
Jeffrey M. Norton  
1250 Broadway, 27<sup>th</sup> Floor  
New York, New York 10001  
Tel: 212-619-5400  
Fax: 212-619-3090

***Counsel for Plaintiff***

VERIFICATION

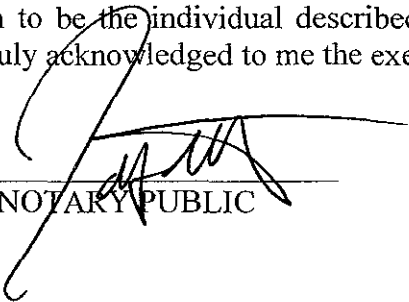
STATE OF NEW YORK )  
 )  
 ) SS:  
COUNTY OF NEW YORK )

Warren Glover, being duly sworn, deposes and says that deponent is the Plaintiff in the within action, that he has read the foregoing Complaint and knows the contents thereof, that the same is true to Deponent's own knowledge, except as to the matters stated therein to be alleged on information and belief, and that as to those matters deponent believes them to be true.

  
WARREN GLOVER

STATE OF NEW YORK )  
 )  
 ) SS:  
COUNTY OF NEW YORK )

On the 13th day of December 2011, before me personally came Warren Glover to me known to be the individual described herein and who executed the foregoing instrument, and who duly acknowledged to me the execution thereof.

  
NOTARY PUBLIC

JEFFREY M. NORTON  
Notary Public, State of New York  
No. 02NO6004850  
Qualified in New York County  
Commission Expires March 30, 2012

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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and JAMES CAWLEY, individually and as an employee of the  
NATIONAL BASKETBALL ASSOCIATION, INC.

Defendants.  
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**CERTIFICATION**

**CERTIFICATION PURSUANT TO SECTION 130-1.1-a OF THE RULES OF THE  
CHIEF ADMINISTRATOR (22NYCRR)**

The undersigned certifies the following document pursuant to 22NYCCR section 130-1.1-a:

Complaint

Dated: New York, New York  
December 13, 2011

Yours, etc.

NEWMAN FERRARA LLP

By: 

Randolph M. McLaughlin  
1250 Broadway, 27<sup>th</sup> Floor  
New York, New York 10001  
212-619-5400