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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ROYALTY ONLY, LLC, a Florida limited liability company; and ODELL CORNELIOUS BECKHAM, JR., an individual,

Plaintiffs,

vs.

NIKE USA, INC., an Oregon corporation,

Defendant.

No.

COMPLAINT
(Breach of Contract; Reformation; Breach of the Covenant of Good Faith and Fair Dealing)

(Not Subject to Mandatory Arbitration – Prayer of \$20,625,000)

Fee Authority: ORS 21.160(1)(e)

JURY TRIAL REQUESTED

Plaintiffs Royalty Only, LLC and Odell Cornelious Beckham, Jr. (collectively, “Mr. Beckham”) allege as follows:

NATURE OF THE ACTION

1.

Mr. Beckham brings this case because Nike has failed to live up to its promises and refuses to abide by its contract.

2.

In 2014 Mr. Beckham and his company Royalty Only agreed to an endorsement contract with Nike USA, Inc. to endorse Nike’s brand. Since the parties entered the contract, Mr. Beckham has grown into one of the most talented athletes in the National Football League, known for using his speed and agility to evade defenders and score touchdowns. And as a direct result of Mr. Beckham’s performance on the football field and his influence

1 with his passionate, international fan base, Mr. Beckham has garnered millions of dollars of
2 sales for Nike.

3 3.

4 Although Mr. Beckham has been a good partner to Nike, his efforts have not been
5 reciprocated. When his original agreement with Nike expired in 2017, Mr. Beckham tried to
6 switch brands to adidas America (“adidas”). Recognizing Mr. Beckham’s notoriety and fan
7 following, adidas offered him a multi-million-dollar deal that represented one of the biggest
8 endorsement contracts of any football player at the time. But Nike then exercised its
9 contractual right to match the adidas offer.

10 4.

11 Now, five years later, Nike is refusing to honor the deal it agreed to. Rather than
12 continuing to pay the compensation and guaranteed royalties it is contractually obligated to
13 pay Mr. Beckham, Nike is willfully withholding millions of dollars and inventing excuses
14 not to pay him.

15 5.

16 Given the commercial success of the relationship between Mr. Beckham and Nike,
17 Mr. Beckham sought to resolve this dispute amicably and to continue the relationship to no
18 avail. Instead of honoring its obligations, Nike doubled down and chose to wrongly withhold
19 millions more in compensation from Mr. Beckham in an effort to pressure him to accede to
20 Nike’s demands that he forego what he was promised. Mr. Beckham is thus forced to bring
21 this lawsuit to make Nike live up to its promises.

22 **PARTIES**

23 6.

24 Mr. Beckham is a resident of California but agreed to litigate any dispute with Nike in
25 Oregon. He is a professional athlete and two-time All Pro wide receiver.

26

1 7.

2 Royalty Only is a Florida registered limited liability company that owns and manages
3 the exclusive rights to Mr. Beckham's name, likeness and image. Mr. Beckham is the sole
4 owner of Royalty Only.

5 8.

6 Defendant Nike USA, Inc., is an Oregon registered corporation, with its principal
7 place of business in Beaverton, Oregon.

8 **JURISDICTION AND VENUE**

9 9.

10 The parties have contractually agreed to resolve any dispute in this jurisdiction.

11 10.

12 Nike is a corporation created by or under the laws of Oregon and is engaged in
13 substantial activities within Oregon.

14 11.

15 Venue is appropriate because Nike is a resident of multiple counties, including
16 Multnomah County, where it conducts regular business.

17 **FACTS**

18 **I. The Original Agreement**

19 12.

20 After Mr. Beckham's third and final year of collegiate football at Louisiana State
21 University in 2013, he received several awards and honors for his performance on the
22 football field. Among others, that year, Mr. Beckham won the Paul Hornung Award for the
23 Nation's Most Versatile Player. And the Football Writers Association, CBS Sports, Sports
24 Illustrated, and Associated Press each selected Mr. Beckham to their respective All-
25 American teams.
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13.

To cap the completion of an outstanding college football career, the New York Giants of the National Football League drafted Mr. Beckham with the 12th pick of the 2014 NFL draft.

14.

That same year, Defendant Nike USA, Inc. and Mr. Beckham entered a Football Contract, dated March 26, 2014, (the “Original Agreement”). Under the Original Agreement, in exchange for Mr. Beckham’s expertise as an elite athlete and his endorsement of Nike products, Nike agreed to pay Mr. Beckham \$45,000 per year for three years. Nike also agreed to pay Mr. Beckham a percentage of the net sales of any Nike products bearing his endorsement and various incentive payments.

15.

The Original Agreement also provided a right of first refusal to Nike. That is, before Mr. Beckham could enter an endorsement deal with another other footwear and apparel company, Nike had a right to match the third-party’s offer.

16.

Under that right of first refusal, if Mr. Beckham received an offer and presented it to Nike, Nike had 10 days to match that offer with a new contract on terms no less favorable to Mr. Beckham than the material, measurable, and matchable terms of the third-party offer.

II. Mr. Beckham’s Rise to Stardom

17.

The success Mr. Beckham experienced as a collegiate athlete continued after he entered the National Football League. At the end of his rookie season, Mr. Beckham caught more passes and had more receiving yards than all other rookie NFL players, and he also caught the second-most touchdowns receptions of first-year players.

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18.

In 2015, during a Sunday night game between the Dallas Cowboys and the New York Giants, Mr. Beckham (while wearing Nike gloves and cleats) made a one-handed touchdown catch that was regarded by many as the best catch in NFL history. The NFL selected a photograph of this catch as one of the 100 Greatest Photos in the league’s 100-year history.

19.

Following the viral one-handed catch, Mr. Beckham’s off-the-field popularity rose, and he was featured in the most popular media outlets in the country, including ESPN, Sports Illustrated, GQ, and Forbes.

20.

By the end of 2016, Mr. Beckham became the fastest player in NFL history to reach 200 receptions and 4,000 receiving yards.

21.

Separately, Mr. Beckham attained great personal fame as a fashion forward, media-savvy “influencer” with a tremendous social following outside his athletic profession. For example, he currently has approximately 16 million followers on Instagram alone. The dual attributes of his fame made him highly attractive to Nike’s competitors.

22.

As Nike explained to its shareholders in 2018, social media was a key area of Nike’s competitive focus:

[O]ur success in maintaining, extending and expanding our brand image depends on our ability to adapt to a rapidly changing media environment, including **our increasing reliance on social media** and digital dissemination of advertising campaigns. We could be adversely impacted if we fail to achieve any of these objectives.¹

¹ Nike 2018 Form 10-K, p. 60, located at https://s1.q4cdn.com/806093406/files/doc_financials/2018/ar/docs/nike-2018-form-10K.pdf

1 **III. The Term Sheet**

2 23.

3 In early 2017, with the Original Agreement coming to an end, adidas offered Mr.
4 Beckham an endorsement contract that included up to \$47 million in guaranteed extensions
5 (the “adidas offer”).

6 24.

7 The adidas offer provided an upfront payment, plus a yearly base salary ranging from
8 \$3.2 million to \$4.2 million, plus Guaranteed Royalties and a guaranteed extension for
9 multiple years based on the net sales of royalty generating products.

10 25.

11 Under the terms of the adidas offer, if “net sales meet the minimum royalty
12 guarantee” in the contract years 2021 and 2022 (Contract Years 4 and 5), Mr. Beckham’s
13 contract would automatically extend to years 2023 and 2024. Likewise, if “net sales meet the
14 minimum royalty guarantee” in 2023 and 2024, then the contract would extend the contract
15 to 2025 with pre-determined base salaries and minimum royalty guarantees. The guaranteed
16 value of these extensions was \$18.725 million, with \$12.25 million in base compensation and
17 \$6.475 million in minimum guaranteed royalties. These terms were set out in the adidas
18 offer:

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29.

On May 19, 2017, Bill Kellar of Nike Football Sports Marketing sent Mr. Beckham a letter stating: “Nike will enter into a new contract with you on terms no less favorable to you than the material, measurable, matchable terms of the [adidas] Contract Summary. For the avoidance of doubt, Nike agrees to match all terms of the Contract Summary.”

30.

Mr. Kellar’s letter concluded, “I will ask the Nike legal department to prepare the proper documentation.”

31.

To confirm that Nike agreed to match all aspects of the adidas offer, Nike executed a “Contract Summary” (the “Term Sheet”) that mirrored the adidas offer in all respects, including automatic renewals for Contract Years 6-8 to the extent “net sales meet the minimum royalty guarantee in” preceding years. The Term Sheet mirrored the adidas offer, including the guaranteed extensions where “net sales meet the minimum royalty guarantee[s]”:

1
2
3 **CONTRACT SUMMARY**

4 **(CONFIDENTIAL)**

5 **Athlete:** Odell Beckham Jr.

6 **Term:** 7/01/2017-6/30/2022 (subject to extension)

7 **I. Signing Bonus: \$5,000,000** (Payable upon execution of long form contract)

8 **II. Cash Compensation per year:**

9 2017 – '18 - \$3,250,000
10 2018 – '19 - \$3,250,000
11 2019 – '20 - \$3,250,000
12 2020 – '21 - \$3,500,000
13 2021 – '22 - \$3,750,000
14 2022 – '23 - \$4,000,000*
15 2023 – '24 - \$4,000,000*
16 2024 – '25 - \$4,250,000**

17 *Guaranteed extension of term if net sales meet the minimum royalty guarantee in years Four and Five.

18 ** Guaranteed extension of term if net sales meet the minimum royalty guarantee in years Six and Seven.

19 **III. Guaranteed Royalties per year:**

20 2017 – '18 - \$0
21 2018 - '19 - \$1,400,000
22 2019 – '20 - \$1,700,000
23 2020 – '21 - \$1,900,000
24 2021 – '22 - \$2,000,000
25 2022 – '23 - \$2,100,000*
26 2023 – '24 - \$2,150,000*
27 2024 – '25 - \$2,225,000**

28 **Royalty Rate:**

29 **Footwear, Apparel, Gloves, Hardgoods –5%**

30 32.

31 Nike further agreed to make Mr. Beckham a “Brand Icon” and agreed that he would
32 have “Player Edition products within Football, including Footwear and Gloves . . . as well as
33 “Cross Category Player Edition product offerings, including Running Footwear, Athletics
34 Apparel, and Training Footwear and Apparel.” In addition, “a youth product offering
35 bearing Athlete name will be developed and sold.”
36

1 33.

2 In 2017, Nike had very few Brand Icons. In the long history of Nike and the NFL, no
3 other NFL athlete had ever been a Brand Icon. Not Bo Jackson. Not Peyton Manning. Not
4 Drew Brees. Mr. Beckham was the first Nike Brand Icon from the NFL. As a Nike Brand
5 Icon, Mr. Beckham took on far more offseason duties with Nike to promote its products
6 around the world.

7 34.

8 The battle for Mr. Beckham’s endorsement was followed closely in the media. Nike
9 won the “battle”—and obtained tremendous media attention—by agreeing to match the terms
10 of the adidas offer. In fact, the attention Nike received went beyond sports media, as evident
11 from articles in Forbes,² and MarketWatch.com.³

12 35.

13 In June 2017, Nike sent Mr. Beckham a letter (the “2017 Extension Letter”)
14 memorializing the terms of the Term Sheet into a “Long Form Football Contract.” The letter
15 confirmed that it was being sent “per NIKE’s recent exercise of its right of first refusal,” as
16 evidenced by Nike’s agreement to match all terms of the adidas offer and as embodied in the
17 Term Sheet Nike and Mr. Beckham had signed in the weeks prior.

18 36.

19 Unbeknownst to Mr. Beckham and Royalty Only, there was a change in the 2017
20 Extension Letter. Unlike the adidas offer—which Nike had already agreed to “match all
21 terms”—and the Term Sheet, the 2017 Extension Letter states that the guaranteed extensions
22 for Contract Years 6-8 will be determined based on whether “*earned royalties*,” rather than
23

24 ² See, e.g., “Nike Paid Odell Beckham Jr. A Lot Of Money Because of You”, Chase
25 Crosby, at <https://www.forbes.com/sites/chasecrosby/2017/05/25/nike-just-paid-odell-beckham-jr-a-lot-of-money-because-of-you/?sh=391e261551eb>, as of July 29, 2022.

26 ³ See, “NFL’s Odell Beckham record deal with Nike could earn him \$48 million”,
Paul Schwartz, <https://www.marketwatch.com/story/nfls-odell-beckham-could-earn-48-million-via-a-record-busting-deal-with-nike-2017-05-24>, as of July 29, 2022.

1 “net sales,” meet or exceed ‘Guaranteed Royalties.’”

2 37.

3 The change from “net sales” to “earned royalties” in the trigger for the guaranteed
4 extensions for Contract Years 6-8 was never discussed between Nike and Mr. Beckham and
5 was inconsistent with the parties’ existing agreement that Nike was matching all terms of the
6 adidas offer as reflected in its letters, discussions with Mr. Beckham, and the Term Sheet that
7 both parties had signed.

8 38.

9 There was no intent by Mr. Beckham to amend the agreement he had reached with
10 Nike as reflected in the Term Sheet, and plaintiffs were not informed of any intent by Nike to
11 do so. Even if Nike had intended to amend the Term Sheet, there was no knowledge or
12 agreement by Mr. Beckham for such an amendment nor any consideration that could support
13 an amendment that decreased the value of the contract to Mr. Beckham by tens of millions of
14 dollars.

15 **IV. Mr. Beckham Met His Obligations under the Term Sheet**

16 39.

17 After the parties entered the Term Sheet, Mr. Beckham fully fulfilled his obligations.
18 Mr. Beckham used his enormous social media following to advertise Nike on his social
19 media platforms. Mr. Beckham connected Nike to his tens of millions of followers who form
20 a dedicated target audience for products from Nike, and its competitors.

21 40.

22 Despite an injury-shortened 2017 season, Mr. Beckham’s peers voted him as one of
23 the Top 100 Players in the NFL. And in 2018, Contract Year 5, Mr. Beckham returned to the
24 football field in his preinjury form, amassing 77 receptions, 1,052 yards, six touchdown
25 catches, and two touchdown passes in just 12 games.

26

1 41.

2 In 2022, Contract Year 5, Mr. Beckham was traded to the Los Angeles Rams in the
3 last part of the season. Unlike Nike’s past practice of sending Mr. Beckham cleats to wear
4 for NFL games, Nike did not provide Mr. Beckham with customized cleats for use in his
5 games with the Rams. Because Mr. Beckham’s old Nike cleats were designed to match the
6 orange and brown of his prior NFL team, the Cleveland Browns, Mr. Beckham personally
7 undertook to obtain customized Nike cleats that would not clash with the Rams uniforms.
8 These custom cleats retained all Nike marks. Fashion coverage of the cleats was extremely
9 positive and drove traffic to Nike.⁴

10 42.

11 Despite a shortened season, Mr. Beckham was vital to the Rams run to and through
12 the NFL playoffs. In the NFC Championship game, Mr. Beckham caught nine passes for 113
13 yards, helping the Rams advance to Super Bowl LVI. And Mr. Beckham scored the first
14 touchdown of Super Bowl LVI. While Mr. Beckham later left the game due to injury, his
15 efforts helped the team ultimately win the Super Bowl and publicize his Nike apparel on the
16 biggest sports stage possible.

17
18 **V. Nike Breaches the Contract**

19 43.

20 The final fully guaranteed year of the Term Sheet (2021-22) commenced on July 1,
21 2021 and ended June 30, 2022.

22 44.

23 Throughout the course of the Term Sheet, Mr. Beckham repeatedly asked about that
24 status of Nike’s effort to meet its obligations to create, market and sell “Cross Category
25

26 ⁴ <https://www.whatproswear.com/football/odell-beckham-jr/cleats/odell-beckham-jrs-nike-vapor-beckham-black-af-1-cleats/>

1 Player Edition product offerings, including Running Footwear, Athletics Apparel, and
2 Training Footwear and Apparel” and “a youth product offering bearing” his name. Despite
3 repeated assurances, Nike never followed through on its obligation which directly reduced
4 the value of the contract to Mr. Beckham.

5 45.

6 Even without the development and sale of those products, “net sales” of the royalty-
7 bearing products had always far exceeded the guaranteed royalty amounts according to
8 Nike’s royalty reports. As a result, Mr. Beckham was confident that that would be the case
9 in Contract Year 5 as well. Based on those net sales numbers, Mr. Beckham would be
10 entitled to the guaranteed extensions for Contract Years 6 and 7.

11 46.

12 But in March of 2022, Mr. Beckham’s relationship with Nike began to sour.

13 47.

14 On March 1, 2022, Mr. Beckham was due to receive a payment of \$2,586,764.71.
15 But without any prior explanation, Nike withheld \$2,012,500.00 of that payment. Mr.
16 Beckham contacted Nike about the underpayment and requested that the additional money
17 due be paid. Mr. Beckham also asked Nike to acknowledge that the guaranteed extension for
18 Contract Years 6 and 7 of the Term Sheet had been met.

19 **A. Nike Refuses to Honor Mr. Beckham’s Guaranteed Extension as**
20 **Provided under the Term Sheet**

21 48.

22 In response, Mr. Beckham learned that Nike was determined to avoid paying him
23 what they had agreed.

24 49.

25 Nike informed Mr. Beckham that it was now taking the position that the guaranteed
26 extension turned on “earned royalties” exceeding “guaranteed royalties” rather than “net
sales” as the parties had agreed. Even though Nike’s position is inconsistent with adidas’s

1 offer (which Nike explicitly agreed to match) and the Term Sheet, Nike latched on to its own
2 error in memorializing of the Term Sheet to try to get out of its agreement.

3 50.

4 Nike’s newly minted claim that the extension turned on “earned royalties” rather than
5 “net sales”—which is inconsistent with the terms of the adidas offer that Nike explicitly
6 agreed to match and the Term Sheet Nike signed—made a stark difference. For instance,
7 under the parties’ agreement that Nike would match adidas’s offer, Mr. Beckham was
8 entitled to an automatic extension for Contract Years 6 and 7 as long as net sales of royalty-
9 bearing products in Contract Years 4 and 5 together totaled \$3.9 million. But under Nike’s
10 newly crafted position, the net sales needed to trigger this automatic extension ballooned to
11 \$78 million over Contract Years 4 and 5. The increase needed to trigger the automatic
12 extension for Contract Year 8 was similarly stark. The parties never discussed, much less
13 agreed to these excessive increases in the benchmarks for triggering the automatic
14 extensions.

15 51.

16 In addition, whereas the sales thresholds needed for automatic extensions contained in
17 the adidas offer—which, again, were explicitly accepted by Nike via email and the fully-
18 executed Term Sheet—could be met by combining net sales from Contract Years 4 and 5,
19 Nike now claims based on the incorrect language in the Extension Letter that the targets
20 needed to be individually met in both Contract Years 4 and 5.

21 52.

22 In addition to being inconsistent with the parties’ agreement, Nike’s new positions are
23 taken in bad faith as it has never put enough royalty generating product in the market to
24 generate \$78 million in net sales over Contract Years 4 and 5 and intentionally depressed
25 sales of royalty bearing products in the last fully guaranteed year (or more) of the contract.
26

1 53.

2 As discussed above, Nike never followed through on its obligation to create, market
3 and sell “Cross Category Player Edition product offerings, including Running Footwear,
4 Athletics Apparel, and Training Footwear and Apparel” and “a youth product offering
5 bearing” Mr. Beckham’s name. And despite Mr. Beckham’s trade to the Los Angeles Rams
6 (who play in one of the largest sports markets in the world), his playoff run, and his Super
7 Bowl performance, Nike was intentionally avoiding manufacturing, marketing, or selling
8 products bearing Mr. Beckham’s name in the last guaranteed year of the contract.

9 54.

10 Upon information and belief, Nike stopped actively manufacturing and/or selling
11 royalty generating products after 2020 to prevent Mr. Beckham from meeting the net sales
12 trigger for the Guaranteed Extensions. This represents bad faith conduct by Nike.

13 55.

14 Mr. Beckham requested the net sales numbers for royalty bearing products in
15 Contract Year 5 of the Term Sheet (July 2021 – June 2022), but Nike refused to provide the
16 supporting documentation.

17 56.

18 Despite Nike’s attempts to hide its wrongdoing, sales data from the preceding years
19 supports the conclusion that Nike intentionally depressed sales of royalty bearing products to
20 prevent triggering the “guaranteed extension” periods.

21 57.

22 In the last six months of the prior contract year (Jan 2021 – June 2021), Nike reported
23 only \$614,631.08 in net sales of royalty generating products. That represented an 87%
24 decrease from the prior six months (July 2020 – December 2020) where Nike reported net
25 sales of \$4.6 million. This dramatic reduction in sales has no apparent explanation or
26 correlation to Mr. Beckham’s value.

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62.

Mr. Beckham did not violate either provision. The cleats Mr. Beckham wore in week 17—the Nike cleats that he personally had customized because Nike failed to provide him with cleats that matched the colors of his new NFL team—were “Nike Vapor Beckhams” customized in the style of Nike Air Force 1 basketball shoes.

63.

Pictures from this game make clear that the Nike mark was obvious on the shoes during the Baltimore game and was not “polish[ed] out,” “spat[ed],” “tap[ed] over” or otherwise covered or concealed. For example, this picture from the Los Angeles Times shows the swoosh was unobscured:



64.

In fact, sports fashion websites praised the design and promoted Nike’s brand while driving traffic to Nike’s official website:

During a game against the Ravens, Odell Beckham Jr wore a pair of Nike Vapor Beckhams inspired by the Black Air Force 1s...The base shoe for these customs is the Nike Vapor Beckham. The Vapor Beckham is a cleat custom made for OBJ and is not currently available to the public. They have a new vapor plate that we have yet to see on any other models from Nike....

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68.

Nike has steadfastly refused to honor its agreement to return the funds withheld based on its false claims or violations and to extend Mr. Beckham’s contract. Nike has treated the contract as terminated on June 30, 2022.

69.

Mr. Beckham met all his material obligations under the Term Sheet or are excused from such by virtue of Nike’s conduct or Nike’s failure to meet its obligations.

FIRST CLAIM FOR RELIEF

(Breach of Contract)

70.

Mr. Beckham and Royalty Only re-allege the preceding paragraphs and incorporate them as if fully set forth herein.

71.

The Term Sheet is a valid and binding contract.

72.

Nike wrongfully breached that contract in multiple ways.

73.

Nike breached the contract by failing to extend Mr. Beckham’s contract based despite net sales of royalty bearing products exceeded the guaranteed minimum royalties.

74.

Nike breached the contract by wrongly withholding more than \$2 million in compensation based on false claims of footwear and glove violations.

75.

Nike breached the contract by failing to create, market and sell “Cross Category Player Edition product offerings, including Running Footwear, Athletics Apparel, and Training Footwear and Apparel” and “a youth product offering bearing” Mr. Beckham’s

1 name.

2 76.

3 As a result of Nike’s breaches of the Agreement, Mr. Beckham has suffered damages
4 of \$20,625,000 plus prejudgment interest.

5 **SECOND CLAIM FOR RELIEF**

6 **(Reformation)**

7 77.

8 Mr. Beckham and Royalty Only re-allege the preceding paragraphs and incorporates
9 them as if fully set forth herein.

10 78.

11 To the extent the 2017 Extension Letter purporting to amend Mr. Beckham’s original
12 Football Contract can be deemed an operative contract, that is an agreement that can be
13 reformed.

14 79.

15 The parties had entered an antecedent agreement to which the contract can be
16 reformed, including Nike’s explicit agreement that it was exercising its right of first refusal
17 and the Term Sheet signed by both parties. In that antecedent agreement the parties
18 expressly agreed that Mr. Beckham’s contract would be renewed if “net sales” exceeded
19 “guaranteed royalties.”

20 80.

21 The modification of the guaranteed renewal language in the 2017 Extension Letter to
22 say “earned royalties” rather than “net sales” was either a mutual mistake or a unilateral
23 mistake by Mr. Beckham with inequitable conduct by Nike. Either there was a scrivener’s
24 error by Nike’s counsel in preparing the 2017 Extension Letter or Nike engaged in
25 inequitable conduct by intentionally changing the language without discussing it with Mr.
26 Beckham, identifying the change in any email, phone call, or letter, and otherwise concealing

1 the change while representing that the 2017 Extension Letter merely memorialized Nike’s
2 exercise of its right of first refusal. Mr. Beckham did not commit gross negligence by
3 missing this change where Nike represented that the 2017 Extension Letter was fully
4 consistent with the adidas offer and the Term Sheet.

5 81.

6 Mr. Beckham requests that the Court reform the Agreement such that the provision
7 describing Royalties reflects the royalty methodology described in the adidas offer, which
8 Nike explicitly agreed it would match in full: (1) If “net sales meet the minimum royalty
9 guarantee” in the Contract Years 4 (2020-21) and 5 (2021-22), the agreement automatically
10 extends to Contract Years 6 (2022-23) and 7 (2023-24); and (2) If “net sales meet the
11 minimum royalty guarantee” in Contract Years 6 and 7, the agreement automatically extends
12 to Contract Year 8 (2024-25).

13 **THIRD CLAIM FOR RELIEF**

14 **(Breach of the Covenant of Good Faith and Fair Dealing)**

15 82.

16 Mr. Beckham and Royalty Only re-allege the preceding paragraphs and incorporates
17 them as if fully set forth herein.

18 83.

19 The Extended Contract is a binding contract that gives rise to a covenant of good faith
20 and fair dealing.

21 84.

22 Nike breached its covenant of good faith and fair dealing by intentionally reducing
23 the manufacturing, sale, and availability of royalty bearing products to artificially depress
24 Mr. Beckham’s royalties and to attempt to keep him from attaining the guaranteed extensions
25 provided for under the Term Sheet.

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85.

To the extent Mr. Beckham did not meet the net sales required to trigger the guaranteed extensions provided under the Term Sheet, that failure was caused by Nike’s breaches of its covenant of good faith, *i.e.*, its decision to artificially depress those sales by refusing to produce and sell royalty bearing products.

86.

Nike also breached its covenant of good faith and fair dealing by refusing to provide Mr. Beckham with cleats to wear during week 17 of the 2021 NFL season.

87.

To the extent Mr. Beckham’s use of his own personalized Nike cleats could be deemed a footwear violation (it is not) then that violation was caused by Nike’s breach.

88.

To the extent Mr. Beckham is deemed to have failed to trigger the guaranteed extensions or to have committed a footwear violation by wearing black-on-black Nike cleats as a result of Nike’s breaches of its covenant of good faith and fair dealing, Mr. Beckham has suffered damages of \$20,625,000 plus prejudgment interest.

PRAYER FOR RELIEF

Wherefore, plaintiffs pray for the following relief:

A. That judgment against Nike be entered on Plaintiffs’ First Claim (Breach of Contract) and that Plaintiffs be awarded damages, costs, and prejudgment interest.

B. That judgment against Nike be entered on Plaintiffs’ Second Claim (Reformation) and that the Court reform the Agreement such that the provision describing Royalties reflects the royalties methodology described in the adidas offer.

C. That judgment against Nike be entered on Plaintiffs’ Third Claim (Breach of Covenant of Good Faith and Fair Dealing) and that Plaintiffs be awarded damages, costs, and prejudgment interest.

1 D. That the Court award such additional relief as justice may require.

2 DATED this 14th day of November, 2022.

3 MARKOWITZ HERBOLD PC

4
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