

# NFL settles Colin Kaepernick and Eric Reid's collusion grievance

By Alan Gilman  
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On Friday, former San Francisco 49ers quarterback Colin Kaepernick and current Carolina Panthers safety Eric Reid reached a settlement with the National Football League (NFL) concerning their collusion grievances against the league.

A joint statement issued by the NFL and the players' attorneys stated, "For the past several months, counsel for Mr. Kaepernick and Mr. Reid have engaged in an ongoing dialogue with representatives of the NFL. As a result of those discussions, the parties have decided to resolve the pending grievances. The resolution of this matter is subject to a confidentiality agreement so there will be no further comment by any party."

In October 2017 Kaepernick filed his grievance asserting that the NFL and its owners "have colluded to deprive Mr. Kaepernick of employment rights in retaliation for Mr. Kaepernick's leadership and advocacy for equality and social justice and his bringing awareness to particular institutions still undermining racial equality in the United States."

Kaepernick drew national attention during the 2016 season when he knelt during the national anthem before games to protest social injustice, and in particular the large number of police killings of African-Americans. His protest quickly spread, as many other players throughout the league engaged in similar symbolic protests during the anthem. College and high school players also joined in these anthem protests.

Kaepernick and his supporters then became a repeated target of President Donald Trump, who implored NFL owners to fire any "son of a bitch" who knelt or otherwise protested during the playing of the national anthem. "Why is the NFL getting massive tax breaks while at the same time disrespecting our Anthem, Flag and Country? Change tax law!" the President declared on his Twitter page in late 2017.

Kaepernick began his career with the San Francisco 49ers in 2011, and in his six seasons with the 49ers led them to one Super Bowl appearance and to within one game of another. During the 2016 season, when he began his protests, he served as a backup while recovering from shoulder surgery. He regained his starting position by game six and was the starting quarterback for all but one of the season's remaining 10 games, and finished with a 90.7 quarterback rating—higher than some of the league's leading quarterbacks such as Eli Manning, Phillip Rivers and Joe Flacco, among others.

At the end of that season Kaepernick opted out of his contract, thereby making himself a free agent available to be signed by any team for the upcoming season.

During the ten months of his free agency, no team offered Kaepernick a contract. The league's owners had continued to assert that the refusal of any team to offer him a contract stemmed from his poor on-the-field performance and had nothing to do with his protests against police violence.

That claim, however, had been repeatedly belied by coaches and players throughout the league. In June 2017, Seattle Seahawks' coach Pete Carroll said, "Colin's been a fantastic football player and he's going to continue to be ... He's a starter in this league. And we have a starter. But he's a starter in this league, and I can't imagine that someone won't give him a chance to play."

Many other players, including such prominent stars as Richard Sherman, Doug Baldwin, Derrick Carr and Aaron Rodgers, made similar statements, making it clear that the failure of any team to sign Kaepernick was unrelated to his football abilities.

Eric Reid was Kaepernick's 49er teammate and the first player to join him in kneeling during the national

anthem, and continued to do so through the 2017 season. Reid was a starting safety for the 49ers from 2013 through 2017. When his contract expired at the end of that season, he opted for free agency. Despite his stellar career no team offered to sign him. Reid responded in May 2018 by filing his own collusion case against the NFL.

Eventually in late September, before the fourth game of the season, the Carolina Panthers signed Reid for \$1.4 million, much less than the more than \$5 million he made the previous season.

During his abbreviated 2018 season Reid was drug tested seven times. In noting this harassment in his grievance, Reid showed that beside one random mandatory test, the probability of any player being subjected to this many random tests was calculated to be approximately 0.17 percent.

Moreover, on February 11, 2019 Reid signed a new three-year contract with the Panthers worth more than \$22 million. This new contract further bolstered Reid's case, illustrating how the league's earlier unwillingness to sign him had nothing to do with his football abilities.

Collusion cases are notoriously difficult to prove. The NFL's willingness to settle these cases demonstrates that apparently overwhelming evidence had been presented or was about to be presented.

Reid's drug testing claim and subsequent new contract clearly strengthened his collusion case.

Kaepernick's claim of collusion may have been in an even stronger position. In August the arbitrator rejected the NFL's motion to dismiss the case, finding there were genuine facts in dispute which required that the matter proceed to trial.

Within two weeks of that decision Nike unveiled its new "Just Do It" advertising campaign that featured Kaepernick. The ad campaign was very successful, boosting Nike sales by 30 percent, and served to further increase Kaepernick's broad support and popularity. Moreover, the NFL faced an additional conflict, because months before it had entered into an eight-year billion-dollar contract with Nike.

A trial would have also revealed that many of the owners were responding to Trump's attacks on players' protests by keeping Kaepernick out of the league. Many of the owners have personal relationships with Trump, and six of the 32 owners contributed \$1 million or more to his Inaugural Committee. A few

weeks before the settlement was announced, Mark Geragos, Kaepernick's attorney, had told NBC's "Today" that "The collusion actually was the NFL kowtowing to the president—I think it's clear."

A finding of collusion would have cost the NFL tens of millions of dollars and would have caused irreparable damage to their brand. By settling these issues confidentially, the NFL is hoping to put the anthem issue to rest at a minimal cost in money and publicity, and with the hope that in the future its massive revenue stream will continue to flow unimpeded, without any political interference from its players.

Despite the NFL's hope, Kaepernick's principled stand, and now successful grievance against the NFL, continues to resonate with a large portion of the population. These sentiments were expressed by NBA star LeBron James, who told reporters Saturday at the NBA All-Star Weekend, "I stand with Kaep. I kneel with Kaep."

"I feel what he was talking about when nobody wanted to listen to him," James said. "Nobody ever really wanted to actually understand where he was coming from. I think that anyone who would sacrifice their livelihood for the benefit of all of us—I can respect that. He's done that."

James continued, "You've got a guy who basically lost his job because he wanted to stand for something that was more than just him. I'm happy to see the news come out yesterday that he won his suit. I hope it's a hell of a lot of money."

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