

## Trademarks

# NFL Wins Miami Trademark Suit Over Hall of Fame 'Gold Jackets'

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Credit: ecrow/Adobe Stock

A federal judge in Miami dismissed a lawsuit accusing the National Football League and several related entities of trademark infringement when they dole out the legendary "Golden Jackets" to Pro Football Hall of Fame inductees, among other claims.

An order entered Tuesday by U.S. District Judge Donald M. Middlebrooks of the Southern District of Florida denied claims brought by the children of former National Football Alumni Inc. CEO Victor Maitland, finding the "shotgun pleading" was filed decades late and barred by laches doctrine.

"[W]e cannot escape the fact that the most relevant evidence is from 49 years ago, regardless of the year we begin counting," Middlebrooks' order reads.

It is not often judges apply laches as early as the motion to dismiss phase, but Middlebrooks found that Maitland could have filed suit as early as 1989 when he left the NFL Alumni Inc., and that his 2012 incapacitation and 2019 death were not valid excuses for his estate's delay in filing.

Maitland's kids alleged that the NFL, National Football Museum Inc., NFL Properties LLC, NFL Alumni Inc. and Haggard Clothing Co. violated the Lanham Act trademark infringement and unfair trade practices under Florida law in relation to several of their father's alleged trademarks, including a children's charity initiative, the NFL Alumni Charity Golf Tour and several NFL alumni awards. The most significant of those is the Golden Jacket, the iconic bronzed blazer that has been handed to every NFL hall of fameer since 1978.

Maitland's kids say the idea for the jacket and the original alumni logo on it was their father's creation, but that he was never properly credited. Mitch Chusid, managing partner of Chusid, Katz & Sposato and attorney for Maitland's kids and estate, said the now-dismissed suit was about fighting for Maitland's recognition, not money.

"If you follow football at all, you know about the Gold Jacket," Chusid said in a phone interview with the Daily Business Review. "Everybody knows about the Gold Jacket, and no one knows who the man behind the Gold Jacket was."

Chusid acknowledged there was a "big gap" between the beginning of the alleged infringement and the family's filing of the suit, which he said was partially due to Maitland's years of declining health before his death. But the attorney said his clients still should have been able to pursue their father's intellectual property rights.

"Sometimes the law doesn't catch up with what is morally right," Chusid said. "Sometimes the two aren't equatable and equal. The judge got it wrong here."

Chusid said his clients will likely appeal the decision.

In a statement emailed to the DBR Wednesday, Lott & Fisher partner Noah Hamilton Rashkind, who represents the company manufacturing the jackets, Haggard Clothing Co., lauded Middlebrooks' ruling.

"This decision reaffirms the importance of clear, direct, and strategic pleadings in intellectual property cases," Rashkind wrote. "We are proud to have successfully defended Haggard against these claims, and to have been part of the team along with counsel for the NFL and NFL Properties, Hall of Fame, and NFL Alumni, and to have achieved a fair outcome for our client."

Zachary Paul Hyman, founder of Millennial Law and attorney for National Football League Alumni Inc., told the DBR he was pleased with Middlebrooks' ruling and its holding on laches.

"The big issue with respect to the case was why, to the extent Mr. Maitland would have had trademark rights, he did not otherwise try to assert those rights sooner," Hyman said. "And the judge determined that the failure to assert those rights was fatal to those claims, notwithstanding the contributions as alleged in the complaint."

Alec Schultz, partner at Hilgers PLLC who is representing the NFL and NFL Properties LLC alongside co-counsel and fellow Hilgers partners Jon B. Hyland and Mary Ann Novak, declined to comment. Mark A. DelRosario, partner at Litchfield Cavo representing the National Football Museum, did not return a request for comment.

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