

# Michael Jordan's mega-deals revealed as federal trial begins

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**D**ominick's acted like "a thief" when it took Michael Jordan's identity without permission and used it in a 2009 print advertisement that would have cost the company "in excess of \$10 million," lawyers for the retired basketball superstar argued Wednesday.

But during opening statements at the start of what's expected to be a weeklong trial, lawyers for the defunct supermarket chain and its parent company, Safeway, said jurors should not use Jordan's multi-year mega-deals with Nike, Hanes and Gatorade to determine what it owes Jordan. Instead, they said, they should use far smaller deals of \$5,000 to \$500,000 that Jordan agreed to with smaller businesses.

Jordan, wearing a brown-checked sport coat and brown slacks, sat with his chin resting on his left hand and showed no emotion as his attorney, Fred Sperling, outlined during a half-hour opening statement the staggering sums that corporate America has continued to pay Jordan since his 2003 retirement. Nike paid Jordan \$480 million between 2000 and 2012, he said. He has also received \$18 million from Gatorade, \$14 million each from Hanes and Upper Deck, and \$10.6 million from fragrance company XEL.

But Dominick's, already found liable by the court, "didn't even ask Michael Jordan or his representatives if they could use his identity. They just took it," Sperling said.

Sperling said Jordan's multi-year "bundled" contracts were the correct comparison to use in determining the fair market value of the single print ad in a special issue of Sports Illustrated released to commemorate Jordan's elevation to the Basketball Hall of Fame, because Jordan and his advisers carefully protect his name to ensure that he only signs deals expected to be worth \$10 million or more.

Estee Portnoy, a marketing executive hired by Jordan to represent him and protect his brand, testified Wednesday afternoon that she was "shocked" when she saw the Dominick's ad. "It compares Michael to a piece of steak," she said.

Jordan would never have agreed to a deal with Dominick's because he only signs deals with brands that are "authentic to Michael" and "put him in a positive light," Portnoy said.

In fact, Sperling said, Jordan guards the use of his identity so carefully that he recently turned down an offer of \$80 million to promote a line of headphones.

He compared Jordan's identity to an expensive jewel. "The Hope Diamond is the most beautiful and valuable diamond in the world," Sperling told jurors. "If you want the Hope Diamond, you have to buy the Hope Diamond. You can't just chop off a little piece of it, you have to buy the whole thing."

Switching metaphors, he said Dominick's was like someone who steals cable TV services, then claims he "only watched one channel" and shouldn't have to pay for all 250 bundled channels.

Representing Dominick's, attorney Steve Mandell acknowledged that "Dominick's did not ask for Mr. Jordan's

permission. It should have."

But pointing to an enlarged copy of the Sports Illustrated ad, which depicted Jordan's name and the number 23, along with a \$2 coupon for Dominick's Rancher's Reserve steaks, he said that the only issue for jurors was "what is the fair market price for the use of Mr. Jordan's name and number in that congratulatory ad?"

Just 41,000 copies of the commemorative issue were sold — all of them in the Chicago area — he said, distinguishing the ad's use of Jordan's image from his high-dollar deals, which also included endorsement and appearance clauses, he said.

Mandell said a \$100,000 payment made by a Japanese documentary maker, a \$500,000 payment made by Sirius Satellite Radio and \$5,000 demands associated with cease-and-desist letters Jordan's lawyers sent to makers of counterfeit Jordan clothing were fairer comparisons.

Jordan's lawyers say the filmmaker had a First Amendment right to make his documentary without paying Jordan anything, that Sirius also paid \$25 million to promote Jordan's brand by airing an ad featuring him alongside Elvis Presley and Richard Pryor, and that the cease-and-desist demands did not give anyone a right to use Jordan's name.

Neither side gave an explicit amount that they want the jury to order Dominick's to pay Jordan. Jordan's attorneys said only that they are not seeking the full \$10 million they say the ad was worth, but that they want an amount sufficient to "ensure that Michael Jordan can choose who uses his identity and how they use it."

Jordan is expected to testify later this week.

Both sides say the case is essentially a "battle of the experts" between sports economists hired by each side to determine the fair price of the use of Jordan's identity.

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