

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

STEVE WALLACE,

Plaintiff,

v.

NATIONAL FOOTBALL LEAGUE;
NFL PROPERTIES LLC; RIDDELL,
INC. d/b/a RIDDELL SPORTS
GROUP, INC., ALL AMERICAN
SPORTS CORPORATION d/b/a
RIDDELL/ALL AMERICAN;
RIDDELL SPORTS GROUP, INC.,
EASTON-BELL SPORTS, INC.;
EASTON-BELL SPORTS, LLC; EB
SPORTS CORP.; and RBG
HOLDINGS CORP.; and JOHN
DOES 1 through 100, Inclusive,

Defendants.

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) CIVIL ACTION FILE
) NO. _____
)

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Steve Wallace (“Plaintiff”) hereby files the above-styled Complaint and alleges as follows:

PARTIES

1.

Plaintiff Steve Wallace is a citizen and resident of the State of Georgia.

2.

Defendant National Football League (“NFL”) is an unincorporated

association of 32 separately owned and independently-operated football teams.

3.

Defendant NFL maintains its headquarters and principal place of business at 280 Park Avenue, 15th Floor, New York, New York 10017.

4.

Defendant NFL engages and at all relevant times did engage in the business of promoting, operating, organizing and regulating the major professional league of football teams in the United States.

5.

Defendant National Football League is a separate entity from each of its teams. See *American Needle, Inc. v. NFL, et al.*, 130 S.Ct. 2201 (U.S. 2010).

6.

The Atlanta Falcons Football Club, LLC owns the Atlanta Falcons, one of Defendant National Football League's 32 teams.

7.

The Atlanta Falcons Football Club LLC has a principal place of business in Hall County, Georgia and a registered agent in Gwinnett County, Georgia.

8.

The Atlanta Falcons stadium is located in Fulton County, Georgia.

9.

Defendant NFL regularly conducts business in the State of Georgia.

10.

Defendant National Football League may be served with process upon its registered officer, managing agent, or general agent at 280 Park Avenue, 15th Floor, New York, New York 10017.

11.

Defendant NFL Properties, LLC (“NFL Properties”), the successor-in-interest to National Football League Properties, Inc., is a limited liability company that is organized and exists under the laws of the State of Delaware.

12.

Defendant NFL Properties engages and at all relevant times engaged in the business of approving, licensing and promoting equipment used by all Defendant National Football League teams, including the Atlanta Falcons.

13.

Defendant NFL Properties regularly conducts business in the State of Georgia.

14.

Defendant NFL Properties may be served with process upon its registered

agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

15.

Defendant NFL and Defendant NFL Properties shall hereafter be collectively referred to as “the NFL Defendants.”

16.

Defendant Riddell, Inc. d/b/a Riddell Sports Group, Inc. (“Riddell, Inc.”) is a corporation that is organized and exists under the laws of the State of Illinois.

17.

Defendant Riddell, Inc. engages in and at all relevant times engaged in the business of designing, manufacturing, selling and distribution of football equipment, including helmets, to Defendant NFL.

18.

Defendant Riddell, Inc.’s helmets have been the official helmets Defendant NFL since 1989.

19.

Defendant Riddell, Inc. regularly conducts business in the State of Georgia.

20.

Defendant Riddell, Inc. may be served with process upon its registered agent,

Illinois Corporation Service Co., 801 Adlai Stevenson Drive, Springfield, Illinois, 62703.

21.

Defendant All American Sports Corporation d/b/a Riddell/All American (“Riddell/All American”) is a corporation organized and existing under the laws of the State of Delaware.

22.

Defendant Riddell/All American engages in and at all relevant times engaged in the business of designing, manufacturing, selling and distributing of football equipment, including helmets, to Defendant NFL.

23.

Defendant Riddell/All American’s helmets have been the official helmets Defendant NFL since 1989.

24.

Defendant Riddell/All American regularly conducts business in the State of Georgia.

25.

Defendant Riddell/All American may be served with process upon its registered agent, The Prentice-Hall Corporation System, Inc., 2711 Centerville

Road, Suite 400, Wilmington, Delaware, 19808.

26.

Defendant Riddell Sports Group, Inc. (“Riddell Sports Group”) is a corporation that is organized and exists under the laws of the State of Delaware.

27.

Defendant Riddell Sports Group regularly conducts business in the State of Georgia.

28.

Defendant Riddell Sports Group may be served with process upon its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808.

29.

Defendant Easton-Bell Sports, Inc. (“Easton-Bell Inc.”) is a corporation that is organized and exists under the laws of the State of Delaware.

30.

Defendant Easton-Bell Inc. is a parent corporation of Riddell Sports Group, Inc.

31.

Easton-Bell Inc. engages and at all relevant times engaged in the business of

designing, developing and marketing branded athletic equipment and accessories, including marketing and licensing products under the Riddell brand.

32.

Easton-Bell Inc. regularly conducts business in the State of Georgia.

33.

Defendant Easton-Bell Inc. may be served with process upon its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

34.

Easton-Bell Sports, LLC (“Easton-Bell LLC”) is a corporation that is organized and exists under the laws of the State of Delaware.

35.

Easton-Bell LLC is the parent corporation of Easton-Bell Inc.

36.

Defendant Easton-Bell LLC regularly conducts business in the State of Georgia.

37.

Defendant Easton-Bell LLC may be served with process upon its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400,

Wilmington, Delaware 19808.

38.

Defendant EB Sports Corp. (“EB Sports”) is a corporation that is organized and exists under the laws of the State of Delaware.

39.

Defendant EB Sports regularly conducts business in the State of Georgia.

40.

Defendant EB Sports may be served with process upon its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

41.

Defendant RBG Holdings Corp. (“RBG Holdings”) is a corporation that is organized and exists under the laws of the State of Delaware.

42.

Defendant RBG Holdings regularly conducts business in the State of Georgia.

43.

Defendant RBG Holdings may be served with process upon its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400,

Wilmington, Delaware 19808.

44.

Defendants Riddell, Inc., Riddell/All American, Riddell Sports Group, Easton-Bell Inc., Easton-Bell LLC, EB Sports, and RBG Holdings shall hereinafter be referred to collectively as “Riddell” or “the Riddell Defendants.”

JURISDICTION AND VENUE

45.

This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 (a) because there is diversity of citizenship and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

46.

This Court has personal jurisdiction over Defendants because they engage in business in this District and derive substantial revenue from their contacts with this District.

47.

Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 (a) (2) and 1391 (b) (2), given that a substantial part of the events and/or omissions giving rise to the claims emanated from activities within this jurisdiction and Defendants conduct and at all relevant times conducted substantial business in this jurisdiction.

DEFENDANT NFL

48.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

49.

Defendant NFL was founded as the American Professional Football Association (“APFA”) in 1920.

50.

Defendant NFL became the National Football League in 1922.

51.

In 1970, the American Football League merged with Defendant NFL to create the American Football Conference.

52.

Today, Defendant NFL has two conferences, the American Football Conference and the National Football Conference, and 32 teams.

53.

While each Defendant NFL team, including the Atlanta Falcons, operates as a separate business, it operates under shared revenue generated by Defendant NFL through broadcasting, merchandising and licensing.

54.

Defendant NFL collects annual receipts in excess of 9.3 billion dollar per year business.

55.

Defendant NFL earns billions of dollars from its telecasting deals with companies including ESPN, DirecTV, NBC, Fox and CBS.

56.

Defendant NFL also receives billions of dollars through companies that associate their brands with the NFL.

57.

In fact, in 2011, Defendant NFL signed a new 10-year \$2.3 billion contract with Pepsi.

58.

Defendant NFL will likely made/will make more than \$9.5 billion dollars in revenue for its 2011 through 2012 season.

59.

Yearly, Defendant NFL redistributes billions of dollars in radio, television and digital earnings to its 32 teams.

60.

According to a *Forbes* Special Report on Defendant NFL Team Valuations on August 25, 2010, 16 NFL Teams are valued at over one billion dollars and the remaining teams are valued between 725 and 996 million dollars.

61.

The August 25, 2010 Forbes Special Report on Defendant NFL Team Valuations reported the Atlanta Falcons as being worth 831 million dollars and having 231 million in revenue.

62.

Defendant NFL enjoys partial monopoly power through an anti-trust exemption granted via the Federal Sports Broadcasting Act that allows the NFL to sell television rights for all 32 teams as a single unit.

PLAINTIFF'S CLAIMS ARE NOT BARRED BY THE COLLECTIVE BARGAINING AGREEMENT

63.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

64.

Until March 2011, Defendant NFL players were all members of a union called the National Football League Players Association (“NFLPA”).

65.

The NFLPA negotiates the Collective Bargaining Agreement (“CBA”), which is a minimum contract, for all players within Defendant NFL with Defendant NFL Management Council (“NFLMC”).

66.

The CBA is the central document that governs the negotiation of individual player contracts for all of Defendant NFL’s players, though, Defendant NFL retired players have never been the subject of or a party to Collective Bargaining.

67.

The CBA has been in place since 1993 and was amended in 1998 and 2006.

68.

The CBA was originally scheduled to expire at the end of the 2012 season, however, in 2008, the owners exercised their right to opt-out of the agreement two years early.

69.

In 2011, the parties reached an impasse in trying to negotiate a new CBA and Defendant NFL owners locked the players out.

70.

Thereafter, the NFLPA decertified itself as the players’ representative for

bargaining.

71.

Plaintiff is a retiree who is not covered by the CBA or the subject of or party to bargaining between Defendant NFL and the NFLPA.

72.

Because the CBA does not apply and has expired, Plaintiff's claims are not preempted by federal law.

THE RIDDELL DEFENDANTS

73.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

74.

The Riddell Defendants have designed, developed, manufactured, sold and distributed football equipment, including helmets, in one form or another, since 1922.

75.

Helmets have been used in football since at least the 1930s.

76.

Since the 1950s, Defendant Riddell has developed, manufactured, sold

and/or distributed equipment used by Defendant NFL team players, including helmets.

77.

Defendant Riddell has been the official helmet licensee for Defendant NFL since 1990.

**CONCUSSIONS, TRAUMATIC BRAIN INJURIES AND CHRONIC
TRAUMATIC ENCEPHALOPATHY AND FOOTBALL**

78.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

Concussions

79.

A concussion is a clinical syndrome that alters brain function, including alteration of mental status and level of consciousness, secondary to a mechanical force or trauma.

80.

A concussion has occurred if the brain moves rapidly inside the skull.

81.

An abrupt blow to the head or quick stop can cause the brain to move rapidly inside the skull.

82.

Football is and always has been a sport that involves blows the head and quick stops.

83.

According to the American Association of Neurological Surgeons (“AANS”), “[r]easonable estimates show that between four and 20 percent of college and high school football players will sustain a brain injury over the course of one season.”

84.

A study presented at the American Academy of Neurology’s 52nd Annual Meeting in 2000 and authored principally by Barry Jordan, M.D., the Director of the Brain Injury Program at Burke Rehabilitation Hospital in White Plains, New York surveyed 1,094 former Defendant NFL players between the ages of 27 and 86 and found the following:

(a) more than 61 % had suffered at least one concussion in their careers with 30 % of the players having three or more and 15 % having five or more; (b) 51% had been knocked unconscious more than once; (c) 73 % of those injured said they were not required to sit on the sidelines after their head trauma; (d) 49 % of the former players had numbness or tingling; 28 % had neck or cervical spine arthritis; 31 % had difficulty with memory; 16 % were unable to dress themselves; and 11 % were unable to feed themselves; and (e) eight suffered from Alzheimer’s disease.

85.

The AANS has explained that “the risk of concussion in football is three to six times higher in players who have a previous concussion.”

86.

A study conducted by McGill University in Montreal found that athletes who suffered a concussion were four to six times likely to suffer a second concussion.

87.

Peer-reviewed medical literature has linked concussions to lifelong depression, which can be compounded by additional concussions.

88.

Peer-reviewed medical literature has also documented findings suggesting that the onset of dementia-related syndromes may be initiated by repetitive cerebral concussions in professional football players.

89.

In fact, in 2003, the University of North Carolina analyzed data from almost 2,500 retired Defendant NFL players and found that having three or four concussions meant twice the risk of depression and five or more concussions meant an almost three-fold risk of depression in comparison to former players who had not suffered concussions.

90.

Between 2005 and 2007, the University of North Carolina's Center for the Study of Retired Athletes published survey-based papers that found a clear correlation between Defendant NFL football and depression, dementia and other cognitive impairment.

91.

In 2007, the Journal of Athletic Training published a study entitled "Concussions among United States high school and college athletes" that concluded that college football players with three or more previous concussions were three times more likely to sustain another concussion than those without a concussion history and had an increased likelihood of recurrent concussions increasing with the number of previous concussions.

92.

The study referenced in the foregoing paragraph also suggested that a multiple concussion history was associated with a slower recovery of neurologic function post-concussion and that, within a season, there may be increased susceptibility to another concussion within seven to 10 days of the initial concussion.

Traumatic Brain Injury

93.

A blow to the head that disrupts normal brain function is a traumatic brain injury (“TBI”).

94.

A TBI can occur when the head is suddenly or violently hit.

95.

Football is and always has been a sport that sudden and violent hits to the head.

96.

Disruption of normal brain function secondary to a TBI can be as mild as a brief change in mental state or loss of consciousness or as severe as a coma or death.

97.

The symptoms of a TBI or concussion can re-appear hours or days post-injury.

Chronic Traumatic Encephalopathy

98.

Chronic Traumatic Encephalopathy (“CTE”) is a progressive degenerative

disease of the brain found in individuals, including athletes, with a history of repetitive concussions.

99.

Individuals with CTE can show symptoms of dementia, memory loss, aggression, confusion and depression, which can appear months or decades after the experienced trauma.

100.

Peer-reviewed medical literature has shown that CTE is prevalent among retired professional football players with a history of concussions.

101.

A Boston University study alone has found CTE in more than 20 former NFL players.

102.

At least the following Defendant NFL players have been found to have CTE in their brains: Mike Webster, Terry Long, Andre Waters, Justin Strzelczyk, Thomas McHale, Lou Creekmur, John Grimsley, Chris Henry, Dave Duerson, Lew Carpenter, Joe Perry, and John Henry Johnson.

**DEFENDANT NFL HAS BEEN STUDYING HEAD INJURIES SINCE AT
LEAST 1993**

103.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

104.

Defendant NFL formally undertook the responsibility of studying concussion research in 1993.

105.

In June 2007, Defendant NFL Commissioner Roger Goodell publicly admitted that the NFL has been studying the effects of traumatic brain injury for “close to 14 years . . .”

106.

The Defendant NFL Injury and Safety Committee was founded in 1993 to manage an injury surveillance system that reports on the types and severity of injuries, including head injuries, sustained by Defendant NFL players on a yearly basis.

107.

Since 1993, the data collected by the Defendant NFL Injury and Safety Committee has been used to assist team medical staff with injury prevention and

treatment as well as to inform and guide Defendant NFL on its health-related policies and injury prevention efforts.

108.

Defendant NFL's Competition Committee uses Defendant NFL's Injury and Safety Committee's information to inform the development of new rules and regulations that promote player safety.

109.

Defendant NFL's Injury and Safety Committee also provides valuable input on research proposals and grant allotment.

110.

Defendant NFL's Injury and Safety Committee meets quarterly and reports to and makes recommendations directly to Defendant NFL's Commissioner.

111.

In 1994, Defendant NFL established the Mild Traumatic Brain Injury Committee ("MTBI Committee") to examine the dangers and consequences of head injuries to NFL players, report on its findings, provide information and guidance from its research and studies concerning concussions to teams and players, and make recommendations to lessen the risks of concussions.

112.

Defendant NFL was responsible for the staffing and conduct of the MTBI Committee.

113.

Defendant NFL's MTBI Committee has published multiple research articles since its inception.

114.

In 2002, Bennet Omalu, M.D. found evidence of CTE in the brain of Mike Webster, a former Defendant NFL player who died in 2002 at 50.

115.

Defendant NFL's Plan had paid him less than all benefits available to him after its physician examined him and found him to be mentally "completely and totally disabled as of the date of his retirement" and to be "certainly disabled when he stopped playing football sometime in 1990."

116.

Defendant NFL's Plan set Mike Webster's date of onset of total disability at 1996, six years after he was no longer an active player.

117.

After Mike Webster's death, an unpublished opinion from the United States

Court of Appeals for the Fourth Circuit affirmed the decision of the District Court that Defendant NFL's Plan administrator had wrongly denied Mike Webster more lucrative benefits reserved for those whose disabilities began while they were still playing football.

118.

In its unpublished opinion, the Fourth Circuit stated that Defendant NFL's Plan administrator had acknowledged that the multiple head injuries Mike Webster had sustained during his 1974 to 1990 care with Defendant NFL "had caused Webster eventually to suffer total and permanent mental disability. . . ."

119.

Thus, as early as 1999, Defendant NFL, through expert testimony presented by Mike Webster and Defendant NFL's Plan, knew and accepted that the repetitive traumatic brain injuries sustained by Mike Webster led to long-term encephalopathy and permanent mental disability.

120.

Defendant NFL's MTBI Committee published its findings in 2004 showing "no evidence of worsening injury or chronic cumulative effects" from multiple concussions.

121.

In a related study, the Defendant NFL's MTBI Committee found that "many NFL players can be safely allowed to return to play" on the day of a concussion if they are without symptoms and cleared by a physician.

122.

In 2010, Defendant NFL established the Head, Neck and Spine Committee as the successor to the MTBI Committee.

123.

Defendant NFL's Head, Neck and Spine Committee is focused on specific issues related to player health, but also on broad research, advocacy and education about head, neck and spine injuries and their prevention and treatment.

124.

Defendant NFL's Head, Neck and Spine Committee has six subcommittees, including: Subcommittee for the Development and Management of Prospective Database for NFL Players, Subcommittee Equipment Standards/Design and NFL Rules, Subcommittee on Former Players and Long-Term Effects of Brain and Spine Injury, Subcommittee on Brain and Spine Injury Research, Subcommittee on Advocacy and Education, and Subcommittee on Return-to Play Issues.

FOR DECADES, DEFENDANT NFL HAS BEEN MAKING RULES AND INFLUENCING THE WAY FOOTBALL IS PLAYED TO PROTECT THE HEALTH AND SAFETY OF PLAYERS

125.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

126.

Defendant NFL has a history of enacting rules to protect the health and safety of the players on its teams.

127.

Over the years, Defendant NFL has enacted at least the following rules:

- (a) In 1956, Defendant NFL enacted a rule that prohibited the grabbing of any player's face mask, other than the ball carrier;
- (b) In 1962, Defendant NFL enacted a rule that prohibited players from grabbing any player's face mask;
- (c) In 1976, Defendant NFL enacted a rule that prohibited players from grabbing the face mask of an opponent that carried a penalty for an incidental grasp of 5 yards, a penalty for twisting, turning, or pulling the facemask of 15 yards and of game-ejection if the foul was judged to be vicious and/or flagrant;

- (d) In 1977, Defendant NFL enacted a rule referred to as the “Deacon Jones Rule” that prohibited players from slapping the head of another player during play;
- (e) Also in 1977, Defendant NFL enacted a rule that prohibited offensive linemen from thrusting their hands into a defender’s neck, face, or head;
- (f) In 1979, Defendant NFL enacted a rule that prohibited players from using their helmets to butt, spear, or ram an opponent that dictated that any player who used the crown or the top of his helmet unnecessarily would be called for unnecessary roughness;
- (g) In 1980, Defendant NFL enacted rule changes that provided greater restrictions on contact in the area of the head, neck, and face;
- (h) In 1980, Defendant NFL enacted rule changes that prohibited players from directly striking, swinging, or clubbing the head, neck and face (“personal foul”);
- (i) Beginning in 1980, according to Defendant NFL, a penalty could be called for such contact whether or not the initial contact was made below the neck area;
- (j) In 1982, Defendant NFL enacted a rule change by which the penalty

for incidental grabbing of face mask by a defensive team was changed from 5 yards to an automatic first down plus a 5 yard penalty;

- (k) In 1983, Defendant NFL enacted a rule that prohibited players from using a helmet as weapon to strike or hit an opponent;
- (l) In 1988, Defendant NFL enacted a rule, which was unofficially called the “Andre Waters Rule,” that prohibited defensive players from hitting quarterbacks below the waist while they are still in the pocket; and
- (m) In 2005, Defendant NFL owners voted 27 to five to ban the horse-collar tackle (an open field tackle during which a defender uses shoulder pads to immediately bring a ball carrier down) after it resulted in six serious injuries during the 2004 to 2005 season.

128.

Defendant NFL has also used its financial and monopoly power to influence football played on teams outside Defendant NFL.

129.

Youth, high school, college and amateur football teams model themselves after Defendant NFL because of its presence in the sport and the media attention it is financially powerful enough to garner.

130.

Defendant NFL has also used its finances to directly influence football outside of Defendant NFL.

131.

For instance, USA Football, football's national governing body, is the Official Youth Football Development Partner of Defendant NFL and Defendant NFL's Players Association.

132.

USA Football leads the development of youth, high school and international amateur football and operates programs and builds resources to address key health and safety issues in partnership with leading medical organizations.

133.

USA Football was endowed by Defendant NFL and NFLPA through the Defendant NFL Youth Football Fund in 2002.

134.

USA Football is among the leaders in youth sports concussion education, particularly in the sport of football.

135.

Defendant NFL and USA Football regularly join together on programs to

make sure that youth football players and their coaches have the educational resources available on health and safety.

136.

In 2003, Defendant NFL's Youth Football Fund developed a unique youth football education kit designed to provide youth and high school football coaches, players and parents with user-friendly, football-specific health and safety information that included concussion education and management.

137.

In September 2010, USA Football launched "Put Pride Aside for Player Safety," which is a campaign emphasizing concussion awareness in football and other youth sports.

138.

"Put Pride Aside for Player Safety" is carried out by a national governing body of sport that employs the promotional resources of Defendant NFL as well as the Atlantic Coast Conference, Center for Disease Control and medical experts.

139.

As part of "Put Pride Aside for Player Safety", Defendant NFL teams host educational sessions across the country for local youth and high school football coaches and host summits at their facilities or local high schools that include

presentations by Defendant NFL team doctors and/or Defendant NFL teams' local health care partners' concussion experts.

THE RIDDELL DEFENDANTS HAVE CONSTANTLY IMPROVED THEIR HELMETS TO PREVENT INJURY

140.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

141.

Defendant Riddell was begun "with a simple but brilliant idea to make sporting equipment safer, better, and easier to use for athletes." *See* <http://www.riddell.com/aboutriddell/>.

142.

Over the years, Defendant Riddell evolved its helmets based on new technology developed by it to better protect the players from injury.

143.

Defendant Riddell changed its technology at least as follows over the years for the protection of the football players that used its helmets:

- (a) In the early 1940s, Defendant Riddell's founder invented the first plastic suspension helmet;
- (b) In the 1950s, Defendant Riddell developed, designed, manufactured,

- sold and/or distributed helmets with a face mask component;
- (c) In 1962, Defendant Riddell developed, designed, manufactured, sold and/or distributed helmets using a u-shaped nose protector with a shell (known as the TK2) molded out of polycarbonate and designed an open/closed cell foam and composite liner system for it to increase the efficiency of the webbed suspension;
 - (d) In 1963, Defendant Riddell developed, designed, manufactured, sold and/or distributed the TAK-29 helmet, which was the first to use air inflation for fitting the helmet snug to the head and displayed the protective polycarbonate plastic and included tough shock and cut-resistant face mask attachment straps;
 - (e) In 1969, recognizing that head protection was a key factor in helmet design requiring durable head protection, Defendant Riddell developed, designed, manufactured, sold and/or distributed a micro-fit helmet model with injection molding technology to create a one-piece shell to improve the structural integrity of the entire helmet;
 - (f) In 1973, Defendant Riddell developed, designed, manufactured, sold and/or distributed an air cushion helmet with an interior system consisting of individual vinyl air cushions with layers of fitting and

energy-absorbing foam that, upon receiving a blow, would expel the air through a single vent, causing the compressed fitting foam to further compress and reducing impact;

- (g) In 1977, Defendant Riddell developed, designed, manufactured, sold and/or distributed a stainless steel face mask that offered greater bend resistance and prevented helmet breakage at the drill holes;
- (h) In 1981, Defendant Riddell developed, designed, manufactured, sold and/or distributed an Air Cushion Engineered helmet;
- (i) In 1982, Defendant Riddell developed, designed, manufactured, sold and/or distributed a M155 helmet model with one-piece injection-molded face masks that were mar and rust resistant, polyurethane face mask straps, universal jaw pads and a combination of foam and liquid-filled cells that would release liquid upon impact and allow it to throttle from cell to cell to cause energy attenuation;
- (j) In 2002, Defendant Riddell developed, designed, manufactured, sold and/or distributed to the Riddell Revolution helmet designed with the intent of reducing the risk of concussion;
- (k) In 2003, Defendant Riddell developed, designed, manufactured, sold and/or distributed a real-time Head Impact Telemetry System (HITS)

to monitor and record significant incidences of head impact sustained during a football game or practice that measured the location, magnitude, duration and direction of head acceleration and transmitted that information wirelessly to the sideline;

- (l) In 2006, Defendant Riddell provided a research grant to the University of Pittsburgh Medical Center for head injury research that resulted in a study that compared rates of high school athletes who wore the Riddell Revolution helmet with those who wore traditional helmets;
- (m) In 2007, Defendant Riddell developed, designed, manufactured, sold and/or distributed an individual helmet system called Revolution IQ Hits™ that had on-board electronics to record every impact and to allow players to upload and evaluate each occurrence on their computers; and
- (n) In 2010, Defendant Riddell used over 1.4 million impacts collected through its Hits™ technology and developed, designed, manufactured, sold and/or distributed the 360 helmet that had energy-managing materials and a face mask attachment system to disperse the energy of frontal impacts.

PLAINTIFF STEVE WALLACE AND HIS INJURIES

144.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

145.

Plaintiff played Offensive Tackle for the San Francisco 49ers from 1986 to 1996.

146.

Between 1986 and 1996 and today, the San Francisco 49ers was and is one of Defendant NFL's teams.

147.

Plaintiff was selected to the Pro Bowl in 1992.

148.

Plaintiff played Offensive Tackle for the Kansas City Chiefs in 1997.

149.

In 1997 and today, the Kansas City Chiefs was and is one of Defendant NFL's teams.

150.

During his time between 1986 and 1997 playing on Defendant NFL teams,

Plaintiff wore Defendant Riddell helmets.

151.

During his time between 1986 and 1997 playing on Defendant NFL teams, Plaintiff suffered multiple concussions that were improperly diagnosed and improperly treated.

152.

During his time playing for Defendant NFL teams, during which time he was wearing Defendant Riddell helmets, Plaintiff did not know of the risk of long-term injury secondary to football-related concussions or that league-mandated equipment did not protect him from such injury.

153.

Rather, Plaintiff and other Defendant NFL team players reasonably relied on the NFL Defendants to inform them about and protect them from football-related injuries, including head injuries, through rules, regulations and league-mandated protective equipment.

154.

Defendants never warned Plaintiff of the risk of long-term injury due to football-related concussions or that the league-mandated equipment did not protect him from such injury.

155.

As a result of Defendants' failures to warn Plaintiff of his risk of long-term injury due to football-related concussions and the failure of league-mandated equipment to protect him from such injuries, Plaintiff Steve Wallace suffered multiple concussions and traumatic brain injuries that have resulted in permanent brain damage.

**DEFENDANT NFL'S DUTY TO ITS PLAYERS, INCLUDING PLAINTIFF,
AND THE PUBLIC**

156.

Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein at length.

157.

Because Defendant NFL is financially powerful and a partial monopoly, it is, and was during the time Plaintiff played for its teams, an industry icon.

158.

Because Defendant NFL is an industry icon, all American Rules Football leagues model their programs after the NFL.

159.

Because Defendant NFL possesses monopoly power over American Football, it also possesses monopoly power over the research and education of

football injuries to physicians, trainers, coaches and individuals with brain damage such as Plaintiffs who played in the NFL, as well as the public at large.

160.

Displaying its monopoly power over the research and education of football injuries, Defendant NFL overtly undertook to study concussions on behalf of all American Rules Football leagues and players.

161.

During the time Plaintiff played for Defendant NFL teams, Defendant NFL owed its players, including Plaintiff, at least the following duties:

- (a) A duty to protect them on the playing field;
- (b) A duty to educate them about head injuries, including concussions, TBIs and CTEs;
- (c) A duty to educate trainers, physicians, and coaches about head injuries, including concussions, TBIs and CTEs;
- (d) A duty to have in place strict return-to-play guidelines to head injuries, including concussions, TBIs and CTEs;
- (e) A duty to promote a “whistleblower” system where teammates would bring to the attention of a trainer, physician or coach that another player had sustained head or concussion injury;

- (f) A duty to design rules and penalties for players who use their head or upper body to hit or tackle;
- (g) A duty to design rules to eliminate the risk of head injuries, including concussions, TBIs and CTEs, during games and/or practices; and
- (h) A duty to promote research into and cure for CTE and the effects of concussion and TBIs over a period of time.

162.

As an industry icon with monopoly power, Defendant NFL also owed a duty to State governments, local sports organizations, all American Rules Football leagues and players and the public at large to protect against the long-term effects of head injuries, including concussions, TBIs and CTEs.

163.

As early as the 1920's, Defendant NFL knew of the harmful effects on a player's brain of head injuries and concussions.

164.

As early as the 1920's, Defendant NFL should have known of the harmful effects on a player's brain of head injuries and concussions.

165.

Until June 2010, Defendant NFL did not inform its players, its coaches, its trainers or the public regarding the harmful effects on a player's brain of head injuries and concussions.

166.

Defendant NFL has never warned or informed Plaintiff of the harmful effects on a player's brain of head injuries and concussions.

167.

Defendant NFL has never warned or informed players who had retired by June 2010 of the harmful effects on a player's brain of head injuries and concussions.

168.

Plaintiff did not know the long-term consequences of head injuries and concussions on the brain and his overall health.

169.

Plaintiff relied on Defendant NFL to inform him of risks to his health and safety related to his career in Defendant NFL and to create rules and regulations to protect him from injury during his career in Defendant NFL.

THE RIDDELL DEFENDANTS' DUTY TO DEFENDANT NFL PLAYERS,
INCLUDING PLAINTIFF

170.

Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.

171.

The Riddell Defendants owed a duty of care to Defendant NFL players who wore their helmets, including Plaintiff, in their design, testing, manufacture, assembly, marketing and sale of such helmets.

172.

Because Defendant Riddell was the official helmet licensee for Defendant NFL beginning in 1990 and its helmets were worn by many Defendant NFL players, including Plaintiff, since then and even in the years before then, it had a duty to be aware of the types of head injuries, including concussions, TBIs, that may occur to the players, be aware of the long-term effects of those injuries, and provide them with helmets that would protect them from those injuries or, in the alternative, to provide them with adequate warning that its helmets did not protect them from those injuries.

173.

Prior to and during the time that Plaintiff played for Defendant NFL and wore Defendant Riddell helmets, Defendant Riddell should have known of the harmful effects on a player's brain of head injuries and concussions.

174.

The Defendant Riddell helmets that Plaintiff wore during his career in Defendant NFL were not designed or manufactured to prevent Plaintiff from sustaining the harmful effects on a player's brain of head injuries and concussions.

175.

Until approximately June 2010, the Riddell Defendants failed to warn active football players of the long-term risks associated with multiple head injuries and concussions, including dementia, memory loss, CTE and all related symptoms.

176.

Defendant Riddell has never directly informed or warned Plaintiff of the risks to him of the harmful effects on his brain of head injuries and concussions.

177.

Defendant Riddell has also never informed any player who had retired by 2010 of the risks to him of the harmful effects on his brain of head injuries and concussions.

178.

During his time playing for Defendant NFL, Plaintiff did not know the long-term consequences of head injuries and concussions on the brain and his overall health or that Defendant Riddell helmets did not protect him from them.

179.

Plaintiff relied on Defendant Riddell to provide him with a safe helmet and to adequately instruct and warn him of the risks of injury to the body part the helmet was intended to protect to the extent the helmet could not prevent those risks.

**DEFENDANTS KNEW OR SHOULD HAVE KNOWN OF THE
RISK OF PERMANENT BRAIN DAMAGE SECONDARY TO
CONCUSSIONS SUSTAINED BY DEFENDANT NFL FOOTBALL
PLAYERS**

180.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

181.

Before and during the time that Plaintiff played on Defendant NFL teams, Defendants knew that multiple blows to the head, even when a player was wearing a Defendant Riddell helmet, could lead to permanent brain injury, including memory loss, dementia, depression and CTE and its related symptoms.

182.

Before and during the time that Plaintiff played on Defendant NFL teams and was wearing Defendant Riddell helmets, Defendants should have known that multiple blows to the head, even when a player was wearing a Defendant Riddell helmet, could lead to permanent brain injury, including memory loss, dementia, depression and CTE and its related symptoms.

183.

At least the following information was available and easily accessible to Defendants prior to and during the time that Plaintiff played for Defendant NFL and was wearing Defendant Riddell helmets:

- (a) Admiral Joseph Mason “Bull” Reeves, best known as the father of carrier aviation, suffered so many blows to his head playing American football for the Naval Academy in the 1890s that a navy doctor advised him that he could risk death or insanity if he received another kick to his head;
- (b) Glenn “Pop” Warner, commented that he had “many times seen cases when hard bumps on the head so dazed the player receiving them that he lost his memory for a time and had to be removed from the game” in 1913;

- (c) The first case of “Punch Drunk” in boxers was published in the *American Association Journal* by Harison Martland, M.D. in 1928;
- (d) A 1937 article called “Dementia pugilistica” was published in the *US Navy Medical Bulletin*;
- (e) A 1952 article called “Electroencephalographic changes in professional boxers” was published in the *American Medical Association Journal*;
- (f) A 1952 *New England Journal of Medicine* Article Vol. 246, pp. 554-556, referenced a rule in existence since 1945 that after three concussions, a player should retire from football;
- (g) A 1954 article called “Observations on the clinical and brain wave patterns of professional boxers” was published in the *American Medical Association Journal*;
- (h) A 1956 article called “Diffuse degeneration of the cerebral white matter in severe dementia following head injury” was published in the *Neurological, Neurosurgery and Psychiatry Journal*;
- (i) A 1957 article called “Medical aspects of boxing, particularly from a neurological standpoint” was published in the *British Medical Journal*;

- (j) A 1959 article called “Observations of the pathology of insidious dementia following head injury” was published in the *Journal of Mental Science*;
- (k) A 1966 article called “Concussion amnesia” was published in *Neurology*;
- (l) A 1968 article called “Brains of boxers” was published in *Neurochirurgia*;
- (m) In 1969, the Royal College of Physicians of London did a report that confirmed the danger of chronic brain damage occurring in boxers as a result of their careers;
- (n) A 1969 article called “Organic psychosyndromes due to boxing” was published in the *British Journal of Psychiatry*;
- (o) A 1969 AH Roberts’ book was called “Brain damage in boxers — A study of the prevalence of traumatic encephalopathy among ex-professional boxers”;
- (p) A 1970 article called “retrograde memory immediately after concussion” was published in the *Lancet*;
- (q) In 1973, R.C. Schneider described a disabling and sometimes deadly condition, which would in 1984 take on the name “Second Impact

Syndrome,” involving the second impact concussion occurring before symptoms of a first concussion;

- (r) A 1973 article called “The aftermath of boxing” was published in *Psychology Medicine*;
- (s) A 1974 article called “Cerebral concussion and traumatic unconsciousness, Correlation of experimental and clinical observations of blunt head injuries” was published in *Brain*;
- (t) A 1974 article called “Traumatic encephalopathy in a young boxer” was published in the *Lancet*;
- (u) A 1974 article called “Delayed recovery after mild head injury” was published in the *Lancet*;
- (v) A 1975 article called “Cumulative effect of concussion” was published in the *Lancet*;
- (w) In 1976, an article by J.A. Corsellis called “Brain damage in sport” that found that the brain tissue of 15 former boxers who sustained multiple head traumas evidenced neuropathological signs of CTE appeared in *Lancet*;
- (x) A 1978 article called “Posttraumatic dementia” was published in *Aging*;

- (y) In 1980, an article by J.C. Maroon, P.B. Steele and R. Berlin called “Football head & neck injuries an update” appeared in *Clinical Neurosurgery*;
- (z) A 1981 article called “Association football injuries to the brain: a preliminary report” was published in the *British Journal of Sports Medicine*; and
- (aa) In 1982, “Return to athletic competition following concussion” by H. Hugenholtz and M.T. Richard was published in the Canadian Medical Association Journal.

184.

The following additional information was available and easily accessible to Defendants during the time that Plaintiff was playing for Defendant NFL teams and at the time Defendant NFL publicly undertook to study head injuries in sports:

- (a) In 1986, “Guidelines to Return to Contact After Cerebral Concussion” by RC Cantu was published in *The Physician and Sports Medicine*;
- (b) In 1988, *The Injured Athlete* by Daniel N. Kulund, which discussed that punches to the temporal region may lead to a loss of balance or dizziness, was published;
- (c) In 1989, “Boxing and the brain” by J.A. Corsellis was published in

the *British Medical Journal*;

- (d) In 1991, “Concussions in sports, guidelines for the prevention of catastrophic outcome” by James P. Kelly et al. was published in *The Journal of the American Medical Association*;
- (e) In 1992, “Neuropsychological outcome of adults with mild traumatic brain injury: implications for clinical practice and research” by B.E. Leininger and J.S. Kreutzer was published in *Physical Medicine and Rehabilitation: State of the Art Reviews*;
- (f) Also in 1992, “Cerebral concussion in sports” by R.C. Cantu was published in *Sports Medicine*;
- (g) 1992 was also the year that “Catastrophic football injuries in the USA” was published in *Clinical Journal of Sports Medicine*; and
- (h) In 1993, “Definition of mild traumatic brain injury” was published in the *Journal of Head Trauma Rehabilitation*.

DEFENDANT NFL FAILED TO WARN ITS PLAYERS, INCLUDING PLAINTIFF, OF THE LONG-TERM RISK OF CONCUSSIONS TO FOOTBALL PLAYERS

185.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

186.

Instead of taking measures to protect its players from suffering long-term brain injuries, Defendant NFL created the MTBI Committee in 1994 to purportedly study the effects of concussions on its players.

187.

After more than a decade of purported studies, Defendant NFL's MTBI Committee concluded that "[b]ecause a significant percentage of players returned to play in the same game [as they suffered a mild traumatic brain injury] and the overwhelming majority of players with concussions were kept out of football-related activities for less than 1 week, it can be concluded that mild TBI's in professional football are not serious injuries." *See* "Concussion in professional football: Summary of the research conducted by the National Football League's

Committee on Mild Traumatic Brain Injury,” *Neurosurg Focus* 21 (4):E12, 2006, E.J. Pellman and D.C. Viano.

188.

According to Defendant NFL’s MTBI Committee, the speedy return to play after suffering a concussion demonstrates that such players were not at a greater risk of suffering long-term brain injury.

189.

Defendant NFL’s MTBI Committee has published multiple research articles since its inception.

190.

The findings of Defendant NFL’s MTBI Committee have regularly contradicted the research and clinical experience of neurologists who treat sports concussions and the experiences of the players who endured them.

191.

In the October 2004 edition of *Neurosurgery*, Defendant NFL’s MTBI Committee published a paper in which it asserted that the Committee’s research found no risk of repeated concussions in players with previous concussions and that there was no “7- to 10-day window of increased susceptibility to sustaining another

concussion.”

192.

In a comment to the study referenced in the foregoing paragraph, a doctor wrote that “[t]he article sends a message that it is acceptable to return players while still symptomatic, which contradicts literature published over the past twenty years suggesting that athletes be returned to play only after they are asymptomatic, and in some cases for seven days.”

193.

Additionally, in January 2005, Defendant NFL’s MTBI Committee wrote that returning to play after a concussion “does not involve significant risk of a second injury either in the same game or during the season.”

194.

A 2003 NCAA study of 2,905 college football players found just the opposite: “Those who have suffered concussions are more susceptible to further head trauma for seven to 10 days after the injury.”

195.

The Defendant NFL MBTI January 2005 study is absent logic and science, contradicts Defendant NFL’s Health and Safety Rules and contradicts 75 years of published medical literature on concussions.

196.

Between 2002 and 2005, a series of clinical and neuropathological studies performed by independent scientists and physicians demonstrated that multiple NFL induced-concussions cause cognitive problems such as depression, early onset dementia and CTE and its related symptoms.

197.

In response to these studies, Defendant NFL, to further a scheme of fraud and deceit, had members of its MTBI Committee deny knowledge of a link between concussion and cognitive decline and claim that more time was needed to reach a definitive conclusion on the issue.

198.

When Defendant NFL's MTBI anticipated studies that would implicate causal links between concussion and cognitive degeneration it promptly published articles producing contrary findings, although false, distorted and deceiving as part of Defendant NFL's scheme to deceive Congress, the players and the public at large.

199.

In 2005, a clinical study performed by Kevin Guskiewicz, M.D. found that retired players who sustained three or more concussions in the NFL had a five-fold

prevalence of mild cognitive impairment.

200.

Mark Lowell, M.D. of Defendant NFL's MTBI Committee attacked Dr. Guskiewicz's 2005 study by refusing to accept a survey of 2,400 former Defendant NFL players.

201.

Bennet Omalu, M.D., a forensic pathologist and neuropathologist, examined the brain tissue of deceased Defendant NFL players Mike Webster, Terry Long and Andre Waters and authored "Chronic Traumatic Encephalopathy in at National Football League Player," which was published in *Neurosurgery* in 2005, and concluded that CTE triggered by multiple Defendant NFL concussions represented a partial cause of their deaths.

202.

Defendant NFL' MTBI Committee, through Ira Casson, M.D., Elliott Pellman, M.D. and David Viano, M.D., wrote a letter to the editor of *Neurosurgery* requesting that Dr. Omalu's CTE article be retracted.

203.

A November 2006 *ESPN The Magazine* article described how Defendant NFL's MTBI Committee failed to include hundreds of neuropsychological tests

done on Defendant NFL players when studying the effects of concussions on the results of such tests.

204.

The November 2006 *ESPN The Magazine* further revealed that Elliot Pellman, M.D. had fired William Barr, M.D., a neuropsychologist for the New York Jets, because he had voiced concern that Dr. Pellman might be picking and choosing the data to include in Defendant NFL's MTBI Committee's research for the purpose of getting results that would downplay the effects of concussions.

205.

In February 2007, Dr. Pellman stepped down as the head of Defendant NFL's MTBI Committee.

206.

Dr. Guskiewicz, research director of the University of North Carolina's Center for the Study of Retired Athletes, said that Dr. Pellman was "the wrong person to chair the committee from a scientific perspective and the right person from the league's perspective."

207.

Dr. Guskiewicz stated, "[w]e found this at the high school level, the college level and the professional level, that once you had a concussion or two you are at

increased risk for future concussions;” but “[Dr. Pellman] continued to say on the record that’s not what they find and there’s no truth to it.”

208.

Defendant NFL replaced Dr. Pellman with Drs. Casson and Vaino.

209.

Dr. Casson continued to dismiss outside studies and overwhelming evidence linking dementia and other cognitive decline to brain injuries.

210.

When asked in 2007 whether concussions could lead to brain damage, dementia or depression, Dr. Casson denied the linkage six separate times.

211.

Because of Congressional scrutiny and media pressure, Defendant NFL scheduled a league-wide Concussion Summit for June 2007.

212.

At the summit, Dr. Casson, who served as the co-chair of Defendant NFL’s MTBI Committee, represented to team doctors and trainers that CTE has never been scientifically documented in football players.

213.

In August 2007, Defendant NFL issued a pamphlet to players in August 2007

that stated: “there is no magic number for how many concussions is too many.”

214.

Defendant NFL’s August 2007 pamphlet told Defendant NFL players that they could rely on Defendant NFL as follows: “We want to make sure all NFL players . . . *are fully informed* and take advantage of the *most up to date information* and resources as we continue to study the long-term impact on concussions.” (Emphasis added).

215.

Julian Bailes, M.D., a neurosurgeon from West Virginia University who briefed Defendant NFL’s MTBI Committee on the findings of Dr. Omalu and other independent studies linking multiple Defendant NFL head injuries with cognitive decline, later recalled that:

the Committee got mad . . . we got into it. And I’m thinking, “This is a . . . disease in America’s most popular sport and how are its leaders responding? Alienate the scientist who found it? Refuse to accept the science coming from him?”

216.

In 2008, the University of Michigan’s Institute for Social Research conducted a study on the health of retired players, with over 1,000 former Defendant NFL players taking part.

217.

The results of the 2008 University of Michigan Institute for Social Research study, which were released in 2009, reported that “Alzheimer’s disease or similar memory-related diseases appear to have been diagnosed in the league’s former players vastly more often than in the national population — including a rate of 19 times the normal rate for men ages 30 through 49.”

218.

Defendant NFL, which had commissioned the 2008 University of Michigan Institute for Social Research study, responded to its results by claiming that the study was incomplete and that further findings were needed.

219.

When Boston University’s Ann McKee, M.D. found CTE in the brains of two more deceased NFL players in 2008, Dr. Casson characterized each study as an “isolated incident” from which no conclusion could be drawn.

220.

At the October 2009 Congressional hearings of the House Judiciary Committee, committee member Linda Sanchez analogized Defendant NFL’s denial of a causal link between Defendant NFL concussion and cognitive decline to the Tobacco industry’s denial of the link between cigarette consumption and ill consequences.

221.

Also at the October 2009 hearing, Representative Maxine Waters stated, speaking to Defendant NFL, that:

I believe you are an \$8 billion organization that has failed in your responsibility to the players. We all know it's a dangerous sport. Players are always going to get injured. The only question is, are you going to pay for it? I know that you dearly want to hold on to your profits. I think it's the responsibility of Congress to look at your antitrust exemption and take it away.

222.

Defendant NFL Commissioner Roger Goodell testified at the hearing that:

[i]n the past 15 years, the NFL has made significant investments in medical and biomechanical research. All of that information has been made public, subjected to thorough and on-going peer review, published in leading journals, and distributed to the NFLPA and their medical consultants. We have been open and transparent, and have invited dialogue throughout the medical community.

223.

In January 2010, when the House Judiciary Committee held further hearings on Football Player Head Injuries, the committee chairman, Representative John Conyers, Jr., noted that “until recently, the NFL had minimized and disputed evidence linking head injuries to mental impairment in the future.”

224.

Dr. Casson continued to deny the validity of other studies through oral and

written testimony at the January 2010 House Judiciary Committee hearings.

225.

Dr. Casson testified at the January 2010 House Judiciary Committee hearings that: “Where is not enough valid, reliable or objective scientific evidence at present to determine whether or not repeat head impacts in professional football result in long term brain damage.”

226.

Defendant NFL had access to medical literature detailing the long-term risk of sports discussions prior to and during the time Plaintiff was playing on its teams and failed to inform or warn the players on its teams, including Plaintiff, about those risks.

227.

Moreover, since at least 2002, Defendant NFL has been on direct notice of multiple Defendant NFL team player head injuries contributing to cognitive decline in later life, yet as of June 2010, it had not amended the following 2007 Defendant NFL MTBI Committee statement: “Current research with professional athletes has not shown that having more than one or two concussions leads to permanent problems. . . It is important to understand that there is no magic number for how

many concussions is too many.”

**DEFENDANT NFL ACKNOWLEDGES ITS DUTY TO
PROTECT AGAINST THE LONG-TERM RISK OF CONCUSSIONS**

228.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

229.

Acknowledging its duty in protecting Defendant NFL players from the potential long-term effects of concussions, Defendant NFL enacted concussion guidelines on August 14, 2007 that were sent to all current players and other team personnel.

230.

Many of Defendant NFL’s concussion guidelines arose from a conference in June of 2007 involving team trainers and doctors.

231.

Defendant NFL’s 2007 guidelines on concussion management include a whistle-blower provision for individuals to report concussions with the league so that a player with a head injury is not forced to practice or play against medical advice.

232.

Defendant NFL's 2007 concussion guidelines also include an informational pamphlet provided to all current NFL players to aid in identifying symptoms of a concussion.

233.

In a statement issued by Defendant NFL on August 14, 2007, Roger Goodell, the Commissioner of the NFL, introduced the NFL's 2007 concussion guidelines by saying: "We want to make sure all NFL players, coaches and staff members are fully informed and take advantage of the most up-to-date information and resources as we continue to study the long-term impact of concussions."

234.

In his August 14, 2007 statement, Defendant NFL's Commissioner, Roger Goodell, also stated that: "[b]ecause of the unique and complex nature of the brain, our goal is to continue to have concussions managed conservatively by outstanding medical personnel in a way that clearly emphasizes player safety over competitive concerns."

235.

Defendant NFL's 2007 concussion guidelines provide when a player with a concussion can return to a game or practice.

236.

Defendant NFL's 2007 concussion guidelines specifically mandate that a player should have no concussion symptoms and normal neurological test results before returning to play.

237.

Since its inception, Defendant NFL, as the organizer of multiple teams playing a dangerous sport, had a duty to protect its players.

238.

On August 14, 2007, Defendant NFL finally and unequivocally acted upon its longstanding duty to protect its member players by implementing league-wide concussion guidelines.

239.

Defendant NFL acknowledged that the 2007 guidelines were inadequate and insufficient.

240.

As a result, Defendant NFL enacted more strict regulations to handle concussions starting in the 2009 season.

241.

Specifically, Defendant NFL announced new rules on managing concussions

that would require players who exhibit any significant concussion signs to be removed from a game or practice and be barred from returning the same day.

242.

It was not until June 2010 that Defendant NFL warned any player of the long-term risks associated with multiple concussions, including dementia, memory loss, CTE and its related symptoms.

243.

The NFL Defendants have never warned retired players, including Plaintiff, of the long-term consequences of concussions.

COUNT ONE – NEGLIGENCE
(Against the NFL Defendants)

244.

The allegations of the foregoing paragraphs are incorporated herein by reference as if set fully set forth.

245.

Because the NFL Defendants have established themselves as the safety and health rule-making bodies for football played by Defendant NFL players, including Plaintiff when he played for Defendant NFL, they had a duty to use reasonable care in the researching, studying and/or examining of the risks of injury to Defendant NFL players, including the risk of head injuries to include concussions, TBIs, CTEs

and their long-term effects.

246.

As the promulgators of the safety and health rules for football played by Defendant NFL players, including Plaintiff when he played in Defendant NFL, the NFL Defendants had a duty to use reasonable care in the warning of Defendant NFL players, including Plaintiff, of the risks of injuries secondary to play, including the risk of head injuries to include concussions, TBIs, CTEs and their long-term effects.

247.

Also because it was has safety and health rule-making body for football played by Defendant NFL players, including Plaintiff when he played for Defendant NFL, the NFL Defendants had a duty to use reasonable care in enacting safety and health rules and taking other reasonable action to minimize the risk of Defendant NFL player injuries, including head injuries, concussions, TBIs, CTEs and their long-term effects.

248.

At all times relevant hereto, the NFL Defendants were negligent by failing to use reasonable care in:

- (a) researching, studying and/or examining of the risks of injury to

Defendant NFL players, including the risk of head injuries to include concussions, TBIs, CTEs and their long-term effects;

- (b) warning Defendant NFL players, including Plaintiff, of the risks of injuries secondary to play, including the risk of head injuries to include concussions, TBIs, CTEs and their long-term effects; and
- (c) enacting safety and health rules and taking other reasonable action to minimize the risk of Defendant NFL player injuries, including head injuries, concussions, TBIs, CTEs and their long-term effects.

249.

The NFL Defendants were also negligent at all relevant times in the following ways:

- (a) By failing to undertake the research of head injuries and their consequences prior to its creation of Defendant MTBI Committee;
- (b) By failing to appoint qualified physicians to its MTBI Committee who would report accurate scientific findings regardless of whether those findings would be beneficial to Defendant NFL;
- (c) By placing physicians in charge of its MTBI Committee whose motives were to downplay or dismiss scientific findings linking permanent brain injuries to sports-related head injuries and

concussions and to build up scientific findings, if any, to the contrary;

- (d) In placing a physician in charge of the committee whose primary
- (e) By failing to inform and warn its players, including Plaintiff, of reliable scientific data that linked football head injuries and concussions to permanent brain damage and other long-term sequelae;
- (f) By failing to inform and warn its players, including Plaintiff, of the harm of repetitive head and/or concussive injuries;
- (g) By downplaying reliable scientific data that linked football head injuries and concussions to permanent brain damage and other long-term sequelae;
- (h) By denying reliable scientific data that linked football head injuries and concussions to permanent brain damage and other long-term sequelae;
- (i) By failing to use reasonable care in overseeing, controlling and/or regulating policies and procedures of Defendant NFL to minimize the risk of head injuries and/or concussions and their long-term effects on the brain and overall health;
- (j) By failing to make and/or timely make necessary Defendant NFL policy changes as it pertains to intentional hits to the head, hits to the

head of a defenseless player, helmet to helmet hits, and concussions in general;

- (k) By publishing misleading and erroneous findings regarding hits to the head and Defendant NFL head injuries;
- (l) By failing to issue a timely warning, through a concussion pamphlet or otherwise, to the players concerning the causal link between concussions and later life cognitive decline;
- (m) By issuing misinformation and purposefully attempting to mislead its players through the concussion pamphlet issued in August 2007;
- (n) By collecting and reporting unreliable data;
- (o) By creating an increased risk of harm to its players, including Plaintiff, by failing to inform them of the reported risk to their brains and health of head injuries and concussions;
- (p) By failing to require that an adequate concussive brain injury history be taken of NFL players;
- (q) By failing to provide competent information to its teams, players, coaches, trainers and medical personnel with respect to the significance of head injuries and/or concussions, their symptoms and necessary and/or proper treatment of same;

- (r) By failing to properly inform the public and other American Rules Football leagues and players of the health risks associated with head injuries and concussions injury; and
- (s) By creating a “culture” within the NFL in which head injuries and concussions and their devastating effects would run rampant.

250.

At all relevant times, the NFL Defendants had a duty to ensure the equipment it licensed and approved was of the highest possible quality to protect their players, including Plaintiff when he played in Defendant NFL, from the risk of head injuries, including concussions, TBIs and CTEs.

251.

At all relevant times, the NFL Defendants breached their duty to ensure the equipment they licensed and approved was of the highest possible quality to protect its players, including Plaintiff when he played in Defendant NFL, from the risk of head injuries, including concussions, TBIs and CTEs.

252.

At all relevant times, the NFL Defendants had a duty to use relevant care in licensing, approving and/or requiring the use of helmets by Defendant NFL players, including by Plaintiff when he played in Defendant NFL.

253.

At all relevant times, the NFL Defendants were negligent by licensing the Riddell Defendants' helmets and approving and/or requiring their use by Defendant NFL players, including Plaintiff when he played in Defendant NFL, when the NFL Defendants knew or had reason to know that the helmets were negligently and defectively designed and/or manufactured.

254.

As a direct and proximate result of the NFL Defendants' negligence as described herein, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

255.

As a result of his personal injuries and economic damages secondary to the NFL Defendants' negligence as described herein, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the NFL Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT TWO – NEGLIGENCE
(As Against the NFL Defendants)

256.

Plaintiff incorporate by reference the foregoing paragraphs as if fully set forth herein.

257.

The NFL Defendants have historically assumed an independent tort duty to invoke rules that protect the health and safety of its players, but it has violated Section 323 of the Restatement (Second) of Torts.

258.

Throughout the history of Defendant NFL, the NFL Defendants have consistently exercised their duty to protect the health and safety of their players by implementing rules, policies and regulations in an attempt to best protect their players.

259.

By enacting rules to protect the health and safety of their players, the NFL Defendants have repeatedly confirmed their duty to take reasonable and prudent actions to protect the health and safety of their players when known and foreseeable risks exist.

260.

The NFL Defendants breached their duty to their players, including Plaintiff, to use ordinary care to protect the physical and mental health of players by implementing standardized post-concussion guidelines and by failing to implement mandatory rules that would prevent a player who suffered a mild traumatic brain injury from re-entering a football game or practice.

261.

Throughout the many years that the NFL Defendants have repeatedly established their duty to protect the health and safety of their players when known and foreseeable risks exist, until August 14, 2007, Defendant NFL failed to create and implement league-wide guidelines concerning the treatment and monitoring of players who suffer a concussive brain injury during a game.

262.

It has been well established since 1928 that repeated blows to the head can lead to CTE, commonly known as “punch drunk syndrome,” which has been prevalent in boxers who have repeatedly suffered concussions.

263.

Despite the fact that other sporting associations exist, such as the World Boxing Association, which have decades ago established standardized association-

wide concussion management rules, until August 14, 2007, the NFL Defendants failed to establish any guidelines or policies to protect the mental health and safety of their players.

264.

The NFL Defendants' failure to fulfill their assumed duty to protect its players includes but is not limited to the following failures:

- (a) Failure to institute acclimation requirements or procedures to ensure proper acclimation of Defendant NFL players before they participate in practices or games;

- (b) Failure to regulate and monitor practice, games, rules, equipment, and medical care so as to minimize the long-term risks associated with concussive brain injuries suffered by Defendant NFL players, including Plaintiff;
- (c) Failure to require that an adequate concussive brain injury history be taken of Defendant NFL players;
- (d) Failure to ensure accurate diagnosis and recording of concussive brain injury so the condition can be treated in an adequate and timely manner;
- (e) Failure to invoke league-wide guidelines, policies, and procedures regarding the identification and treatment of concussive brain injury, and the return to play insofar as such matters pertain to concussive brain injury; and
- (f) Failure to license and approve the best equipment available that will reduce the risk of concussive brain injury.

265.

The NFL Defendants breached their assumed duty to protect the health and safety of their players by subjecting Defendant NFL players to an increased risk of concussive brain injury.

266.

The NFL Defendants failed to provide complete, current, and competent information and directions to Defendant NFL athletic trainers, physicians, and coaches regarding concussive brain injuries and its prevention, symptoms, and treatment.

267.

If the NFL Defendants would have taken the necessary steps to oversee and protect Defendant NFL players, including Plaintiff, by developing and implementing necessary guidelines, policies, and procedures; providing reasonably safe helmets; and educating and training all persons involved with Defendant NFL teams in the recognition, prevention, and treatment of concussive brain injuries, then NFL players, such as Plaintiff, would not have suffered the multiple head and concussive injuries he suffered and would not have suffered permanent brain damage.

268.

Under all of above circumstances, it was foreseeable that the NFL Defendants' violations of its duties would cause or substantially contribute to the personal injuries suffered by the Plaintiff.

269.

The NFL Defendants committed acts of omission and commission, which collectively and severally, constituted the negligence described herein.

270.

As a direct and proximate result of the NFL Defendants' negligence as described herein, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

271.

As a result of his personal injuries and economic damages secondary to the NFL Defendants' negligence as described herein, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the NFL Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT THREE - FRAUD
(Against the NFL Defendants)

272.

Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

273.

At all relevant times, the NFL Defendants' materially misrepresented the

risks faced by their players, including Plaintiff, related to head injuries.

274.

Through the MTBI Committee, the NFL Defendants misrepresented the risks faced by Defendant NFL players, including Plaintiff, through misleading public statements, published articles and the concussion pamphlet issued to players that downplayed the known long-term risk of head injuries and concussions to Defendant NFL players.

275.

Material misrepresentations were made by the NFL Defendants through members of the MTBI Committee on multiple occasions, including but not limited to testimony given at congressional hearings and the “informational” pamphlet which they issued to the players.

276.

Material misrepresentations by the NFL Defendants through the MTBI Committee members, including but not limited to, remarks that Defendant NFL players, including Plaintiff, were not at an increased risk of head injury if he returned too soon to a Defendant NFL game or training session after suffering a head injury.

277.

The NFL Defendants' material misrepresentations also include their remarks that their criticism of legitimate scientific studies which illustrated the long-term dangers and risks of head injuries and concussions.

278.

The NFL Defendants' material misrepresentations through the MTBI Committee also include their denial of a link between concussions and CTE.

279.

The NFL Defendants had actual knowledge that their above-referenced misleading statements were misleading when made.

280.

The NFL Defendants had actually knowledge that Plaintiff and others would rely on their aforementioned misrepresentations.

281.

Plaintiff, among others, justifiably relied on the NFL Defendants' foregoing misrepresentations when he played in Defendant NFL to his physical and mental detriment.

282.

Had Plaintiff known the true long-term risks to his brain and overall health

of head injuries and concussions, he would have taken additional steps to protect himself and his health given that Defendants were not doing so.

283.

The NFL Defendants knew or should have known that Plaintiff would rely on their misrepresentations.

284.

As a direct and proximate result of the NFL Defendants' fraudulent conduct, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

285.

As a result of his personal injuries and economic damages secondary to the NFL Defendants' fraudulent conduct, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the NFL Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT FOUR - FRAUDULENT CONCEALMENT
(Against the NFL Defendants)

286.

Plaintiff incorporates by reference the foregoing paragraphs as if set fully

herein at length.

287.

The NFL Defendants, through the MTBI Committee, knowingly and fraudulently concealed the risks of head injuries to Plaintiff as well as the risk to Plaintiff if he returned to the playing field before making a proper recovery from his head injuries.

288.

The NFL Defendants', through the MTBI Committee, made misleading public statements and published articles and the concussion pamphlet issued to players that affirmatively concealed and downplayed known long-term risks of concussions to Defendant NFL players, including Plaintiff.

289.

The NFL Defendants' concussion pamphlet affirmatively created player reliance.

290.

The NFL Defendants' concussion statement stated: “[w]e want to make sure all NFL players . . . are fully informed and take advantage of the most up to date information and resources as we continue to study the long-term impact on concussions.”

291.

In January 2010, Dr. Casson, on behalf of the NFL Defendants and their MTBI Committee, concealed the long-term risk of health consequences secondary to concussions by denying research indicating the same in his testimony to the House Judiciary Committee.

292.

The NFL Defendants failed to acknowledge, either publicly or to their players, the clear link between concussions and brain injuries beings suffered by Defendant NFL players before and while Plaintiff was playing for their teams.

293.

The NFL Defendants failed to acknowledge, either publicly or to their players, the linkage between playing football and long-term brain injuries before and while Plaintiff was playing for their teams.

294.

The NFL Defendants willfully concealed this information from Defendant NFL players, including Plaintiff, in order to prevent negative publicity and increased scrutiny of their medical practices.

295.

The NFL Defendants knew Plaintiff and other Defendant NFL players

would rely on the inaccurate information provided by them.

296.

Plaintiff relied on the afore-referenced inaccurate information disseminated by the NFL Defendants during his Defendant NFL career.

297.

As a direct and proximate result of the NFL Defendants' fraudulent concealment, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

298.

As a result of his personal injuries and economic damages secondary to the NFL Defendants' fraudulent concealment, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the NFL Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT FIVE – NEGLIGENT MISREPRESENTATION
(Against the NFL Defendants)

299.

Plaintiff incorporates by reference the foregoing paragraphs as if set fully herein at length.

300.

The NFL Defendants misrepresented the dangers that Defendant NFL players faced in returning to action too quickly after sustaining a head injury.

301.

The NFL Defendants, through public statements made by those on their MTBI Committee that they knew or should have known were misleading, published articles and issued the concussion pamphlet to their players, and downplayed and the long-term risks of concussions to Defendant NFL players.

302.

Material misrepresentations were made by members of the NFL Defendants' MTBI Committee on multiple occasions, including but not limited to testimony at congressional hearings and the "informational" pamphlet issued to players.

303.

The misrepresentations included the NFL Defendants' remarks through the MTBI Committee that Defendant NFL players, including Plaintiff, were not at an increased risk of head injury if they returned too soon to an NFL game or training session post head injury.

304.

The NFL Defendants' material misrepresentations also included their

criticism, through members of the MTBI Committee, of legitimate scientific studies that illustrated the dangers and risks of head injuries.

305.

The NFL Defendants made these misrepresentations and actively concealed adverse information at a time when they knew, or should have known, because of their superior position of knowledge, that Plaintiff faced health problems if he were to return to a game too soon.

306.

The NFL Defendants knew or should have known the misleading nature of the foregoing statements when they were made.

307.

The NFL Defendants made misrepresentations and actively concealed information with the intention that Defendant NFL players, including Plaintiff, would rely on the misrepresentations or omissions in selecting their course of action.

308.

As a direct and proximate result of the NFL Defendants' negligent misrepresentations, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited

to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

309.

As a result of his personal injuries and economic damages secondary to the NFL Defendants' negligent misrepresentations, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the NFL Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT SIX – CONSPIRACY
(Against the NFL Defendants)

310.

Plaintiff incorporates by reference the foregoing paragraphs as if set fully herein at length.

311.

The NFL Defendants' actively and deliberately conspired with their team members and/or independent contractors, who were directed to continuously discount and reject the causal connection between multiple concussions suffered while playing in Defendant NFL.

312.

As a direct and proximate result of the NFL Defendants' conspiracy, Plaintiff suffered multiple head injuries and/or concussions that have resulted in

permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

313.

As a result of his personal injuries and economic damages secondary to the NFL Defendants' conspiracy, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the NFL Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT SEVEN – STRICT LIABILITY FOR DESIGN DEFECT
(Against the Riddell Defendants)

314.

Plaintiff incorporates by reference the foregoing paragraphs as if set fully herein at length.

315.

At the time the helmets worn by Plaintiff during his Defendant NFL career were designed, manufactured, sold, and distributed by the Riddell Defendants, the helmets were defective in design, unreasonably dangerous, and unsafe for their intended purpose because they did not provide adequate protection against the foreseeable risk of concussive brain injury.

316.

The Riddell Defendants were negligent and defectively designed the helmets worn by Plaintiff during his Defendant NFL career as follows:

- (a) The helmets did not have a safe means of attenuating and absorbing the foreseeable forces of impact in order to minimize and/or reduce the forces and energy directed to the player's head;
- (b) The helmets had a shock attenuating system which was not safely configured;
- (c) The helmet models were not properly and adequately tested; and
- (d) The helmets were defectively designed in other ways that may be discovered during the course of this matter.

317.

The Riddell Defendants were also negligent in failing to warn Plaintiff that their helmets would not protect him against the long-term health consequences of concussive brain injury.

318.

Plaintiff at all times wore the Riddell Defendants' helmets for their intended purpose.

319.

As a direct and proximate result of the Riddell Defendants' negligence, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

320.

The Riddell Defendants are strictly liable for designing the defective and unreasonably dangerous helmets worn by Plaintiff during his Defendant NFL career and for failing to warn Plaintiff that the helmets would not protect him from the long-term health consequences of head injuries and concussions, which were proximate and producing causes of Plaintiff's personal injuries and economic damages.

321.

A safer alternative design to the Defendant Riddell helmets worn by Plaintiff during his Defendant NFL career were economically and technologically feasible at the time Plaintiff's Defendant Riddell helmets left the control of the Riddell Defendants.

322.

As a result of his personal injuries and economic damages secondary to the Riddell Defendants' negligence, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the Riddell Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT EIGHT – STRICT LIABILITY FOR MANUFACTURING
DEFECT
(Against the Riddell Defendants)

323.

Plaintiff incorporates by reference the foregoing paragraphs as if set forth herein.

324.

At the time the Riddell Defendants designed, manufactured, sold and distributed the helmets worn by Defendant NFL players, including Plaintiff when he played in Defendant NFL, were defective in their manufacturing and unreasonably dangerous and unsafe for their intended purpose because they did not provide adequate protection against the foreseeable risk of head injury and concussion.

325.

Defendant Riddell was negligent and the helmets worn by Plaintiff when he

played in Defendant NFL were defectively manufactured by Defendant Riddell as follows:

- (a) They helmets did not have a safe means of attenuating and absorbing the foreseeable forces of impact in order to minimize and/or reduce the forces and energy directed to the player's head;
- (b) The helmets had a shock attenuating system which was not safely configured;
- (c) The helmets were not properly and adequately inspected and/or tested; and
- (d) The helmets were otherwise defective as may be discovered during the course of this matter.

326.

The Riddell Defendants failed to warn Plaintiff that its helmets, which Plaintiff wore while he was playing in Defendant NFL, wouldn't protect against head injuries or concussions.

327.

As a direct and proximate result of the Riddell Defendants' manufacturing defects, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to,

physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

328.

The Riddell Defendants are strictly liable for manufacturing and placing in the stream of commerce the defective and unreasonably dangerous helmets worn by Plaintiff while he played in Defendant NFL, which was a proximate and producing cause of the personal injuries and other damages, including but not limited to, economic damages and non-economic damages.

329.

A safe alternative design was economically and technologically feasible at the time Plaintiff's Defendant Riddell helmets left the control of the Riddell Defendants.

330.

As a result of his personal injuries and economic damages secondary to the Riddell Defendants' manufacturing defects, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the Riddell Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT NINE – FAILURE TO WARN
(Against the Riddell Defendants)

331.

Plaintiff incorporates by reference the foregoing paragraphs as if set forth herein.

332.

The Riddell Defendants knew or should have known of the substantial dangers involved in the reasonably foreseeable use of their helmets that Plaintiff wore during his Defendant NFL career.

333.

The Riddell Defendants failed to provide necessary and adequate safety and instructional materials and warnings of the risk and means available to reduce and/or minimize the risk of head injuries and concussions while playing football.

334.

The Riddell Defendants failed to provide necessary and adequate information, warnings, and/or instructional materials regarding the fact that other model helmets provided greater shock attenuation from blows to the head area.

335.

The Riddell Defendants knew that these substantial dangers were not readily recognizable to an ordinary consumer or user and that such person would use these

products without inspection for defects.

336.

Plaintiff neither knew nor had reason to know of the existence of the aforementioned defects or increased risks of harm.

337.

Plaintiff was using Defendant Riddell's helmets in a reasonably foreseeable manner at all times.

338.

Plaintiff's damages were the legal and proximate result of the actions of the Riddell Defendants who owed a duty to warn Plaintiff of the risks of substantial harm associated with the foreseeable use of their products.

339.

As a direct and proximate result of the Riddell Defendants' failure to warn, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

340.

As a result of his personal injuries and economic damages secondary to the

Riddell Defendants' failure to warn, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the Riddell Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

COUNT TEN – NEGLIGENCE
(Against Riddell Defendants)

341.

Plaintiff incorporates by reference the foregoing paragraphs as if set forth herein.

342.

The Riddell Defendants owed Defendant NFL's players, including Plaintiff, a duty to use reasonable care in the design, testing, manufacture, assembly, marketing and sale of their helmets.

343.

The Riddell Defendants breached their duty to Defendant NFL's players, including Plaintiff, to use reasonable care in the design, testing, manufacture, assembly, marketing and sale of their helmets.

344.

The Riddell Defendants knew or should have known that since 1928 repeated blows to the head can lead to CTE, commonly known as "punch-drunk syndrome".

345.

The Riddell Defendants breached their duty of reasonable care by failing to provide necessary and adequate safety and instructional materials and warnings of the risk and means available to reduce and/or minimize the risk of concussive brain injuries while playing football using their helmets.

346.

As a direct and proximate result of the Riddell Defendants' negligence, Plaintiff suffered multiple head injuries and/or concussions that have resulted in permanent brain damage and damages, including, but not limited to, physical injury, physical and mental pain and suffering, financial loss secondary to the payment of medical expenses, and lost wages.

347.

As a result of his personal injuries and economic damages secondary to the Riddell Defendants' negligence, Plaintiff is entitled to damages, as alleged herein or allowed by law, from the Riddell Defendants in an amount reasonably anticipated to exceed the jurisdictional minimum of \$75,000.

DEFENDANTS' CONDUCT WAS DELIBERATE, WILLFUL AND WANTON

348.

The allegations of the foregoing paragraphs are incorporated herein by

reference as if set fully set forth.

349.

The aforementioned acts and omissions of Defendants demonstrate that they acted deliberately, willfully and wantonly and with indifference to the rights and duties owed and consequences to Plaintiffs.

350.

Defendants knew that a substantial risk of physical and mental harm to Defendant NFL players, including Plaintiff, existed in connection with concussions suffered while playing Defendant NFL football, including but not limited to, irreversible brain damage.

351.

Defendants willfully and deliberately, however, disregarded the safety and health of Defendant NFL players, including Plaintiff, by continually failing to warn Defendant NFL players of the risk to their brain and health of head injuries and concussions, despite the use of Defendant Riddell helmets.

352.

Defendant NFL also willfully and deliberately disregarded the safety and health of Defendant NFL players, including Plaintiff, by continually undertaking to establish and promulgate safety rules for Defendant NFL that failed to protect

Defendant NFL players from the risk of the long-term consequences of head injuries and concussions to their brain and health.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. For compensatory and general damages according to proof;
2. For special and incidental damages according to proof;
3. For punitive damages according to proof;
4. For costs of the proceedings herein; and
5. For all such other and further relief as the Court deems just.

Respectfully submitted,

/s/ William Q. Bird
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Georgia State Bar No. 057900
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Signatures continue on the following page

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Attorneys for Plaintiff

CERTIFICATE OF FONT

I hereby certify that I have this day filed the within and foregoing **Complaint** with the Clerk of court, using Times New Roman, 14-point font.

Respectfully submitted,

/s/ William Q. Bird

William Q. Bird

Georgia State Bar No. 057900

Kristen L. Beightol

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