

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

MDL DOCKET NO. 2323

NOTICE OF RELATED ACTIONS

TO THE CLERK OF THE PANEL:

Defendant National Football League ("NFL") hereby notifies the Clerk of the Judicial Panel on Multidistrict Litigation (the "Panel") of the following four related actions (the "Related Actions") in which the NFL has been named as a defendant:

(1) *Rucker, et al. v. National Football League, et al.*, Case No. 11-cv-09538-RJH (S.D.N.Y., filed Dec. 27, 2011) (the "*Rucker* Action"). The case has been assigned to the Honorable Richard J. Holwell. True and correct copies of the docket and plaintiffs' complaint filed in this action are attached hereto as Exhibit A.

(2) *Austin, et al. v. National Football League, et al.*, 12-cv-00075-SCJ (N.D. Ga., Atlanta Div., filed Jan. 9, 2012) (the "*Austin* Action"). The case has been assigned to the Honorable Steve C. Jones. True and correct copies of the docket and plaintiffs' complaint filed in this action are attached hereto as Exhibit B.

(3) *Dronett v. National Football League, et al.*, Case No. 12-cv-00076-MHS (N.D. Ga., Atlanta Div., filed Jan. 9, 2012) (the "*Dronett* Action"). The case has been assigned to the Honorable Marvin H. Shoob. True and correct copies of the docket and plaintiff's complaint filed in this action are attached hereto as Exhibit C.

(4) *Boyd, et al. v. National Football League, et al.*, Case No. 12-cv-00092-AB (E.D. Pa., filed Jan. 9, 2012) (the “*Boyd Action*”). The case has been assigned to the Honorable Anita B. Brody. True and correct copies of the docket and plaintiffs’ complaint filed in this action are attached hereto as Exhibit D.

In addition, a Revised Schedule of Actions that reflects these related actions is attached hereto as Exhibit E.

The Related Actions involve the same common questions of fact as the eleven actions that are the subject of the NFL’s pending Motion for Transfer and Coordination or Consolidation Pursuant to 28 U.S.C. § 1407, submitted to the Panel on November 15, 2011.¹ (Dkt. No. 1.) The complaints in the Related Actions, like the *Maxwell, Pear, Barnes, Easterling, Finn, Jacobs, Levens, Lewis, Kuykendall, Stewart*, and *Jones* complaints, assert claims premised on negligence and fraud arising out of concussions and head injuries allegedly suffered by plaintiffs during their professional football careers. For example, plaintiffs in the Related Actions, like plaintiffs in the other

¹ The eleven actions that are the subject of the NFL’s pending motion are: *Maxwell, et al. v. National Football League*, No. 11-cv-08394 (C.D. Cal., Western Div.) (Hon. Manuel L. Real); *Pear, et al. v. National Football League*, No. 11-cv-08395 (C.D. Cal., Western Div.) (Hon. Manuel L. Real); *Barnes, et al. v. National Football League*, 11-cv-08396 (C.D. Cal., Western Div.) (Hon. Manuel L. Real); *Easterling v. National Football League*, No. 11-cv-05209 (E.D. Pa.) (Hon. Anita B. Brody); *Finn, et al. v. National Football League*, 11-cv-07067-JLL-MAH (D.N.J.) (Hon. Jose L. Linares); *Jacobs, et al. v. National Football League, et al.*, 11-cv-09345-RJH (S.D.N.Y.) (Hon. Richard J. Holwell); *Levens v. National Football League, et al.*, 11-CV-04448-RWS (N.D. Ga., Atlanta Div.) (Hon. Richard W. Story); *Lewis v. National Football League, et al.*, 11-cv-04451-AT (N.D. Ga., Atlanta Div.) (Hon. Amy Totenberg); *Kuykendall, et al. v. National Football League, et al.*, 11-cv-4450-WSD (N.D. Ga., Atlanta Div.) (Hon. William S. Duffey, Jr.); *Stewart, et al. v. National Football League, et al.*, 11-cv-04449-CAP (N.D. Ga., Atlanta Div.) (Hon. Charles A. Pannell, Jr.); and *Jones, et al. v. National Football League*, 11-cv-24594-JEM (S.D. Fl., Miami Div.) (Hon. Jose E. Martinez).

eleven actions, allege that the NFL owed a duty to its players regarding their health and safety:

- *Rucker*: “By enacting rules to protect the health and safety of its players, the NFL has repeatedly confirmed its duty to take reasonable and prudent actions to protect the health and safety of its players when known and foreseeable risks exist.” (Ex. A, Compl. ¶ 115.)
- *Austin*: “[The NFL], as purveyors of safety rules for the League, owed plaintiffs a duty to use reasonable care in researching, studying and/or examining the dangers and risks of head injuries and/or concussions to NFL players. . . .” (Ex. B, Compl. ¶ 247.)
- *Dronett*: “[The NFL], as purveyors of safety rules for the League, owed Shane Dronett a duty to use reasonable care in researching, studying and/or examining the dangers and risks of head injuries and/or concussions to NFL players. . . .” (Ex. C, Compl. ¶ 98.)
- *Boyd*: “By enacting rules to protect the health and safety of its players, the NFL has repeatedly confirmed its duty to take reasonable and prudent actions to protect the health and safety of its players when known and foreseeable risks exist.” (Ex. D, Compl. ¶ 218.)

Plaintiffs in the Related Actions similarly allege that the NFL breached this duty by failing to minimize the risk of head injuries and/or concussions:

- *Rucker*: “The NFL breached its assumed duty to protect the health and safety of its players by subjecting NFL players to an increased risk of concussion.” (Ex. A., Compl. ¶ 120.)
- *Austin*: “[The NFL failed] to use reasonable care in overseeing, controlling and/or regulating policies and procedures of the league so as to minimize the risk of head injuries and/or concussions.” (Ex. B, Compl. ¶ 254.)
- *Dronett*: “[The NFL failed] to use reasonable care in overseeing, controlling and/or regulating policies and procedures of the league so as to minimize the risk of head injuries and/or concussions.” (Ex. C. Compl. ¶ 105.)
- *Boyd*: “The NFL breached its assumed duty to protect the health and safety of its players by subjecting NFL players to an increased risk of concussive brain injury.” (Ex. D. Compl. ¶ 224.)

Plaintiffs in the Related Actions also allege that the NFL purportedly knew that head injuries cause long-term cognitive deficits, yet concealed this alleged link from plaintiffs by, among other things, disputing academic studies purporting to establish the link:

- *Rucker*: “[M]aterial misrepresentations also included [the NFL’s] criticism of legitimate scientific studies that illustrated the dangers and risks of head injuries”; the NFL “made these misrepresentations and actively concealed adverse information at a time when [it] knew, or should have known . . . that Plaintiffs faced health problems if he [*sic*] were to return to a game too soon.” (Ex. A, Compl. ¶¶ 133-34.)
- *Austin*: “[The NFL] disregard[ed] independent scientific studies which showed the risks of head injuries and/or concussions to NFL players’ health,” and “fail[ed] to acknowledge, either publically or to their players, the clear link between concussions and brain injuries.” (Ex. B, Compl. ¶ 254.)
- *Dronett*: “[The NFL] disregard[ed] independent scientific studies which showed the risks of head injuries and/or concussions to NFL players’ health,” and “fail[ed] to acknowledge, either publically or to their players, the clear link between concussions and brain injuries.” (Ex. C, Compl. ¶ 105.)
- *Boyd*: “[The NFL] and their MTBI Committee concealed and misrepresented information to the Plaintiffs and the public regarding the brain disease risks of repeated head impacts and concussions in NFL, over the time period relevant to this complaint.” (Ex. D, Compl. ¶ 240.)

Consolidation or coordination of the Related Actions with the other eleven cases listed on the Revised Schedule of Actions would prevent duplicative discovery and inconsistent pre-trial rulings, conserve judicial resources, reduce the cost of litigation, and allow the cases to proceed more efficiently at trial.

Dated: New York, New York
January 11, 2012

Respectfully submitted,

/s/ Brad S. Karp

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CERTIFICATE OF SERVICE

I, Brad S. Karp, hereby certify that on January 11, 2012, a true and correct copy of the NFL's NOTICE OF RELATED ACTIONS was filed via CM/ECF, which caused notice to be sent to all counsel of record.

Dated: January 11, 2012

By: /s/ Brad S. Karp