

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRENT BOYD, MARGENE ADKINS, FRED ANDERSON, CHARLES ANTHONY, LIONEL ANTOINE, HARVEY ARMSTRONG, MIKE AUGUSTYNIAK, JEFF BARNES, LEMUEL BARNEY, THOMAS BEER, ROBERT BELL, MELVIN CARVER, REGINALD CLARK, WILLIAM "BILL" CODY, MARK COOPER, MARK COTNEY, NEAL CRAIG, PETER CRONAN, CRAIG CURRY, MICHAEL "TONY" DAVIS, JOE DELAMIELLEURE, CONRAD DOBLER, KENNETH EASLEY, JR., KEN FANTETTI, LEE FOLKINS, FRED FORSBERG, PHILLIP FREEMAN III, JOE FERGUSON, JR., DERRICK GAFFNEY, JAMES GARCIA, DONNIE GREEN, WILLIE GREEN, ALFRED GROSS, BOBBY HARDEN, JR., CEDRICK HARDMAN, DENNIS HARRAH, CHARLEY HARRAWAY, JAMES HARRELL, CLIFF HARRIS, VICTOR HICKS, DON HORN, JAMES HOUGH, DELLES HOWELL, BRAD JACKSON, CALVIN JACKSON, J. BRUCE JARVIS, LEON "RAY" JARVIS, NOEL JENKE, OLRICK JOHNSON, JR., TROY JOHNSON, TRUMAINE JOHNSON, AARON JONES II, JAMES JONES, STEVE JONES, JOSEPH KAPP, MARK KONAR, MERVIN KRAKAU, PAUL KRAUSE, ROBERT KROLL, CHARLES KRUEGER, BRUCE LAIRD, MACARTHUR LANE, GENE LANG, PETER LAZETICH, ESTATE OF GREGORY LENS, DONALD MACEK, DONALD MANOUKIAN, ROD MARTIN, IRA MATTHEWS III, LEONARD "BUBBA" MCDOWELL JR., JEFF MCINTYRE, DENNIS MCKNIGHT, JON MELANDER, MICHAEL MERRIWEATHER, TERRANCE "TERRY" METCALF, CALEB MILLER, KORY MINOR, DERLAND MOORE, MICHAEL MORTON, CHARLES MYRTLE, MARK NICHOLS, TOMMY NOBIS, KEITH NORD, AUGUST "GUS" OTTO, TERRY OWENS, GARY PADJEN, RANDY RAGON, DAVID RECHER, JERRY ROBINSON, RICK SANFORD, WILLIAM "BILLY" SHIELDS, FRED SMERLAS, CHARLIE SMITH, ARTHUR STILL, BRYAN STOLTENBERG, WILLIAM "BILLY"

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMANDED

TRUAX, CLARENCE VERDIN, PHIL
VILLAPIANO, JEFFREY WALKER,
LARRY WEBSTER, MICHAEL
WEDDINGTON, EDWARD WHITE, JAMES
WILLIAMS, MIKE WOOD, LARRY
WOODS, MARVIN WOODSON,

PLAINTIFFS,

V.

NATIONAL FOOTBALL LEAGUE, and NFL
PROPERTIES LLC,

DEFENDANTS.

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INTRODUCTION

1. This action is brought to seek declaratory relief and damages related to the Defendants' tortious misconduct and voluntary undertaking with regard to the health effects of repeated head impacts, and the injuries consequently suffered by the Plaintiffs who are former National Football League ("NFL" or "League") players. The injuries include sequelae of the concussions and repeated head impacts suffered by the Plaintiffs during their play in the NFL, including traumatic brain injuries and latent neurodegenerative disorders and diseases. The allegations herein, except as to the Plaintiffs themselves, are based on information and belief.

JURISDICTION AND VENUE

2. Jurisdiction is based on 28 U.S.C. § 1332(a)(1), and (b); and 28 U.S.C. § 1332(d)(11). All of the Plaintiffs and all of the Defendants are citizens of different states. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs, for each Plaintiff. The amount in controversy for all Plaintiffs in this mass action exceeds \$5,000,000.00, exclusive of interest and costs. This matter can be tried jointly in that the Plaintiffs' claims involve common questions of law or fact.

3. This Court has personal jurisdiction over the Defendants because they have substantial and continuous business contacts in the Commonwealth of Pennsylvania.

4. Venue is proper pursuant to 28 U.S.C. § 1391(a)(2), and 28 U.S.C. § 1391(b)(2), as a substantial part of the events and omissions giving rise to the claims occurred in this judicial district.

THE PARTIES

5. Plaintiff Brent Boyd ("Boyd") is 54 years old and he resides with his wife in Reno, Nevada. He was an NFL offensive guard who played with the Minnesota Vikings

(1980-86). He has been diagnosed with Chronic Traumatic Encephalopathy (“CTE”). Boyd was one of a handful of former NFL players who testified before the Judiciary Subcommittee of the United States House of Representatives on June 26, 2007, concerning concussions in the NFL. He founded the NFL retired player advocacy group Dignity After Football. Boyd suffered repeated and chronic head impacts during his career in the NFL and as a result, has experienced cognitive difficulties including, but not limited to CTE, headaches, dizziness, loss of memory, suicidal thoughts, fatigue, depression, temporary blindness, and vertigo.

6. Plaintiff Margene Adkins (“Adkins”) is 64 years old and resides with his wife in Fort Worth, Texas. He was an NFL wide receiver for the Dallas Cowboys (1970-71), the New Orleans Saints (1972), and the New York Jets (1973). Adkins suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Adkins has experienced cognitive difficulties including, but not limited to headaches, dizziness, and loss of memory.

7. Plaintiff Fred Anderson (“Anderson”) is 56 years old and resides with his wife in Kirkland, Washington. He was an NFL defensive end for the Pittsburgh Steelers (1978-79), and the Seattle Seahawks (1980-82). Anderson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Anderson has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

8. Plaintiff Charles Anthony (“Anthony”) is 59 years old and resides in Fremont, California. He was an NFL line backer for the San Diego Chargers (1974). Anthony suffered repeated and chronic head impacts during his career in the NFL and is at an increased

risk of latent brain disease. As a result, Anthony has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

9. Plaintiff Lionel Antoine (“Antoine”) is 61 years old and resides in Biloxi, Mississippi. He was an NFL offensive tackle for the Chicago Bears (1972-78). Antoine suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Antoine has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, suicidal thoughts, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

10. Plaintiff Harvey Armstrong (“Armstrong”) is 51 years old and resides in Norcross, Georgia. He was an NFL nose tackle who played for the Philadelphia Eagles (1982-84), and the Indianapolis Colts (1986-90). Armstrong suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Armstrong has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, neurological disorder, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

11. Plaintiff Mike Augustyniak (“Augustyniak”) is 55 years old and resides in St. Johns, Florida. He was an NFL running back who played for the New Orleans Saints (1980), and the New York Jets (1981-84). Augustyniak suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Augustyniak has experienced cognitive difficulties including, but not limited to headaches,

dizziness, loss of memory, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck/cervical spine arthritis and associated numbness and tingling.

12. Plaintiff Jeff Barnes (“Barnes”) is 56 years old and resides with his wife in Stockton, California. He was an NFL linebacker who played for the Oakland/Los Angeles Raiders (1977-87). Barnes was a member of the Raiders’ Super Bowl XV and XVIII Championship teams. Barnes suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Barnes has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck/cervical spine arthritis and associated numbness and tingling.

13. Plaintiff Lemuel Barney (“Barney”) is 66 years old and resides with his wife in Michigan. He was an NFL defensive back who played with the Detroit Lions (1967-77). He was voted NFL Defensive Rookie of the Year in 1967 and was selected to the NFL’s 1960s All Decade Team. He was a seven-time Pro Bowl selection (1967-69, 1972-73, 1975-76) and was a seven-time All Pro selection (1967-70, 1972-73, 1975). He was elected to the Pro Football Hall of Fame in 1992. In 1999, Barney was included in the Sporting News’s list of the 100 greatest football players. Barney suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Barney has experienced cognitive difficulties including, but not limited to headaches, dizziness, irritability, sleep problems, neck and cervical arthritis and associated numbness/tingling.

14. Plaintiff Thomas Beer (“Beer”) is 67 years old and resides in Pine Brook, New Jersey. He was an NFL tight end who played for the Denver Broncos (1967-68), and the Boston/New England Patriots (1971-72). Beer suffered repeated and chronic head impacts

during his career in the NFL and is at an increased risk of latent brain disease. As a result, Beer has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, and neck and cervical arthritis.

15. Plaintiff Robert Bell (“Bell”) is 63 years old and resides with his wife in North Wales, Pennsylvania. He was an NFL defensive tackle for the Detroit Lions (1971-73), and the St. Louis Cardinals (1974-78). Bell suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Bell has experienced cognitive difficulties including, but not limited to headaches, dizziness, and loss of memory.

16. Plaintiff Melvin Carver (“Carver”) is 52 years old and resides with his wife in Tampa, Florida. He was an NFL running back for the Tampa Bay Buccaneers (1982-85), and the Indianapolis Colts (1987). Carver suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Carver has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck/cervical spine arthritis and associated numbness and tingling.

17. Plaintiff Reginald Clark (“Clark”) is 44 years old and resides with his wife in North Carolina. He was an NFL linebacker who played for the Pittsburgh Steelers (1994), and the Jacksonville Jaguars (1995-96). Clark suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Clark has experienced cognitive difficulties including, but not limited to headaches, dizziness, blurry vision, ringing in ears, loss of memory, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

18. Plaintiff William “Bill” Cody (“Cody”) is 67 years old and resides in Fairhope, Alabama. He was an NFL linebacker who played for the Detroit Lions (1966), the New Orleans Saints (1967-70), and the Philadelphia Eagles (1972). Cody suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Cody has experienced cognitive difficulties.

19. Plaintiff Mark Cooper (“Cooper”) is 51 years old and resides in Aurora, Colorado. He was an NFL offensive tackle who played for the Denver Broncos (1983-87), and the Tampa Bay Buccaneers (1987-89). Cooper suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Cooper has experienced cognitive difficulties including, but not limited to sleep problems, and neck and cervical numbness/tingling.

20. Plaintiff Mark Cotney (“Cotney”) is 59 years old and resides with his wife in Lutz, Florida. He was an NFL defensive back who played for the Houston Oilers (1975), and the Tampa Bay Buccaneers (1976-84). Cotney was selected by the Tampa Bay Buccaneers in the 1976 Expansion Draft and was a member of the original winless 1976 Buccaneers team. Cotney suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Cotney has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

21. Plaintiff Neal Craig (“Craig”) is 63 years old and resides in Ohio. He was an NFL defensive back for the Cincinnati Bengals (1971-73), the Buffalo Bills (1974), and the Cleveland Browns (1975-76). Craig suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Craig has

experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, fatigue, and numbness/tingling in neck and cervical spine.

22. Plaintiff Peter Cronan (“Cronan”) is 56 years old. He was an NFL linebacker for the Seattle Seahawks (1977-81), and the Washington Redskins (1981-85). Cronan was a member of the Washington Redskins Super Bowl XVII Championship team. Cronan suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Cronan has experienced cognitive difficulties including, but not limited to headaches, lightheadedness, and dizziness.

23. Plaintiff Craig Curry (“Curry”) is 50 years old and resides in Houston, Texas. He was an NFL defensive back for the Tampa Bay Buccaneers (1984-86), and the Indianapolis Colts (1987). Curry suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Curry has experienced cognitive difficulties.

24. Plaintiff Michael “Tony” Davis (“Davis”) is 58 years old and resides in Greeley, Colorado. He was an NFL running back for the Cincinnati Bengals (1976-78), and the Tampa Bay Buccaneers (1979-81). In 1977, Davis was voted team MVP by the Bengals. Davis suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Davis has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

25. Plaintiff Joseph DeLamielleure (“DeLamielleure”) is 60 years old and resides with his wife in Charlotte, North Carolina. He was an NFL offensive guard who played for the Buffalo Bills (1973-79, 1985) and the Cleveland Browns (1980-84). He was selected to

be included in the Wall of Fame for both teams. He was voted Co-Offensive Lineman of the Year in 1973 and the NFLPA/AFC Offensive Lineman of the Year in 1975. In 1977, he received the Forrest Gregg Award as the NFL Offensive Lineman of the Year. He was selected six times to the Pro Bowl (1975-80) and as All Pro (1975-80). DeLamielleure was elected to the Pro Football Hall of Fame in 2003. DeLamielleure suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, DeLamielleure has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, suicidal thoughts, fatigue, sleep problems, irritability, 60% hearing loss in left ear, neck and cervical spine arthritis and associated numbness/tingling.

26. Plaintiff Conrad Dobler (“Dobler”) is 61 years old and resides in Overland Park, Kansas. He was an NFL offensive guard for the St. Louis Cardinals (1972-77), New Orleans Saints (1978-79), and Buffalo Bills (1980-81). He was a six-time Pro Bowl selection (1975-77). Dobler is 90% disabled today, having had nine knee replacement surgeries alone. Dobler suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Dobler has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

27. Plaintiff Kenneth Easley, Jr. (“Easley”) is 52 years old and resides in Norfolk, Virginia. He was an NFL defensive back who played for the Seattle Seahawks (1981-87). He was a five-time Pro Bowl selection, four-time All-Pro, was the 1984 NFL Defensive Player of the Year, and a member of the NFL’s 1980s All-Decade Team. Easley suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of

latent brain disease. As a result, Easley has experienced cognitive difficulties including, but not limited to dizziness, loss of memory, sleep problems, and numbness/tingling in neck and cervical spine.

28. Plaintiff Ken Fantetti (“Fantetti”) is 54 years old. He was an NFL linebacker who played for the Detroit Lions (1979-85). Fantetti suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Fantetti has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

29. Plaintiff Lee Folkins (“Folkins”) is 72 years old and resides with his wife in Orlando, Florida. He was an NFL tight end who played for the Green Bay Packer (1961), the Dallas Cowboys (1962-64), and the Pittsburgh Steelers (1965). He was selected to play in the 1963 Pro Bowl. Folkins suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Folkins has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, irritability, and neck and cervical spine numbness/tingling.

30. Plaintiff Fred Forsberg (“Forsberg”) is 67 years old and resides in Sammamish, Washington. He was an NFL linebacker who played for the Denver Broncos (1968-73), the Buffalo Bills (1973), and the San Diego Chargers (1974). Forsberg suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Forsberg has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, neck and cervical arthritis and associated numbness/tingling.

31. Plaintiff Phillip Freeman, III (“Freeman”) is 49 years old and resides in Tampa, Florida. He was an NFL wide receiver and kick returner for the Tampa Bay Buccaneers (1985-87). Freeman suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Freeman has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory.

32. Plaintiff Joe Ferguson, Jr. (“Ferguson”) is 61 years old and resides in Bella Vista, Arizona. He was an NFL quarterback for the Buffalo Bills (1973-1984), the Tampa Bay Buccaneers (1988-89), and the Indianapolis Colts (1990). In 1993, Ferguson was inducted into the Buffalo Bills Wall of Fame and his number 12 Jersey was retired in honor of both Ferguson and fellow quarterback Jim Kelly. Ferguson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Ferguson has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, and irritability.

33. Plaintiff Derrick Gaffney (“Gaffney”) is 56 years old and resides in Jacksonville, Florida. He was an NFL wide receiver for the New York Jets (1978-87). Gaffney suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Gaffney has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, neurological disorder, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling, blurred vision, and ringing in ears.

34. Plaintiff James Garcia (“Garcia”) is 67 years old and resides in San Antonio, Texas. He was an NFL defensive end who played for the Cleveland Browns (1965), the New York Giants (1966), the New Orleans Saints (1967), and the Atlanta Falcons (1968).

Garcia suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Garcia has experienced cognitive difficulties.

35. Plaintiff Donnie Green (“D. Green”) is 63 years old and resides in Hagerstown, Maryland. He was an NFL tackle who played for the Buffalo Bills (1971-76), the Philadelphia (1977), and the Detroit Lions (1978). D. Green suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, D. Green has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, fatigue, sleep problems, and numbness/tingling in neck and cervical spine.

36. Plaintiff Willie Green (“Green”) is 45 years old and resides with his wife in North Carolina. He was an NFL wide receiver who played for the Detroit Lions (1991-93), the Tampa Bay Buccaneers (1994), the Carolina Panthers (1995-96), and the Denver Broncos (1997-98). Green suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Green has experienced cognitive difficulties including, but not limited to headaches, loss of memory, depression, and sleep problems.

37. Plaintiff Alfred Gross (“Gross”) is 50 years old and resides in Phoenix, Arizona. He was an NFL defensive back for the Cleveland Browns (1983-87). Gross suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Gross has experienced cognitive difficulties including, but not limited to headaches, loss of memory, impulse control problems, neurological disorder, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

38. Plaintiff Bobby Harden, Jr. (“Harden”) is 44 years old and resides in Lauderhill, Florida. He was an NFL defensive back who played for the Miami Dolphins (1990-93). Harden suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Harden has experienced cognitive difficulties including, but not limited to dizziness, loss of memory, and irritability.

39. Plaintiff Cedrick Hardman (“Hardman”) is 63 years old and resides in Laguna Beach, California. He was an NFL defensive end who played for the San Francisco 49ers (1970-79), and the Oakland Raiders (1980-81). He is the current all-time sack leader for the San Francisco 49ers franchise, and was a two-time Pro Bowl selection in 1971 and 1975. Hardman was a member of the Raiders’ Super Bowl XV Championship team. Hardman suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Hardman has experienced cognitive difficulties including, but not limited to loss of memory, neck and cervical arthritis and associated numbness/tingling.

40. Plaintiff Dennis Harrah (“Harrah”) is 58 years old and resides in Charleston, West Virginia. He was an NFL offensive guard for the Los Angeles Rams (1975-87). He was a six-time Pro Bowl selection (1978-80, 1985-87), and was voted All-Pro (1986). Harrah suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Harrah has experienced cognitive difficulties.

41. Plaintiff Charley Harraway (“Harraway”) is 67 years old and resides with his wife in Sarasota, Florida. He was an NFL running back who played for the Cleveland Browns (1966-68), and the Washington Redskins (1969-73). In 1966, Harraway was selected by teams in both the AFL and NFL drafts. Harraway suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result,

Harraway has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

42. Plaintiff James Harrell (“Harrell”) is 54 years old and resides in Florida. He was an NFL linebacker for the Detroit Lions (1979-86), and the Kansas City Chiefs (1987). Harrell suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Harrell has experienced cognitive difficulties including, but not limited to headaches, dizziness, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

43. Plaintiff Cliff Harris (“Harris”) is 62 years old and resides in Rockwall, Texas. He was an NFL defensive back who played for the Dallas Cowboys (1970-79). He was a six-time Pro Bowl selection (1974-79) and was a four-time All-Pro selection (1975-78). He was voted as a member of the NFL’s 1970s All-Decade Team, played in five Super Bowls and is a member of the Dallas Cowboys’ prestigious Ring of Honor. In 2004 Harris was a finalist for the Pro Football Hall of Fame. Harris suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Harris has experienced cognitive difficulties.

44. Plaintiff Victor Hicks (“Hicks”) is 54 years old and resides in Carrollton, Texas. He was an NFL tight end who played for the Los Angeles Rams (1980). Hicks suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Hicks has experienced cognitive difficulties.

45. Plaintiff Don Horn (“Horn”) is 66 years old and resides in Colorado Springs, Colorado. He was an NFL quarterback who played for the Green Bay Packers (1967-

70), the Denver Broncos (1971-72), and the Cleveland Browns (1973-74). Horn suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Horn has experienced cognitive difficulties including, but not limited to dizziness, impulse control problems, depression, fatigue, sleep problems, irritability, and numbness/tingling in neck and cervical spine.

46. Plaintiff James Hough (“Hough”) is 55 years old and resides with his wife in Chaska, Minnesota. He was an NFL offensive guard who played for the Minnesota Vikings (1978-86). Hough suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Hough has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, neurological disorder fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

47. Plaintiff Delles Howell (“Howell”) is 63 years old and resides with his wife in Monroe, Louisiana. He was an NFL defensive back who played for the New Orleans Saints (1970-72), and the New York Jets (1973-75). Howell suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Howell has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, fatigue, sleep problems, neck and cervical spine arthritis and associated numbness/tingling.

48. Plaintiff Brad Jackson (“Jackson”) is 36 years old and resides in Pikesville, Maryland. He was an NFL linebacker who played for the Miami Dolphins (1998), the Baltimore Ravens (1998-01), and the Carolina Panthers (2002). Jackson was a member of the Ravens’ Super Bowl XXXV Championship team. Jackson suffered repeated and chronic

head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Jackson has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

49. Plaintiff Calvin Jackson (“C. Jackson”) is 39 years old and resides in Pompano, Florida. He was an NFL defensive back who played for the Miami Dolphins (1994-99). C. Jackson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, C. Jackson has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, depression, fatigue, sleep problems, irritability, neck and cervical spine numbness/tingling.

50. Plaintiff J. Bruce Jarvis (“Jarvis”) is 62 years old and resides in Sammamish, Washington. He was an NFL center who played for the Buffalo Bills (1971-74). Jarvis suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Jarvis has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

51. Plaintiff Leon “Ray” Jarvis (“R. Jarvis”) is 62 years old and resides with his wife in Brookfield, Wisconsin. He was an NFL wide receiver who played for the Atlanta Falcons (1971-72), the Buffalo Bills (1973), the Detroit Lions (1974-78), and the New England Patriots (1979). R. Jarvis suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, R. Jarvis has experienced

cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

52. Plaintiff Noel Jenke (“Jenke”) is 64 years old and resides in Brookfield, Wisconsin. He was an NFL linebacker for the Minnesota Vikings (1971), the Atlanta Falcons (1972), and the Green Bay Packers (1974). Jenke suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Jenke has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, and stroke (2008).

53. Plaintiff Olrick Johnson, Jr. (“Johnson”) is 34 years old and resides in Miami, Florida. He was an NFL linebacker who played for the New York Jets (1999), the Minnesota Vikings (1999), and the New England Patriots (2000). Johnson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Johnson has experienced cognitive difficulties including, but not limited to seizures, epilepsy, headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

54. Plaintiff Troy Johnson (“T. Johnson”) is 49 years old and resides in Chauvin, Louisiana. He was an NFL wide receiver who played for the St. Louis Cardinals (1986-87), the Pittsburgh Steelers (1988), the Detroit Lions (1989), and the San Diego Chargers (1990). T. Johnson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, T. Johnson has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control

problems, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

55. Plaintiff Trumaine Johnson (“Tru. Johnson”) is 51 years old and resides with his wife in Baton Rouge, Louisiana. He was an NFL wide receiver who played for the San Diego Chargers (1985-86), and the Buffalo Bills (1987-89). Tru. Johnson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Tru. Johnson has experienced cognitive difficulties including, but not limited to headaches, dizziness, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

56. Plaintiff Aaron Jones II (“Jones”) is 44 years old and resides with his wife in Orlando, Florida. He was an NFL defensive end for the Pittsburgh Steelers (1988-92), the New England Patriots (1993-95), and the Miami Dolphins (1996). Jones suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Jones has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, neurological disorder, depression, suicidal thoughts, fatigue, sleep problems, irritability, and numbness/tingling in neck and cervical spine.

57. Plaintiff James Jones (“J. Jones”) is 50 years old and resides in Tampa, Florida. He was an NFL fullback who played for the Detroit Lions (1983-88, 93), and the Seattle Seahawks (1989-92). Jones suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Jones has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

58. Plaintiff Steve Jones (“S. Jones”) is 60 years old and resides in St. Louis, Missouri. He was an NFL running back who played for the Buffalo Bills (1973-74), and the St. Louis Cardinals (1974-78). S. Jones suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, S. Jones has experienced cognitive difficulties including, but not limited to dizziness, loss of memory, fatigue, sleep problems, irritability, neck and cervical spine numbness/tingling.

59. Plaintiff Joseph Kapp (“Kapp”) is 73 years old and resides with his wife in Los Gatos, California. He was an NFL quarterback who played for the Minnesota Vikings (1967-69), and the Boston Patriots (1970). Kapp was selected to the 1969 Pro Bowl. In September 1969, Kapp set an NFL record by throwing 7 touchdown passes in a single game. Kapp led the Vikings to Super Bowl IV, where they lost to the Kansas City Chiefs. Kapp suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Kapp has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, impulse control problems, neurological disorder, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

60. Plaintiff Mark Koncar (“Koncar”) is 58 years old and resides with his wife in Alpine, Utah. He was an NFL offensive tackle who played for the Green Bay Packers (1976-81), and the Houston Oilers (1982-83). Koncar suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Koncar has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, depression, suicidal thoughts, fatigue, sleep problems, irritability, and neck and cervical spine arthritis.

61. Plaintiff Mervin Krakau (“Krakau”) is 60 years old and resides in Guthrie Center, Iowa. He was an NFL linebacker who played for the Buffalo Bills (1973-78), and the New England Patriots (1978). Krakau suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Krakau has experienced cognitive difficulties.

62. Plaintiff Paul Krause (“Krause”) is 69 years old and resides with his wife in Minnesota. He was an NFL defensive back for the Washington Redskins (1964-67), and the Minnesota Vikings (1968-79). He was an eight-time selection to the Pro Bowl (1964-65, 69, 71-75), was an eight-time All-Pro selection (1964-65, 68-73, 75), holds the NFL record for career interceptions (81), and was a member of four Super Bowl teams (IV, VIII, IX, XI). He was voted into the Pro Football Hall of Fame in 1998. Krause suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Krause has experienced cognitive difficulties.

63. Plaintiff Robert “Bob” Kroll (“Kroll”) is 61 years old and resides in Longwood, Florida. He was an NFL defensive back who played for the Green Bay Packers (1972). Kroll suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Kroll has experienced cognitive difficulties.

64. Plaintiff Charles Krueger (“Krueger”) is 74 years old and resides in Clayton, California. He was an NFL defensive tackle who played for the San Francisco 49ers (1959-73). He was a two-time Pro Bowl selection, and three-time All-Pro. Krueger suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Krueger has experienced cognitive difficulties.

65. Plaintiff Bruce Laird (“Laird”) is 61 years old and resides with his wife in Towson, Maryland. He was an NFL defensive back who played for the Baltimore Colts (1972-81), and the San Diego Chargers (1982-83). Laird was selected to the Pro Bowl in 1972, and was voted All-Pro that same year. Laird suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Laird has experienced cognitive difficulties including, but not limited to headaches, loss of memory, depression, sleep problems, and neck and cervical numbness/tingling.

66. Plaintiff MacArthur Lane (“Lane”) is 69 years old and resides in Oakland, California. He was an NFL running back who played for the St. Louis Cardinals (1968-71), the Green Bay Packers (1972-74), and the Kansas City Chiefs (1975-78). Lane was selected to the 1970 Pro Bowl. Lane suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Lane has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

67. Plaintiff Gene Lang (“Lang”) is 49 years old and with his wife resides in Denver, Colorado. He was an NFL running back who played for the Denver Broncos (1984-87), and the Atlanta Falcons (1988-90). Lang suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Lang has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, numbness, and tingling in neck and cervical spine.

68. Plaintiff Peter Lazetich (“Lazetich”) is 61 years old and resides in Reno, Nevada. He was an NFL defensive end who played for the San Diego Chargers (1972-75), and the Philadelphia Eagles (1976-78). Lazetich suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Lazetich has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling

69. Plaintiff Estate of Gregory Lens (“Lens”) is deceased and was a resident of West, Texas. He was an NFL defensive tackle who played for the Atlanta Falcons (1970-72). Lens suffered repeated and chronic head impacts during his career in the NFL and suffered latent brain disease. Prior to his death, Lens experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, CTE, Alzheimer’s, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, and irritability.

70. Plaintiff Donald Macek (“Macek”) is 57 years old and resides in Escondido, California. He was an NFL center who played for the San Diego Chargers (1976-89). In 2004 Macek was voted into the San Diego Chargers’ Hall of Fame and is a member of the 50 Greatest Chargers team. Macek suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Macek has experienced cognitive difficulties including, but not limited to headaches, loss of memory, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

71. Plaintiff Donald Manoukian (“Manoukian”) is 77 years old and resides in Reno, Nevada. He was an NFL offensive guard who played for the Oakland Raiders (1960). Manoukian suffered repeated and chronic head impacts during his career in the NFL and is at an

increased risk of latent brain disease. As a result, Manoukian has experienced cognitive difficulties including, but not limited to headaches, dizziness, vertigo, sleep problems, neck and cervical spine arthritis and associated numbness/tingling.

72. Plaintiff Rod Martin (“Martin”) is 57 years old and resides in Manhattan Beach, California. He was an NFL linebacker for the Oakland/L.A. Raiders (1977-88). Martin was a member of the Raiders’ Super Bowl XV and XVIII Championship teams, and holds the Super Bowl record for interceptions in one game with three. He was a two-time selection to the Pro Bowl (1983-84), and was a two-time All-Pro selection (1982-84). Martin suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Martin has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, irritability numbness/tingling in neck and cervical spine.

73. Plaintiff Ira Matthews III (“Matthews”) is 54 years old and resides in Missouri City, Texas. He was an NFL running back who played for the Oakland Raiders (1979-81). Matthews was named All-Pro in 1979, set a Monday Night Football record with a 104 yard kick-off return for a touchdown (October 25, 1979), and was a member of the Raiders’ Super Bowl XV Championship team. Matthews suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Matthews has experienced cognitive difficulties.

74. Leonard “Bubba” McDowell, Jr. (“McDowell”) is 44 years old and resides in Richmond, Texas. He was an NFL safety who played for the Houston Oilers (1989-94), and the Carolina Panthers (1995). McDowell suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, McDowell has

experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, fatigue, sleep problems, neck and cervical arthritis and associated numbness/tingling.

75. Plaintiff Jeff McIntyre (“McIntyre”) is 56 years old and resides in Phoenix, Arizona. He was an NFL linebacker who played for the Denver Broncos (1979), the San Francisco 49ers (1980), and the St. Louis Cardinals (1981-82). McIntyre suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, McIntyre has experienced cognitive difficulties including, but not limited to loss of memory, depression, fatigue, sleep problems, neck and cervical spine arthritis and associated numbness/tingling.

76. Plaintiff Dennis McKnight (“McKnight”) is 52 years old and resides in San Diego, California. He was an NFL offensive guard who played for the San Diego Chargers (1982-89), the Detroit Lions (1990-92), and the Philadelphia Eagles (1991). McKnight suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, McKnight has experienced cognitive difficulties including, but not limited to headaches, loss of memory, depression, suicidal thoughts, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

77. Plaintiff Jon Melander (“Melander”) is 44 years old and resides in Victoria, Minnesota. He was an NFL offensive guard who played for the New England Patriots (1991), the Cincinnati Bengals (1992) and the Denver Broncos (1993-94). Melander suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Melander has experienced cognitive difficulties including, but not limited to loss of memory, depression, fatigue, irritability, neck and cervical arthritis and associated numbness/tingling.

78. Plaintiff Michael Merriweather (“Merriweather”) is 50 years old and resides in Stockton, California. He was an NFL linebacker for the Pittsburgh Steelers (1982-87), the Minnesota Vikings (1989-92), the New York Jets (1993), and the Green Bay Packers (1993). He is a three-time Pro Bowl selection (1984-86), and a three-time All-Pro Selection (1984-85, 87). Merriweather suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Merriweather has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

79. Plaintiff Terrance “Terry” Metcalf (“Metcalf”) is 60 years old and resides in Seattle, Washington. He was an NFL running back who played for the St. Louis Cardinals (1973-77), and the Washington Redskins (1981). Metcalf was selected to 3 Pro Bowls (1974, 1975, and 1977), and was an All-Pro selection in 1975. Metcalf hold the NFL record for number of games with 250+ all purpose yards, with 7. Metcalf suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Metcalf has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

80. Plaintiff Caleb Miller (“Miller”) is 31 years old and resides in Florence, Kentucky. He was an NFL middle linebacker who played for the Cincinnati Bengals (2004-07). Miller suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Miller has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems,

depression, suicidal thoughts fatigue, sleep problems, irritability, numbness and tingling in neck and tingling.

81. Plaintiff Kory Minor (“Minor”) is 34 years old and resides in Moreno Valley, California. He was an NFL linebacker who played for the Carolina Panthers (1999-2002). Minor suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Minor has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, and numbness/tingling in neck and cervical spine.

82. Plaintiff Derland Moore (“Moore”) is 60 years old and resides in Mandeville, Louisiana. He was an NFL defensive tackle for the New Orleans Saints (1973-1985), and the New York Jets (1986). He was selected to play in the 1983 Pro Bowl, set a Saints team record for service with 169 games played, and is a member of the New Orleans Saints Hall of Fame. Moore suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Moore has experienced cognitive difficulties.

83. Plaintiff Michael Morton (“Morton”) is 51 years old and resides in Wesley Chapel, Florida. He was an NFL running back who played for the Tampa Bay Buccaneers (1982-84), the Washington Redskins (1985), and the Seattle Seahawks (1987). Morton suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Morton has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, fatigue, irritability, and numbness/tingling in neck and cervical spine.

84. Plaintiff Charles Myrtle (“Myrtle”) is 66 years old and resides in Bethesda, Maryland. He was an NFL running back who played for the Denver Broncos (1967-72), and the San Diego Chargers (1974). Myrtle suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Myrtle has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, neurological disorder, depression, irritability, double vision, neck and cervical arthritis and associated numbness/tingling.

85. Plaintiff Mark Nichols (“Nichols”) is 52 years old and resides in Bakersfield, California. He was an NFL wide receiver who played for the Detroit Lions (1981-89). Nichols suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Nichols has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, impulse control problems, Alzheimer’s, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

86. Plaintiff Tommy Nobis (“Nobis”) is 68 years old and resides with his wife in Atlanta, Georgia. He was an NFL linebacker who played for the Atlanta Falcons (1966-76). He was the first ever player drafted by the expansion Falcons in 1966 and was voted NFL Defensive Rookie of the Year. He was a five-time Pro Bowl selection (1966-70, 1972), was selected All-Pro (1967), and was voted to the NFL’s 1960s All-Decade Team. Nobis suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Nobis has experienced cognitive difficulties including, but not limited to headaches, loss of memory, dementia, depression, fatigue, sleep problems, numbness/tingling in neck and cervical spine.

87. Plaintiff Keith Nord (“Nord”) is 54 years old and resides in Minnesota. He was an NFL defensive back who played for the Minnesota Vikings (1979-85). Nord suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Nord has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

88. Plaintiff August “Gus” Otto (“Otto”) is 68 years old and resides in Chesterfield, Missouri. He was an NFL linebacker who played for the Oakland Raiders (1965-72). Otto was a member of the Raiders’ first Super Bowl team (Super Bowl II), which they lost to the Green Bay Packers. Otto suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Otto has experienced cognitive difficulties including, but not limited to headaches, dizziness, and loss of memory.

89. Plaintiff Terry Owens (“Owens”) is 67 years old and resides with his wife in Decatur, Alabama. He was an NFL offensive tackle who played for the San Diego Chargers (1966-75). Owens suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Owens has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, peripheral neuropathy, neck and cervical arthritis and associated numbness/tingling.

90. Plaintiff Gary Padjen (“Padjen”) is 53 years old and resides in Carmel, Indiana. He was an NFL linebacker who played for the Baltimore/Indianapolis Colts (1982-87). Padjen suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Padjen has experienced cognitive difficulties

including, but not limited to headaches, dizziness, loss of memory, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

91. Plaintiff Randy Ragon (“Ragon”) resides in Lahaina, Hawaii. He was an NFL wide receiver who played for the Buffalo Bills (1978). Ragon suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Ragon has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, suicidal thoughts, fatigue, irritability, neck and cervical spine arthritis and associated numbness/tingling.

92. Plaintiff David Recher (“Recher”) is 68 years old and resides in Gilbert, Arizona. He was an NFL center who played for the Philadelphia Eagles (1965-68). Recher suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Recher has experienced cognitive difficulties.

93. Plaintiff Jerry Robinson (“Robinson”) is 54 years old and resides in Santa Rosa, California. He was an NFL linebacker who played for the Philadelphia Eagles (1979-84), and the Los Angeles Raiders (1985-92). In 1981 he was selected to the Pro Bowl, and was voted All-Pro. He was also a member of the Eagles Super Bowl XV team. Robinson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Robinson has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, neurological disorder, depression, suicidal thoughts, fatigue, sleep problems, irritability, and numbness/tingling in neck and spine.

94. Plaintiff Rick Sanford (“Sanford”) is 54 years old and resides in Irmo, South Carolina. He was an NFL defensive back who played for the New England Patriots

(1979-1984), and the Seattle Seahawks (1985). Sanford suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Sanford has experienced cognitive difficulties including, but not limited to loss of memory, impulse control problems, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

95. Plaintiff William “Billy” Shields (“Shields”) is 58 years old and resides in Poway, California. He was an NFL offensive tackle who played for the San Diego Chargers (1975-83), San Francisco 49ers (1984), and the New York Jets (1985). Shields suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Shields has experienced cognitive difficulties.

96. Plaintiff Fred Smerlas (“Smerlas”) is 54 years old and resides in Sudbury, Massachusetts. He was an NFL nose tackle who played for the Buffalo Bills (1979-89), the San Francisco 49ers (1990), and the New England Patriots (1991-1992). Smerlas was a five-time Pro Bowl selection (1980-83, and 1988), Smerlas suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Smerlas has experienced cognitive difficulties.

97. Plaintiff Charlie Smith (“Smith”) is 65 years old and resides with his wife in Oakland, California. He was an NFL running back who played for the Oakland Raiders (1968-74), and the San Diego Chargers (1974-75). Smith was a member of the Raiders’ first Super Bowl team (Super Bowl II) which lost to the Green Bay Packers. Smith suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Smith has experienced cognitive difficulties including, but not limited to

headaches, dizziness, loss of memory, depression, fatigue, sleep problems, and neck and cervical spine numbness/tingling.

98. Plaintiff Arthur Still (“Still”) is 56 years old and resides in Liberty, Missouri. He was an NFL defensive end who played for the Kansas City Chiefs (1978-87), and the Buffalo Bills (1988-89). Still suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Still has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, impulse control problems, depression, suicidal thoughts, fatigue, sleep problems, irritability, and neck and cervical spine arthritis.

99. Plaintiff Bryan Stoltenberg (“Stoltenberg”) is 39 years old and resides in Sugar Land, Texas. He was an NFL center and offensive guard who played for the San Diego Chargers (1996), the New York Giants (1997) and the Carolina Panthers (1998-2000). Stoltenberg suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Stoltenberg has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, and numbness and tingling in neck and cervical spine.

100. Plaintiff William Truax (“Truax”) is 68 years old and resides in Gulfport, Mississippi. He was an NFL tight end who played for the Los Angeles Rams (1964-70), and the Dallas Cowboys (1971-73). Truax suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Truax has experienced cognitive difficulties including, but not limited to headaches, dizziness, and neck and cervical spine arthritis and associated numbness/tingling.

101. Plaintiff Clarence Verdin (“Verdin”) is 48 years old and resides with his wife in New Orleans, Louisiana. He was an NFL wide receiver who played for the Washington Redskins (1986-87), the Indianapolis Colts (1988-93), and the Atlanta Falcons (1994). Verdin was a two-time Pro-Bowl selection (1990, 1992), and was a member of the Redskins’ Super Bowl XXII Championship team. Verdin suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Verdin has experienced cognitive difficulties.

102. Plaintiff Phil Villapiano (“Villapiano”) is 62 years old and resides with his wife in Rumson, New Jersey. He was an NFL linebacker who played for the Oakland Raiders (1971-79), and the Buffalo Bills (1980-83). He was a four-time Pro Bowl selection (1973-76), and a Super Bowl Champion with Raiders in Super Bowl XI. Villapiano suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Villapiano has experienced cognitive difficulties including, but not limited to loss of memory, sleep problems, irritability, and numbness/tingling in neck and cervical spine.

103. Plaintiff Jeffrey Walker (“Walker”) is 48 years old and resides in Southaven, Mississippi. He was an NFL offensive tackle for the San Diego Chargers (1986), and the New Orleans Saints (1988-89). Walker suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Walker has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, depression, fatigue, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

104. Plaintiff Larry Webster (“Webster”) is 42 years old and resides in Baltimore, Maryland. He was an NFL defensive tackle who played for the Miami Dolphins

(1992-94), the Cleveland Browns (1995), the Baltimore Ravens (1996-01), and the New York Jets (2002). Webster was a member of the Ravens' Super Bowl XXXV Championship team. Webster suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Webster has experienced cognitive difficulties including, but not limited to headaches, dizziness, depression, fatigue, sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

105. Plaintiff Michael Weddington ("Weddington") is 51 years old and resides with his wife in Simi Valley, California. He was an NFL line backer who played for the Green Bay Packers (1986-90). Weddington suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Weddington has experienced cognitive difficulties including, but not limited to sleep problems, irritability, neck and cervical spine arthritis and associated numbness/tingling.

106. Plaintiff Edward White ("White") is 64 years old and resides in Julian, California. He was an NFL offensive guard for the Minnesota Vikings (1969-77) and the San Diego Chargers (1978-85). White was a four-time Pro Bowl selection (1975-77 and 1979), and is one of only 10 players to have played in all four Vikings' Super Bowl appearances. When he retired, no professional football player had played in more games as an offensive lineman (241 games played). White suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, White has experienced cognitive difficulties.

107. Plaintiff James Williams ("Williams") is 43 years old and resides in Duluth, Georgia. He was an NFL linebacker who played for the New Orleans Saints (1990-94), the Jacksonville Jaguars (1995-96), the Atlanta Falcons (1996-97), the San Francisco 49ers

(1997-98), and the Cleveland Browns (1999). Williams was selected by the Jacksonville Jaguars in the 1995 Expansion Draft. Williams suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Williams has experienced cognitive difficulties including, but not limited to headaches, dizziness, loss of memory, dementia, impulse control problems, neurological disorder, depression, suicidal thoughts, sleep problems, irritability, neck and cervical arthritis and associated numbness/tingling.

108. Plaintiff Mike Wood (“Wood”) is 57 years old and resides in Missouri. He was an NFL kicker who played for the Minnesota Vikings (1978), the St. Louis Cardinals (1978-80), and the Baltimore Colts (1981-82). Wood suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Wood has experienced cognitive difficulties.

109. Plaintiff Larry Woods (“Woods”) is 63 years old and resides in Houston, Texas. He was an NFL defensive tackle who played for the Detroit Lions (1971-72), the Miami Dolphins (1973), the New York Jets (1974-75), and the Seattle Seahawks (1976). Woods suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Woods has experienced cognitive difficulties.

110. Plaintiff Marvin Woodson (“Woodson”) is 70 years old and resides with his wife in Dallas, Texas. He was an NFL defensive back who played for the Pittsburgh Steelers (1964-69), and the New Orleans Saints (1969). Woodson suffered repeated and chronic head impacts during his career in the NFL and is at an increased risk of latent brain disease. As a result, Woodson has experienced cognitive difficulties including, but not limited to headaches,

dizziness, loss of memory, impulse control problems, depression, suicidal thoughts, sleep problems, irritability, and numbness/tingling in neck and cervical spine.

111. Defendant NFL, which maintains its offices at 280 Park Avenue, New York, New York, is an unincorporated association consisting of the 32 separately-owned and independently-operated professional football teams that are listed below. The NFL is engaged in interstate commerce in the business of, among other things, operating the sole major professional football league in the United States. The NFL is not, and has not, been the employer of the Plaintiffs, all of whom were employed during their respective careers in professional football by the clubs indicated above. The United States Supreme Court held last year in *American Needle, Inc. v. NFL*, 130 S.Ct. 2201, 2212-13 (2010) that each team that is a member of the NFL association is a legally distinct and separate entity from both other teams and the League itself:

The NFL teams do not possess either the unitary decisionmaking quality or the single aggregation of economic power characteristic of independent action. Each of the teams is a substantial, independently owned, and independently managed business. “[T]heir general corporate actions are guided or determined” by “separate corporate consciousnesses,” and “[t]heir objectives are” not “common.” . . . The teams compete with one another, not only on the playing field, but to attract fans, for gate receipts and for contracts with managerial and playing personnel.

112. The 32 separately-owned and independently-operated professional football teams mentioned above are:

NFL Team Owner	State of Organization	Team Name (City)
Arizona Cardinals, Inc.	Arizona	Arizona Cardinals
Atlanta Falcons Football Club LLC	Georgia	Atlanta Falcons
Baltimore Ravens Limited Partnership	Maryland	Baltimore Ravens

Buffalo Bills, Inc.	New York	Buffalo Bills
Panthers Football LLC	North Carolina	Carolina Panthers
Chicago Bears Football Club, Inc.	Delaware	Chicago Bears
Cincinnati Bengals, Inc.	Ohio	Cincinnati Bengals
Cleveland Browns LLC	Delaware	Cleveland Browns
Dallas Cowboys Football Club, Ltd.	Texas	Dallas Cowboys
Denver Broncos Football Club	Colorado	Denver Broncos
Detroit Lions, Inc.	Michigan	Detroit Lions
Green Bay Packers, Inc.	Wisconsin	Green Bay Packers
Houston NFL Holdings LP	Delaware	Houston Texans
Indianapolis Colts, Inc.	Delaware	Indianapolis Colts
Jacksonville Jaguars Ltd.	Florida	Jacksonville Jaguars
Kansas City Chiefs Football Club, Inc.	Texas	Kansas City Chiefs
Miami Dolphins, Ltd.	Florida	Miami Dolphins
Minnesota Vikings Football Club LLC	Minnesota	Minnesota Vikings
New England Patriots, LP	Delaware	New England Patriots
New Orleans Louisiana Saints LLC	Texas	New Orleans Saints
New York Football Giants, Inc.	New York	New York Giants
New York Jets Football Club, Inc.	Delaware	New York Jets
Oakland Raiders LP	California	Oakland Raiders
Philadelphia Eagles Football Club, Inc.	Delaware	Philadelphia Eagles
Pittsburgh Steelers Sports, Inc.	Pennsylvania	Pittsburgh Steelers
San Diego Chargers Football Co.	California	San Diego Chargers

San Francisco Forty Niners Ltd.	California	San Francisco 49ers
Football Northwest LLC	Washington	Seattle Seahawks
The Rams Football Company LLC	Delaware	St. Louis Rams
Buccaneers Limited Partnership	Delaware	Tampa Bay Buccaneers
Tennessee Football, Inc.	Delaware	Tennessee Titans
Washington Football Inc.	Maryland	Washington Redskins

113. Defendant NFL Properties, LLC as the successor-in-interest to National Football League Properties Inc. ("NFL Properties") is a limited liability company organized and existing under the laws of the State of Delaware with its headquarters in the State of New York. NFL Properties is engaged in, among other activities, approving, licensing and promoting equipment used by all the National Football League teams. NFL Properties regularly conducts business in California.

114. Defendants National Football League and NFL Properties shall be referred to collectively herein as the "NFL" or "League."

115. The NFL caused or contributed to the injuries alleged herein through its voluntary undertaking including its acts and omissions in misrepresenting the true risks of repeated traumatic brain and head impacts in NFL football, and failing to take appropriate steps to prevent and mitigate repeated traumatic brain and head impacts in the NFL and the latent neurodegenerative disorders and diseases caused by these impacts.

116. Third parties that conspired with the NFL in the tortious conduct alleged herein include but are not limited to the member NFL clubs identified herein and Riddell Inc., d.b.a. Riddell Sports Group, Inc., All American Sports Corp. d.b.a. Riddell/All American,

Riddell Sports Group, Inc., Easton-Bell Sports, Inc., and Easton-Bell Sports LLC, EB Sports Corp.

MASS ACTION AND JOINDER ALLEGATIONS

117. Joinder is permissible pursuant to Fed. R. Civ. P. 20(a) in that the claims alleged herein arise out of the same series of occurrences, and questions of law or fact common to all Plaintiffs arise in this action.

118. Common questions of law and fact will arise in this action, including but not limited to:

- a. Whether the NFL, through its own voluntary undertaking, was negligent in its response to the health effects of repeated head impacts and the injuries consequently suffered by the Plaintiffs;
- b. Whether § 301 of the Labor Relations Management Act preempts Plaintiffs' tort law claims pled herein;
- c. Whether the NFL committed negligence and/or fraud in misrepresenting the risks of repeated head impacts in NFL play to the Plaintiffs; and
- d. Whether repeated head impacts during play in the NFL cause latent neurodegenerative brain disorders and disease.

NATURE OF NFL'S BUSINESS

119. The primary business in which the NFL and its member clubs are engaged is the operation of major league professional football teams and the sale of tickets and telecast rights to the public for the exhibition of the individual and collective football talents of players such as Plaintiffs.

120. The NFL's transactions involve collective annual expenditures and receipts in excess of \$9.3 billion. But, as Dan Greeley, CEO of Network Insights, has noted:

The NFL is like Procter & Gamble. There's the holding company, the core operation, but then each brand has its own team and world of revenue. Like Tide: That's a P&G product but within that there are different types of Tide and a number of people that make money from it. So the \$9.3 billion pie just scratches the surface and doesn't get into how much is spent around stadiums, merchandise, agents, all the way down to mom-and-pop shops.

121. Annually, the NFL redistributes upwards of \$4 billion in radio, television and digital earnings to the clubs that are part of the NFL association —\$125 million apiece, plus an equal share for the league—and that number shows no sign of declining. The 19 highest-rated fall television programs (and 28 of the top 30) were NFL games, and this year's Super Bowl was the most-watched program ever. The NFL earns huge amounts annually from its telecasting deals with, inter alia, ESPN (\$1.1 billion), DirecTV (\$1 billion), NBC (\$650 million), Fox (\$712.5 million), and CBS (\$622.5 million).

122. Companies pour money into the league's coffers for the right to associate their brands with the NFL. Among those making such contributions are Pepsi (\$560 million over eight years, starting in 2004) and Gatorade (\$45 million a year, plus marketing costs and free Gatorade for teams). Verizon is paying \$720 million over four years to be the league's wireless service provider. Nike paid \$1.1 billion to acquire the NFL's apparel sponsorship. Previous partner Reebok had been selling \$350 million annually in NFL-themed gear. The League has a \$1.2 billion, six-year deal with beer sponsor Anheuser-Busch, but teams still cut their own deals when it comes to pouring rights at stadiums. On September 7, 2011, it was announced that the NFL signed a new 10-year \$2.3 billion deal with Pepsi, which is one of the largest sponsorship

deals in sports history. It encompasses a number of Pepsi brands (Pepsi, Frito-Lay, Tropicana, Quaker Oats and Gatorade). This deal, combined with a number of other new sponsorships, ticket sales projections & TV ratings, means that the NFL is projecting record revenues of over \$9.5 billion this season.

123. Teams can collect \$25-\$30 million for stadium naming rights, usually on 10-year deals. The largest is Reliant Energy's \$10 million per year contract with the Houston Texans. In Los Angeles, Farmers Insurance has promised \$700 million over 30 years to name a stadium for a team that doesn't exist yet.

124. Many clubs that are part of the NFL association own in whole or in part the stadiums in which they play, which can be a source of major commercial value, as reflected in the following chart:

STADIUM, TEAM	OPENED	PRICE (2010 DOLLARS)	% PRIVATE
New Meadowlands, NY	2010	\$1.6B	100
Cowboys Stadium, DAL	2009	\$1.15B	56
Lucas Oil Field, IND	2008	\$780M	13
U. of Phoenix Stadium, ARI	2006	\$493M	32
Lincoln Financial, PHI	2003	\$588M	65
Ford Field, DET	2002	\$504M	49
Gillette Stadium, NE	2002	\$373M	100
Reliant Stadium, HOU	2002	\$526M	39

Qwest Field, SEA	2002	\$422M	29
Invesco Field, DEN	2001	\$683M	39
Heinz Field, PIT	2001	\$312M	16

125. In 2010, more than 17 million fans passed through turnstiles operated by clubs that are part of the NFL association, paying anywhere from \$54.51 (Cleveland Browns) to \$117.84 (New England Patriots) for the average game ticket. Though the league won't open its books, numbers for the publicly-held Green Bay Packers (“Packers”) offer some insight into what teams reap at the ticket office and concession stands. In 2010, the Packers cleared \$60,059,646 from home and away game tickets plus private boxes. Projected over 32 teams, that's nearly \$2 billion annually. The Packers reaped \$13 million from concessions, parking and local media in 2010, which translates to \$416 million on a league-wide basis.

FACTUAL ALLEGATIONS

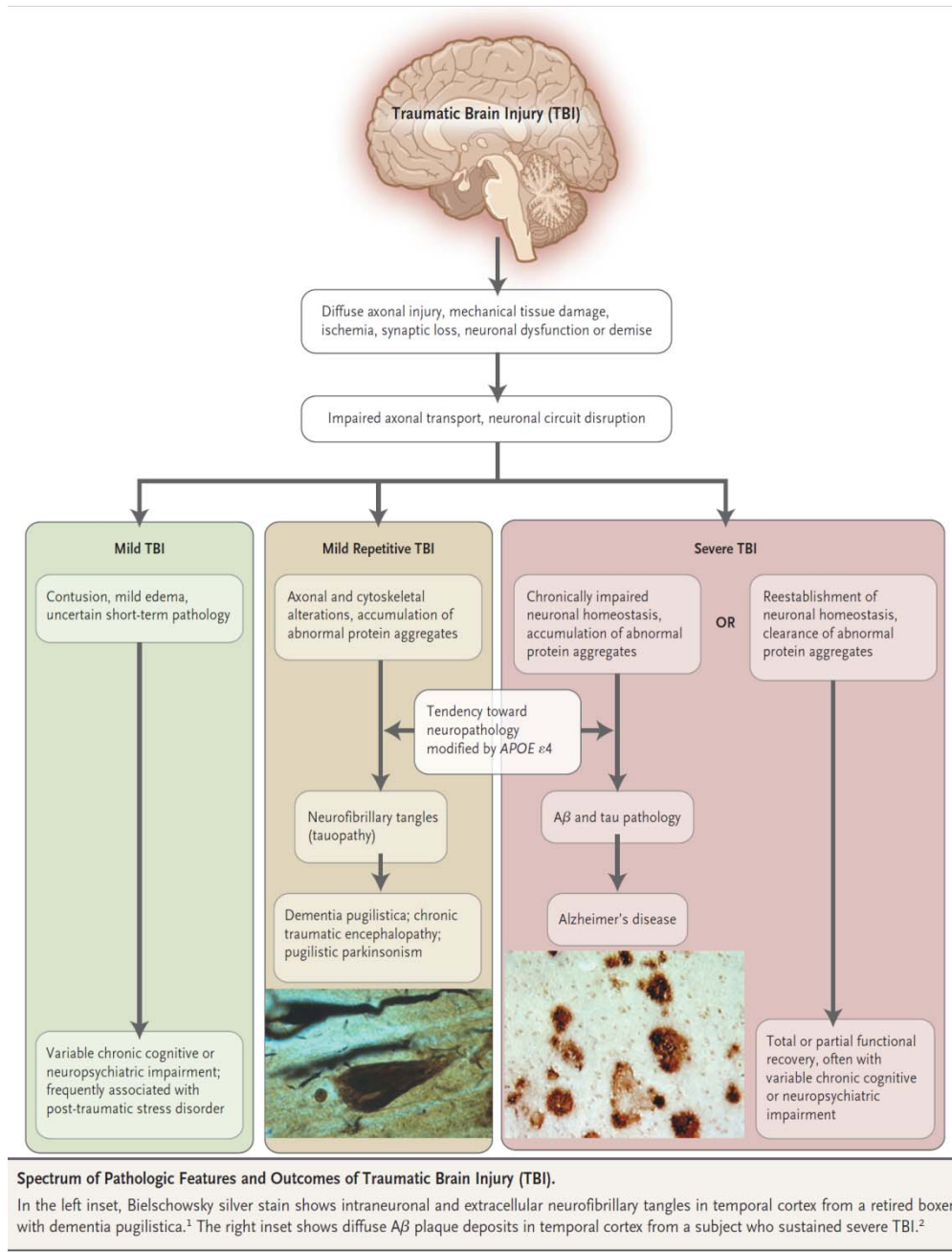
A. The Scientific Evidence On Concussions And Head Injuries And The NFL’s Responses To It.

126. A 2011 article in the Journal of Sports & Entertainment Law of Harvard Law School has summed up the consequences of concussions to athletes (footnotes omitted):

From high school leagues to the NFL, football players are becoming bigger, faster, and stronger, thereby increasing the force of collisions that occur during a game and increasing the potential for serious injuries. The brain is a soft organ, surrounded by cerebrospinal fluid and protected by the tough, bony skull. Normally, the fluid around the brain serves as a protective cushion for the brain, isolating it from direct impact to the skull. When the head suffers violent impact, the brain can hit the skull, causing the brain temporarily to stop working normally. This is called a concussion.

More serious injuries occur after the initial concussion. A concussion causes brain cells to become depolarized and allows neurotransmitters to behave in an abnormal fashion, causing such symptoms as memory loss, nausea, and confusion. After the initial concussion, when the brain is not fully healed, it is very fragile and susceptible to minor accelerative forces. Thus, subsequent minor hits may cause traumatic and permanent brain injury. This is the heart of the problem: players returning to the football field before allowing their initial concussion to heal fully. When the player returns to the field too early, he is at risk for what is known as Second Impact Syndrome (SIS). SIS is the event that ensues when there is a subsequent brain impact before the initial concussion has been given time to heal. Additionally, when concussions occur with high frequency, a disease called Chronic Traumatic Encephalopathy (CTE) may occur in the brain. “CTE is a progressive neurodegenerative disease caused by repetitive trauma to the brain which eventually leads to dementia.” While CTE was originally diagnosed most commonly in boxers, it is now regularly found in football players. **Of all sports related injuries, concussions are the injuries that most often go unnoticed and untreated, especially in football.** (Emphases added).

127. The following chart, excerpted from a 2010 article in the *New England Journal of Medicine* entitled “Traumatic Brain Injury--Football, Warfare And Long-Term Effects” shows how even repetitive mild traumas can have lasting consequences:



128. The NFL's responses to the issue of brain injuries caused to retired NFL players because of concussions or head impacts received during the period that they played professional football has been, until very recently, one of deception and denial. The NFL and several of the scientists it employed actively tried to conceal the extent of the problem until recently. The response of the League once it acknowledged the issue has been inadequate.

129. The League’s disinformation campaign was spearheaded by its Mild Traumatic Brain Injury Committee (“MTBI Committee”, sometimes also referred to in press reports as the “Concussion Committee”), which was created by the NFL’s own initiative and voluntary undertaking in 1994, and chaired from 1994 to February of 2007 by Dr. Elliott Pellman (“Pellman”), a rheumatologist who reportedly attended medical school in Guadalajara, Mexico. Dr. Pellman worked with two other scientists on the MTBI Committee—Dr. Ira Casson (“Casson”), a neurologist, and Dr. David Viano (“Viano”), a biomechanical engineer—to attempt to discredit a slew of scientific studies that linked head impacts and concussions received by NFL players to brain injuries. Casson and Viano replaced Pellman as co-chairs of the MTBI Committee in February of 2007.

130. Since 1994, the MTBI Committee had been conducting a study to determine the effect of concussions on the long-term health of retired NFL players. In a November 2007 report to Congress, NFL Commissioner Roger Goodell (“Goodell”) said that the MTBI Committee’s study was in its “initial” data collection phase and that “[w]e do not know when this study will be completed, although it is likely that a comprehensive study will require at least several years of research and analysis.”

131. In October of 2006, Pellman and Viano published in *Neurological Focus* an interim report on the MTBI Committee’s efforts that surveyed 12 years of data collection. The authors analyzed collected "data on mild TBIs sustained between 1996 and 2001" and 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 TBIs in professional football are not serious injuries. (Emphases added).

132. As explained further below, this conclusion was against the weight of the scientific evidence, a fact that the members of the MTBI Committee well knew; it was also based on biased data collection techniques. As ESPN reported in February of 2007:

Last fall, ESPN The Magazine reported that Pellman was selective in his use of injury reports in reaching his conclusions and omitted large numbers of players from the league's concussion study. His findings also contradicted other scientific studies into the effects of concussions:

- **In January 2005, Pellman and his colleagues 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." But 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.**

- **Pellman, a rheumatologist, and his group have also stated repeatedly that their work shows "no evidence of worsening injury or chronic cumulative effects of multiple [mild traumatic brain injury] in NFL players." But a 2003 report by the Center for the Study of Retired Athletes at the University of North Carolina found a link between multiple concussions and depression among former pro players with histories of concussions. And a 2005 follow-up study at the Center showed a connection between concussions and both brain impairment and Alzheimer's disease among retired NFL players.** (Emphases added).

133. The concerns about head injuries associated with the playing of football—and the refusal to recognize those concerns by those in charge of the game—have a long history. On Monday, February 1st, 2010, Dr. Bennet Omalu (“Omalu”), Co-Director of the Brain Injury

Institute at West Virginia University, spoke before members of the House Judiciary Committee at a forum in Houston, Texas with regard to “Head and Other Injuries in Youth, High School, College, and Professional Football.” In his prepared testimony, he explained:

Glenn Pop Warner [1871 – 1954] founded the Pop Warner youth football league in 1929. He still remains one of the greatest football coaches in the history of American football. The single event, which necessitated the use of pads and helmets by football players took place in 1888 when the annual rules convention for the emerging sport of college football passed a rule permitting tackling below the waist.

“Football changed dramatically. Teams no longer arrayed themselves across the entire breadth of the field. Teams bunched themselves around the runner to block for him. The wedge and mass play arrived. Football became, for a time, a savage sport full of fights, brawling, even fatalities.”

In 1912, Pop Warner said: “Playing without helmets gives players more confidence, saves their heads from many hard jolts, and keeps their ears from becoming torn or sore. I do not encourage their use. I have never seen an accident to the head which was serious, but I have 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.”

We have known about concussions and the effects of concussions in football for over a century. Every blow to the head is dangerous. Repeated concussions and sub-concussions both have the capacity to cause permanent brain damage. During practice and during games, a single player can sustain close to one thousand or more hits to the head in only one season without any documented or reported incapacitating concussion. Such repeated blows over several years, no doubt, can result in permanent impairment of brain functioning especially in a child. (Footnotes omitted; emphases added).

134. The scientific evidence on concussions and subsequent brain disease in boxing, football, and other sports has been mounting, but for a long period, the NFL attempted to deny, discredit, and ignore it.

135. The risk of repeated head impacts in certain sports and brain disease has been understood for decades. In 1928, a New Jersey pathologist, Harrison Martland, described the clinical spectrum of abnormalities found in “nearly one half of the fighters who stayed in the game long enough.” Follow-up studies on encephalopathy and repeated head impacts in sport were published in 1952. The risk of second impacts (Second Impact Syndrome) in sport was identified in 1973. It was also clear by the 1970’s that the patterns of neurodegeneration associated with head impacts in boxing also occurred in other sports.

136. From 1931 to 2006, the National Center for Catastrophic Sport Injury Research has reported 1,006 direct and 683 indirect fatalities resulting from participation in all organized football in the United States; the annual number of indirect fatalities has remained near 9.0 per year.

137. A 1994 Ball State University survey found that "players in the 1980s suffered serious injuries and underwent operations at twice the rate of those who played in the 1950s or earlier."

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

139. A 2001 report by Dr. Frederick Mueller that was published in the Journal of Athlete Training reported that a football-related fatality has occurred every year from 1945 through 1999, except for 1990. Head-related deaths accounted for 69 % of football fatalities, cervical spinal injuries for 16.3 %, and other injuries for 14.7 %. High school football produced the greatest number of football head-related deaths. From 1984 through 1999, 69 football head-related injuries resulted in permanent disability.

140. A series of important studies emanated from the University of North Carolina ("UNC") that were attacked by members of the NFL's MTBI Committee.

141. A 2000 UNC study found that in the period between 1977 and 1998, an annual average of 13 athletes had suffered catastrophic injuries (primarily permanent paralysis) as the direct result of participation in football. The study also found that between 1977 and 1998, 200 football players received a permanent cervical cord injury, and 66 sustained a permanent cerebral injury." As reported in *Science Daily*:

The study, published in the September-October issue of the American Journal of Sports Medicine, suggests that the brain is more susceptible to injury when it has not had enough time to recover from a first injury. Researchers say the finding is important because concussions can lead to permanent brain damage, vision impairment or even death if not managed properly.

"We believe recurrences are more likely because injured players are returning to practice and to games too quickly after blows to the head," said Dr. Kevin M. Guskiewicz, assistant professor of exercise

and sport science at UNC-CH and study leader. "Many clinicians are not following the medical guidelines that players should be symptom-free for several days before returning." (Emphases added).

142. A 2003 study partially authored by the aforementioned Dr, Kevin Guskiewicz ("Guskiewicz") of UNC analyzed data from almost 2,500 retired NFL players and found that 263 of the retired players suffered from depression. The study found that having three or four concussions meant twice the risk of depression as never-concussed players and five or more concussions meant a nearly threefold risk.

143. In November of 2003, Guskiewicz was scheduled to appear on HBO's "Inside the NFL" to discuss his research. Pellman, who was also going to be on the show, called Guskiewicz. "I had never spoken with him before, and he attacked me from the get-go," Guskiewicz said. "He questioned whether it was in my best interest to do the show. He was a bull in a china shop." **On the program, Pellman said unequivocally, "[w]hen I look at that study, I don't believe it." (Emphases added).**

144. In 2005, Guskiewicz did a follow-up to his 2003 study and found that retired NFL players who sustained three or more concussions had a fivefold greater likelihood of suffering Mild Cognitive Impairment ("MCI") than retired NFL players who had no history of concussions. Guskiewicz based his conclusions on a survey of over 2,550 former NFL players. **Dr. Mark Lovell ("Lovell") of the NFL's MTBI Committee asserted that Guskiewicz's study lacked "scientific rigor" and that one couldn't tell anything from a survey.**

145. **"Pellman's committee has repeatedly questioned and disagreed with the findings of researchers who didn't come from their own injury group," said Julian Bailes, Chairman of Neurosurgery at West Virginia University.**

146. The MTBI Committee decided to respond to these types of studies by presenting **biased research** derived from its ongoing survey of retired NFL players. ESPN The Magazine described what happened:

In October 2003, Pellman and members of his committee published the first of a long-running series on concussions in *Neurosurgery*, a scholarly journal edited by Mike Apuzzo, the New York Giants' neurosurgical consultant. The committee's earliest studies used crash test dummies to reenact helmet blows. Later, the group decided to explore the ill effects of multiple concussions, and Pellman charged one of its members, Mark Lovell, head of the University of Pittsburgh Medical Center's Sports Medicine Concussion Program, to oversee the collection and analysis of leaguewide data. Pellman chose Lovell because he had conducted neuropsychological tests for the Steelers as early as 1993. And in 1995, Lovell began to run the NFL's neuropsychology program, which encouraged teams to gather data to help decide when to return players to games.

Using the information they would obtain, Pellman, Lovell and the committee planned to look at baseline results and identify a normal range of scores for uninjured NFL players. Then, comparing postinjury scores to baseline data would show the effects of concussions. Comparing data from players with multiple concussions to that of all injured players would show whether concussive effects changed as injuries accumulated.

A lot was riding on the analysis. The committee had never imposed recommendations on team medical staffs. **But this was the first study ever to analyze the brain function of NFL athletes. If it showed that concussions were significantly impairing players, the league might be forced to institute new rules for evaluating and treating head injuries.** Pellman and Lovell both say they invited all teams to participate in the research (Lovell says 11 teams elected to join the study) and tried to collect as many results as they could. As Lovell puts it, "More data is always better." **Several of the doctors involved, however, tell a different story.** [William]

Barr [a neuropsychologist at Long Island Jewish Hospital], for example, conducted 217 baseline tests from 1996 to 2001. Periodically, he forwarded results to the league, but at the time Barr learned the committee was planning to publish its results, he had sent only 149. Barr remembers finding Pellman in the Jets' training room in 2003 and saying, "Elliot, I haven't sent data for a year." **According to Barr, Pellman didn't want the additional tests.** "I don't want the data to be biased because I'm with the Jets," Barr recalls him saying, suggesting that additional results would skew the data because the Jets would be overrepresented in the sample. **That made no sense to Barr. A scientific study should include, or at least address, all available data.**

Pellman denies this conversation ever took place. "Bill Barr was a consultant for the Jets who tested individual players to help us make decisions," he says. "I did not discuss the committee's research with him." **Whoever is right, the fact is the group didn't have all of Barr's data for its paper.**

Barr's wasn't the only research that didn't make the cut. Over the period covered by the committee's research, Christopher Randolph, a Chicago neuropsychologist, collected baselines for 287 Bears players. **He says Lovell never asked for his data, either.**

Nor did the committee seek complete data from John Woodard, neuropsychologist for the [Atlanta] Falcons and associate psychology professor at the Rosalind Franklin University of Medicine and Science in North Chicago. According to Woodard, in December 2003, Lovell said the league was pressuring him to compile team results. "I was asked to provide data on only concussed players," **Woodard says. "I had data for slightly more than 200 baseline evaluations. I don't know why I was not asked for them."**

In 2004, Lovell also asked Richard Naugle, consultant to the Browns and head neuropsychologist at the Cleveland Clinic, for data on just the players who had already suffered concussions, according to an e-mail Naugle wrote to a colleague in March 2005. Naugle declined to comment for this story, citing a confidentiality deal between his medical group and the NFL, but The

Magazine has obtained a copy of that message. "I don't have that sorted out from the results of other testing," Naugle wrote of the request. "I explained that and added that if he could name players, I could send data on those individuals. I recall sending him data on two or three players ... I have a few hundred baselines."

This means Pellman, Lovell and their colleagues didn't include at least 850 baseline test results in their research—more than the 655 that ultimately made it into their 2004 *Neurosurgery* paper. At best, their numbers were incomplete. At worst, they were biased.

Pellman, Lovell and their colleagues published their sixth paper in *Neurosurgery* in December 2004. It examined baseline data on 655 players and results for 95 players who had undergone both baseline testing and postconcussion testing. It concluded that NFL players did not show a decline in brain function after suffering concussions. Further analysis found no ill effects among those who had three or more concussions or who took hits to the head that kept them out for a week or more. **The paper didn't explain where the players in the groups came from specifically or why certain players were included and hundreds of others were not. Neither Pellman nor Lovell has provided those details since.** (Emphases added).

147. Scientists concurred with this assessment. As the ESPN The Magazine

article noted:

The decision to publish the paper was controversial. **"I highly doubt this study would have seen the light of day at this journal were it not for the subject matter of NFL players," says Robert Cantú, chief of neurosurgery and director of sports medicine at Emerson Hospital in Concord, Mass., and a senior editor at Neurosurgery. "The extremely small sample size and voluntary participation suggest there was bias in choosing the sample. The findings are extremely preliminary at best, and no conclusions should be drawn from them at this time."**

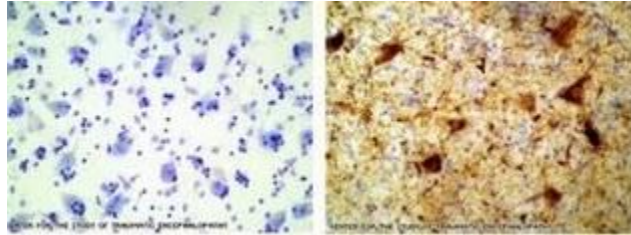
One of the scientists who reviewed the committee's work is equally blunt. **"They're basically trying to prepare a defense for when one of these players sues," he says. "They are trying to say that what's done in the NFL is okay because in their studies, it doesn't look like bad things are happening from concussions. But the studies are flawed beyond belief."** (Emphases added).

148. Guskiewicz was also quoted as saying, **"[t]he data that hasn't shown up makes their work questionable industry-funded research."** (Emphases added).

149. Pellman was not the only NFL hired gun peddling disinformation about head impacts or concussions and brain injuries. Casson and Viano of the NFL's MTBI Committee were playing a similar role, assisted by Lovell.

150. Between 2005 and 2007, Omalu and Dr. Robert Cantu ("Cantu"), Co-Director for the Center for the Study of Traumatic Encephalopathy ("CSTE") at the Boston University School of Medicine ("BUSM"), examined the brain tissue of three deceased NFL players: (a) Mike Webster ("Webster") of the Pittsburgh Steelers, who died of heart failure at the age of 50; (b) Terry Long ("Long") of the Pittsburgh Steelers, who died at 45 after drinking antifreeze; and (c) Andre Waters ("Waters") of the Philadelphia Eagles and Arizona Cardinals, who committed suicide at the age of 44. All three of these individuals suffered multiple concussions during their respective NFL careers. All three exhibited symptoms of sharply deteriorated cognitive functions, paranoia, panic attacks, and depression. In articles published in *Neurosurgery* in 2005 and 2006, Omalu found that Webster's and Long's respective deaths were partially caused by CTE, related to multiple NFL concussions suffered during their professional playing years. Cantu reached a similar conclusion as to Waters in an article published in *Neurosurgery* in 2007.

151. The following photographs, available from Brain-Pad Blog, show the contrast between a normal brain (depicted on the left) and Webster's autopsied brain (depicted on the right):



152. **In response to Omalu's article on Webster, Casson of the NFL's MTBI Committee wrote a letter in July of 2005 to the editor of *Neurosurgery* asking that Omalu's article be retracted.**

153. In 2008, Dr. Ann McKee ("McKee") of the CSTE at BUSM examined the brain tissue of two other deceased NFL players: (a) John Grimsley ("Grimsley") of the Houston Oilers, who died of a gunshot wound at the age of 45; and (b) and Tom McHale ("McHale") of the Tampa Bay Buccaneers, Philadelphia Eagles and Miami Dolphins, who died of a drug overdose at the age of 45. McKee found that Grimsley and McHale's brain tissue exhibited indications of CTE. As she stated, **"the easiest way to decrease the incidence of CTE [in contact sport athletes] is to decrease the number of concussions."** (Emphases added). She further noted that "[t]here is overwhelming evidence that [CTE] is the result of repeated sublethal brain trauma." A *Washington Post* article published in early 2009 reported the following comments by McKee with respect to her analysis of McHale's brain:

"Is this something that happened by chance?" asked Ann McKee, a neuropathologist at Boston University pointing to pictures of McHale's brain that she said resembled that of a 72-year-old boxer. **"I can tell you I've been looking at brains for 22 years, and this is not a normal part of aging. This is not a normal part of the brain."** (Emphases added).

154. In response to McKee's studies, **Casson continued his campaign of NFL-sponsored disinformation by characterizing each as an isolated incident from which no conclusion could be drawn and said he would wait to comment further until McKee's research was published in a peer-reviewed journal.** When it was so published in 2009, Casson asserted that **"there is not enough valid, reliable or objective scientific evidence at present to determine whether...repeat head impacts in professional football result in long[-]term brain damage."** (Emphases added).

155. The increasing controversy drew the attention of Congress. On June 23, 2007, hearings on the NFL's compensation of retired players were held before the Commercial and Administrative Law Subcommittee of the Judiciary Committee of the United States House of Representatives ("C&A Subcommittee"). Plaintiff Boyd testified about post-retirement health problems he faced as a result of concussions he received while he played for the Minnesota Vikings. Goodell was one of those who testified at this hearing. In follow-up responses to the C&A Committee that Goodell sent in November of 2007, he continued to rely on the discredited survey research being undertaken by the MTBI Committee.

156. In response to these hearings and associated media reports, the League scheduled a Concussion Summit in June of 2007. Independent scientists, including Omalu, Cantu and Guskiewicz, presented their research to League and to representatives of the National Football League Players Association ("NFLPA"). As one contemporaneous news article reported:

"I'm not even sure we athletes know what a concussion is," said safety Troy Vincent, who also is president of the

NFL Players Association. "Outside of being knocked out, I stayed in the game."

After a player suffers a concussion, his team's medical staff determines when he is fit to return to play. Studies vary on whether a quick return puts the player at risk of more severe injury.

The NFL commission, after reviewing five years of on-field concussions, found no evidence for an increase in secondary brain injuries after a concussion, a conclusion that has met with skepticism.

"Science is very clear that returning guys to play in the same game, or quickly within a few days, contributes to neuron loss and long-term problems," said former pro wrestler Christopher Nowinski, who retired after repeated concussions and has written a book on the controversy. "With the NFL being both the only and most prominent voice to say it doesn't exist, it slows down acceptance and adoption of policies to reduce risk."

While the NFL commission has focused on short-term effects of concussions, recent findings suggest players may suffer depression, dementia and other symptoms later in life. (Emphases added).

157. The result of this conference was a complete whitewash of the problem by the NFL. The League issued a press release and pamphlet to players on August 14, 2007. It stated that:

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. (Emphases added).

158. This act of denial and deception was consistent with the positions taken by Pellman, Casson, Lovell, and Viano as described above.

159. The NFL's refusals to face reality and its attempts to cover up the links between on-field concussions or head impacts and brain injuries are exacerbated by the way its member clubs provide medical services top players. As one 2009 article explained:

The conflicted interests that burden many NFL trainers exacerbate the NFL's concussion problem. An emerging practice in sports medicine involves medical providers "auctioning off the right to be an NFL team's 'official' medical provider, hospital, or physician-group." The privilege of being selected comes with the right to advertise in one's promotional materials that her group has been named the "official healthcare provider" of a particular team. "In return, the team is provided with medical care for free or at reduced cost."

NFL players are the victims of this pay-to-play system as they receive medical care compromised by the financial interests of NFL trainers. It is no secret that the NFL is a business, and an extremely successful one at that. When trainers are intertwined with team management, their medical decisions become clouded by the number one money-making criterion in the NFL business: *winning*. In order for teams to maximize profit through winning games, it stands to reason that coaches and management place incredible pressure on trainers to return their most talented athletes to the playing field as soon as possible. Concussions might represent one of the injuries that trainers send their patient-athletes back on the field with before players are completely healed.

Former New York Jets lineman Peter Kendall efficiently articulated the conflict-ridden nature of team physicians' return-to-play decisions: "I see guys playing in games that I don't think a personal advocate would allow them to do[.] The doctor who is supposed to be looking out for you is also the same guy who may put you into a game that the team has to win. You're mixing business with medicine." Thus, in three sentences, Kendall summarized the risk involved with trainers practicing medicine under conflicted financial and medical interests.

The physician-patient dynamic of the New York Jets presents a paradigm conflict of interest. Dr. Elliot

Pellman serves as *both* the Director of Medical Services for the New York Jets *and* as NFL Concussion Committee member. Because of Pellman's dual role, the Jets concussion policies and procedures have drawn heightened scrutiny from outside observers.

Pellman's management of the concussion Jets wide receiver Wayne Chrebet sustained on November 2, 2003 triggered significant criticism from both scientists and players. In this November 2, 2003 game against the New York Giants, Chrebet's concussion left him face down in an unconscious state for several minutes. Pellman elected to send Chrebet back into contact during the *same* game despite Chrebet's prolonged state of unconsciousness. Chrebet was subsequently placed on injured reserve for the remainder of the season. "Chrebet, 34, has recently acknowledged that he has bouts of depression and memory problems so severe that he cannot make the routine drive from his New Jersey home to his Long Island restaurant without a global positioning system." (Emphases partly in original; footnotes omitted).

160. ESPN The Magazine reported vividly on this incident:

"There's going to be some controversy about you going back to play." Elliot Pellman looks Wayne Chrebet in the eye in the fourth quarter of a tight game, Jets vs. Giants on Nov. 2, 2003, at the Meadowlands. A knee to the back of the head knocked Chrebet stone-cold unconscious a quarter earlier, and now the Jets' team doctor is putting the wideout through a series of mental tests. Pellman knows Chrebet has suffered a concussion, but the player is performing adequately on standard memory exercises. "This is very important for you," the portly physician tells the local hero, as was later reported in the *New York Daily News*. "This is very important for your career." Then he asks, "Are you okay?" When Chrebet replies, "I'm fine," Pellman sends him back in.

A couple of days after Wayne Chrebet is knocked senseless by the Giants, he is sluggish and tired, and his head aches. "It was stupid, trying to get back out there," he says. "That's just me trying to convince them and

myself that everything is all right." The Jets staff, including Pellman and Barr, diagnose Chrebet with postconcussion syndrome. Ten days after the game, the Jets place Chrebet on injured reserve.

Pellman makes no apologies. "Wayne returned and was fine," he tells the media. "He did not suffer additional injury. If he had suffered additional injury, his prognosis would be no different.

"Let's say I didn't allow him to return to play, and he played the following week," he continues. "The same thing could have happened. The decision about Wayne returning to play was based on scientific evaluation. As we stand now, that decision made no difference as to what's happening today.

"This decision is so that I can sleep well at night and so Wayne's wife can sleep well at night," he says about ending Chrebet's season.

"Nobody gets second-guessed."

161. This incident corroborates another factor contributing to the NFL's practices—that NFL player contracts are structured in a manner to incentivize underreporting of concussions. Such contracts typically do not guarantee payment to players beyond the season in which an injury occurs. If the player cannot pass the medical check-up at the commencement of the subsequent season, the contract is voided and the player may end up paying medical expenses for brain injuries or cognitive impairment incurred on the playing field. This system operates to discourage players from admitting to concussions. As the same 2009 article quoted earlier explained:

A sad consequence of the NFL's player contract scheme is the tendency of players to withhold concussion symptoms from their trainers and team management for fear of losing their jobs. Dr. Kenneth Podell, director of the Sports Concussion Safety Program at the Henry Ford Health System, summarizes the problematic situation: "The pressure

is intense; there's always someone on the bench waiting to take your place."

When team management becomes privy to a player's concussion history, the team holds all leveraging power in restructuring a player's contract. Players are faced with the following Hobson's choice: (i) accept a less lucrative contract or (ii) face employment termination. Dan Morgan, former Carolina Panthers linebacker, suffered at least five concussions during his tenure with the Panthers. Faced with the alternative of termination, Morgan "agreed to restructure his \$2 million roster bonus into payments of \$125,000 for each game played. Beyond acknowledging the team's concerns about subsequent concussions, the contract gave Morgan financial incentive not to reveal any concussion for treatment."

Even when a player is confident enough to disclose his concussive symptoms to a team trainer, he will not likely refuse a coach's orders to return to play for fear of losing his starting position in the lineup. A recent example of this situation involved the New England Patriots franchise. While playing linebacker for the Patriots in 2002, Ted Johnson sustained a severe concussion. After Johnson discussed his symptoms with his team trainer, the trainer advised Patriots coach Bill Belichick not to return Johnson to contact play until he became asymptomatic.

Belichick disregarded the trainer's advice by continually sending Johnson back into full contact practices. In defending his decision to return Johnson to play against the trainer's orders, Belichick said: "If [Johnson] felt so strongly that he didn't feel he was ready to practice[,] he should have told me." The flaw in Belichick's logic is that it assumes Johnson was confident enough in his job security to defy his coach's orders. If Johnson informed Belichick of his inability to return to play, he would have effectively terminated his own contract with the Patriots. (Emphases added).

162. In November of 2008, Greg Aiello ("Aiello") sounded a similar theme, saying to the press that "[h]undreds of thousands of people have played football and other

sports without experiencing any problem of this type and there continues to be considerable debate within the medical community on the precise long-term effects of concussions and how they relate to other risk factors." (Emphasis added). He neglected to mention that the debate was principally between the scientists in the pay of the League and scientists operating independently of the League.

163. The disingenuous nature of the NFL position was exposed in September 10, 2009, when the University of Michigan's Institute for Social Research published a study of retired NFL players commissioned by the NFL Player Care Foundation. The study found that retired NFL players are diagnosed with Alzheimer's disease or similar medical conditions far more often than the national population—including a rate of 19 times the normal incidence for men aged 30 through 49.

164. Despite these findings from a study that the League sponsored, the NFL continued to deny publicly any link between concussions on the playing field and dementia. A September 29, 2009 New York Times article reported as follows:

An N.F.L. spokesman, Greg Aiello, said in an e-mail message that the study did not formally diagnose dementia, that it was subject to shortcomings of telephone surveys and that "there are thousands of retired players who do not have memory problems."

"Memory disorders affect many people who never played football or other sports," Mr. Aiello said. "We are trying to understand it as it relates to our retired players."

As scrutiny of brain injuries in football players has escalated the past three years, with prominent professionals reporting cognitive problems and academic studies supporting a link more generally, the N.F.L. and its medical committee on concussions have steadfastly denied the existence of reliable data on the issue. The league pledged to pursue its own studies, including the one at the University of Michigan.

Dr. Ira Casson, a co-chairman of the concussions committee who has been the league’s primary voice denying any evidence connecting N.F.L. football and dementia, said: “What I take from this report is there’s a need for further studies to see whether or not this finding is going to pan out, if it’s really there or not. I can see that the respondents believe they have been diagnosed. But the next step is to determine whether that is so.”

The N.F.L. is conducting its own rigorous study of 120 retired players, with results expected within a few years. All neurological examinations are being conducted by Dr. Casson. (Emphases added).

165. After the publication of the University of Michigan study, the House Judiciary Committee commenced an inquiry into “Legal Issues Relating To Football Head Injuries” and held its first hearing on October 28, 2009. Representative John Conyers (“Conyers”) summarized the evidence:

There appears to be growing evidence that playing football may be linked to long-term brain damage. For example, a 2003 University of North Carolina study found that professional players who suffered multiple concussions were three times more likely to suffer clinical depression than the general population. A follow-up study in 2005 showed NFL players suffering concussions had five times the rate of cognitive impairment. And retired players were 37 percent more likely to suffer from Alzheimer’s than the population as a whole. Earlier this year, the University of Michigan released a study that found that 6.1 percent of NFL players over 50 years of age reported they had received a dementia-related diagnosis—a statistic five times higher than the national average. Players age 30 through 49 showed a rate of 1.9 percent of dementia-related diagnosis 19 times that of the national average.

The National Football League is performing its own long-term study, **and has largely sought to discredit these reports or some of the conclusions drawn from**

some of these reports. The football league described the reports as flawed.

Dr. Ira Casson, the co-chair of the NFL's Mild Traumatic Brain Injury Committee, denied the linkage on six separate occasions. When asked whether there was any linkage between playing football and CTE, Dr. Casson stated that it has never been scientifically, validly documented. The league said the recent University of Michigan study was flawed and that further study was necessary. The *New York Times* data released last week, was, they said, for self-promotional and lobbying purposes of the union. Given there is no consensus between the league and its players and the medical community about the causes of these cognitive disorders, it should come as no surprise there is little agreement about how to respond. (Emphases added).

166. Representative Linda Sanchez ("Sanchez"), who had participated in the 2007 hearings mentioned earlier, was present and stated:

There are increasing studies and a body of evidence that show that there is a significant risk to individuals who suffer repeated head trauma, whether it's in the NFL, in professional boxing, or even high school sports, and while there are those here today who will argue against the validity of some of these studies, there appears to be a preponderance of evidence that a number of professional athletes who suffer repeated head trauma experience physical and mental decline earlier than the general population at large, and it would seem to me—and I stated this to Commissioner Goodell at the last hearing that we held that it would be better for the NFL and the NFLPA to be proactive in alerting its players to the risks that they face, and it's my hope that in the discussion that we have here today, the NFL and the NFLPA will make continued improvements in educating players on the dangers they face by playing with a concussion, treating those athletes appropriately who do have concussions, and removing the stigma that pressures players to play through the injury, and one of the most recent quotes that was heard on November 29th, 2009, was an interview during the pregame show before the

Steelers' matchup with the Ravens when somebody said, basically, that he had been dinged up and got right back into the game and that, you know, just because somebody's having headaches, pretty much the quote is, you know, they need to suck it up and continue to play on, and the fact of the matter is that sucking it up and continuing to play on may mean very serious and grave consequences down the line.

Many witnesses that we have had before the Committee have testified about how the NFL, like it or not, influences the lower levels of football, and the actions that they take or the actions that they choose to ignore to take have significant impact on players at lower levels. The NFL, quite frankly, has vast resources available to its disposal to educate coaches and players and medical personnel on the proper way to handle a concussed player, and if they have all these resources available to them and are not addressing the problem, imagine how can we expect every high school or college to be able to properly treat a concussed player if that proper action isn't being taken at the very top levels of the sport? (Emphases added).

167. Despite this overwhelming evidence, Goodell refused to answer questions of whether NFL-related concussions led to cognitive decline among retired players. The Judiciary Committee played a televised interview of Casson denying any links between NFL players' multiple head injuries and subsequent cognitive deterioration.

168. Sanchez pressed the issue with Goodell during his testimony as follows:

Now, the question that I have for you is, I am a little concerned, and I hear the concern expressed by some of the witnesses on the panel today, that **the NFL sort of has this kind of blanket denial or minimizing of the fact that there may be this, you know, link. And it sort of reminds me of the tobacco companies pre-1990's when they kept saying no, there is no link between smoking and damage to your health or ill health effects. And they were forced to admit that that was incorrect through a spate of litigation in the 1990's.** And my question to you is wouldn't the league be better off legally, and wouldn't high school and college football

players be better off, if instead of trying to minimize this issue, the league took the opposite perspective and said, look, even if there is a risk, however minuscule, that there may be this link, so we really need to jump on top of it and make kids and parents aware of this so that there isn't this sort of sense that the NFL is really just slow walking the issue to death by saying, well, we have been studying the issue for 15 years, we are going to maybe study it another 15 more years, when there is already non-NFL paid for research that suggests that there is this very high correlation with cognitive impairment? Don't you think the league, you know, would be better off legally, and that our youth might be a little bit better off in terms of knowledge, if you guys just embraced that there is research that suggests this and admitted to it? (Emphases added).

Mr. GOODELL. Well, Congresswoman, I do believe that we have embraced the research, the medical study of this issue. As you point out——

Ms. SANCHEZ. You are talking about one study, and that is the NFL's study. You are not talking about the independent studies that have been conducted by other researchers. Am I correct in stating that?

Mr. GOODELL. I am not sure of your question.

Ms. SANCHEZ. There are other studies, research in dementia and CTE that show that there is a link. But again the league seems to downplay that and say, well, you know, we are conducting our own study and, you know, when we have that study completed then we will know.

Mr. GOODELL. No, I think what we are doing is because we have to a large extent driven this issue by making sure that we have medical professionals studying this issue. I am not a medical professional.

[Ms. SANCHEZ.] **So my question is why are you even going through, you know, the charade of presenting the final analysis of going through this study if the determination, in my opinion, has already been made**

by Dr. Casson and, you know, is denied in the pamphlet that they hand out to NFL players?

Mr. GOODELL. Well, first let me say I do not, and I think you stated that he is the only one examining these patients and the findings. That is not correct.

Ms. SANCHEZ. He is not controlling the examinations or the findings?

Mr. GOODELL. I would not say he is controlling that at all, no.

Ms. SANCHEZ. He is participating in it, though.

Mr. GOODELL. I do not know if he is participating in the examinations. I can find that out.

Ms. SANCHEZ. And he has been a consultant to the NFL, is that correct?

Mr. GOODELL. He has been on our MTBI committee for several years, yes.

Ms. SANCHEZ. And some of the people who are participating in this study have other conflicts of interest. You know, one of the committee members on the concussion committee owns the company that makes and markets, mainly through its use by most of the NFL teams, the neuropsychological test that is used in the study. Isn't that true?

Mr. GOODELL. I don't know the answer to that question, but I will find out for you.

Ms. SANCHEZ. My suggestion would be, and my time has expired, but my suggestion would be that instead of having NFL-connected consultants and doctors, that perhaps the true findings of a truly unbiased study would be better conducted by people who have not been on the payroll or not been retained by the NFL in any capacity. (Emphases added).

169. The NFL thereafter reacted to this barrage of criticism by having Casson and Viano, who had replaced Pellman as co-chairs of the MTBI Committee, resign, and suspending that Committee's research. The League also pledged to donate a paltry \$1 million to subsidize the CSTE's research on CTE.

170. On December 2, 2009, Goodell announced an update on concussion guidelines for the League's players. The statement outlined several changes. First, players who sustained a concussion should not return to practice or game play the same day if the following signs or symptoms are present: loss of consciousness, confusion, amnesia or other memory problems, abnormal neurological exam, new and persistent headache, or any other persistent concussion signs. Second, if a player is held from a game, clearance for return to play should be determined by both the team physician and an independent neurological consultant. Return to play should not be considered until the athlete is asymptomatic, both at rest and with exertion, has a normal neurological exam, and has normal neuropsychological testing. The NFL subsequently clarified that primary sports care physicians could be treated as independent neurological consultants.

171. Aiello, the League spokesperson who had made staunch denials of the link between concussions and brain injury as late as September of 2009, made the following admission in a December 20, 2009 interview with a reporter for the *New York Times*:

After weeks of transforming its approach to concussions and its research into their long-term effects among players, the N.F.L. not only announced Sunday that it would support research by its most vocal critics but also conceded publicly for the first time that concussions can have lasting consequences.

"It's quite obvious from the medical research that's been done that concussions can lead to long-term problems," the league spokesman Greg Aiello said in a telephone

interview. He was discussing how the league could donate \$1 million or more to the Center for the Study of Traumatic Encephalopathy at Boston University, whose discoveries of brain damage commonly associated with boxers in the brains of deceased football players were regularly discredited by the N.F.L.

Told that his statement was the first time any league official had publicly acknowledged any long-term effects of concussions, and that it contradicted past statements made by the league, its doctors and literature currently given to players, Aiello said: “We all share the same interest. That’s as much as I’m going to say.”

Since an Oct. 28 hearing before the House Judiciary Committee, when the league’s approach to science was compared to that of the tobacco industry, the N.F.L. has accepted the resignations of the co-chairmen of its concussion committee and overhauled its policies toward concussion management. Players now must be cleared by brain-injury experts unaffiliated with the team, and cannot return to a game or practice in which they have shown any significant sign of concussion.

The second rule has since been recommended by an N.C.A.A. committee as standard policy for athletes in all sports, and will be considered by several state legislatures that have bills governing high school athletics before them.

The recent changes by the N.F.L. had amounted to tacit acknowledgments that it was no longer able to defend a position that conflicted with nearly all scientific understanding of head trauma.

Until recently, the league and its committee on concussions had consistently minimized evidence testifying to the risks of repeated brain trauma in N.F.L. players — from researchers like those at Boston University, to phone surveys the league itself commissioned, to demographic analysis of players known to have early-onset dementia. While discrediting such evidence, a pamphlet on concussions currently given to players states, “Research is

currently underway to determine if there are any long-term effects of concussion in N.F.L. athletes.”

That research study, conducted by the N.F.L.’s committee on concussions, was recently suspended amid strong criticism of its design and execution by outside experts, players and members of Congress.

“Mr. Aiello’s statement is long overdue — it’s a clear sign of how the culture of football has changed in recent months,” Dr. Robert Stern, a co-director of the Boston University center and its Alzheimer’s Disease Clinical and Research Program, said in a telephone interview.

“There is no doubt that repetitive blows to the head result in long-term problems in the brain, including progressive dementia. With the N.F.L. taking these recent actions, we are finally at a point to move forward in our research and ultimately solve this important problem — for professional athletes and collegiate and youth players.” (Emphases added).

172. Despite these concessions, the problem continued unabated. Thirty of 160 NFL players surveyed by the Associated Press in November of 2009 stated that they either failed to report or underreported concussion symptoms. Players admitted that they returned to play after a concussion feeling dazed or woozy or suffering from blurred vision.

173. In March of 2010, the MTBI Committee got a new name and new co-chairs. It was rechristened as the Head, Neck and Spine Medical Committee, and became jointly chaired by Dr. H. Hunt Batjer (“Batjer”) of Northwestern Memorial Hospital, and Dr. Richard Ellenbogen (“Ellemborgen”) of Harborview Medical Center in Seattle. Batjer and Ellenbogen replaced Casson and Viano, who in turn had replaced Pellman.

174. In a May 2010 Congressional hearing, Representative Anthony Weiner addressed Batjer and Ellenbogen as follows: “[y]ou have years of an infected system here, [and] your job is...to mop [it] up.” (Emphases added).

175. Batjer and Ellenbogen conceded in June of 2010 that the League's efforts with respect to concussions and brain injury were riddled with duplicity, conflicts of interest and shocking ineptitude. As was reported in a June 1, 2010 New York Times article:

They accused a fellow doctor of minimizing solid evidence of the dangers of football concussions. They concurred that data collected by the N.F.L.'s former brain-injury leadership was "infected," said that their committee should be assembled anew, and formally requested that the group's former chairman, Dr. Elliot Pellman, not speak at a conference Wednesday.

For the first time these remarks came not from outside critics of N.F.L. research but from those now in charge of it — Dr. H. Hunt Batjer and Dr. Richard G. Ellenbogen, prominent neurosurgeons who became co-chairmen of a new league committee in March. One week after two members of Congress accused the doctors of sounding too much like their predecessors, and on the eve of a league-sponsored symposium in Washington held by Johns Hopkins Medicine, Batjer and Ellenbogen made clear they planned to chart a new course.

The two doctors criticized Johns Hopkins's promotional brochure for Wednesday's conference — which was open only to N.F.L. medical personnel, other doctors and members of the United States Department of Defense — for playing down existing evidence of brain damage in retired football players.

The opening paragraph described the disease chronic traumatic encephalopathy as "now being reported in football players, although with unknown frequency." It added that these and related matters had been reported by the news media "with considerable hype around assertions of long-term harm to players from head injuries."

Batjer and Ellenbogen said that the frequency of reports of C.T.E. in players is not unknown — a Boston University research group has diagnosed it in all 12 former college and N.F.L. players of various ages it had tested for the condition.

“They aren’t assertions or hype — they are facts,” said Ellenbogen, the chief of neurological surgery at Harborview Medical Center in Seattle, who has been instrumental in drafting legislation to protect young athletes from head injuries.

He added: “Doctors were relatively ineffectual for 25 years on this issue. Then it’s on the front page and everything focuses like a laser beam and things begin to change from baby steps to giant steps forward protecting kids. From a doctor-patient perspective, it’s been the single best thing that has happened to this subject.”

Dr. Constantine G. Lyketsos, a professor of psychiatry and behavioral sciences at Johns Hopkins who is directing Wednesday’s conference, said in a telephone interview that he wrote the brochure and that the N.F.L. had no role with the event, other than providing financing. He defended his choice of words.

“We know of 12 cases” of C.T.E., Lyketsos said. “We don’t know how many don’t have it.”

Regarding news media coverage of the harm caused by repeated concussions in football players, Lyketsos said: “There is a concern that I have that the possibility of serious long-term consequences are being overemphasized without clear evidence. It could turn out correct. It could turn out incorrect. We don’t know.”

He added: “I worry that it might be a disservice. That’s a possibility.”

The league spokesman Greg Aiello declined to comment on Lyketsos’s statements, other than saying that the league has given \$1 million to the Boston University group to support its research.

The former leaders of the N.F.L. concussion committee generally agreed with Lyketsos, an attitude that ultimately came to the attention of Congress and led to several hearings on the subject of sports concussions in athletes of all ages. Batjer and Ellenbogen had a shaky debut before some frustrated members of the House Judiciary Committee during a forum in New York on

May 24, but in the following days they made sure they would no longer resemble their predecessors.

The doctors said the old committee’s ongoing studies on helmets and retired players’ cognitive decline — whose structure and data were strongly criticized by outside experts — would not be used in any way moving forward. They said they were influenced by a comment made to them last Monday by Representative Anthony D. Weiner, Democrat of New York: “You have years of an infected system here that your job is to some degree to mop up.”

“The word ‘infected’ hit me right between the eyes,” said Ellenbogen. He and Batjer became co-chairmen of the N.F.L. committee in March.

Batjer added: “We all had issues with some of the methodologies described, the inherent conflict of interest that was there in many areas that was not acceptable by any modern standards or not acceptable to us. I wouldn’t put up with that, our universities wouldn’t put up with that, and we don’t want our professional reputations damaged by conflicts that were put upon us.”

Batjer said that he and Ellenbogen had begun reconstituting their committee from scratch. He said that six members had been selected so far, none of them holdovers from the prior regime.

The doctors so wanted to distance themselves from the past that on Monday they requested that Pellman, who was scheduled to deliver some opening remarks at the Johns Hopkins symposium, be removed from the program. Pellman was the chairman of the N.F.L. concussion committee from 1994 to 2007 and stayed on it until he resigned in March. He remains the league’s medical director and helped with the conference’s logistics.

On Tuesday, an e-mail message was distributed to conference organizers saying that Pellman would not attend the conference for family-related reasons.

“Neither Rich nor I thought he should appear to represent the N.F.L. in what would look like a leadership role,” Batjer said. “It’s not about Elliot. It’s about a complete severance from all prior relationships from that committee.” (Emphases added).

176. As reported in a July 26, 2010 article in the New York Times, on June 10, 2010, the NFL issued a warning poster that was placed in the locker rooms of member clubs and was also turned into a pamphlet. A copy of the poster is reproduced below. It stands in stark contrast to the pamphlet issued by the League in April of 2007. This advice was never given previously by the NFL and was certainly not given to players who retired prior to June of 2010. As the same article went on to note:

The league’s reversal is not necessarily complete. On April 30, an outside lawyer for the league, Lawrence L. Lamade, wrote a memo to the lead lawyer for the league’s and union’s joint disability plan, Douglas Ell, discrediting connections between football head trauma and cognitive decline. The letter, obtained by *The New York Times*, explained, “We can point to the current state of uncertainty in scientific and medical understanding” on the subject to deny players’ claims that their neurological impairments are related to football. (Emphases added).



CONCUSSION

A Must Read for NFL Players
Let's Take Brain Injuries Out of Play



Concussion Facts

Concussion is a *brain injury* that alters the way your brain functions

Concussion can occur from a blow to the head/body:

- following helmet to helmet contact, and / or
- contact with the ground, object or another player

Most concussions occur without being knocked unconscious

Severity of injury depends on many factors and is not known until symptoms resolve and brain function is back to normal

All concussions are not created equally. Each player is different, each injury is different and all injuries should be evaluated by your team medical staff

Concussion Symptoms

Different symptoms can occur and may not show up for several hours. Common symptoms include:

- Confusion
 - Headache
 - Amnesia / Difficulty remembering
 - Balance problems
 - Irritability
 - Dizziness
 - Difficulty concentrating
 - Nausea
 - Feeling sluggish, foggy or groggy
 - Sensitivity to noise
 - Sensitivity to light
 - Double / fuzzy vision
 - Slowed reaction time
 - Feeling more emotional
 - Sleep disturbances
 - Loss of consciousness
- Symptoms may worsen with physical or mental exertion (e.g. lifting, computer use, reading)*

Why Should I Report My Symptoms?

- Practicing or playing while still experiencing symptoms can prolong the time to recover and return to play.
- Unlike other injuries, there may be significant consequences of "playing through" a concussion. Repetitive brain injury, when not treated promptly and properly may cause permanent damage to your brain.

What Should I Do If I Think I've Had a Concussion?

Report it. Never ignore symptoms even if they appear mild. Look out for your teammates. Tell your Athletic Trainer or Team Physician if you think you or a teammate may have had a concussion.

Get Checked Out. Your team medical staff has your health and well being as its first priority. They will manage your concussions according to NFL / NFLPA Guidelines which include being fully asymptomatic, both at rest and after exertion, having a normal neurologic examination, normal neuropsychological testing, and clearance to play by both the team medical staff and the independent neurologic consultant.

Take Care of Your Brain. According to the CDC*, "traumatic brain injury can cause a wide range of short- or long term changes affecting thinking, sensation, language, or emotions". These changes may lead to problems with memory and communication, personality changes, as well as depression and the early onset of dementia. Concussions and conditions resulting from repeated brain injury can change your life and your family's life forever.



Work smart. Use your head,
don't lead with it. Help make
our game safer. Other athletes
are watching...



*for more information about traumatic brain injury and concussion, go to <http://www.cdc.gov/concussion>

177. Yet even after this new warning, NFL players are still going out on the field after receiving significant concussions. In a September 19, 2010 posting by Sam Donellon on philly.com, it was noted:

A THOUSAND pardons. For the game plan, for the execution, for the ever-present "Not putting the guys in the right places" to succeed during Sunday's 27-20 loss to the Green Bay Packers.

[Philadelphia Eagles Head Coach] Andy Reid issued his familiar post-loss mea culpas yesterday, vowing to "tighten up" special teams play, execution particularly on offense, and even his play-calling.

The only thing he didn't apologize for was how, or why, two of his stars were allowed to re-enter the game after getting concussed Sunday afternoon at Lincoln Financial Field.

That's because in his mind, and apparently in the minds of too many still involved in the NFL, he and his medical staff did what it was supposed to do in the cases of Stewart Bradley and Kevin Kolb. Asked all the right questions, got all the right answers, sent both back into a game even after both had displayed, for a national audience to see, evidence of head trauma.

To wit:

Kolb lying face down for several seconds before rising slowly, grass hanging from his facemask, walking slowly from the field;

Bradley bouncing up after an inadvertent knee-to-helmet hit, only to stumble back down to the ground, clearly disoriented.

That's a key word, disoriented. It's used in those famous updated guidelines the NFL issued last December to teams regarding concussions in the wake of congressional hearings and some high-profile injuries, including the repeated concussions to former Eagle Brian Westbrook.

"A player who suffers a concussion should not return to play or practice on the same day," said an NFL release on those guidelines, which lists among symptoms "Loss of consciousness" and "Confusion as evidenced by disorientation to person, time or place; inability to respond appropriately to questions; or inability to remember assignments or plays."

So what are we missing here? Reid said repeatedly Sunday, and again yesterday, that appropriate answers were given to questions. He said Kolb's inability to remember plays was only evident after he returned to play, and he was yanked after a three-and-out series.

But both men were clearly disoriented when they first reached their feet, and this is where we tread into the NFL's continued ambiguity over what it views as serious head trauma. Was Bradley's stumble due to poor balance or dizziness? The guidelines say poor balance necessitates removal, dizziness not necessarily so. But what's the difference and how the hell can anyone tell? Aren't they the same thing?

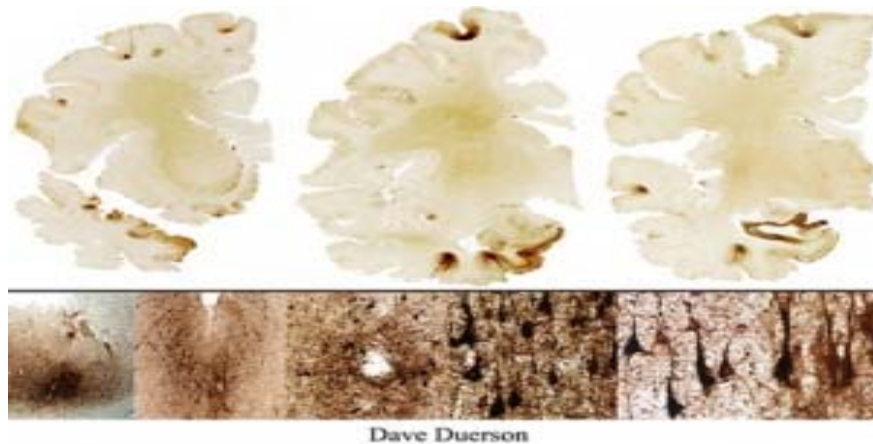
178. As another example, the Concussion Blog reported on Austin Collie ("Collie"), a wide receiver who played for the Indianapolis Colts in 2010. Collie suffered a concussion in Week 9 of the regular season and was benched in Week 10. He returned in Week 11, and was withdrawn after playing part of that game because of "worsening symptoms." He was benched in Weeks 12-14, but returned in Week 15, only to receive yet another concussion. As Concussion Blog noted:

NFL "Policy" indicates that a player will not return from a concussion unless they pass all tests. Therefore if Indianapolis followed the "policy" then Collie was cleared and passed all tests by Week 11, and his first concussion resolved. The reports of more/worsening symptoms after 1st half of Pats game indicates that he MUST have sustained a second concussion. Then upon returning this week that would have meant that he cleared all tests and AGAIN sustained a concussion, his THIRD. Let me be clear here, you can only "aggravate" a concussion if you have not recovered from the first. And

a player SHOULD NOT be playing with an unresolved concussion, by “policy”. ... The Colts already are spinning this one, but no matter how you look at it they either failed the “policy” or knowingly put him back into action with a concussion. At the very least they misreported the second. If he were returned in Week 11 and “aggravated” it then he was not properly handled the first time.

179. The plight of former NFL players suffering from brain injuries caused by their service in the game has continued. One example is provided by the case of Dave Duerson (“Duerson”), a former safety for the Chicago Bears and the New York Giants. After suffering months of headaches, blurred vision and deteriorating memory, Duerson committed suicide at the age of 50 on February 17, 2011. His final note asked that his brain be given to the NFL brain bank for evaluation.

180. On May 2, 2011, researchers at CTSE at Boston University reported that Duerson was suffering from CTE and released photographs of the autopsy of his brain. Examples of those photographs obtained from the website of CBS Chicago are reproduced below:



The top row of photographs depicts three half sections of Duerson’s brain that exhibit multiple areas of damage (brown coloring) in the frontal and temporal cortex, hippocampus and

amygdala. The bottom row of photographs depicts microscopic images from these damaged areas, showing severe neurodegeneration. As CBS Chicago reported:

Dr. Robert Cantu, co-director of the CTSE, said at a news conference that such results normally are published first, but the Duerson family wanted them released earlier.

“It is our hope that through this research questions that go beyond our interests may be answered,” The Duerson family said in a statement. “Questions that lead to a safer game of football, from professional to Pop Warner; Questions that lead to better diagnostic tests for those alive; and Questions that lead to a cure; will all hopefully be answered.” (Emphases added).

181. When this information was reported, DeMaurice Smith, Executive Director of the NFLPA, stated that the fact that Duerson was suffering from CTE “makes it abundantly clear what the cost of football is for the men who played and the families. It seems to me that any decision or course of action that doesn’t recognize that as the truth is not only perpetuating a lie, but doing a disservice to what Dave feared and what he wanted to result from the donation of his brain to science.”

182. Another example is provided by the case of John Mackey (“Mackey”), the former tight end of the Chicago bears, who died in July of 2011 and for whom the 88 Plan described below was named. Mackey was diagnosed with frontotemporal dementia in 2007, forcing him to live full-time in an assisted living facility. The NFLPA refused to pay a disability income to him because it claimed that there was no proven direct link between brain injury and NFL game participation. When the 88 Plan came into being, he received payments pursuant to it, but they were far less than his family’s costs. Mackey made less than a total of \$500,000 during his decade-long NFL career. His wife, Sylvia, had to work as a flight attendant to supplement his NFL pension of \$2,500 a month after they sold their California home to provide

for his extensive medical care. The legendary Chicago Bears player, Gale Sayers, was asked about Mackey's demise by a reporter for the Chicago *Tribune* and his response was reported as follows: "Sayers feels the NFL could have done more to help Mackey during his final years. 'You know, John Mackey died at 60-something (69),' said Sayers. '(The NFL) could have helped him more, I felt. But they didn't, and the players (NFLPA) could have helped more, and it didn't happen.'"

183. On information and belief, proposals have been submitted to the NFL MTBI Committee about concussion concerns and the need to do regularized testing of players. To the best of Plaintiffs' knowledge, the League has never acted on them.

184. The NFL's conduct stands in sharp contrast to what has been done or promulgated by other sports or medical bodies.

185. For example, Rule 4.2.14 of the World Boxing Council's Rules and Regulations states: "**[b]oxers that suffered concussion by KO, should not participate in sparring sessions for 45 days and no less than 30 days after concussive trauma, including but not limited to KO's, and should not compete in a boxing match in less than 75 days.**" (Emphases added).

186. The Second International Conference on Concussion in Sport met in Prague in 2004 and released the following statement: "**[w]hen a player shows ANY symptoms or signs of a concussion ... the player should not be allowed to return to play in the current game or practice ... When in doubt, sit them out!**" (Emphases added). This directive echoed the position taken by the First International Conference on Concussion in Sport, held in Vienna in 2001.

187. As ESPN has noted, “[a]ll standard U.S. guidelines, such as those first set by the American Academy of Neurology and the Colorado Medical Society, agree that athletes who lose consciousness should never return to play in the same game.” (Emphases added).

188. Another example is provided by the National Collegiate Athletic Association (“NCAA”), which also recognized inexcusably late the link between head impacts and brain injuries, not taking affirmative action until 2010. The NCAA is the subject of class action suits for this tardiness. Nevertheless, once it did act, it did so in a manner that was more decisive than the NFL. The NCAA’s webpage on concussion-related resources (see http://www.ncaa.org/wps/portal/ncaahome?WCM_GLOBAL_CONTEXT=/ncaa/NCAA/Academics+and+Athletes/Personal+Welfare/Health+and+Safety/Concussion) indicates that in an educational partnership with the Centers for Disease Control and Prevention. The NCAA has supplied each member college campus with two posters and two sets of fact sheets addressing concussion awareness, prevention, and management. It has issued the “NCAA Sports Medicine Handbook - Guideline on Concussions in the Athlete” that recommends best practices. And the NCAA requires each member college to develop a “Concussion Management Plan”. One exemplar plan offered on the NCAA’s website is the University of Georgia Athletic Association’s (“UGAA”) “Concussion Management Guidelines,” which reads as follows:

1. UGAA will require student-athletes to sign a statement in which student-athletes accept the responsibility for reporting their injuries and illnesses to the sports medicine staff, including signs and symptoms of concussions (attachment A). During the review and signing process student-athletes will watch a NCAA video on concussions and be provided with educational material¹ on concussions (attachment B).

2. UGAA will have on file and annually update an emergency action plan (attachment C) for each athletics venue to respond to student-athlete catastrophic injuries and illnesses, including but not limited to concussions, heat illness, spine injury, cardiac arrest, respiratory distress (*e.g.* asthma), and sickle cell trait collapses. All athletics healthcare providers and coaches shall review and practice the plan annually. These sessions will be conducted prior to the start of the sport season. ...The UGAA compliance office will maintain a list of staff that have completed the requirement on file.

3. UGAA sports medicine staff members shall be empowered to determine management and return-to-play of any ill or injured student-athlete, as he or she deems appropriate. Conflicts or concerns will be forwarded to Ron Courson (director of sports medicine) and Fred Reifsteck, MD (head team physician) for remediation.

4. UGAA shall have on file a written team physician-directed concussion management plan (attachment D) that specifically outlines the roles of athletics healthcare staff (e.g., physician, certified athletic trainer, nurse practitioner, physician assistant, neuropsychologist). In addition, the following components have been specifically identified for the collegiate environment:

a. UGAA coaches will receive a copy of the concussion management plan, a fact sheet on concussions in sport, and view a video on concussions annually. The UGAA compliance office will maintain a list of staff that have completed the requirement on file.

b. UGAA sports medicine staff members and other athletics healthcare providers will practice within the standards as established for their professional practice (e.g., team physician, certified athletic trainer, physical therapist, nurse practitioner, physician assistant, neurologist, neuropsychologist).

c. UGAA shall record a baseline assessment for each student-athlete in the sports of baseball, basketball, cheerleading, diving, equestrian, football, gymnastics,

pole vaulting, soccer, and softball, at a minimum. In addition, a baseline assessment will be recorded for student-athletes with a known history of concussion. The same baseline assessment tools should be used post-injury at appropriate time intervals. The baseline assessment should consist of the use of: 1) symptoms checklist, 2) standardized balance assessment (Neurocom) and 3) neuropsychological testing (computerized IMPACT test). Neuropsychological testing has been shown to be effective in the evaluation and management of concussion. The neuropsychological testing program should be performed in consultation with a neuropsychologist. Post injury neuropsychological test data will be interpreted by a neuropsychologist prior to return to play. Neuropsychological testing has proven to be an effective tool in assessing neurocognitive changes following concussion and can serve as an important component of an institution's concussion management plan. However, neuropsychological tests should not be used as a standalone measure to diagnose the presence or absence of a concussion as UGAA uses a comprehensive assessment by its sports medicine staff.

d. When a student-athlete shows any signs, symptoms or behaviors consistent with a concussion, the athlete will be removed from practice or competition, by either a member of the coaching staff or sports medicine staff. If removed by a coaching staff member, the coach will refer the student-athlete for evaluation by a member of the sports medicine staff. During competitions, on the field of play injuries will be under the purview of the official and playing rules of the sport. UGAA staff will follow such rules and attend to medical situations as they arise. Visiting sport team members evaluated by UGAA sports medicine staff will be managed in the same manner as UGAA student-athletes.

e. A student-athlete diagnosed with a concussion will be withheld from the competition or practice and not return to activity for the remainder of that day. Student-athletes that sustain a concussion outside of their

sport will be managed in the same manner as those sustained during sport activity.

f. **The student-athlete will receive serial monitoring for deterioration.** Athletes will be provided with written home instructions (attachment E) upon discharge; preferably with a roommate, guardian, or someone that can follow the instructions.

g. **The student-athlete will be monitored for recurrence of symptoms both from physical exertion and also mental exertion,** such as reading, phone texting, computer games, watching film, athletic meetings, working on a computer, classroom work, or taking a test. Academic advisors and professors will be notified of student-athlete's concussion, with permission for release of information from the student-athlete.

h. **The student-athlete will be evaluated by a team physician as outlined within the concussion management plan.** Once asymptomatic and post-exertion assessments are within normal baseline limits, return to play shall follow a medically supervised stepwise process.

i. Final authority for Return-to-Play shall reside with the team physician or the physician's designee as noted in the concussion management flowchart.

5. **UGAA will document the incident, evaluation, continued management, and clearance of the student-athlete with a concussion.** Aggregate concussion numbers per sport will be reported to the Director of Athletics annually.

6. **Athletics staff, student-athletes and officials will continue to emphasize that purposeful or flagrant head or neck contact in any sport should not be permitted.**

B. Riddell's Participation With The NFL In Misrepresenting The Risk Of Repeated Head Impacts.

189. Riddell manufactures helmets for use by NFL players. Since 1989,

Riddell has been the official helmet for the League and is the only helmet manufacturer allowed to display its logo on helmets used in League games. Prior to the commencement of the 2010 season, Riddell renewed its contract with the League allowing it to continue as the NFL's primary helmet provider through 2014. The NFL has estimated that 75% of the helmets used in the League are manufactured by Riddell; Riddell estimated that the figure was 77%.

190. Riddell has long been aware of medical issues concerning concussions. Yet despite being the maker of the official helmet for the NFL, it did nothing to prevent the disinformation campaign engaged in by the League that is described in the preceding paragraphs.

191. Indeed, Riddell actively abetted the work of the NFL's MTBI Committee. In 1997, it became part of that Committee's project of assessing concussions and health consequences to NFL players by analyzing and reconstructing head impacts.

192. In 2006, Riddell sponsored a study that appeared in *Neurosurgery* that was co-authored by Lovell and Dr. Joe Maroon of the MTBI Committee and Dr. Mickey Collins of the University of Pittsburgh Medical Center who works closely with various NFL member clubs, that touted Riddell's "Revolution" helmet (introduced in 2002) as reducing the incidence of concussions in over 2000 high school athletes in Western Pennsylvania. Cantu publicly criticized the study as being worthless.

C. The NFL's Retirement Plan And Other Benefit Plans For Retired NFL Players And How They Are Inadequate.

193. The NFL's retirement and disability benefits are simply insufficient to provide sufficient medical services to retired NFL players who are at risk for CTE, MCI, Alzheimer's disease or similar cognitive-impairing conditions due to head impacts received during the period in which they played League football. These benefits are also inadequate to

defray the medical costs associated with the treatment of such cognitive-impairing conditions once they are diagnosed.

194. Retirement and disability benefits for former NFL players are provided pursuant to the “Bert Bell/Pete Rozelle Retirement Plan” (the “Plan”). The Plan is a merger of two prior plans in 1993. The Plan provides for retirement benefits, total and permanent (“T&P”) disability benefits, line of duty disability benefits and death benefits.

195. As of December of 2010, only 3,154 former NFL players receive pension benefits under the Plan, for an annual outlay of \$63.7 million.

196. In August of 2010, the United States Department of Labor (“DoL”) put the Plan on “endangered” status because the Plan’s funded percentage was only 75%.¹ The DoL’s letter to the Plan (available from its website at <<http://www.dol.gov/ebsa/pdf/e-notice092210001.pdf>>) noted that the Plan needed to devise a “funding improvement plan.”

197. The Plan is run by a Retirement Board consisting of three persons selected by the NFLPA, three persons selected by the NFL Management Council and, in an ex officio capacity, the NFL Commissioner. The actuary for the Plan is Aon Corporation, executives of which, on information and belief, have ownership interests in the Chicago Bears, one of the NFL’s member clubs.

¹ As the DoL explains at its website, <http://www.dol.gov/ebsa/criticalstatusnotices.html> : “[u]nder Federal pension law, if a multiemployer pension plan is determined to be in critical or endangered status, the plan must provide notice of this status to participants, beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation and the Department of Labor. This requirement applies when a plan has funding or liquidity problems, or both, as described in the Federal law. If a plan is in critical status, adjustable benefits may be reduced and no lump sum distributions can be made. Pension plans in critical and endangered status are required to adopt a plan aimed at restoring the financial health of the pension plan.”

198. Obtaining disability benefits under the Plan has been notoriously difficult. In 2010, only 289 of 464 eligible players who applied for disability payments were awarded any.

199. As noted above, on June 23, 2007, hearings on the NFL's compensation of retired players were held before C&A Subcommittee. Numerous retired players suffering severe disabilities as a result of their careers playing for the NFL, including Plaintiff Boyd, told their stories of being denied T&P and other benefits. Representative Sanchez summarized the evidence as follows:

After announcing this hearing and subsequent research, it has become clear that the NFL disability and pension benefits plans have sparked a significant amount of passionate critics. The various stories relayed by the retirees demonstrate concern not only with how the plan is structured but also about how it is administered.

The fundamental question then becomes whether this disability process is fair for the retired employees of the NFL. **The evidence suggests that the vast majority of former players needing benefits do not receive them. What is even more troubling is that through projects such as the NFL films, the NFL continues to profit off those very same players who are denied benefits. Essentially, is the NFL, a multibillion dollar organization, fairly treating the employees who helped build it?** (Emphases added).

200. Representative Conyers also summarized some of the evidence that had been presented to the subcommittee:

[T]he NFL's treatment of its retired players with respect to disability and pension benefits is problematic. As many of us know, the average football athlete is not a marquee player but plays in the league for less than 4 years and often retires because of injury. Upon retirement, he receives only \$14,500 in pension benefits, less than half the amount received by an average retired Major League baseball player.

Of 10,000 retired NFL players, it is estimated that less than 300 receive long-term disability payments. Several recent well-publicized cases highlight the resulting problems. For example, Pittsburgh Steelers center Mike Webster [(“Webster”)]. The court recently awarded his estate more than \$1.1 million in disability payments that the NFL’s Retirement Plan administrators claimed he was not entitled to receive.

Or take Brian DeMarco, former offensive lineman for the Jacksonville Jaguars. According to the Denver Post, Mr. DeMarco’s back was broken in 17 places and he retired due to severe health problems after the 1999 season. But he has never been able to get NFL disability benefits. His disabilities were so extensive that he can’t hold a telephone to his ear. In the last 4 years, Mr. DeMarco and his family have been homeless on three occasions.

I am concerned about the extent to which these issues are attributable to the administration of the NFL Retirement Plan, and I am troubled by the fact that arbitration is not readily available in cases of disability claims. The process for resolving disputes concerning player benefits and submission of disputes to a benefit arbitrator does not usually apply to retirement or disability benefits. Rather, the plan’s Retirement Board hears appeals of its own decisions instead of submitting appeals to an arbitrator, and this practice has drawn significant criticism. (Emphases added).

201. On September 18, 2007, a hearing on oversight of the NFL retirement system was held before the United States Senate Committee on Commerce, Science and Transportation. Similar testimony about denials of benefits was presented by NFL retired players.

202. On April 8, 2008, the Congressional Research Service (“CRS”) issued a report on “Former NFL Players: Disabilities, Benefits And Related Issues.” It concluded:

The subject of players’ injuries, disabilities, and benefits is a complex one, and, accordingly, there are a host of

issues surrounding this subject. Although the number and type of benefits have grown over the years, older retirees, particularly those who played prior to 1982, have fewer benefits available to them than their successors have. Yet, this subset of former players might have the greatest financial and medical needs.

203. As the CRS report also explained, there were substantial obstacles in obtaining T&P disability benefits under the Plan:

Overall, from July 1, 1993, through June 26, 2007, 1,052 individuals applied for LOD or T&P disability benefits: 428 applications were approved; 576 were denied; and 48 are pending. The approval rate, which does not include the cases that are pending, is 42%. The following series of statements shows the status of applications at each step of the process.

--1,052 applications submitted for disability benefits.

--358 (34%) applications approved.

--675 (64%) applications denied.

--19 (2%) applications are pending.

--223 (33% of 675) applications denied at the initial stage were appealed.

--69 (31%) approved on appeal.

--132 (60%) denied on appeal.

--22 (10%) appeals are pending.

--32 (24% of 132) applicants whose appeals were denied filed a lawsuit.

--1 (3%) lawsuit resulted in a reversal of the Retirement Board's decision.

204. As the CRS report also noted, as of October 27, 2007, only 154 NFL retired players were receiving T&P disability benefits.

205. There also exists a separate health benefit plan for retired or former NFL players known as the "88 Plan." The 88 Plan was created in August of 2007, apparently partly in response to the congressional hearings cited above. It is designed to assist players who are

vested under the Plan and who are determined to have dementia (including Alzheimer's Disease), as this condition is defined in the 88 Plan. The 88 Plan will pay the cost of medical and custodial care for eligible players, including institutional custodial care, institutional charges, home custodial care provided by an unrelated third party, physician services, durable medical equipment, and prescription medicine. For eligible players who are institutionalized as an in-patient, the maximum annual benefit is currently \$100,000 pursuant to the 2011 CBA (\$130,000 beginning in 2016). For eligible players who are not institutionalized as an in-patient, the maximum annual benefit is \$88,000 (\$116,000 beginning in 2016). 88 Plan benefits may be paid on behalf of an eligible player even if that player is also receiving T&P disability benefits from the Plan, but only if he is in the "Inactive" category. As of December 2010, only 151 NFL players were receiving benefits under the 88 Plan.

206. There also exists an "NFL Player Care Plan" subsidized by the NFL. The NFL Player Care Plan provides a uniform administrative framework for a range of programs that benefit eligible former NFL players. Currently, these benefits are: (a) joint replacement benefits; (b) assisted living benefits; (c) discount prescription drug benefits; (d) Medicare supplement insurance benefits; (e) spine treatment benefits; (f) neurological care benefits; and (g) life insurance benefits. These benefits can be terminated summarily. For example, it has been reported that Bruce Schwager, who played at various NFL training camps and now suffers from dementia, was told on March 14, 2011 that his bills for treatment at a dementia-care facility in Sugarland, Texas will no longer be paid.

207. In sum, the NFL, perhaps the richest professional sports league ever, has demonstrated a repeated unwillingness to take adequate care of retired players who are suffering

from the consequences of on-field head injuries incurred during their respective League careers and have made the game of professional football in this country what it is today.

COUNT I
Action For Declaratory Relief

208. Plaintiffs repeat and reallege each of the allegations contained in the foregoing paragraphs.

209. There is a case and controversy among Plaintiffs on the one hand and the Defendants on the other.

210. Pursuant to 28 U.S.C. § 2201, Plaintiffs seek a declaration as to the following.

211. They seek a declaration that Defendants knew or reasonably should have known that the repeated traumatic brain and head impacts, as well as concussions, suffered by Plaintiffs while playing NFL football were likely to put them at excess risk to neurodegenerative disorders and diseases including but not limited to CTE, MCI, Alzheimer's disease or similar cognitive-impairing conditions.

212. Plaintiffs seek a declaration that the Defendants, through their voluntary undertakings, had a duty to advise players and protect players from these risks.

213. Plaintiffs seek a declaration that the Defendants willfully and intentionally misled Plaintiffs concerning these medical risks.

214. Plaintiffs seek a declaration that the Defendants thereby recklessly endangered Plaintiffs.

COUNT II
Action For Negligence

215. Plaintiffs repeat and reallege each of the allegations contained in the foregoing paragraphs.

216. The NFL has historically assumed a gratuitous independent tort duty to create and enforce rules that protect the health and safety of its players, and it has violated Section 323 of the Restatement (Second) of Torts, and the common law.

217. Throughout the history of the NFL, the League has purported to exercise its duty to protect the health and safety of its players by implementing rules, policies and regulations in a purported attempt to best protect its players.

218. 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.

219. The NFL breached its duty to its players, including Plaintiffs, 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.

220. Throughout the many years that the NFL has repeatedly established its duty to protect the health and safety of its players when known and foreseeable risks exist, until August 14, 2007, the 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.

221. The NFL failed to establish any adequate guidelines or policies to protect the mental health and safety of its players. As explained above, the guidelines that the League offered in 2007 were false and misleading and failed to apprise Plaintiffs of the risks associated with on-field concussions

222. The NFL's failure to fulfill its assumed duty to protect its players includes, but is not limited to, the following failures:

- (a) Failure to use reasonable care in the research of the concussions issue;
- (b) Failure to use reasonable care in responding to independent scientific studies on the risk of concussions and brain disease in sport, and in football in particular;
- (c) Failure to use reasonable care in denying the scientific evidence connecting NFL play to the risk of an occurrence of brain disease;
- (d) Failure to use reasonable care in appointing competent and independent doctors and scientists to the MTBI Committee; and
- (e) Failure to use reasonable care in protecting Plaintiffs from the risk of brain disease and the sequelae of the concussions experienced by Plaintiffs.

223. Plaintiffs relied on the Defendants' misrepresentations (including affirmative misrepresentation and omissions) detailed herein to their detriment.

224. 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.

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

226. If the NFL would have taken the necessary steps to oversee and protect the NFL players, including Plaintiffs, by developing and implementing necessary guidelines, policies, and procedures; providing reasonably safe helmets; and educating and training all persons involved with the NFL clubs in the recognition, prevention, and treatment of concussive brain injuries, the NFL players, such as Plaintiffs, would not have suffered from the subject condition or the effects of that condition, would have recovered more rapidly, or would not have

suffered long-term brain damage, including CTE, MCI, Alzheimer's disease or similar cognitive-impairing condition.

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

228. The NFL committed acts of omission and commission, which collectively and severally, constituted negligence. The League's negligence was a proximate and producing cause of injuries suffered by Plaintiffs.

229. In addition to the injuries suffered by Plaintiffs described herein, defendants' negligent conduct caused or contributed to the personal injuries of the individual named plaintiffs including neurodegenerative disorders and diseases including but not limited to CTE, MCI, Alzheimer's disease or similar cognitive-impairing conditions, past and future medical expenses, past and future loss of earnings, past and future emotional distress, and punitive damages.

230. As a result of the injuries of Plaintiffs, they are entitled to damages, as alleged herein or allowed by law.

COUNT III
Action For Fraud

231. Plaintiffs repeat and reallege each of the allegations contained in the foregoing paragraphs.

232. Until June of 2010, the NFL, through its MTBI Committee, the statements and actions of its Commissioner and its other agents and employees, made material misrepresentations (and omissions) to its players, former players, the Congress and the public at

large that there was no link between concussions and brain injury, including CTE, MCI, Alzheimer's disease or similar cognitive-impairing conditions.

233. The persons who made the misrepresentations as agents of the NFL and the NFL knew the statements were false.

234. The persons who made the misrepresentations as agents of the NFL and the NFL intended to defraud the Plaintiffs.

235. The Plaintiffs justifiably relied on these misrepresentations to their detriment in getting care for their injuries.

236. The Plaintiffs were damaged by these misrepresentations.

237. In addition to the injuries suffered by Plaintiffs described herein, defendants' fraudulent conduct caused or contributed to the personal injuries of the individual named plaintiffs including neurodegenerative disorders and diseases including by not limited to CTE, MCI, Alzheimer's disease or similar cognitive-impairing conditions, past and future medical expenses, past and future loss of earnings, past and future emotional distress, and punitive damages.

238. As a result of the injuries of Plaintiffs, they are entitled to the damages, as alleged herein or allowed by law.

COUNT IV
Fraudulent Concealment

239. Plaintiffs repeat and allege each of the allegations contained in the foregoing paragraphs.

240. Defendants 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 play, over the time period relevant to this Complaint.

241. At no time prior to June 2010 did Defendants correct their misrepresentations. Even after June 2010, Defendants have failed to adequately advise Plaintiffs and the public of these risks.

242. Defendants knew their statements in regard to concussions and medical risks were false, and they knew the Plaintiffs would specifically rely on these statements.

243. In addition to the injuries suffered by Plaintiffs described herein, Defendants' negligent conduct caused or contributed to the personal injuries of the Plaintiffs including neurodegenerative disorders and diseases including but not limited to CTE, MCI, Alzheimer's disease or similar cognitive-impairing conditions, past and future medical expenses, past and future loss of earnings, past and future emotional distress, and punitive damages

244. As a result of the injuries of Plaintiffs, they are entitled to the damages, as alleged herein or allowed by law.

COUNT V
Action for Loss of Consortium

245. Plaintiffs repeat and reallege each of the allegations contained in the foregoing paragraphs.

246. Spouses of Plaintiffs have suffered damages in the past and will suffer damages in the future as a direct result of the injuries described above.

247. Spouses of Plaintiffs seek to recover for past and future loss of consortium and other harm to their relationship and marriage.

248. As a result of the injuries of Plaintiffs, spouses of Plaintiffs are entitled to the damages, as alleged herein or allowed by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment with respect to their Complaint as follows:

1. With respect to Count I, granting the declaratory relief requested pursuant to 28 U.S.C. § 2201;
2. With respect to Counts II through V, granting compensatory and punitive damages where applicable;
3. With respect to all counts, awarding Plaintiffs their costs and disbursements in this action, including reasonable attorneys' fees, to the extent permitted by law;
4. With respect to all counts, granting Plaintiffs such other and further relief as may be appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all matters so triable.

Dated: January 9, 2012

Respectfully Submitted,

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