

EXHIBIT A

 **Superior Court of California, County of San Diego - Register of Actions**

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Register of Actions (ROA)

Case Information			
Case Number:	37-2013-00032097-CU-PO-CTL	Date Filed:	01/24/2013
Case Title:	Seau vs. National Football League [IMAGED]	Case Status:	Pending
Case Category:	Civil - Unlimited	Location:	Central
Case Type:	PI/PD/WD - Other	Judicial Officer:	Timothy Taylor
Case Age:	29 days	Department:	C-72

Future Events +

Participants -

Name	Role	Representation
All American Sports Inc	Defendant	
EB Sports Corp	Defendant	
Easton-Bell Sports Inc	Defendant	
Easton-Bell Sports LLC	Defendant	
NFL Properties LLC	Defendant	
National Football League	Defendant	
RBG Holdings Corp	Defendant	
Riddell Inc	Defendant	
Riddell Sports Group Inc	Defendant	
Seau, Luisa T	Plaintiff	Fox, David

1 2

Representation -

Name	Address	Phone Number
FOX, DAVID	655 West Broadway Suite 1700 San Diego CA 92101	(619) 237-3490

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Register of Actions					
All Entries Filing Entries Minutes Entries Scheduling Entries					
ROA#	Entry Date	Short/Long Entry	Filed By	Document	Cart
8	01/30/2013	Notice of Related Case (Related to 13-31265) filed by Seau, Tiaina T; Seau, Luisa T.	Seau, Tiaina T (Plaintiff); Seau, Luisa T (Plaintiff)	Notice of Related Case (Related to 13-31265)	<input type="button" value="Add to Cart"/>
7	01/28/2013	Summons issued.			
6	01/24/2013	Original Summons filed by Seau, Tiaina T; Seau, Luisa T.\nRefers to: National Football League; NFL Properties LLC; Riddell Inc; All American Sports Inc; Riddell Sports Group Inc; Easton-Bell Sports Inc; Easton-Bell Sports LLC; EB Sports Corp; RBG Holdings Corp	Seau, Tiaina T (Plaintiff); Seau, Luisa T (Plaintiff)	Original Summons	<input type="button" value="Add to Cart"/>
5	01/28/2013	Case initiation form printed.			<input type="button" value="Add to Cart"/>
5	01/28/2013	Case initiation form printed.			<input type="button" value="Add to Cart"/>
5	01/28/2013	Case initiation form printed.		Notice of Case Assignment SD	<input type="button" value="Add to Cart"/>
5	01/28/2013	Case initiation form printed.			
		Civil Case Management Conference			

4	01/28/2013	scheduled for 06/28/2013 at 09:30:00 AM at Central in C-72 Timothy Taylor.			
3	01/24/2013	Case assigned to Judicial Officer Taylor, Timothy.			
2	01/24/2013	Civil Case Cover Sheet filed by Seau, Tiaina T; Seau, Luisa T.\nRefers to: National Football League; NFL Properties LLC; Riddell Inc; All American Sports Inc; Riddell Sports Group Inc; Easton-Bell Sports Inc; Easton-Bell Sports LLC; EB Sports Corp; RBG Holdings Corp	Seau, Tiaina T (Plaintiff); Seau, Luisa T (Plaintiff)	Civil Case Cover Sheet	<input type="button" value="Add to Cart"/>
1	01/24/2013	Complaint filed by Seau, Tiaina T; Seau, Luisa T.\nRefers to: National Football League; NFL Properties LLC; Riddell Inc; All American Sports Inc; Riddell Sports Group Inc; Easton-Bell Sports Inc; Easton-Bell Sports LLC; EB Sports Corp; RBG Holdings Corp	Seau, Tiaina T (Plaintiff); Seau, Luisa T (Plaintiff)	Complaint	<input type="button" value="Add to Cart"/>

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ORIGINAL

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F I L E D
Clerk of the Superior Court

JAN 24 2013

JAN 24 '13 PM 4:25

6 Attorneys for Plaintiffs

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO
9 CENTRAL DIVISION

10 TIAINA T. SEAU, an individual; and LUISA
11 T. SEAU, an individual,

12 Plaintiffs,

13 v.

14 NATIONAL FOOTBALL LEAGUE; NFL
15 PROPERTIES LLC; RIDDELL, INC.; ALL
16 AMERICAN SPORTS CORP.; RIDDELL
17 SPORTS GROUP, INC.; EASTON-BELL
18 SPORTS, INC.; EASTON-BELL SPORTS,
19 LLC; EB SPORTS CORP.; AND RBG
20 HOLDINGS CORP.,

21 Defendants.

Case No. 37-2013-00032097-CU-PO-CTL

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

- 1. Wrongful Death – NFL Defendants
- 2. Wrongful Death – Riddell Defendants

20 TIAINA T. SEAU, an individual; and LUISA T. SEAU, an individual; hereby file this
21 Complaint for Damages against Defendants the National Football League (“NFL”) and NFL
22 Properties LLC (“NFL Properties”) (collectively “NFL Defendants”), Riddell, Inc. (d/b/a Riddell
23 Sports Group, Inc.), All American Sports Corporation, (d/b/a Riddell/All American), Riddell
24 Sports Group, Inc., Easton-Bell Sports, Inc., Easton-Bell Sports, LLC, EB Sports Corp., and RBG
25 Holdings Corp. (collectively “Riddell Defendants”), and allege as follows:

26 **INTRODUCTION**

27 1. The NFL is America’s most successful sports organization, generating multi-
28 billion dollar profits and legions of devoted fans. On average, the NFL generates approximately

1 \$9,300,000,000.00 per year. As the organizer, marketer and face of professional football, the
2 NFL zealously protects these profits and the game that produces them.

3 2. This success comes at a price for the players who make the game great. For many
4 decades, evidence has linked repetitive mild traumatic brain injury (“MTBI”) to long-term
5 neurological problems. The NFL was aware of the evidence and the risks associated with
6 repetitive traumatic brain injuries for many decades, but deliberately ignored and actively
7 concealed the information from the players, including the late Tiaina B. Seau, Jr. (“Junior Seau”)
8 who was a player in the NFL for 20 consecutive seasons, where he sustained injuries leading to
9 his death on May 2, 2012. Junior Seau played for the San Diego Chargers (1990-2002), the
10 Miami Dolphins (2003-2005), and the New England Patriots (2006-2009).

11 3. Since its inception, the NFL has controlled and regulated every aspect of the game
12 of professional football, particularly with respect to player safety and health. The NFL has used
13 this authority to compel all NFL players and participants to follow the policies, rules, and
14 regulations the NFL has enacted and imposed. As the governing body of professional football,
15 the NFL has held itself out as the guardian and authority on the issue of player safety and has
16 unilaterally shouldered for itself a duty to provide players with rules and information that protect
17 players as much as possible from short-term and long-term health risks.

18 4. The NFL’s role as the guardian of player health and safety began in the 1930s and
19 continues up through the present day. The NFL has exercised its supervisory role through its
20 unilateral decisions to issue rules to improve upon NFL football’s public acceptance, to make a
21 profit, and to address issues of player safety. The NFL has also unilaterally and voluntarily
22 chosen how to spend its funds to investigate and regulate many different circumstances affecting
23 player health and safety, including, but not limited to, requiring players to wear certain
24 equipment, designating some player gear as illegal, and ultimately deciding what helmet brand
25 should be recognized as the official equipment of the NFL. During these decades, the NFL
26 voluntarily provided teams and players with information and regulations that directly affected the
27 short and long term health of NFL players, including Junior Seau.

28 5. NFL players and their families, including Junior Seau, looked to the NFL for

1 guidance on player safety issues.

2 6. Although the NFL voluntarily assumed its role as the unilateral guardian of player
3 safety, the NFL has exacerbated the health risk to players by promoting the game's violence and
4 lauding players for returning to play despite being rendered unconscious and/or disoriented due to
5 their exposure to sub-concussive and concussive forces. Today, the NFL and its agents continue
6 to market the ferocity and brutality of the sport.

7 7. The NFL has long been aware that violent on-field collisions can lead to latent
8 head injuries which may have debilitating long-term effects on players. Since the 1950s and
9 1960s, a substantial body of medical and scientific evidence has demonstrated neuro-cognitive
10 injuries in the sport of football as a result of MBTI. During these decades, the NFL voluntarily
11 participated in the work of various entities studying the performance and effectiveness of safety
12 gear to reduce the risk of neurological injury. The NFL's participation was a voluntary
13 continuance of the historic duty it had assumed in the first half of the twentieth century. Despite
14 this awareness, the NFL ignored, minimized, disputed, and actively suppressed broader awareness
15 of the link between sub-concussive and concussive injuries in football and the chronic neuro-
16 cognitive damage, illnesses, and decline suffered by former players.

17 8. By the early 1990s, the consensus among experts in the scientific community was
18 that many football players had developed brain injuries as a consequence of multiple "dings,"
19 sub-concussive injuries, and concussions.

20 9. In 1994, the NFL created and/or decided to fund the NFL's so-called Mild
21 Traumatic Brain Injury Committee (the "MTBI Committee") ostensibly to research and study
22 MTBI affecting NFL players.

23 10. Through its MTBI Committee, the NFL voluntarily inserted itself into the
24 scientific research and discussion concerning the link between sub-concussive and concussive
25 impacts sustained by NFL players and short-term and long-term impairment of the brain. By
26 voluntarily inserting itself into the MTBI research and public discourse, the NFL gratuitously
27 undertook a responsibility: (a) to make truthful statements; (b) not to wrongfully advance
28 improper, biased, and falsified industry-generated studies; (c) not to discredit well-researched and

1 credible studies that came to a conclusion that did not comport with the NFL's financial and
2 political interests; and (d) to inform all former players, all current players, and the football-
3 playing public, including young people and their families, regarding the risks of MTBI in
4 football.

5 11. Instead of adhering to these duties, the NFL produced industry-funded, biased, and
6 falsified research that claimed that concussive and sub-concussive head impacts in football do not
7 present serious, life-altering risks. The NFL also actively sought to suppress the findings of other
8 members of the medical community that showed the link between on-field sub-concussive and
9 concussive head impacts and post-career neuro-cognitive damage, illness and decline.

10 12. For sixteen years, the NFL actively and continuously denied any link between
11 MTBI sustained by former NFL players in NFL games and practices and the neurological
12 symptoms and problems (such as headaches, dizziness, loss of memory, dementia, and
13 Amyotrophic Lateral Sclerosis ("ALS")) from which they now suffer. The NFL made its biased
14 and falsified position known by way of gratuitous press releases, publications in scientific
15 literature, and other communications.

16 13. The NFL intended for the general public, NFL players, the late Junior Seau, his
17 family, and participants at every level of the game to rely on the misinformation it propagated.

18 14. The NFL's active and purposeful concealment and misrepresentation of the severe
19 neurological risks of repetitive MTBI exposed players to dangers they could have avoided had the
20 NFL provided them with truthful and accurate information. Junior Seau sustained numerous and
21 repetitive injuries over his career while in the NFL and has been diagnosed by the National
22 Institutes of Health to have been suffering from Chronic Traumatic Encephalopathy ("CTE") and
23 related neurodegenerative disorders and diseases which were caused by the NFL's acts and/or
24 omissions.

25 15. The NFL concealed and misrepresented these risks by: (a) historically ignoring the
26 true risks of MTBI in NFL football; (b) failing to disclose the true risks of repetitive MTBI to
27 NFL players; and (c) since 1994, deliberately spreading misinformation concerning the cause and
28 effect relationship between MTBI in NFL football and latent neurodegenerative disorders and

1 diseases.

2 16. These acts and omissions caused the neurodegenerative diseases, including the
3 debilitating and latent disease known as CTE, which caused Junior Seau's tragic death.

4 17. On information and belief, the NFL's motive to ignore and misrepresent the link
5 between MTBI sustained in NFL play and neuro-cognitive injury and decline was economic. The
6 NFL knew or suspected that any rule changes that sought to recognize that link and the health risk
7 to NFL players would impose an economic cost that would significantly and adversely change the
8 profit margins enjoyed by the NFL and its teams.

9 18. On information and belief, all NFL policies and decisions relevant to the conduct
10 alleged herein occurred primarily in the NFL corporate offices in New York.

11 **JURISDICTION AND VENUE**

12 19. Jurisdiction is based upon the California Constitution article VI, section 10.

13 20. Venue is proper in this Court pursuant to section 395(a) of the California Code of
14 Civil Procedure.

15 **IDENTIFICATION OF THE PARTIES**

16 **PLAINTIFFS**

17 21. Tiaina T. Seau is the father of Junior Seau, and is a resident of and domiciled in
18 the state of California.

19 22. Luisa T. Seau is the mother of Junior Seau, and is a resident of and domiciled in
20 the state of California.

21 23. Plaintiffs Tiaina T. Seau and Luisa T. Seau bring this action as specified in section
22 377.60(b) of the California Code of Civil Procedure.

23 **DEFENDANTS**

24 24. Defendant NFL, which maintains its offices at 345 Park Avenue, New York, New
25 York, is an unincorporated association consisting of separately owned and independently-
26 operated professional football teams which operate out of many different cities and states within
27 this country. The NFL is engaged in interstate commerce in the business of, among other things,
28 promoting, operating, organizing, and regulating the major professional football league in the

1 United States. The NFL is not, and has not been, the employer of Junior Seau, who was
2 employed during his career in professional football by the independent clubs (hereinafter
3 “Teams”) set forth below. The United States Supreme Court held in *American Needle, Inc. v.*
4 *National Football League*, 130 S. Ct. 14 2201, 2212-13 (2010), that each team that is a member
5 of the NFL is a legally distinct and separate entity from both the other teams and the NFL itself.
6 The NFL regularly conducts business in California.

7 25. Defendant NFL Properties, LLC is the successor-in-interest to National Football
8 League Properties, Inc. (“NFL Properties”) and a limited liability company organized and
9 existing under the laws of the state of Delaware with its headquarters in the state of New York.
10 NFL Properties is engaged in, among other activities, approving, licensing, and promoting
11 equipment used by all the NFL teams. NFL Properties regularly conducts business in California.
12 Together with the NFL, Defendant NFL Properties is referred to herein as the “NFL Defendants.”

13 26. Defendant Riddell, Inc. (d/b/a Riddell Sports Group, Inc.) is a corporation
14 organized and existing under the laws of the state of Illinois and whose principal place of
15 business is in the state of Illinois. Riddell is engaged in the business of designing, manufacturing,
16 selling and distributing football equipment, including helmets, to the NFL and since 1989 has
17 been the official helmet of the NFL. Riddell, Inc. regularly conducts business in the state of
18 California.

19 27. Defendant All American Sports Corporation, (d/b/a Riddell/All American), is a
20 corporation organized and existing under the laws of the state of Delaware and is engaged in the
21 business of designing, manufacturing, selling and distributing football equipment, including
22 helmets, to the NFL and since 1989 has been the official helmet of the NFL. All American Sports
23 Corporation regularly conducts business in the state of California.

24 28. Defendant Riddell Sports Group, Inc. is a Delaware corporation with its principal
25 place of business at 6255 N. State Highway, #300, Irving, Texas 76038. Riddell Sports Group,
26 Inc. regularly conducts business in the state of California.

27 29. Defendant Easton-Bell Sports, Inc. is a Delaware corporation with a principal
28 place of business at 7855 Haskell Avenue, Suite 200, Van Nuys, California 91406 and is a parent

1 corporation of Riddell Sports Group, Inc. Easton-Bell Sports, Inc. designs, develops, and markets
2 branded athletic equipment and accessories, including marketing and licensing products, under
3 the Riddell brand. Easton-Bell Sports regularly conducts business in the state of California.

4 30. Defendant Easton-Bell Sports, LLC is the parent corporation of Easton-Bell
5 Sports, Inc. and is incorporated in Delaware, with a principal place of business at 152 West 57th
6 Street, New York, New York 10019. Easton-Bell Sports, LLC regularly conducts business in the
7 state of California.

8 31. Defendant EB Sports Corp. is a Delaware corporation with its principal place of
9 business at 7855 Haskell Avenue, Van Nuys, California 91406.

10 32. Defendant RBG Holdings Corp. is a Delaware corporation with its principal place
11 of business at 7855 Haskell Avenue, Suite 350, Van Nuys, California 91406.

12 33. Defendants Riddell, Inc., Riddell Sports Group Inc., All American Sports
13 Corporation, Easton-Bell Sports, Inc., EB Sports Corp., Easton-Bell Sports, LLC, and RBG
14 Holdings Corp., shall hereinafter be referred to collectively as the "Riddell Defendants."

15 **GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS**
16 **AGAINST THE NFL DEFENDANTS**

17 34. The NFL oversees America's most popular spectator sport, acting as a trade
18 association for the benefit of the 32 independently operated Teams.

19 35. The NFL has, since its inception in the first half of the twentieth century, governed
20 and promoted the game of football by, acting as the governing body, establishing rules related to
21 player health and safety, league policies, and Team ownership.

22 36. The NFL generates revenue mostly through marketing sponsorships, licensing
23 merchandise, and by selling national broadcasting rights to the games. The Teams share a
24 percentage of the league's overall revenue.

25 37. Annually, the NFL redistributes approximately \$4 billion in radio, television, and
26 digital earnings to the Teams or approximately \$125 million per Team. Those revenue numbers
27 have increased since 2009.

28 38. The NFL enjoys partial monopoly power through an anti-trust exemption granted

1 via the Federal Sports Broadcasting Act that allows the NFL to sell television rights for all 32
2 Teams as a single unit.

3 **The NFL Uses Its Influence To Encourage Violent Play**

4 39. The NFL Defendants have had enormous influence over the game of football at all
5 levels of the game because of their financial power, monopoly status, and high visibility.

6 40. This influence has been expanded over many decades through their use of the
7 media. Through NFL Films, the NFL Network, and www.NFL.com, the NFL Defendants have
8 promoted NFL football via every mass communication medium available.

9 41. Part of the NFL Defendants' strategy to promote NFL football is to glorify the
10 brutality and ferocity of NFL football, in part by lauding and mythologizing the most brutal and
11 ferocious players and collisions, and simultaneously propagating the fraudulent representation
12 that "getting your bell rung," "being dinged," and putting big hits on others is a badge of courage
13 which does not seriously threaten one's health.

14 42. As a result of this strategy, the NFL Defendants have propagated the false myth
15 that collisions of all kinds, including brutal and ferocious collisions, many of which lead to short-
16 term and long-term neurological damage to players, are an acceptable, desired, and natural
17 consequence of the game, and a measure of the courage and heroism of players involved at every
18 level of the game.

19 43. As a result of this strategy, and the overwhelming influence of the NFL
20 Defendants at every level of the game, the NFL Defendants have also generated for themselves
21 and others billions of dollars every year by promoting a product of brutality and ferocity and
22 inculcating in players at every level of the game the false and life-threatening ideas that: (a)
23 brutal, ferocious, and debilitating collisions are a required and desired outcome in the game of
24 football; and (b) playing despite repetitive head impacts is a laudable and desirable goal.

25 44. NFL Films is an agent and instrumentality of the NFL Defendants devoted to
26 producing promotional films for the NFL. To propagate the NFL's image of the game as brutal
27 and violent, NFL Films has created numerous highlight features that focus solely on the hardest-
28 hits in professional football. These featured videos are marketed and sold to advance the NFL's

1 culture of violence as entertainment.

2 45. The list of videos created by NFL Films glorifying violent plays includes, but is
3 not limited to, the following titles: “*NFL: Moment of Impact*” (2007); “*NFL’s 100 Greatest*
4 *Tackles*” (1995); “*Big Blocks and King Size Hits*” (1990); “*The Best of Thunder and Destruction*
5 *– NFL’s Hardest Hits*,” “*NFL Films Video: Strike Force*” (1989); “*The NFL’s Greatest Hits*”
6 (1989); “*Crunch Course*”; “*Crunch Course II*” (1988); “*Crunch Masters*,” “*In the Crunch*”
7 (1987); “*NFL Rocks*,” and “*NFL Rocks: Extreme Football*” (1993).

8 46. These videos contain numerous explicit examples of how the NFL Defendants
9 market and glorify the violent nature of the NFL. For instance, the back cover of 2007 film
10 “*Moment of Impact*” advertises the film as follows: “First you hear the breathing, then you feel
11 the wind coming through your helmet’s ear hole. Suddenly you’re down, and you’re looking
12 through your helmet’s ear hole. Pain? That’s for tomorrow morning. Right now you’ve gotta
13 focus – focus on the play and try not to focus on the next moment of impact.”

14 47. These films deemphasize the acute and chronic risks associated with head impacts.
15 Moreover, they utilize players, including Junior Seau, to spread the fraudulent message that brutal
16 violence is a necessary part of the sport. In 1993’s “*NFL Rocks*,” Junior Seau offered his opinion
17 on the measure of a punishing hit: “If I can feel some dizziness, I know that guy is feeling double
18 [that].” In a segment of the same film, former Houston Oilers receiver Ernest Givens is quoted as
19 saying: “I get knocked out a lot, I get concussions, I get broken noses, that is part of being a
20 receiver, that’s what separates you from being a typical receiver than a great receiver.” Former
21 Dallas Cowboys receiver Michael Irvin recites a similar unawareness of the risks of concussions:
22 “Before the game, I go to the [defensive backs] and tell them, ‘Hey, you know I’ll trade a
23 concussion for a reception!’”

24 48. NFL Films, therefore, advances the NFL Defendants’ agenda to promote the most
25 violent aspects of NFL football and to urge players at every level of the game to disregard the
26 results of violent head impacts. This promotes a culture in which playing hurt or with an injury,
27 including MTBI, is both expected and acclaimed. Moreover, failure to play through such an
28 injury creates the risk that the NFL player will lose playing time, a starting position, and possibly

1 a career.

2 49. This attitude within the league and its players continued in the decades of the
3 1980s, 1990s and 2000s, with players lauded for their “head hunting” skills. As recently as
4 October 2010, the NFL fined some players for what it characterized as “illegal and dangerous
5 hits,” and yet the NFL Defendants sought to profit by selling photos of the illegal hits on its
6 website for between \$54.95 and \$249.95.

7 50. Within this culture, the NFL Defendants purposefully profit from the violence they
8 promote.

9 **Injuries Resulting From This Violence**

10 51. Medical science has known for many decades that repetitive and violent jarring of
11 the head or impact to the head can cause MTBI with a heightened risk of long term, chronic
12 neuro-cognitive injury.

13 52. The American Association of Neurological Surgeons (the “AANS”) has defined a
14 concussion as “a clinical syndrome characterized by an immediate and transient alteration in brain
15 function, including an alteration of mental status and level of consciousness, resulting from
16 mechanical force or trauma.” The AANS defines traumatic brain injury (“TBI”) as:

17 [A] blow or jolt to the head, or a penetrating head injury that
18 disrupts the normal function of the brain. TBI can result when the
19 head suddenly and violently hits an object, or when an object
20 pierces the skull and enters brain tissue. Symptoms of a TBI can be
21 mild, moderate or severe, depending on the extent of damage to the
22 brain. Mild cases may result in a brief change in mental state or
23 consciousness, while severe cases may result in extended periods of
24 unconsciousness, coma or even death.

25 53. MTBI generally occurs when the head either accelerates rapidly and then is
26 stopped, or is rotated rapidly. The results frequently include, among other things, confusion,
27 blurred vision, memory loss, nausea, and sometimes unconsciousness.

28 54. Medical evidence has shown that symptoms of MTBI can appear hours or days
after the injury.

55. Once a person suffers an MTBI, he is up to four times more likely to sustain a
second one. Additionally, after suffering even a single sub-concussive or concussive blow, a

1 lesser blow may cause MTBI, and the injured person requires more time to recover.

2 56. Clinical and neuro-pathological studies by some of the nation's foremost experts
3 demonstrate that multiple head injuries, concussions, or repeated traumatic head impacts
4 (including sub-concussive and concussive blows) sustained during an NFL player's career can
5 cause severe neuro-cognitive problems such as depression and early-onset of dementia.

6 57. Studies on many former football players, including former NFL players, have
7 established that football players who sustain repetitive head impacts while playing the game have
8 suffered and continue to suffer brain injuries that result in any one or more of the following
9 conditions: early-onset of Alzheimer's Disease; dementia; depression; deficits in cognitive
10 functioning, reduced processing speed, attention and reasoning; loss of memory; sleeplessness;
11 mood swings; personality changes; neurological deficits impacting judgment; and the debilitating
12 and latent disease known as CTE. The latter condition involves the slow build-up of the Tau
13 protein within the brain tissue that causes diminished brain function, progressive cognitive
14 decline, and many of the symptoms listed above. CTE is also is associated with an increased risk
15 of suicide.

16 58. CTE is found in athletes, including football players and boxers, with a history of
17 repetitive head trauma. The changes in the brain caused by repetitive trauma are thought to begin
18 when the brain is subjected to that repetitive trauma, but symptoms may not appear until months,
19 years, or even decades after the last traumatic impact or the end of active athletic involvement.

20 59. Papers and studies documenting autopsies on over thirty former NFL players show
21 that 90% of the players suffered from CTE.

22 60. As a result, published peer reviewed scientific studies have shown that concussive
23 and sub-concussive head impacts while playing professional football are linked to a significant
24 risk of permanent brain injury.

25 61. Published peer reviewed scientific studies have shown that 28% of the NFL
26 retirees studied suffered from depression, whereas the prevalence of depression in the general
27 population is 9.5%.

28 62. Published peer reviewed scientific studies have shown that 36% of NFL retirees

1 ages 65-75 who were studied suffered from dementia, whereas the prevalence of dementia in the
2 general population for the same age group is merely 2.2-6.5%.

3 63. Published peer reviewed scientific studies have shown that retired players with
4 three or more reported concussions had a fivefold prevalence of mild cognitive impairment (MCI)
5 and a threefold prevalence of significant memory problems, compared to other retirees.

6 64. In a study of NFL retirees, 11.1% of all respondents reported having a diagnosis of
7 clinical depression.

8 65. At all times, the NFL's unique position afforded it unparalleled access to the
9 readily accessible data above relating the effect of head impacts on football players. The NFL
10 Defendants have known or should have known about the risks for MTBI, the scientific studies
11 linking repeated concussive and sub-concussive head impacts with a significant risk for
12 permanent brain injury, including CTE, and about the increased incidence of depression,
13 dementia, and cognitive impairment and memory problems in retired NFL players.

14 **The NFL Was in a Superior Position of Knowledge**
15 **and Authority and Owed a Duty to Players Like Junior Seau**

16 66. At all times, the NFL's unique historical vantage point at the apex of the sport of
17 football, paired with its unmatched resources as the most well-funded organization devoted to the
18 business of the game, has afforded it unparalleled access to data relating to the effect of head
19 impacts on football players and made it an institutional repository of accumulated knowledge
20 about head injuries to players.

21 67. The NFL is the organizer, marketer and public face of professional football in the
22 United States. The NFL governs each of the individual teams, collects and distributes revenue
23 among the teams, and authorizes the sport's rules.

24 68. From its inception, the NFL adopted the role of protecting players, informing
25 players of safety concerns, and imposing unilaterally a wide variety of rules to protect players
26 from injuries that were costly to the players, the game, and profits. For instance, the NFL
27 recently stated that "[s]ince its earliest days, the league has continuously taken steps to ensure that
28 the game is played as fairly as possible without unnecessary risk to its participants, including

1 making changes and enhancements to game safety rules.”

2 (<http://www.nflevolution.com/article/Safety-Rules-038-Regulations?ref=258>) (August 9, 2012).

3 69. On information and belief, the NFL has continuously received and paid for
4 professional advice regarding health risks associated with playing football. This advice and
5 knowledge placed the NFL in a position of ongoing superior knowledge to the players regarding
6 the health risks associated with concussive and sub-concussive injuries. Combined with the
7 NFL’s unilateral power to set rules and policies, the NFL at all relevant times was in a position to
8 dictate how the game would be played and to define the risks to players.

9 70. For these reasons, players and their families have relied on the NFL to: (a)
10 intervene in matters of player safety; (b) to recognize issues of player safety; and (c) to be truthful
11 on the issue of player safety.

12 71. By its position, representations, and actions to set rules and policies, the NFL
13 assumed a duty to adhere to these goals.

14 72. The NFL’s historical actions in connection with an assumed common law duty to
15 make the game safer and inform players of necessary safety information include, but are not
16 limited to, the following: adding a field judge (1929); establishing hash-marks at 10 yards from
17 the sidelines (1933); establishing the penalty of unnecessary roughness for a deliberate rough
18 contact on the passer after the pass is made (1938); making helmets mandatory (1943); adding a
19 back field judge (1947); establishing a rule that the ball is dead when a runner touches the ground
20 with any part of his body except his hands while in the grasp of an opponent (1955); establishing
21 a rule that the ball is dead immediately if the runner touches the ground with any part of his body
22 except his hands after being contacted by a defensive player (1956); establishing a penalty for
23 grabbing the face mask of any opponent except a runner (1956); establishing a penalty of
24 grabbing the face mask of any opponent (1962); requiring that goal posts be offset from the goal
25 line (1966); establishing a rule that a player who signals for a fair catch cannot block or initiate
26 contact with one of the kicking team’s players until the ball touches a player (1967); establishing
27 a rule that a defensive player who jumps or stands on a teammate or who is picked up by a
28 teammate cannot attempt to block an opponent’s kick (1973); establishing a rule that no receiver

1 can be blocked below the waist after moving beyond the line of scrimmage (1974); establishing a
2 rule that eligible receivers who take a position more than two yards from the tackle cannot be
3 blocked below the waist (1974); establishing a rule that a defender is not permitted to run or dive
4 into a ball carrier who has fallen to the ground untouched (1976); establishing a rule that it is
5 illegal for a defensive lineman to strike an opponent above the shoulders during his initial charge
6 (1977) (previously the NFL made this illegal only during the first step); establishing that it is
7 illegal for a wide receiver to clip an opponent anywhere (1977); establishing rules as to
8 mandatory equipment (1979); establishing that it is illegal for a player in the backfield to chop an
9 outside rusher on a pass play (1979); establishing that it is illegal to throw a punch or forearm or
10 to kick an opponent (1979); and establishing that it is illegal to strike, swing, or club an opponent
11 in the head, neck or face (1980).

12 73. As the sport's governing entity (with monopolistic power), the NFL has made it
13 known to players and teams alike that the NFL actively and pervasively governs player conduct
14 and health and safety both on and off the field. In public statements since its inception, the NFL
15 has stated that its goals include taking necessary steps for the safety, health and well-being of
16 players and their families.

17 74. Thus, since its inception, and continuing into the present, the NFL has been in a
18 position that affords it a special relationship to NFL players as the guardian of their health and
19 safety. For that reason, from its inception and continuing into the present, the NFL owed a duty
20 of reasonable care to keep NFL players informed of safety risks, to inform NFL players truthfully,
21 and not to mislead NFL players about the risks of permanent neurological damage that can occur
22 from MTBI incurred while playing football.

23 75. On information and belief, over the past two decades, the NFL continued to
24 exercise this common law duty and its unilateral authority to investigate and advise NFL players
25 on many diverse and important topics, and that should have included the recognition of
26 circumstances that can precipitate MTBI, the long-term potential consequences of MTBI to NFL
27 players, and solutions for players who have sustained MTBI.

28 76. Moreover, from 1994 until 2010, the NFL publicly conducted head injury research

1 and openly disputed that any short-term or long-term harmful effects arose from football-related
2 sub-concussive and concussive injuries. The NFL propagated its own falsified research to
3 support its position, despite its historic role as the guardian of player safety, and despite the fact
4 that independent medical scientists had already come to the opposite conclusion.

5 77. As such, the NFL continued its existing common law duty to provide truthful
6 scientific research and information about the risks of concussive and sub-concussive injuries to
7 NFL players, including Junior Seau, who relied on the NFL's research and pronouncements on
8 that subject.

9 **The NFL Knew the Dangers and Risks Associated with**
10 **Repetitive Head Impacts and Concussions**

11 78. For decades, the NFL has been aware that multiple blows to the head can lead to
12 long-term brain injury, including but not limited to: memory loss, dementia, depression, and CTE
13 and its related symptoms.

14 79. For instance, between 1952 and 1994, numerous studies were published in medical
15 journals including the *Journal of the American Medical Association*, *Neurology*, the *New England*
16 *Journal of Medicine*, and *Lancet* warning of the dangers of single concussions, multiple
17 concussions, and/or football-related head trauma from multiple concussions. These studies
18 collectively established that:

- 19 • repetitive head trauma in contact sports, including boxing and football,
20 has potential dangerous long-term effects on brain function;
- 21 • encephalopathy (dementia pugilistica) is caused in boxers by repeated
22 sub-concussive and concussive blows to the head;
- 23 • acceleration and rapid deceleration of the head that results in brief loss
24 of consciousness in primates also results in a tearing of the axons (brain
25 cells) within the brainstem;
- 26 • with respect to mild head injury in athletes who play contact sports,
27 there is a relationship between neurologic pathology and length of the
28 athlete's career; immediate retrograde memory issues occur following
concussions; mild head injury requires recovery time without risk of
subjection to further injury;
- head trauma is linked to dementia;
- a football player who suffers a concussion requires significant rest
before being subjected to further contact; and

- minor head trauma can lead to neuropathological and neurophysiological alterations, including neuronal damage, reduced cerebral blood flow, altered brainstem evoked potentials and reduced speed of information processing.

1
2
3 80. In fact, as early as 1928, pathologist Harrison Martland described the clinical
4 spectrum of abnormalities found in “almost 50 percent of fighters [boxers] . . . if they ke[pt] at the
5 game long enough” (the “Martland study”). The article was published in the *Journal of the*
6 *American Medical Association*. The Martland study was the first to link sub-concussive blows
7 and “mild concussions” to degenerative brain disease.

8 81. In 1937, the American Football Coaches Association published a report warning
9 that players who suffer a concussion should be removed from sports demanding personal contact.

10 82. In 1962, Drs. Serel & Jaros looked at the heightened incidence of chronic
11 encephalopathy in boxers and characterized the disease as a “Parkinsonian” pattern of progressive
12 decline.

13 83. A 1963 study by Drs. Mawdsley & Ferguson published in *Lancet* found that some
14 boxers sustain chronic neurological damages as a result of repeated head injuries. This damage
15 manifested in the form of dementia and impairment of motor function.

16 84. In the 1960s and 1970s, the development of the protective face mask in football
17 allowed the helmeted head to be used as a battering ram. By 1975 the number of head and neck
18 injuries from football that resulted in permanent quadriplegias in Pennsylvania and New Jersey
19 lead to the creation of the National Football Head and Neck Registry, which was sponsored by the
20 National Athletic Trainers Association and the Sports Medicine Center at the University of
21 Pennsylvania.

22 85. In the early 1980s, the Department of Neurosurgery at the University of Virginia
23 published studies on patients who sustained MTBI and observed long-term damage in the form of
24 unexpected cognitive impairment. The studies were published in neurological journals and
25 treatises within the United States.

26 86. In 1982, the University of Virginia and other institutions conducted studies on
27 college football teams that showed that football players who suffered MTBI suffered pathological
28 short-term and long-term damage. With respect to concussions, the same studies showed that a

1 person who sustained one concussion was more likely to sustain a second, particularly if that
2 person was not properly treated and removed from activity so that the concussion symptoms were
3 allowed to resolve.

4 87. The same studies showed that two or more concussions close in time could have
5 serious short-term and long-term consequences in both football players and other victims of brain
6 trauma.

7 88. By 1991, three distinct medical professionals/entities, all independent from the
8 NFL—Dr. Robert Cantu of the American College of Sports Medicine, the American Academy of
9 Neurology, and the Colorado Medical Society—developed return-to-play criteria for football
10 players suspected of having sustained head injuries.

11 89. On information and belief, by 1991, the NCAA football conferences and
12 individual college teams' medical staffs, along with many lower-level football groups had
13 disseminated information and adopted criteria to protect football players even remotely suspected
14 of having sustained concussions.

15 90. In 1999, the National Center for Catastrophic Sport Injury Research at the
16 University of North Carolina conducted a study involving eighteen thousand (18,000) collegiate
17 and high school football players. The research showed that once a player suffered one
18 concussion, he was three times more likely to sustain a second in the same season.

19 91. In 1999, former Pittsburgh Steeler and Hall of Fame inductee Mike Webster filed
20 with the NFL a request that he receive complete disability benefits based on the fact that he had
21 sustained repeated and disabling head impacts while a player for the Steelers. In 1999, Webster
22 submitted extensive medical reports and testimony that stated that Webster suffered from
23 "traumatic or punch drunk encephalopathy [brain disease]" sustained from playing football that
24 left Webster totally and permanently disabled as of 1991.

25 92. The NFL's own physician independently examined Webster and concluded that
26 Webster was mentally "completely and totally disabled as of the date of his retirement and was
27 certainly disabled when he stopped playing football sometime in 1990."

28 93. Webster died in 2002 at the age of fifty. In December 2006, his estate received an

1 unpublished opinion from the United States Court of Appeals for the Fourth Circuit which stated
2 that the NFL Plan had acknowledged that the multiple head injuries Webster sustained during his
3 playing career (1974-1990) “. . . had caused Webster eventually to suffer total and permanent
4 mental disability”

5 94. Thus, the NFL, through its own expert medical testimony and the expert testimony
6 submitted by Webster knew and accepted that repetitive traumatic brain injuries sustained by a
7 Hall of Fame player led to long-term encephalopathy and permanent mental disability.

8 95. A 2000 study, which surveyed 1,090 former NFL players, found that more than
9 60% had suffered at least one concussion, and 26% had suffered three (3) or more, during their
10 careers. Those who had sustained concussions reported more problems with memory,
11 concentration, speech impediments, headaches, and other neurological problems than those who
12 had not been concussed.

13 96. Also in 2000, a study presented at the American Academy of Neurology’s 52nd
14 Annual Meeting and authored by Dr. Barry Jordan, Director of the Brain Injury Program at Burke
15 Rehabilitation Hospital in White Plains, New York, and Dr. Julian Bailes, surveyed 1,094 former
16 NFL players between the ages of 27 and 86 and found that: (a) more than 60% had suffered at
17 least one concussion in their careers, with 26% of the players having three or more and 15%
18 having five or more; (b) 51% had been knocked unconscious more than once; (c) 73% of those
19 injured said they were not required to sit on the sidelines after their head trauma; (d) 49% of the
20 former players had numbness or tingling; (e) 28% had neck or cervical spine arthritis; (f) 31%
21 had difficulty with memory; (g) 16% were unable to dress themselves; (h) 11% were unable to
22 feed themselves; and (i) eight (8) suffered from Alzheimer’s disease.

23 97. In 2004, a convention of neurological experts in Prague met with the aim of
24 providing recommendations for the improvement of safety and health of athletes who suffer
25 concussive injuries in ice hockey, rugby, football, and other sports based on the most up-to-date
26 research. These experts recommended that a player never be returned to play while symptomatic,
27 and coined the phrase, “when in doubt, sit them out.”

28 98. This echoed similar medical protocol established at a Vienna conference in 2001.

1 99. These two conventions were attended by predominately American doctors who
2 were experts and leaders in the neurological field.

3 100. The University of North Carolina's Center for the Study of Retired Athletes
4 published survey-based papers in 2005 through 2007 that found a strong correlation between
5 depression, dementia, and other cognitive impairment in NFL players and the number of
6 concussions those players had received.

7 101. An article in 2010 in the *New England Journal of Medicine* entitled "Traumatic
8 Brain Injury—Football, Warfare, and Long-Term Effects," demonstrated that even mild TBI can
9 have lasting consequences that are manifest later in the football player's life.

10 102. Indeed, while the NFL knew for decades of the harmful effects of sub-concussive
11 and concussive injuries on a player's brain, it actively concealed these facts from players and the
12 public.

13 103. While other sports were making changes to play safer, the NFL consistently and
14 publicly denied that football-related impacts had any connection to long-term brain injury. As
15 recently as 2009, the league's medical committee continued to assert that there were no long-term
16 negative health risks associated with concussions or other football-related head impacts.

17 104. The NFL deliberately concealed the fact that playing in the NFL could lead to
18 permanent irreversible brain damage from players. Instead of being honest about the dangers and
19 working with both players and the medical community to minimize them, the league repeatedly
20 asserted that professional football players were at no greater risk of brain or neurological injury
21 than the public at large.

22 105. On information and belief during every decade referenced above, the NFL was
23 advised by physicians of all kinds regarding the risks associated with playing the game of
24 football, including the risks associated with head impacts and MTBI.

25 106. As described above, the NFL has known for decades that MTBI can and does lead
26 to long-term brain injury, including, but not limited to, memory loss, dementia, depression, and
27 CTE and its related symptoms.

28 107. Rather than take immediate measures to protect NFL players from these known

1 dangers, between the 1950s and 1994, the NFL failed to disseminate to then-current and former
2 NFL players relevant health information it possessed regarding the significant risks associated
3 with MTBI.

4 **The NFL Voluntarily Undertook the Responsibility of Studying Head Impacts In Football,**
5 **Yet Fraudulently Concealed Their Long-Term Effects.**

6 108. In 1994, then NFL commissioner Paul Tagliabue agreed to fund a committee to
7 study the issue of head injury in the NFL. The NFL voluntarily and unilaterally formed the MTBI
8 Committee to study the effects of concussions and sub-concussive injury on NFL players.

9 109. By the time of the MTBI Committee's formation in 1994, independent scientists
10 and neurologists alike were already convinced that all concussions—even seemingly mild ones—
11 were serious injuries that can permanently damage the brain, impair thinking ability and memory,
12 and hasten the onset of mental decay and senility, especially when they are inflicted frequently
13 and without time to properly heal.

14 110. With the MTBI Committee, the NFL voluntarily inserted itself into the private and
15 public discussion and research on the effects of repetitive head impacts in football. Through its
16 voluntary creation of the MTBI Committee, the NFL affirmatively assumed a duty to use
17 reasonable care in the study of concussions and post-concussion syndrome in NFL players; the
18 study of any kind of brain trauma relevant to the sport of football; the use of information
19 developed; and the publication of data and/or pronouncements from the MTBI Committee.

20 111. Rather than exercising reasonable care in these duties, the NFL immediately
21 engaged in a course of fraudulent and negligent conduct, which included dissemination of
22 disinformation designed to: (a) dispute accepted and valid neuroscience regarding the connection
23 between repetitive traumatic brain injuries and concussions and degenerative brain disease such
24 as CTE; and (b) to create a falsified body of research which the NFL could cite as proof that
25 truthful and accepted neuroscience on the subject was inconclusive and subject to doubt.

26 112. The NFL's status in football gave the MTBI Committee's pronouncements on
27 concussions authority and validity. The MTBI Committee was purportedly geared toward
28 "improv[ing] player safety" and for the purpose of instituting "rule changes aimed at reducing

1 head injuries.” Players like Junior Seau, therefore, reasonably relied on the NFL’s
2 pronouncements and/or silence on this vital health issue.

3 113. The NFL did not appoint any neuropathologist to the MTBI Committee.

4 114. The MTBI Committee was publicized by the NFL as independent from the NFL,
5 consisting of a combination of doctors and researchers.

6 115. The MTBI Committee, however, was not independent. It consisted of at least five
7 (5) persons who were already affiliated with the NFL.

8 116. Instead of naming a noted neurologist or a physician trained to treat head injuries
9 to chair the MTBI Committee, Commissioner Tagliabue appointed Dr. Elliot Pellman, a
10 rheumatologist who lacked any specialized training or education relating to concussions, and who
11 was a paid physician and trainer for the New York Jets. Dr. Pellman had reportedly been fired by
12 Major League Baseball for lying to Congress regarding his resume. At no time was Dr. Pellman
13 independent of the NFL, because he was paid on an ongoing basis by an NFL Team.

14 117. Dr. Pellman would chair the MTBI Committee from 1994-2007, and his leadership
15 of the Committee came under frequent and harsh criticism related to his deficient medical
16 training, background, and experience.

17 118. Dr. Pellman and two other MTBI Committee members, Dr. Ira Casson, a
18 neurologist, and Dr. David Viano, a biomedical engineer, worked to discredit scientific studies
19 that linked head impacts and concussions received by NFL players to neuro-cognitive disorders
20 and disabilities.

21 119. The MTBI Committee did not publish its first findings on active players until
22 2003. In that publication, the MTBI Committee stated, contrary to years of (independent)
23 findings, that there was no long term negative health consequence associated with concussions.

24 120. The MTBI Committee published its subsequent findings in a series of sixteen (16)
25 papers between 2003 and 2009. According to the MTBI Committee, all of their findings
26 supported a conclusion that there was no long term negative health consequence associated with
27 concussions or sub-concussive injuries sustained by NFL players. These findings regularly
28 contradicted the research and experiences of neurologists who treat sports concussions and the

1 players who endured them.

2 121. For example, in 2004 the MTBI Committee published a conclusion in which it
3 claimed that its research found no risk of repeated concussions in players with previous
4 concussions and that there was no “7-to-10 day window of increased susceptibility to sustaining
5 another concussion.”

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

10 123. As a further example, an MTBI Committee conclusion in 2005 stated that
11 “[p]layers who are concussed and return to the same game have fewer initial signs and symptoms
12 than those removed from play. Return to play does not involve a significant risk of a second
13 injury either in the same game or during the season.” “These data suggest,” the MTBI Committee
14 reported, “that these players were at no increased risk” of subsequent concussions or prolonged
15 symptoms such as memory loss, headaches, and disorientation.

16 124. Yet, a 2003 NCAA study of 2,905 college football players found just the opposite:
17 “Those who have suffered concussions are more susceptible to further head trauma for seven to
18 10 days after the injury.”

19 125. Support for this same conclusion was developed as early as 1982 in studies
20 conducted at the University of Virginia.

21 126. Dr. Pellman and his group stated repeatedly that the NFL study showed “no
22 evidence of worsening injury or chronic cumulative effects of multiple [MTBI] in NFL players.”

23 127. Yet, the 2003 report by the Center for the Study of Retired Athletes at the
24 University of North Carolina found a link between multiple concussions and depression among
25 former professional players with histories of concussions. A 2005 follow-up study by the Center
26 showed a connection between concussions and both brain impairment and Alzheimer’s disease
27 among retired NFL players.

28 128. Other contrary conclusions that the MTBI Committee published at the behest,

1 urging, and sponsorship of NFL over several years include, but are not limited to, the following:
2 Drs. Pellman and Viano stated that because a “significant percentage of players returned to play
3 in the same game [as they suffered a concussion] and the overwhelming majority of players with
4 concussions were kept out of football-related activities for less than 1 week, it can be concluded
5 that mild [TBIs] in professional football are not serious injuries;” that NFL players did not show a
6 decline in brain function after a concussion; that there were no ill effects among those who had
7 three (3) or more concussions or who took hits to the head that sidelined them for a week or more;
8 that “no NFL player experienced the second-impact syndrome or cumulative encephalopathy
9 from repeat concussions;” and that NFL players’ brains responded and healed faster than those of
10 high school or college athletes with the same injuries.

11 129. The MTBI Committee’s papers and conclusions were against the weight of the
12 scientific evidence and based on biased data-collection techniques. They received significant
13 criticism in the scientific and medical media from independent doctors and researchers and were
14 met with skepticism in peer review segments following each article’s publication.

15 130. Moreover, the conclusions of the MTBI Committee completely contradicted the
16 testimony of the NFL’s own paid expert submitted in connection with Mike Webster’s permanent
17 disability application.

18 131. Renowned experts Dr. Robert Cantu and Dr. Julian Bailes wrote harshly critical
19 reviews of the studies’ conclusions.

20 132. Dr. Cantu observed that the extremely small sample size and voluntary
21 participation in the MTBI Committee’s study suggested there was bias in choosing the sample.
22 According to Dr. Cantu, no conclusions should be drawn from the NFL study.

23 133. A different scientist who reviewed the MTBI Committee’s work further stated that
24 the NFL appeared to be primarily preparing a defense for when injured players eventually sued,
25 and that it seemed to be promoting a flawed scientific study to justify its conclusion that
26 concussions do not have adverse effects on players.

27 134. Also, the MTBI Committee failed to include hundreds of neuropsychological tests
28 done on NFL players in the results of the Committee’s studies on the effects of concussions and

1 was selective in its use of injury reports.

2 135. For instance, the results reported by Dr. Pellman and the MTBI Committee
3 selectively excluded at least 850 baseline tests. In a paper published in *Neurosurgery* in
4 December 2004, Dr. Pellman and the other MTBI Committee members reported on the baseline
5 data for 655 players and the results for 95 players who had undergone both baseline testing and
6 post-concussion testing. They concluded that NFL players did not show a decline in brain
7 function after suffering concussions. Their further analysis purportedly found no ill effects
8 among those who had three or more concussions or who took hits to the head that kept them out
9 for a week or more. The paper did not explain where the players in the study groups specifically
10 came from, or why certain player data was included, and that data from hundreds of other players
11 was not.

12 136. Dr. Kevin Guskiewicz has stated that the “data that hasn’t shown up makes their
13 work questionable industry-funded research.”

14 137. Pellman subsequently fired William Barr, a neuropsychologist for the New York
15 Jets, after Dr. Barr presented at a conference some NCAA study findings that contradicted NFL
16 practices.

17 138. As described in the following paragraphs, when faced with studies which tended to
18 show a causal link between MTBI and cognitive degeneration, the NFL, through the MTBI
19 Committee, produced contrary findings that were false, distorted, and deceptive to NFL players,
20 participants in football nationwide, and the public at large.

21 139. Between 2002 and 2007, Dr. Bennet Omalu examined the brain tissue of deceased
22 NFL players, including Mike Webster, Terry Long, Andre Waters, and Justin Strzelczyk. Dr.
23 Omalu concluded that the players suffered from CTE. These individuals suffered multiple
24 concussions during their NFL careers, and later in life exhibited symptoms of deteriorated
25 cognitive functions, paranoia, panic attacks, and depression. Dr. Omalu’s findings were
26 published in *Neurosurgery*, where he concluded that Webster’s and Long’s respective deaths
27 were partially caused by CTE and were related to multiple concussions suffered during their
28 activity in the NFL.

1 140. In response to Dr. Omalu's articles, the MTBI Committee wrote a letter to the
2 editor of *Neurosurgery* asking that Dr. Omalu's article be retracted.

3 141. In another *Neurosurgery* article published in 2007, Dr. Cantu reached a similar
4 conclusion regarding Andre Waters as Dr. Omalu had reached regarding Mike Webster and Terry
5 Long.

6 142. A 2003 study, partially authored by Dr. Kevin Guskiewicz, analyzed data from
7 almost 2,500 retired NFL players and found that 263 of the retired players suffered from
8 depression. The study found that having three or four concussions meant twice the risk of
9 depression and five or more concussions meant a nearly three-fold risk.

10 143. The NFL's MTBI Committee attacked these studies.

11 144. In November 2003, Dr. Guskiewicz was scheduled to appear on HBO's "Inside the
12 NFL" to discuss his research. Dr. Pellman called Dr. Guskiewicz in advance and questioned
13 whether it was in the best interest of Dr. Guskiewicz to appear on the program. On the program,
14 Dr. Pellman stated unequivocally that he did not believe the results of the study led by Dr.
15 Guskiewicz.

16 145. In 2005, Dr. Guskiewicz performed a clinical follow-up study, and found that
17 retired players who sustained three or more concussions in the NFL had a five-fold prevalence of
18 mild cognitive impairment in comparison to NFL retirees without a history of concussions. In
19 doing this research, Dr. Guskiewicz conducted a survey of over 2,550 former NFL athletes.

20 146. The MTBI Committee attacked and sought to undermine the study, stating: "We
21 want to apply scientific rigor to this issue to make sure that we're really getting at the underlying
22 cause of what's happening. . . . You cannot tell that from a survey."

23 147. In August 2007, the NFL issued a concussion pamphlet to players which stated,
24 "Current research with professional athletes has not shown that having more than one or two
25 concussions leads to permanent problems if each injury is managed properly. It is important to
26 understand that there is no magic number for how many concussions is too many. Research is
27 currently underway to determine if there are any long-term effects of concussion[s] in NFL
28 athletes."

1 148. At the same time, NFL Commissioner Roger Goodell said, “We want to make sure
2 all NFL players . . . are fully informed and take advantage of the most up to date information
3 and resources as we continue to study the long-term impact of concussions.” Yet, the “most up to
4 date information” included the various independent studies indicating a causal link between
5 multiple concussions and cognitive decline in later life, information which the NFL did not share
6 with players.

7 149. Goodell also stated, “[b]ecause of the unique and complex nature of the brain, our
8 goal is to continue to have concussions managed conservatively by outstanding medical personnel
9 in a way that clearly emphasizes player safety over competitive concerns.”

10 150. Players like Junior Seau relied, to their detriment, on the NFL’s disinformation, all
11 of which was contrary to the findings of the independent scientists who had studied the issue,
12 including Drs. Guskiewicz, Cantu, Omalu, and Bailes, regarding the causal link between multiple
13 head injuries and concussions and cognitive decline.

14 151. In February 2007, Dr. Pellman resigned as chair of the Committee, following
15 increasing media scrutiny over the MTBI Committee’s studies. He was replaced as chair by Dr.
16 Ira Casson and Dr. David Viano, but remained a member of the Committee.

17 152. Dr. Guskiewicz, research director of the University of North Carolina’s Center for
18 the Study of Retired Athletes, said at the time that Dr. Pellman was “the wrong person to chair the
19 committee from a scientific perspective and the right person from the league’s perspective.”

20 153. Regarding Dr. Pellman’s work, Dr. Guskiewicz stated, “[w]e found this at the high
21 school level, the college level and the professional level, that once you had a concussion or two
22 you are at increased risk for future concussions,” but “[Dr. Pellman] continued to say on the
23 record that’s not what they find and there’s no truth to it.”

24 154. Drs. Casson and Viano continued to dismiss outside studies and overwhelming
25 evidence linking dementia and other cognitive decline to brain injuries. In 2007, in a televised
26 interview on HBO’s Real Sports, Dr. Casson unequivocally stated that there was no link between
27 concussions and depression, dementia, Alzheimer’s disease, or “anything like [that] whatsoever.”

28 155. In June 2007, the NFL convened a concussion summit for team doctors and

1 trainers. Independent scientists, including Drs. Cantu, and Guskiewicz, presented their research
2 to the NFL.

3 156. Dr. Julian Bailes, a neurosurgeon from West Virginia University, briefed the
4 MTBI Committee on the findings of Dr. Omalu and other independent studies linking multiple
5 NFL head injuries with cognitive decline. Dr. Bailes recalled that the MTBI's Committee's
6 reaction to his presentation was adversarial: "The Committee got mad . . . we got into it. And
7 I'm thinking, 'This is a . . . disease in America's most popular sport and how are its leaders
8 responding? Alienate the scientist who found it? Refuse to accept the science coming from
9 him?'"

10 157. At the summit, Dr. Casson told team doctors and trainers that CTE has never been
11 scientifically documented in football players.

12 158. In 2008, Boston University's Dr. Ann McKee found CTE in the brains of two
13 more deceased NFL players, John Grimsley and Tom McHale. Dr. McKee stated, "the easiest
14 way to decrease the incidence of CTE [in contact sport athletes] is to decrease the number of
15 concussions." Dr. McKee further noted that "[t]here is overwhelming evidence that [CTE] is the
16 result of repeated sublethal brain trauma."

17 159. A MTBI Committee representative characterized each study as an "isolated
18 incident" from which no conclusion could be drawn, and said he would wait to comment further
19 until Dr. McKee's research was published in a peer-reviewed journal. When Dr. McKee's
20 research was published in 2009, Dr. Casson asserted that "there is not enough valid, reliable or
21 objective scientific evidence at present to determine whether . . . repeat head impacts in
22 professional football result in long[-]term brain damage."

23 160. In 2008, under increasing pressure, the NFL commissioned the University of
24 Michigan's Institute for Social Research to conduct a study on the health of retired players. Over
25 1,000 former NFL players took part in the study. The results of the study, released in 2009,
26 reported that "Alzheimer's disease or similar memory-related diseases appear to have been
27 diagnosed in the league's former players vastly more often than in the national population—
28 including a rate of 19 times the normal rate for men ages 30 through 49."

1 161. The NFL responded to these results by claiming that the study was incomplete,
2 and that further findings would be needed. NFL spokesperson Greg Aiello stated that the study
3 was subject to shortcomings and did not formally diagnose dementia. Dr. Casson implied that the
4 Michigan study was inconclusive and stated that further work was required. Other experts in the
5 field found the NFL's reaction to be "bizarre," noting that "they paid for the study, yet they tried
6 to distance themselves from it."

7 162. At a Congressional hearing in October 2009, NFL Commissioner Roger Goodell
8 acknowledged that the NFL owes a duty to the public at large to educate them as to the risks of
9 concussions due to the league's unique position of influence: "In addition to our millions of fans,
10 more than three million youngsters aged 6-14 play tackle football each year; more than one
11 million high school players also do so and nearly seventy five thousand collegiate players as well.
12 We must act in their best interests even if these young men never play professional football."

13 163. In January 2010, the House Judiciary Committee held further hearings on football
14 player head injuries. Representative Conyers observed that "until recently, the NFL had
15 minimized and disputed evidence linking head injuries to mental impairment in the future."

16 164. In the 2010 Congressional hearings, Dr. Casson gave testimony that denied the
17 validity of other non-NFL studies and stated that "[t]here is not enough valid, reliable or objective
18 scientific evidence at present to determine whether or not repeat head impacts in professional
19 football result in long term brain damage."

20 165. The members of the MTBI Committee, however, knew of the decades-old studies
21 linking MTBI to long-term neurological problems. Casson, a MTBI Committee member since its
22 inception, stated before Congress on January 4, 2010, that he was "the lead author of a landmark
23 paper on brain damage in modern boxers that was published in the [Journal of the American
24 Medical Association] in 1984." That paper, which referenced the many studies documenting
25 CTE in boxers, studied eighteen (18) former and active boxers and found that 87% of the
26 professional boxers had definite evidence of brain damage. Specifically, the study determined
27 that the subjects performed particularly poorly on neuropsychological tests measuring short-term
28 memory.

1 resulting from repeated brain injury can change your life and your family's life forever.”

2 172. On February 17, 2011, former Chicago Bears and New York Giants player Dave
3 Duerson committed suicide at age 50. Duerson had suffered months of headaches, blurred vision,
4 and faltering memory. After his death, Dr. Cantu determined that Duerson was suffering from
5 CTE.

6 173. In October 2011, Dr. Mitchel Berger of the NFL's new Head, Neck, and Spine
7 Medical Committee announced that a new study was in the planning process. He admitted that
8 the MTBI Committee's previous long-range study was useless because “[t]here was no science in
9 that.” Dr. Berger further stated that data from the previous study would not be used. “We’re
10 really moving on from that data. There’s really nothing we can do with that data in terms of how
11 it was collected and assessed.”

12 174. Why in 1994 (and far earlier) the NFL (and its MTBI Committee) failed to share
13 accurate information and take appropriate actions is difficult to comprehend in light of the fact
14 that the NFL has known for decades that multiple blows to the head can lead to long-term brain
15 injury, including memory loss, dementia, depression, and CTE and its related symptoms. Instead,
16 the NFL misled players, coaches, trainers, and the public, and actively spread disinformation.

17 175. It took decades for the NFL to admit that there was a problem and sixteen (16)
18 years to admit that its information was false and inaccurate. The NFL's conduct in this regard is
19 willful and wanton and exhibits a reckless disregard for the safety of its players and the public at
20 large. At a minimum, the NFL acted with callous indifference to the duty it voluntarily assumed
21 to Junior Seau and players at every level of the game.

22 176. As a direct result of the fraudulent concealment and misrepresentations by the
23 NFL, former players, including Junior Seau, had for many decades been led to believe that the
24 symptoms of early-onset dementia, loss of memory, headaches, confusion, insomnia, depression
25 and the inability to function were not caused by their play in the NFL. And, as a result of this
26 willful and malicious conduct, these former players were deprived of medical treatment, incurred
27 expenses, lost employment, suffered humiliation, and sustained other damages to be specified.

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**GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS AGAINST THE
RIDDELL DEFENDANTS**

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177. The Riddell Defendants have operated as a business through designing, developing, manufacturing, selling, and distributing football equipment, including helmets, in one form or another, since 1922.

178. As early as the 1930s, players began using helmets during football games. These early helmets were constructed from pieces of cobbled leather.

179. In the early 1940s, John T. Riddell, who later formed John T. Riddell Incorporated, invented the first plastic suspension helmet. In 1949, plastic helmets became legalized.

180. Throughout the latter half of the 20th century and continuing to present day, the Riddell Defendants have designed, developed, manufactured, sold, and distributed equipment used in the NFL, including equipment used by Junior Seau, including, but not limited to, the following:

(a) In the 1950s, the Riddell Defendants manufactured a face-mask component for its helmets, which was eventually patented.

(b) In 1962, the Riddell Defendants used a "U" shaped nose protector with a shell (known as the TK2) molded out of polycarbonate. The Riddell Defendants also designed an open/closed cell foam and composite liner system for this model to increase the efficiency of the webbed suspension.

(c) In 1963, the Riddell Defendants developed the TAK-29 helmet, which was the first to use air inflation for fitting the helmet snug to the head. The TAK-29 shell, like the TK2, displayed the protective polycarbonate plastic, in addition to including tough shock and cut-resistant face-mask attachment straps.

(d) In 1969, recognizing that head protection was a key factor in helmet design requiring durable head protection, the Riddell Defendants constructed a micro-fit helmet model with injection molding technology to create a one piece shell to improve the structural integrity of the entire helmet.

(e) In 1973, the Riddell Defendants developed, designed, manufactured, sold, and/or

1 distributed an air cushion helmet whose interior system consisted of individual vinyl air cushions
2 with layers of fitting and energy absorbing foam. When a blow was struck, the air in the cushion
3 was expelled through a single vent, greatly reducing the initial impact. With the exhausting of the
4 air cushion, the compressed fitting foam was further compressed, reducing impact.

5 (f) In 1977, the Riddell Defendants developed, designed, manufactured, sold, and/or
6 distributed a stainless steel face-mask which offered greater bend resistance that prevented helmet
7 breakage at the drill holes.

8 (g) In 1981, the Riddell Defendants developed, designed, manufactured, sold, and/or
9 distributed an Air Cushion Engineered helmet.

10 (h) In 1982, the Riddell Defendants developed, designed, manufactured, sold, and/or
11 distributed a M155 helmet model with a combination of foam and liquid-filled cells used for
12 padding. On impact, the liquid would be throttled from one cell to the next, resulting in energy
13 attenuation. The M155 helmet model included one-piece injection-molded face-masks, which
14 were mar and rust-resistant, in addition to polyurethane face mask straps and universal jaw pads.

15 (i) In 2002, the Riddell Defendants developed, designed, manufactured, sold, and/or
16 distributed the Riddell Revolution helmet designed with the intent of reducing the risk of
17 concussion.

18 (j) In 2003, the Riddell Defendants developed, designed, manufactured, sold, and/or
19 distributed a real-time, Head Impact Telemetry System (HITS) to monitor and record significant
20 incidences of head impact sustained during a football game or practice. The system measured the
21 location, magnitude, duration, and direction of head acceleration and transmitted that information
22 wirelessly to the sideline.

23 (k) In 2006, the Riddell Defendants provided a research grant to the University of
24 Pittsburgh Medical Center for head injury research. The study compared rates of high school
25 athletes who wore the Riddell Revolution helmet with those who wore traditional helmets.

26 (l) In 2007, the Riddell Defendants developed, designed, manufactured, sold, and/or
27 distributed an individual helmet system, Revolution IQ Hits™, allowing players to monitor the
28 number and severity of impacts received during games and practices. On-board electronics

1 record every impact, allowing players to upload and evaluate each occurrence on their home
2 computers.

3 (m) In 2011, the Riddell Defendants developed, designed, manufactured, sold, and/or
4 distributed the 360 helmet which uses energy-managing materials and a face mask attachment
5 system to disperse the energy of frontal impacts. According to Riddell, it developed this helmet
6 using over 1.4 million impacts collected through Riddell's HITS technology.

7 181. The Riddell Defendants' helmets are currently the official helmets of the NFL. As
8 the official helmets for the NFL, the Riddell logo is the only helmet logo the NFL allows to be
9 displayed on helmets worn by players during NFL games. Upon information and belief, Junior
10 Seau wore Riddell helmets at times while playing and/or practicing during his NFL career.

11 182. The Riddell Defendants at all times herein mentioned engaged in the business of
12 selling, manufacturing, designing, testing, engineering, marketing, modifying, assembling,
13 inspecting, distributing, and controlling the helmets and other similar equipment for use by Junior
14 Seau and within the NFL.

15 183. Players did not know the long-term effects of concussions and relied on the NFL
16 and Riddell to protect them.

17 **The Riddell Defendants' Duty to Protect**
18 **Against the Long-Term Risk of Concussions**

19 184. Despite years of science and medicine linking the risk of long term brain injury
20 from repeat concussions, it was not until the release of the Revolution Helmet wherein a
21 notification reminding players to "sit out" if they suffer a concussion was placed on the
22 Revolution helmet.

23 185. Around the same time period, the Riddell Defendants developed the HITS system
24 to monitor the severity and incident of impacts that a player receives.

25 186. Based on a 2003 University of Pittsburgh Medical Center study funded by a grant
26 from the Riddell Defendants, the Riddell Defendants began to market the Revolution helmet as
27 reducing concussions by 31%.

28 187. However, both the HITS system and the Revolution helmet, both created by the

1 Riddell Defendants and their employees have been criticized by experts for their inaccurate
2 marketing as being safer in reducing the risk of concussion.

3 188. A study published in the Journal of Neurosurgery showed that the study by UPMC
4 was flawed in that it discounted low impact hits and in turn proved that the Revolution did not
5 reduce the risk of concussions.

6 189. Even to this day, the Riddell Defendants do not acknowledge a link between repeat
7 concussions and later life cognitive problems.

8 190. In fact, the Riddell Defendants have never warned any player or retired player of
9 the long-term health effects of concussions.

10 **ALLEGATIONS REGARDING JUNIOR SEAU**

11 **Junior Seau's Rise as an NFL Superstar**

12 191. Junior Seau joined the NFL in 1990 as a member of the San Diego Chargers.

13 192. For the next twenty seasons, he was one of the league's best linebackers, a position
14 which caused him to suffer repeated subconcussions and concussions.

15 193. Recognized as a powerful, positive, and versatile force on the football field, Junior
16 Seau was named to the Pro Football Hall of Fame's All-Decade Team of the 1990s and for 12
17 consecutive years was selected to play in the NFL's all-star Pro Bowl. In 2000, he became the
18 highest paid linebacker in the NFL.

19 194. Junior Seau was also known for his work off of the field improving the lives of
20 others. In 1992, he founded the Junior Seau Foundation. The Foundation provided more than \$4
21 million of funding for San Diego community services for children and young adults, including
22 hundreds of scholarships to college-bound students through the Scholars of Excellence program.

23 195. From his own childhood, Junior Seau knew how the holidays could be particularly
24 painful for low-income families. He annually played Santa Claus, taking 250 children to buy
25 gifts for friends and family through his Shop with a Jock Program and funded Thanksgiving
26 dinner in his restaurant for 700 homeless shelter residents, victims of domestic violence, and
27 military families.

28 196. During his life, Junior Seau's years of philanthropic spirit and work were

1 celebrated both by the San Diego community and nationally. His charisma as a celebrity player
2 inspired his fellow athletes to make contributions to their own communities. As a result of these
3 efforts, he was selected as the NFL's Man of the Year in 1994 and honored by President George
4 W. Bush with the Volunteer Service Award in 2005.

5 197. The Junior Seau revered by his fans and community also had a family. Seau's
6 family life was a loving and warm haven. Junior Seau had four children whom he loved and
7 adored, sons Tyler, Jake, and Hunter and a daughter Sydney. At the beginning of his career, Seau
8 was a loving parent and husband, regarded as a "teddy bear" by his children. He was also the
9 loving son of Plaintiffs Tiaina T. Seau and Luisa T. Seau.

10 **The NFL's Failures and Misrepresentations Expose Junior Seau**
11 **to Long-Term Brain Injury**

12 198. During his professional career, Junior Seau led his teams to two Super Bowls and
13 was known by teammates for his focus, discipline, and intensity as a teammate and a player.

14 199. Nicknamed the "Tasmanian Devil," Seau was extolled by the NFL, the fans, and
15 his peers for his on-field aggression and zeal. He was known as a warrior, the invincible patriarch
16 who could be depended on to play through injuries.

17 200. His body received countless blows which caused injuries over the years. The
18 impacts that his body routinely absorbed caused subconcussions and concussions due to the
19 significant force of the impacts.

20 201. Junior Seau suffered from extensive injuries throughout his NFL career, including,
21 among many others, a chronic torn rotator cuff; shattered bones in his forearm; chronic ankle,
22 knee, shoulder, and toe injuries; back pain; and severe bruising all over his body on a regular
23 basis. Yet he rarely missed games for these injuries or even complained about pain or injuries.
24 Instead, he received injections for pain and inflammation to play through his ever-present injuries.

25 202. As alleged above, the NFL engaged in a deliberate and systematic campaign to
26 ignore, conceal and fraudulently misrepresent the facts about football-related impacts and long-
27 term brain injury. As a result, Junior Seau was not armed with critical information necessary for
28 his own safety.

1 addition to his body. Always striving to improve his memory, concentration, problem-solving
2 skills, logical thinking and forethought, he was an avid student of chess. Those around him were
3 used to him being sharp, disciplined, and ready to pounce not only physically but cognitively.
4 But as the seasons of abuse to his brain set in, others found that he became forgetful and unable to
5 concentrate or focus. Both at work and at home, people noticed that he could not remember their
6 discussions, he misplaced things, and forgot appointments.

7 212. Unfortunately, Junior Seau's spiral extended far beyond forgetfulness. His
8 increasing emotional instability resulted in uncharacteristically self-destructive, aggressive and
9 violent behavior. He began to suffer extreme depression and became withdrawn from his family,
10 including his children. The changes in his behavior impacted his ability to relate to others. He
11 became unable to maintain meaningful relationships with those whom he loved or to form any
12 new meaningful relationships with others.

13 213. His children had to adapt to a new version of their father. When he was lost in
14 periods of depression he became irrational and unreachable. They would look into his eyes and
15 not recognize the person with whom they were now dealing.

16 214. In his business ventures, for many years, Junior Seau was responsible and
17 thorough. In the areas where he lacked experience or knowledge, he educated himself. He was
18 involved in his businesses, and the success of his businesses reflected such involvement.

19 215. As his brain disintegrated from repeated trauma, tasks and decisions that Seau
20 previously undertook became impossible for him. He made impulsive, ill-advised business
21 decisions that he formerly had been too savvy and thoughtful to make. He no longer listened to
22 his qualified advisors, could no longer discuss business figures, and no longer possessed reasoned
23 business judgment.

24 **Junior Seau Spirals Downward, Culminating In His Tragic Suicide**

25 216. The once warm and gentle Junior became extremely irritable and short tempered.
26 He lashed out both verbally and physically at his staff, friends, and family. As a result, his
27 businesses and investments began to deteriorate and lose value.

28 217. The disciplined, health conscious Junior Seau also disappeared. He previously had

1 been known for preaching good health through healthy eating and exercise. He had always been
2 careful about drinking in moderation and rarely drank during the football season. As his life
3 began to spiral and he became unable to cope, alcohol became a method of self-medicating for
4 Seau. He entered a devastating cycle of depression and alcohol abuse.

5 218. This cycle of depression magnified other vices which Seau had previously enjoyed
6 in moderation. He became a compulsive, manic gambler. Seau's impulsivity and inability to
7 soundly reason threw him into gambling binges where, against the pleading of those close to him,
8 he lost significant amounts of money in an attempt to make back business losses.

9 219. The above mentioned problems, including insomnia, depression, alcohol abuse,
10 inability to relate to friends and family, irrational decisions, diminished cognitive function, and
11 gambling problems, are all well-established effects of neuro-degenerative injuries, including
12 CTE. Tragically, on May 2, 2012, these injuries and the problems which were proximately
13 caused by them caused Junior Seau to take a gun and shoot himself in the chest, committing
14 suicide. The circumstances under which he committed suicide allowed his brain to be preserved
15 and tested by the National Institutes of Health. As part of the National Institutes of Health study,
16 three different doctors in a triple blind study concluded that Junior Seau's brain evidenced "multi-
17 focal tauopathy consistent with a diagnosis of chronic traumatic encephalopathy."

18 **FIRST CAUSE OF ACTION**

19 **WRONGFUL DEATH**

20 **(Against the NFL Defendants)**

21
22 220. Plaintiffs incorporate by reference all of the preceding allegations set forth above
23 as if fully set forth herein.

24 221. Plaintiffs Tiaina T. Seau and Luisa T. Seau are Junior Seau's natural parents and
25 therefore are entitled to bring this wrongful death action pursuant to California Code of Civil
26 Procedure section 377.60.

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Count I

Fraudulent Concealment Supporting Wrongful Death

222. The NFL has been aware of and understood the significance of the published medical literature dating from as early as the 1950s that there is a serious risk of short-term and long-term brain injury associated with repetitive traumatic impacts to the head to which NFL players are exposed.

223. During that time period, the NFL knowingly and fraudulently concealed from then-current NFL players and former NFL players the risks of head injuries in NFL games and practices, including the risks associated with returning to physical activity too soon after sustaining a sub-concussive or concussive injury.

224. From 1994 through June of 2010, the NFL's fraudulent concealment continued. During that time period, the NFL voluntarily funded and produced its own purported scientific research and through that research repeatedly misrepresented to then-current and former NFL players, the United States Congress, and the general public that there is no link (or an insufficient scientific link) between MTBI in NFL activities and later-in-life cognitive/brain injury, including CTE and its related symptoms.

225. Given the NFL's superior and unique vantage point, Junior Seau reasonably looked to the NFL for guidance on head injuries and concussions.

226. The NFL's MTBI Committee published articles and the August 2007 concussion pamphlet referenced above, all of which concealed and minimized the risks of repetitive brain impacts the NFL knew existed for its then-current players and for its former players, who reasonably relied on the NFL's pronouncements and/or silence on this health issue.

227. The NFL's concussion pamphlet created an atmosphere of trust that the NFL had carefully undertaken its voluntary responsibility to research, test, study, and report accurate findings to the players and former players. The NFL stated that "[w]e want to make sure all NFL players . . . are fully informed and take advantage of the most up to date information and resources as we continue to study the long-term impact of concussions."

228. The concealment was ongoing. Dr. Casson provided oral and written testimony at

1 the 2010 congressional hearings in which he continued to deny the validity of other studies. Dr.
2 Casson also denied the link between repetitive brain impacts and short-term and long-term brain
3 damage in public interviews.

4 229. The NFL, therefore, concealed material facts and information with the intent to
5 deceive and defraud, which caused Junior Seau to suffer the harm referenced above. Further, for
6 the time period prior to August 2007, the NFL's concerted concealment of the risks to which
7 players had been exposed delayed Junior Seau's ability to plan for the future and to seek
8 appropriate treatment of latent neurodegenerative conditions.

9 230. The NFL knew and expected that Junior Seau would rely on the inaccurate
10 information provided by the NFL, and Junior Seau did in fact reasonably rely on the inaccurate
11 information provided by the NFL during and after his NFL career.

12 231. The despicable conduct of the NFL outlined above was fraudulent, malicious, and
13 oppressive and was done with the intent to defraud team coaches past and present NFL players,
14 and the general public. In addition, the despicable conduct of the NFL outlined above was done
15 with a conscious disregard for the rights and safety of Junior Seau and other NFL players.

16 232. As a direct and proximate result of the NFL's fraudulent conduct, Junior Seau
17 suffered physical injury, including, but not limited to, existing and latent cognitive conditions that
18 created diminished cognitive function, non-economic losses, and economic losses including but
19 not limited to lost and/or reduced income during his life.

20 233. As a direct and proximate cause of the NFL's fraudulent conduct, Junior Seau
21 developed neuro-cognitive brain diseases, including CTE.

22 234. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
23 insomnia, depression, anxiety, and other injuries.

24 235. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
25 having suffered multiple past traumatic brain injuries while playing professional football for the
26 NFL from 1990-2009.

27 236. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
28 necessities of life, including food, clothing, shelter, and medical treatment.

1 medical literature dating from as early as the 1950s that there is a serious risk of short-term and
2 long-term brain injury associated with repetitive traumatic impacts to the head to which NFL
3 players are exposed.

4 244. The NFL and its agents—employed to formulate the MTBI committee and
5 populate the published scientific literature with “studies” intent on disputing the conclusions of
6 independent researchers regarding the long-term chronic disabilities and injuries associated with
7 head injury—made these material misrepresentations with the intent to defraud players like Junior
8 Seau.

9 245. Given the NFL’s superior and unique vantage point, Junior Seau reasonably
10 looked to the NFL for guidance on head injuries and concussions.

11 246. During that time period, the NFL knowingly and fraudulently concealed from then
12 current NFL players of the risks of head injuries in NFL games and practices, including the risks
13 associated with returning to physical activity too soon after sustaining a sub-concussive or
14 concussive injury.

15 247. Beginning in 1994, the NFL and its agents funded and created a falsified body of
16 purported scientific research that misrepresented to then-current NFL players, all former NFL
17 players, the United States Congress, and the general public that there was no scientifically proven
18 link between repetitive sub-concussive and concussive injuries sustained during football and brain
19 injury, including but not limited to CTE and its related symptoms.

20 248. The NFL and its agents—employed to populate the published scientific literature
21 with “studies” intent on disputing the conclusions of independent researchers regarding the long-
22 term chronic disabilities and injuries associated with head injury—made these material
23 misrepresentations with the intent to defraud the decedent Junior Seau.

24 249. During his career and after retirement from the NFL, Junior Seau justifiably and
25 reasonably relied on the NFL’s omissions and misrepresentations to his detriment.

26 250. The despicable conduct of the NFL outlined above was fraudulent, malicious, and
27 oppressive and was done with the intent to defraud team coaches past and present NFL players,
28 and the general public. In addition, the despicable conduct of the NFL outlined above was done

1 with a conscious disregard for the rights and safety of Junior Seau and other NFL players.

2 251. As a direct and proximate result of the NFL's fraudulent conduct, Junior Seau
3 suffered physical injury, including, but not limited to, existing and latent cognitive conditions that
4 created diminished cognitive function, non-economic losses, and economic losses including but
5 not limited to lost and/or reduced income during his life.

6 252. As a direct and proximate cause of the NFL's fraudulent conduct, Junior Seau
7 developed neuro-cognitive brain diseases, including CTE.

8 253. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
9 insomnia, depression, anxiety, and other injuries.

10 254. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
11 having suffered multiple past traumatic brain injuries while playing professional football for the
12 NFL from 1990-2009.

13 255. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
14 necessities of life, including food, clothing, shelter, and medical treatment.

15 256. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
16 have been deprived of the earnings, financial security, maintenance, guidance, support,
17 companionship, and comfort that they would have received for the rest of their natural lives, and
18 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's
19 wrongful death.

20 257. As a result of the NFL Defendants' misconduct as alleged herein, Defendants are
21 liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under applicable
22 law.

23 **Count III**

24 **Negligent Misrepresentation Supporting Wrongful Death**

25
26 258. A special relationship exists between the NFL and players like Junior Seau
27 sufficient to impose a duty on the NFL to disclose accurate information to the players.

28 259. Prior to 1994, the NFL knew that repetitive head impacts in football games and

1 practices created a risk of harm to NFL players that was similar or identical to the risk of harm to
2 boxers who receive repetitive impacts to the head during boxing practices and matches.

3 260. Prior to 1994, the NFL was aware of and understood the significance of the
4 published medical literature demonstrating the serious risk of both short-term and long-term
5 adverse consequences from the kind of repetitive traumatic impacts to the head to which NFL
6 players were exposed.

7 261. The NFL, however, withheld this information from team coaches, physicians,
8 trainers, and other personnel, and NFL players and ignored the risks to NFL players.

9 262. Before June of 2010, the NFL made material misrepresentations to its players,
10 former players, the United States Congress, and the public at large that there was no scientifically
11 proven link between repetitive traumatic head impacts and later-in-life cognitive/brain injury,
12 including CTE and its related symptoms.

13 263. Defendant NFL, therefore, misrepresented the dangers players faced in returning
14 to action after sustaining a head injury and the long-term effects of continuing to play football
15 after a head injury.

16 264. The NFL's MTBI Committee made public statements, published articles, and
17 issued the concussion pamphlet to its players, which the NFL knew or should have known were
18 misleading, downplaying and obfuscating to NFL players the true and serious risks of repetitive
19 traumatic head impacts.

20 265. The MTBI Committee made material misrepresentations on multiple occasions,
21 including, but not limited to, testimony at congressional hearings and other information issued to
22 current and former NFL Players.

23 266. Junior Seau's reliance on the NFL's misrepresentations was reasonable, given the
24 NFL's superior and unique vantage point on these issues.

25 267. The Defendant's misrepresentations included the false statement that present NFL
26 players were not at an increased risk of short-term and long-term adverse consequences if they
27 returned too soon to NFL games or practices after suffering head trauma and, therefore, that
28 former players had not been exposed to such increased risk during their time in the NFL.

1 268. The NFL's misrepresentations included ongoing and baseless criticism of
2 legitimate scientific studies that set forth the dangers and risks of head impacts which NFL
3 players regularly sustained.

4 269. The NFL made these misrepresentations and actively concealed true information at
5 a time when it knew, or should have known, because of its superior position of knowledge, that
6 players faced serious health problems if they returned to a game too soon after sustaining a
7 concussion.

8 270. The NFL knew or should have known the misleading nature of its statements when
9 they were made.

10 271. The NFL made the misrepresentations and actively concealed information
11 knowing that Junior Seau would and did rely on the misrepresentations or omissions in, among
12 other things, how the players addressed the concussive and sub-concussive injuries they
13 sustained. For the time period prior to August 2007, the NFL's concerted concealment of the
14 risks to which present and former players had been exposed on the playing field delayed Junior
15 Seau's ability to plan for the future and to seek appropriate treatment of his latent
16 neurodegenerative conditions.

17 272. As a direct and proximate result of the NFL's negligent misrepresentations, Junior
18 Seau suffered physical injury, including, but not limited to, existing and latent cognitive
19 conditions that created diminished cognitive function, non-economic losses, and economic losses
20 including but not limited to lost and/or reduced income during his life.

21 273. As a direct and proximate cause of the NFL's negligent misrepresentations, Junior
22 Seau developed neuro-cognitive brain diseases, including CTE.

23 274. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
24 insomnia, depression, anxiety, and other injuries.

25 275. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
26 having suffered multiple past traumatic brain injuries while playing professional football for the
27 NFL from 1990-2009.

28 276. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the

1 necessities of life, including food, clothing, shelter, and medical treatment.

2 277. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
3 have been deprived of the earnings, financial security, maintenance, guidance, support,
4 companionship, and comfort that they would have received for the rest of their natural lives, and
5 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's
6 wrongful death.

7 278. As a result of the NFL Defendants' misconduct as alleged herein, Defendants are
8 liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under applicable
9 law.

10 **Count IV**

11 **Negligence Supporting Wrongful Death**

12
13 279. Between 1933 and 1968, the NFL assumed and carried out a duty to inform and
14 advise players and teams of the foreseeable harm that can arise from such things as the use of
15 leather helmets, the need to wear hard plastic helmets to reduce head wounds and internal injury
16 and the grabbing of an opponent's facemask—to minimize or avoid head and neck injuries.
17 These warnings and imposed safety rules were furnished by the NFL because it had assumed a
18 duty to provide a safe environment for players and because of its superior knowledge of the risks
19 of injury to players.

20 280. Based on information and belief, the NFL voluntarily inserted itself into the tasks
21 assumed by others to develop helmet safety standards and to reduce the risk of head injury while
22 playing football. Despite its voluntary participation in these activities, the NFL negligently failed
23 to adopt these standards for a considerable period of time after others had done so.

24 281. During this time period, the NFL knew or should have known of medical or
25 scientific literature regarding the risks of short-term and long-term neuro-cognitive disabilities
26 and deficits to athletes exposed to MTBI.

27 282. During this time period, the NFL knew or should have known that it was the
28 practice in the NFL to compel or cajole players to play with injuries, including sub-concussive

1 injuries, concussive injuries and injuries involving a loss of consciousness.

2 283. During this time period, the NFL had superior knowledge (as compared to the
3 NFL players themselves) that athletic sporting events causing sub-concussive and concussive
4 injuries posed a serious risk of short-term and long-term cognitive disabilities.

5 284. Increasingly, during the 1970s, 1980s and 1990s, the NFL (and the marketing arm
6 of the NFL) marketed the game of football as acceptably violent, and it rewarded its most violent
7 players. This marketing technique was directed to the general public and organized football
8 players everywhere. In pursuing these concerted marketing techniques, the NFL knew or should
9 have known that its conflation of concussive-inducing violence with heroism would induce NFL
10 players and those who aspired to play in the NFL to play with reckless violence.

11 285. In its marketing scheme, the defendant NFL developed print and film packages
12 that were widely distributed throughout the United States to media outlets and organized football
13 programs as a powerful method to convince current players and those in college and high school
14 football that the greater the hit the bigger the accolades.

15 286. During this time period, the failure of the NFL to publicize within the league, and
16 to the public at large, the mounting evidence in the scientific literature of the evolving and
17 chronic neuro-cognitive problems amongst former players caused then-current players and retired
18 players to believe that their physical and psychological problems (as described herein) were
19 neither serious nor related to football. Instead, the NFL increasingly promoted the brutality and
20 ferocity of NFL play. These commissions or omissions caused players to ignore the need for
21 necessary treatment. Likewise, these omissions and commissions had the institutional effect of
22 reducing the interest in helmet safety research, avoiding changes in rule-playing to minimize head
23 injury, avoiding the need to promulgate rules affecting the return-to-play rules when concussive
24 events are detected, and avoiding establishing programs to educate players about the long-term
25 health risks of sub-concussive and concussive impacts.

26 287. In the early 1990s, the NFL voluntarily undertook to study the issue of neuro-
27 cognitive injuries in former NFL players.

28 288. In 1994, in connection with that voluntary undertaking, the NFL created the

1 aforementioned MTBI Committee.

2 289. By voluntarily undertaking to study and report on the issue of the neuro-cognitive
3 effects of head impacts in professional football, the NFL assumed a duty to exercise reasonable
4 care in the MTBI Committee's work and the NFL and its agents' public statements about the
5 substance of the Committee's work.

6 290. However, the MTBI Committee negligently performed the NFL's voluntarily
7 undertaken research mission.

8 291. In addition, from 1994 through June of 2010, the NFL and its MTBI Committee
9 made material misrepresentations to players, former players, the United States Congress, and the
10 public at large that there was no scientifically valid link between repetitive traumatic head
11 impacts and later-in-life cognitive/brain injury, including CTE and its related symptoms.

12 292. Given the NFL's superior and unique vantage point on the issue of head injuries
13 and concussions, the Plaintiffs reasonably relied, to their detriment, on the NFL's actions and
14 omissions on the subject.

15 293. Junior Seau reasonably relied, to his detriment, on the NFL's actions and
16 omissions on the subject.

17 294. The NFL's failure to exercise reasonable care in its voluntarily assumed duty
18 increased the risk that players like Junior Seau would suffer long-term neuro-cognitive injuries.

19 295. Under all of the above circumstances, it was foreseeable that the NFL's failure to
20 exercise reasonable care in the execution of its voluntarily undertaken duties would cause or
21 substantially contribute to the personal injuries suffered by Junior Seau.

22 296. The NFL's failure to exercise reasonable care in the execution of its voluntarily
23 undertaken duties proximately caused or contributed to Junior Seau's injuries, and ultimately his
24 death.

25 297. As a direct and proximate result of the NFL's negligence, Junior Seau suffered
26 physical injury, including, but not limited to, existing and latent cognitive conditions that created
27 diminished cognitive function, non-economic losses, and economic losses including but not
28 limited to lost and/or reduced income during his life.

1 298. As a direct and proximate cause of the NFL's negligence, Junior Seau developed
2 neuro-cognitive brain diseases, including CTE.

3 299. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
4 insomnia, depression, anxiety, and other injuries.

5 300. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
6 having suffered multiple past traumatic brain injuries while playing professional football for the
7 NFL from 1990-2009.

8 301. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
9 necessities of life, including food, clothing, shelter, and medical treatment.

10 302. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
11 have been deprived of the earnings, financial security, maintenance, guidance, support,
12 companionship, and comfort that they would have received for the rest of their natural lives, and
13 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's
14 wrongful death.

15 303. As a result of the NFL Defendants' misconduct as alleged herein, Defendants are
16 liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under applicable
17 law.

18 **Count V**

19 **Negligent Hiring Supporting Wrongful Death**

20
21 304. The NFL voluntarily and gratuitously inserted itself into the business of studying
22 (and subsequently rendering expert opinions about) the relationship between repetitive head
23 impacts in football and brain injury.

24 305. In doing so, the NFL assumed a duty to players like Junior Seau to retain and
25 employ persons within the MTBI Committee who were professionally competent to study and
26 render opinions on the relationship between repetitive head impacts in football and brain injury
27 and to ensure that those whom it hired had no conflict of interest and that each had the
28 professional and personal qualifications to conduct those studies and render opinions that were

1 scientifically rigorous, valid, defensible, and honest.

2 306. The NFL breached its duty to Junior Seau by hiring persons who:

- 3 a. were unqualified;
- 4 b. were not competent to engage in rigorous and defensible scientific
- 5 research;
- 6 c. were not competent to render valid and defensible opinions;
- 7 d. created fraudulent industry-funded research; and/or
- 8 e. attacked as not credible the valid and defensible research and opinions
- 9 generated by neuro-scientists who were unconnected to and not paid by the NFL.

10 307. The NFL's negligence in this regard resulted in a body of falsified industry-funded

11 research that purposefully and/or negligently contested and suppressed valid and truthful

12 biomedical science. The NFL's negligence allowed the MTBI Committee to use falsified

13 industry-funded research to mislead Junior Seau, other former NFL players, and the general

14 public regarding the risks associated with repetitive head impacts in the game of football.

15 308. As a result of the NFL's negligence, Junior Seau sustained brain injuries that were

16 progressive and latent and did not take protective measures or seek the diagnosis and treatment he

17 would have sought had he been told the truth.

18 309. As a direct and proximate result of the NFL's negligent hiring, Junior Seau

19 suffered physical injury, including, but not limited to, existing and latent cognitive conditions that

20 created diminished cognitive function, non-economic losses, and economic losses including but

21 not limited to lost and/or reduced income during his life.

22 310. As a direct and proximate cause of the NFL's negligent hiring, Junior Seau

23 developed neuro-cognitive brain diseases, including CTE.

24 311. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from

25 insomnia, depression, anxiety, and other injuries.

26 312. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of

27 having suffered multiple past traumatic brain injuries while playing professional football for the

28 NFL from 1990-2009.

1 313. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
2 necessities of life, including food, clothing, shelter, and medical treatment.

3 314. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
4 have been deprived of the earnings, financial security, maintenance, guidance, support,
5 companionship, and comfort that they would have received for the rest of their natural lives, and
6 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's
7 wrongful death.

8 315. As a result of the NFL Defendants' misconduct as alleged herein, Defendants are
9 liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under applicable
10 law.

11 **Count VI**

12 **Negligent Retention Supporting Wrongful Death**

13
14 316. The NFL knew or should have known that the controlling members of the MTBI
15 Committee demonstrated an ongoing lack of competence, objectivity and inadequate judgment to
16 study and render expert opinions on the issue of the relationship between repetitive head impacts
17 in football and brain injury.

18 317. The NFL voluntarily assumed a duty to Junior Seau not to allow those
19 incompetent persons it had hired within the MTBI Committee to continue to conduct incompetent
20 and falsified studies and render incompetent opinions on the relationship between repetitive head
21 impacts in football and brain injury.

22 318. During the time period when the MTBI Committee was conducting its purported
23 research and rendering its purported opinions, the NFL knew or should have known that the
24 purported research and opinions of the MTBI Committee were false and indefensible.

25 319. The NFL breached its duty to Junior Seau by allowing these incompetent and
26 unqualified persons, under the auspices and with the imprimatur of the NFL:

- 27 a. to continue to create incompetent and indefensible research;
28 b. to continue to render invalid and indefensible opinions; and

1 c. to continue to attack the credible and defensible research and opinions of
2 neuro-scientists not connected to or paid by the NFL.

3 320. The NFL's negligence allowed the incompetent members of the MTBI Committee
4 to continue to advance their false and incompetent research and opinions in an attempt to suppress
5 valid bio-medical science. The NFL's negligence allowed the MTBI Committee members to
6 mislead Junior Seau, other former NFL players, and the general public regarding the permanent
7 brain injury risks associated with repetitive head impacts in the game of football.

8 321. As a result of the NFL's failure, Junior Seau sustained brain injuries that were
9 progressive and latent and did not take protective measures or seek the diagnosis and treatment he
10 would have sought had they been told the truth.

11 322. As a direct and proximate result of the NFL's negligent retention, Junior Seau
12 suffered physical injury, including, but not limited to, existing and latent cognitive conditions that
13 created diminished cognitive function, non-economic losses, and economic losses including but
14 not limited to lost and/or reduced income during his life.

15 323. As a direct and proximate cause of the NFL's negligent retention, Junior Seau
16 developed neuro-cognitive brain diseases, including CTE.

17 324. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
18 insomnia, depression, anxiety, and other injuries.

19 325. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
20 having suffered multiple past traumatic brain injuries while playing professional football for the
21 NFL from 1990-2009.

22 326. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
23 necessities of life, including food, clothing, shelter, and medical treatment.

24 327. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
25 have been deprived of the earnings, financial security, maintenance, guidance, support,
26 companionship, and comfort that they would have received for the rest of their natural lives, and
27 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's
28 wrongful death.

1 328. As a result of the NFL Defendants' misconduct as alleged herein, Defendants are
 2 liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under applicable
 3 law.

4 **SECOND CAUSE OF ACTION**

5 **WRONGFUL DEATH**

6 **(AGAINST THE RIDDELL DEFENDANTS)**

7 329. Plaintiffs incorporate by reference all of the preceding allegations set forth above
 8 as if fully set forth herein.

9 330. Plaintiffs Tiaina T. Seau and Luisa T. Seau are Junior Seau's natural parents and
 10 therefore are entitled to bring this wrongful death action pursuant to California Code of Civil
 11 Procedure section 377.60.

12 **Count I**

13 **Negligence Supporting Wrongful Death**

14 331. The Riddell Defendants were negligent in their design, testing, assembly,
 15 manufacture, marketing, and engineering of the helmets as described herein.

16 332. The Riddell Defendants owed a duty of care to the players in their design, testing,
 17 manufacture, assembly, marketing and sale of the helmets and all components and sub-assemblies
 18 of the helmets.

19 333. The Riddell Defendants should have been well aware that since 1928 repeated
 20 blows to the head can lead to CTE, commonly known as "punch-drunk syndrome."

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

25 335. At the time the helmets were designed, manufactured, sold and distributed by the
 26 Riddell Defendants, the helmets were defective in their manufacturing and unreasonably
 27 dangerous and unsafe for their intended purpose because they did not provide adequate protection
 28 against the foreseeable risk of concussive brain injury. The Riddell Defendants' failure to design

1 the helmets to design and manufacturing specifications resulted in, among other things, the
2 following:

3 a. Negligently failing to manufacture the subject helmet with a safe means of
4 attenuating and absorbing the foreseeable forces of impact in order to minimize and/or reduce the
5 forces and energy directed to the player's head;

6 b. Negligently manufacturing the subject helmet with a shock attenuating system
7 which was not safely configured;

8 c. Negligently failing to properly and adequately inspect and/or test the helmet
9 model;

10 d. Other acts of negligence that may be discovered during the course of this matter;
11 and

12 e. Failure to warn players that its helmets wouldn't protect against concussive brain
13 injury.

14 336. The Riddell Defendants' negligence was a proximate and legal cause of the
15 wrongful death of Junior Seau as alleged herein.

16 337. As a direct and proximate cause of the Riddell Defendants' negligence, Junior
17 Seau developed neuro-cognitive brain diseases, including CTE.

18 338. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
19 insomnia, depression, anxiety, and other injuries.

20 339. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
21 having suffered multiple past traumatic brain injuries while using equipment designed, developed,
22 manufactured, sold and distributed by the Riddell Defendants.

23 340. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
24 necessities of life, including food, clothing, shelter, and medical treatment.

25 341. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
26 have been deprived of the earnings, financial security, maintenance, guidance, support,
27 companionship, and comfort that they would have received for the rest of their natural lives, and
28 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's

1 wrongful death.

2 342. As a result of the Riddell Defendants' misconduct as alleged herein, Defendants
3 are liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under
4 applicable law.

5 **Count II**

6 **Design Defect Supporting Wrongful Death**

7 343. Also, at the time the helmets used by Junior Seau were designed, manufactured,
8 sold, and distributed by the Riddell Defendants, the helmets were defective in design,
9 unreasonably dangerous, and unsafe for their intended purpose because they did not provide
10 adequate protection against the foreseeable risk of concussive brain injury. The design defects
11 include, but are not limited to, the following:

- 12 a. The lack of a safe means of attenuating and absorbing the foreseeable forces of
13 impact in order to minimize and/or reduce the forces and energy directed to the player's head;
14 b. An unsafe shock attenuating system; and
15 c. Insufficient protection against concussive injuries.

16 344. The defective design and unreasonably dangerous condition were a proximate and
17 producing cause of the personal injuries suffered by Junior Seau and other damages, including but
18 not limited to, economic damages and non-economic damages.

19 345. The Riddell helmets did not perform in the manner that would be expected by a
20 reasonable consumer in that they did not adequately protect players from the risks of concussive
21 and sub-concussive injuries.

22 346. Additionally, the benefits, if any, of the design of the Riddell helmets were
23 outweighed by the risks to players using those helmets, as the helmets did not adequately protect
24 players from the risks of concussive and sub-concussive injuries.

25 347. A safer alternative design was economically and technologically feasible at the
26 time the product left the control of the Riddell Defendants.

27 348. At all times, the helmets were being used for the purpose for which they were
28 intended or in a manner that was reasonably foreseeable to the Riddell Defendants.

1 349. The Riddell Defendants' defective design was a proximate and legal cause of the
2 wrongful death of Junior Seau as alleged herein.

3 350. As a direct and proximate cause of the Riddell Defendants' defective design,
4 Junior Seau developed neuro-cognitive brain diseases, including CTE.

5 351. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
6 insomnia, depression, anxiety, and other injuries.

7 352. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
8 having suffered multiple past traumatic brain injuries while using equipment designed, developed,
9 manufactured, sold and distributed by the Riddell Defendants.

10 353. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
11 necessities of life, including food, clothing, shelter, and medical treatment.

12 354. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
13 have been deprived of the earnings, financial security, maintenance, guidance, support,
14 companionship, and comfort that they would have received for the rest of their natural lives, and
15 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's
16 wrongful death.

17 355. As a result of the Riddell Defendants' misconduct as alleged herein, Defendants
18 are liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under
19 applicable law.

20 **Count III**

21 **Failure to Warn Supporting Wrongful Death**

22 356. Also, the Riddell Defendants knew or should have known of the substantial
23 dangers involved in the reasonably foreseeable use of the helmets.

24 357. The Riddell Defendants failed to provide necessary and adequate safety and
25 instructional materials and warnings of the risk and means available to reduce and/or minimize
26 the risk of concussive brain injuries while playing football.

27 358. The Riddell Defendants failed to provide necessary and adequate information,
28 warnings, and/or instructional materials regarding the fact that other model helmets provided

1 greater shock attenuation from blows to the head area.

2 359. The Riddell Defendants ignored 18 years of published literature, read by their
3 general counsel Richard Lester, warning of the dangers of concussive injuries until 2002, when a
4 warning involving return to play after a concussion was placed on all Riddell helmets. The
5 warning was still defective and inadequate and remains today defective and inadequate because it
6 does not warn about the later life cognitive effects of concussive injury.

7 360. The Riddell Defendants knew that these substantial dangers were not readily
8 recognizable to an ordinary consumer or user and that such person would use these products
9 without inspection for defects.

10 361. Junior Seau neither knew, nor had reason to know of the existence of the
11 aforementioned defects, or increased risks of harm.

12 362. Junior Seau was using the helmets in a reasonably foreseeable manner at all times.

13 363. Riddell Defendants' failure to warn players of the risks of substantial harm
14 associated with the foreseeable use of their products was a substantial factor in causing Junior
15 Seau's harm.

16 364. The Riddell Defendants' failure to warn was a proximate and legal cause of the
17 wrongful death of Junior Seau as alleged herein.

18 365. As a direct and proximate cause of the Riddell Defendants' failure to warn, Junior
19 Seau developed neuro-cognitive brain diseases, including CTE.

20 366. As a result of these neuro-cognitive brain diseases, Junior Seau suffered from
21 insomnia, depression, anxiety, and other injuries.

22 367. Junior Seau's untimely death on May 2, 2012 was a direct and proximate result of
23 having suffered multiple past traumatic brain injuries while using equipment designed, developed,
24 manufactured, sold and distributed by the Riddell Defendants.

25 368. At the time of Junior Seau's death, Plaintiffs were dependent upon him for the
26 necessities of life, including food, clothing, shelter, and medical treatment.

27 369. As a direct and proximate result of the untimely death of Junior Seau, Plaintiffs
28 have been deprived of the earnings, financial security, maintenance, guidance, support,

1 companionship, and comfort that they would have received for the rest of their natural lives, and
2 have suffered commensurate pecuniary and non-pecuniary losses because of Junior Seau's
3 wrongful death.

4 370. As a result of the Riddell Defendants' misconduct as alleged herein, Defendants
5 are liable to Plaintiffs for, and Plaintiffs seek, the full measure of damages allowed under
6 applicable law.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, the Plaintiffs pray for judgment as follows:

9 A. Against the NFL Defendants as follows:

10 As to the First Cause of Action an award of all compensatory damages allowed
11 under law against the NFL Defendants;

12 B. Against the Riddell Defendants as follows:

13 As to the Second Cause of Action an award of all compensatory damages allowed
14 under law against the Riddell Defendants;

15 C. An award of prejudgment interest, costs and attorneys fees; and

16 D. An award of such other and further relief as may be appropriate.

17
18 **JURY DEMAND**

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

20
21 Dated: January 24, 2013

22
23 GOMEZ IAGMIN

24
25 By: 

26 John H. Gomez
27 David A. Fox
28 Jessica T. Sizemore

Attorneys for Plaintiffs

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): John H. Gomez (SBN: 171485); David A. Fox (SBN: 254651); Jessica T. Sizemore (SBN: 280000) GOMEZ, IAGMIN 655 West Broadway, Suite 1700, San Diego, CA 92101 TELEPHONE NO.: 619-237-3490 FAX NO.: 619-237-3496 ATTORNEY FOR (Name): Plaintiffs Tiaina T. Seau and Luisa T. Seau		CM-010 FOR COURT USE ONLY FILE Clerk of the Superior Court JAN 24 2013 4:25 PM
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central Division		
CASE NAME: Tiaina T. Seau, et al. v. National Football League, et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 37-2013-00032097-CU-PO-CTL JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/DPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other P/DPD/W/D (23) Non-P/DPD/W/D (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DPD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|---|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input checked="" type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): I: Wrongful Death-NFL Defendants; II: Wrongful Death-Riddell Defendant
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 24, 2013
 David A. Fox
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 West Broadway	
MAILING ADDRESS: 330 West Broadway	
CITY AND ZIP CODE: San Diego, CA 92101	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7072	
PLAINTIFF(S) / PETITIONER(S): Tiaina T Seau et.al.	
DEFENDANT(S) / RESPONDENT(S): National Football League et.al.	
SEAU VS. NATIONAL FOOTBALL LEAGUE	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE	CASE NUMBER: 37-2013-00032097-CU-PO-CTL

CASE ASSIGNMENT

Judge: Timothy Taylor

Department: C-72

COMPLAINT/PETITION FILED: 01/24/2013

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	06/28/2013	09:30 am	C-72	Timothy Taylor

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants, and a Certificate of Service (SDSC form #CIV-345) filed within 60 days of filing.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, each party demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) for each party on or before the date scheduled for the initial case management conference in the action.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2013-00032097-CU-PO-CTL CASE TITLE:

Seau vs. National Football League

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), *and*
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdscourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.nclifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central		FOR COURT USE ONLY
PLAINTIFF(S): Taina T Seau et.al.		
DEFENDANT(S): National Football League et.al.		
SHORT TITLE: SEAU VS. NATIONAL FOOTBALL LEAGUE		
STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)		CASE NUMBER: 37-2013-00032097-CU-PO-CTL

Judge: Timothy Taylor

Department: C-72

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- | | |
|---|--|
| <input type="checkbox"/> Mediation (court-connected) | <input type="checkbox"/> Non-binding private arbitration |
| <input type="checkbox"/> Mediation (private) | <input type="checkbox"/> Binding private arbitration |
| <input type="checkbox"/> Voluntary settlement conference (private) | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before trial) |
| <input type="checkbox"/> Neutral evaluation (private) | <input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) |
| <input type="checkbox"/> Other (specify e.g., private mini-trial, private judge, etc.): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate neutral (for court Civil Mediation Program and arbitration only): _____

Date: _____

Date: _____

Name of Plaintiff _____

Name of Defendant _____

Signature _____

Signature _____

Name of Plaintiff's Attorney _____

Name of Defendant's Attorney _____

Signature _____

Signature _____

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

IT IS SO ORDERED.

Dated: 01/28/2013

 JUDGE OF THE SUPERIOR COURT



Superior Court of California
County of San Diego

**NOTICE OF ASSIGNMENT
TO IMAGING DEPARTMENT**

This case has been assigned to an Imaging Department and original documents attached to pleadings filed with the court will be imaged and destroyed. Original documents should not be filed with pleadings. If necessary, they should be lodged with the court under California Rules of Court, rule 3.1302(b).

On August 1, 2011 the San Diego Superior Court began the Electronic Filing and Imaging Pilot Program ("Program"). As of August 1, 2011 in all new cases assigned to an Imaging Department all filings will be imaged electronically and the electronic version of the document will be the official court file. The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and on the Internet through the court's website. This Program will be expanding to other civil courtrooms over time.

You should be aware that the electronic copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filing will be imaged and held for 30 days. After that time it will be destroyed and recycled. **Thus, you should not attach any original documents to pleadings filed with the San Diego Superior Court. Original documents filed with the court will be imaged and destroyed except those documents specified in California Rules of Court, rule 3.1806.** Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant or petitioner to serve a copy of this notice with the complaint, cross-complaint or petition on all parties in the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words **"IMAGED FILE"** in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.

Please refer to the General Order - Imaging located on the San Diego Superior Court website at:

<http://www.sdcourt.ca.gov/CivilImagingGeneralOrder>

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

National Football League; NFL Properties LLC; Riddell, Inc.; All American Sports Corp.; Riddell Sports Group, Inc.; Easton-Bell Sports, Inc.; Easton-Bell Sports, LLC; EB Sports Corp.; and RBG Holdings Corp.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Tiaina T. Seau, an individual; and Luisa T. Seau, an individual

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
Clerk of the Superior Court

JAN 24 2013

JAN 24 11 13 AM

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en este corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

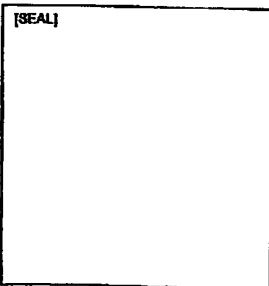
The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court for the State of California, County of San Diego
Central Division
330 West Broadway, San Diego, CA 92101

CASE NUMBER:
(Número del Caso):
37-2013-00032097-CU-PO-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
John H. Gomez, GOMEZ IAGMIN, 655 West Broadway, Suite 1700, San Diego, CA 92101; (619) 237-3490

DATE: (Fecha) **JAN 28 2013** Clerk, by **D. SMITH**, Deputy (Adjunto) (Secretario)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

CM-015

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): John H. Gomez (SBN: 1714850; David A. Fox (SBN: 254651); Jessica T. Sizemore (SBN: 280000) GOMEZ IAGMIN 655 West Broadway, Suite 1700, San Diego, CA 92101 TELEPHONE NO.: 619-237-3490 FAX NO. (Optional): 619-237-3496 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiffs Tiaina T. Seau and Luisa T. Seau</p>	<p>FOR COURT USE ONLY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice</p>	
<p>PLAINTIFF/PETITIONER: Tiaina T. Seau and Luisa T. Seau DEFENDANT/RESPONDENT: National Football League, et al.</p>	<p>CASE NUMBER: 37-2013-00032097-CU-PO-CTL JUDICIAL OFFICER: Hon. Timothy Taylor</p>
<p>NOTICE OF RELATED CASE</p>	<p>DEPT.: C-72</p>

Identify, in chronological order according to date of filing, all cases related to the case referenced above.

1. a. Title: Tyler Seau, et al. v. National Football League, et al.
 - b. Case number: 37-2013-00031265-CU-PO-CTL
 - c. Court: same as above
 other state or federal court (name and address):
 - d. Department: C-67
 - e. Case type: limited civil unlimited civil probate family law other (specify):
 - f. Filing date: 1/23/2013
 - g. Has this case been designated or determined as "complex?" Yes No
 - h. Relationship of this case to the case referenced above (check all that apply):
 - involves the same parties and is based on the same or similar claims.
 - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 - involves claims against, title to, possession of, or damages to the same property.
 - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 - Additional explanation is attached in attachment 1h
 - i. Status of case:
 - pending
 - dismissed with without prejudice
 - disposed of by judgment
2. a. Title:
 - b. Case number:
 - c. Court: same as above
 other state or federal court (name and address):
 - d. Department:

PLAINTIFF/PETITIONER: Tiaina T. Seau and Luisa T. Seau DEFENDANT/RESPONDENT: National Football League, et al.	CM-015 CASE NUMBER: 37-2013-00032097-CU-PO-CTL
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2. (continued)

- e. Case type: limited civil unlimited civil probate family law other (specify):
- f. Filing date:
- g. Has this case been designated or determined as "complex?" Yes No
- h. Relationship of this case to the case referenced above (check all that apply):
 - involves the same parties and is based on the same or similar claims.
 - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 - involves claims against, title to, possession of, or damages to the same property.
 - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 - Additional explanation is attached in attachment 2h
- i. Status of case:
 - pending
 - dismissed with without prejudice
 - disposed of by judgment

3. a. Title:

b. Case number:

c. Court: same as above
 other state or federal court (name and address):

d. Department:

e. Case type: limited civil unlimited civil probate family law other (specify):

f. Filing date:

g. Has this case been designated or determined as "complex?" Yes No

- h. Relationship of this case to the case referenced above (check all that apply):
 - involves the same parties and is based on the same or similar claims.
 - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 - involves claims against, title to, possession of, or damages to the same property.
 - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 - Additional explanation is attached in attachment 3h
- i. Status of case:
 - pending
 - dismissed with without prejudice
 - disposed of by judgment

4. Additional related cases are described in Attachment 4. Number of pages attached: _____

Date: January 30, 2013

David A. Fox
 (TYPE OR PRINT NAME OF PARTY OR ATTORNEY)


 (SIGNATURE OF PARTY OR ATTORNEY)

1 GOMEZ IAGMIN
2 655 West Broadway, Suite 1700
3 San Diego, CA 92101
4 Tel: (619) 237-3490 / Fax: (619) 237-3496

5 **SUPERIOR COURT OF CALIFORNIA – COUNTY OF SAN DIEGO**

6 **DECLARATION OF SERVICE**
7 **[CCP 1013A(3) & 2015.5(B)]**

8 *Case: Seau, et al. v. National Football League, et al.*

9 *Case No.: 37-2013-00032097-CU-PO-CTL*

10 I, the undersigned, declare that I am over the age of eighteen years and not a party to the case; I am
11 employed in the County of San Diego, California where the mailing occurs; and my business address is: 655
12 West Broadway, Suite 1700, San Diego, California 92101.

13 I further declare that I am readily familiar with the business practice for collection and processing of
14 correspondence for mailing with the United States Postal Service; and that the correspondence shall be
15 deposited with the United States Postal Service this same day in the ordinary course of business.

16 On January 29, 2013, I served the following **NOTICE OF RELATED CASE:**

17 (1) by placing a true copy of each document in a separate envelope addressed to each addressee,
18 respectively, as follows:

19 Steven M. Strauss
20 COOLEY LLP
21 4401 Eastgate Mall
22 San Diego, CA 92121
23 Tel.: (858) 550-6000 / Fax: (858) 550-6420
24 **Attorneys for Plaintiffs:**
25 **Tyler Seau, Sydney Seau, Jake Seau, Hunter**
26 **Seau, and Bette Hoffman**

27 David S. Casey, Jr.
28 Frederick Schenk
29 CASEY GERRY SCHENK FRANCAVILLA
30 BLATT & PENFIELD LLP
31 110 Laurel Street
32 San Diego, CA 92101
33 Tel.: (619) 238-1811 / Fax: (619) 544-9232
34 **Attorneys for Plaintiffs:**
35 **Tyler Seau, Sydney Seau, Jake Seau, Hunter**
36 **Seau, and Bette Hoffman**

37 [X] (BY MAIL) I served the individual named by placing the documents in a sealed envelope. I then placed
38 it for collection and mailing with the United States Postal Service this same day, at my address shown
39 above, following ordinary business practices.

40 and

41 (2) by arranging for defendants to be personally served at the following addresses:

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National Football League
NFL Properties LLC
345 Park Avenue, 7th Floor
New York, NY 10017

Riddell, Inc.
All American Sports Corporation d/b/a
Riddell/All American
669 Sugar Lane
Elyria, OH 44035

Riddell Sports Group, Inc.
9801 W. Higgins Road
Des Plaines, IL 60018

CSC Lawyers Incorporating Services
Agent for Service of Process for Easton-
Bell Sports, Inc.
27 Gateway Oaks Drive
Sacramento, CA 95833


EB Sports Corp.
RBG Holdings Corp.
7855 Haskell Avenue, Suite 350
Van Nuys, CA 91406

Easton-Bell Sports, LLC
2711 Centerville Road, Suite 400
Wilmington, DE 19808

[X] (BY PERSONAL SERVICE) American Messenger Service served the individual named by personally delivering the copies to the offices of the addressee.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 30, 2013 at San Diego, California.


Kathryn Cabrera

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

National Football League; NFL Properties LLC; Riddell, Inc.; All American Sports Corp.; Riddell Sports Group, Inc.; Easton-Bell Sports, Inc.; Easton-Bell Sports, LLC; EB Sports Corp.; and RBG Holdings Corp.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Tiaina T. Seau, an individual; and Luisa T. Seau, an individual

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
Clerk of the Superior Court

JAN 24 2013

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

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Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en este corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court for the State of California, County of San Diego
Central Division
330 West Broadway, San Diego, CA 92101

CASE NUMBER:
(Número del Caso):
37-2013-00032097-CU-PO-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
John H. Gomez, GOMEZ IAGMIN, 655 West Broadway, Suite 1700, San Diego, CA 92101; (619) 237-3490

DATE: **JAN 28 2013** Clerk, by **D. SMITH**, Deputy (Adjunto) (Fecha)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
 - by personal delivery on (date):