

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

ERIC HILGENBERG, as the Wrongful Death
Trustee of the Estate WALLY HILGENBERG, and as

Plaintiff

v.

National Football League

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Roger Goodell
National Football League
280 Park Avenue
New York, NY 10017

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Larry Coben, Esq.
Anapol Schwartz
1710 Spruce Street
Philadelphia, PA 19103

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Michael E. Kunz
Clerk of Court

Date:

Signature of Clerk or Deputy Clerk

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ERIC HILGENBERG, as the Wrongful Death
Trustee of the Estate WALLY HILGENBERG, and as Trustee on

(b) County of Residence of First Listed Plaintiff Scott
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Larry Coben, Anapol Schwartz, 1710 Spruce St, Philadelphia, PA
19103

DEFENDANTS

National Football League

County of Residence of First Listed Defendant New York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1711, 28 U.S.C. § 1332

Brief description of cause:
Other Personal Injury

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Anita Brody DOCKET NUMBER 2:11-cv-05209-AB

DATE 1/30/12 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

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

CASE MANAGEMENT TRACK DESIGNATION FORM

ERIC HILGENBERG, as the Wrongful Death : CIVIL ACTION
Trustee of the Estate WALLY HILGENBERG, :
and as Trustee on behalf of the decedent's widow, :
MARY HILGENBERG and all heirs and next of :
kin, in his representative capacity. :
v. :
NATIONAL FOOTBALL LEAGUE :

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

1/30/12
Date


Attorney-at-law

Plaintiff
Attorney for

215-735-1130
Telephone
(Civ. 660) 10/02

480-515-4744
FAX Number

lcoben@anapolschwartz.com
E-Mail Address

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

ERIC HILGENBERG, as the Wrongful Death
Trustee of the Estate WALLY
HILGENBERG, and as Trustee on behalf of
the decedent's widow,
MARY HILGENBERG and all heirs and next
of kin, in his representative capacity.

PLAINTIFFS,

V.

NATIONAL FOOTBALL LEAGUE,

DEFENDANT.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT

The Plaintiff, Eric Hilgenberg, in his individual and representative capacity on behalf of his father's Estate, his mother, Mary Hilgenberg and next of kin, sue the Defendant the National Football League, (referred to herein as NFL) and states the following:

NATURE OF THE ACTION

1. This is an action seeking compensation and financial recovery for the long-term/chronic injuries, financial losses, expenses, wrongful death and intangible losses suffered by the Plaintiff, the Plaintiff's decedent and the deceased's spouse as a result of the defendant's carelessness, negligence, intentional misconduct and concealment of information directly related to the decedent and Plaintiff's injuries and losses.
2. For more than 40 years, the defendant and its designated representatives have continuously and vehemently denied that it knew, should have known or believed that there is any relationship between NFL players suffering concussions while playing, the NFL policies

regarding tackling methodologies or the NFL policies about return to play and long-term neurologic and physical complications which are diagnosed as Amyotrophic lateral sclerosis (ALS). Those denials have been stated in NFL publications, NFL sponsored so-called medical studies, testimony of NFL representatives before Congress, in response to players and their families seeking financial assistance, and in the media in response to other reports suggesting a causal connection.

3. For more than 100 years, the public literature has suggested that traumatic injury to the head has a causal connection with many of the symptoms associated with and leading to a diagnosis of ALS. Published literature has, for years, reported that repeated head trauma is a significant risk factor for neurodegenerative processes including ALS.

4. Published literature has documented studies showing that people experiencing repeated head trauma have an elevated risk of neurodegenerative processes including ALS. The incidence and mortality of ALS is statistically high in athletes who suffer repeated head trauma.

5. During the past several decades, the defendant has become aware of many notable former players who have developed neurodegenerative processes and/or received diagnoses of ALS, including the decedents Wally Hilgenberg and Pete Duranko, Steve Smith, Orlando Thomas, Eric Scoggins, and others. Despite the ever increasing number of former players who have been reportedly diagnosed with ALS, the defendant has continued to conceal its knowledge or awareness of the etiology of this disease process with its own misconduct and omissions.

6. During the past several decades, the NFL has been made aware and known, or it should have known, of patterns of medical/clinical symptoms of former players who suffered head trauma while playing professional football, and yet the defendant has fraudulently (unintentional or intentional) concealed this knowledge from other NFL players so that those players

experiencing these symptoms were led to believe that they were unrelated to trauma suffered while playing in the NFL. As a result of this concealment, the Plaintiff and the decedent and his widow did not have reason to investigate whether there was any medical connection between the head trauma suffered while an NFL player and the disease process that he experienced and which led to the decedent's death.

7. A few years before his death, the plaintiff's decedent sought financial compensation from the NFL via the 88 Plan. The NFL was advised of the many symptoms that Wally Hilgenberg was experiencing including cognitive impairment, memory loss, confusion, muscle weakness, spasticity, loss the use of his limbs and bodily functions. The NFL denied that any of these symptoms would qualify the decedent and his family for benefits; the NFL represented that ALS is not an illness that is covered by any available benefits. The NFL denied that any of these problems were associated with playing football and suffering concussions. The NFL, therefore, fraudulently concealed any correlation between these symptoms and concussions suffered while playing in the NFL. The defendant's misconduct in this regard has been exhibited in its similar response to many other former players.

8. After Wally Hilgenberg died, some of his vital organs were donated to the Boston University School of Medicine. In August, 2010, the Boston University School of Medicine, Center for the Study of Traumatic Encephalopathy (CTE) advised the Plaintiff that the decedent's neurological problems and the complications there from were caused by chronic traumatic encephalomyopathy (CTEM), which in turn was the result of multiple concussions while playing professional football in the NFL.

9. The Plaintiff Hilgenberg and his family did not know until August 2010 that the decedent's previously diagnosed ALS was actually CTEM, caused by multiple concussions

suffered while playing football in the NFL. The plaintiff's failure to appreciate that Wally Hilgenberg suffered an injury related to what was previously diagnosed as an illness (ALS) was the result of the defendant's substantial concealment of its knowledge of the many former players who have shown similar symptoms over the years.

10. The defendant's denials of any relationship between clinically diagnosed ALS and concussions while playing football in the NFL continued unabated through 2010. These denials and active refutation on the part of NFL agents, constituted fraud (unintentional or intentional) and concealment of information directly related to the plaintiffs' causes of action. Further, the defendant's concealment and fraudulent activities before 2010 are, in and of themselves, acts or omissions that warrant this cause of action.

11. Because of the continuing tort of concealment and fraud carried out by the defendant, it was not until August 2010, that the Plaintiff Hilgenberg had any reason to consider that Wally Hilgenberg's demise was due to the conduct and misconduct and omissions of the defendant.

12. The Plaintiff and the decedent suffered harm and have been the victim of the fraudulent concealment by the defendant as described herein.

13. For more than 40 years, the NFL has known or should have known of the rate and seriousness of concussion in the sport of football. The NFL in the 1960s learned that the American National Standards Institute has developed a standard applicable to football helmets to minimize the risk of head injury. Nevertheless, the NFL did not - at that time or for the next decade - make or adopt a policy providing that helmets be manufactured to any safety standard.

14. Then NFL Rule makers knew or should have known that in the mid to late 1960s, sports medicine professionals were documenting that the advent and use of the helmet-face mask

combination was contributing to the use of the helmeted-head as an offensive weapon, which in turn was increasing the rate of concussions.

15. The NFL knew or should have known by the late 1960s that various safety organizations had developed or were developing helmet standards for football, and that recommendations to adopt these standards and only allow players to wear approved helmets were being planned.

16. The defendant knew or should have known that between 1968 and 1972, various medical professionals and other head injury researchers had published and/or finalized football helmet standards to reduce the risk of head trauma.

17. Despite knowing of these helmet standards, the NFL chose to ignore the importance of requiring improved safety helmets for players.

18. In the late 1960s and early 1970s, the defendant was aware of sports medicine publications revealing the increased risk of players suffering concussions, head trauma, brain injury, etc. with the tackling techniques that were then in vogue in the NFL.

19. In the early 1970s, high school and college football organizations began to change the rules of the game to minimize the risk of head injury. The NFL was aware of these changes but did nothing.

20. In approximately 1976, the High School and College football organizations initiated changes which prohibited initial contact of the head in blocking and tackling. While the NFL was aware of these changes in the rules and this risk of harm, it failed to take similar action.

21. In 1979, the NFL promulgated a rule, with an associated (albeit inadequate) penalty, for players who are found to have used their helmets to butt, spear or ram an opponent with the crown or top of the helmet. This undertaking by the NFL, based upon the duty of care it owed the NFL players, fell far short of the important safety and injury prevention action that should

have been taken. This rule adopted by the NFL came several years after a similar rule was adopted by the NCAA and the NHSFF; this rule related to a recognized risk of spinal cord injury in football. This rule ignored the more prevalent practices in the NFL that was directly causing a substantial and high rate of concussions amongst NFL players.

22. During the 1960s, 1970s, 1980s and 1990s, players in the NFL were being coached, trained and motivated to use all portions of their helmets to block, tackle, butt, spear, ram and/or injure opposing players by hitting with their helmeted heads. These techniques were condoned by the NFL and/or not significantly condemned by the NFL, despite the defendant's awareness that this practice was causing an increased risk in concussions among players. Further, even after the NFL approved a rule change in 1989 to provide referees with the authority to eject a player who is observed using his helmet in this fashion, the NFL did not insist on the strict enforcement of this rule because of the defendant's interest in keeping its fan base excited over the visual excitement generated by such techniques.

23. Despite its awareness of the aforementioned dangerous practices and increased risk of head injury to the players, during the 1960s, 1970s, 1980s, 1990s and 2000s, the NFL turned a blind eye to the players being coached, trained and/or motivated to use all portions of their helmet to block, tackle, butt, spear, ram and/or injure opposing players by hitting with their helmeted heads—because of the defendant's interest in keeping its fan base excited and interested in the violence of this sport. And, in fact, when in 1996 the NFL undertook to promulgate a rule making it a personal foul with potential associated fines to hit with the helmet, its purpose was not to protect the player using the helmet but rather to protect quarterbacks. Thus, the evidence will show a complete disregard for the risk of harm and safety of players who have been condoned for using this tackling technique.

24. Since the 1960s, the high incidence of concussion among NFL players has been well known to the defendant. Further, the defendant has been well aware - from its supervisory and management role, that a history of multiple concussions has been associated with players' greater risk of future brain deficits.

25. Since the 1960s, the defendant has known or it has had reason to know, from its supervisory and management role, that NFL players suffering repeated concussions were more likely to experience evolving symptoms of post-traumatic brain injury including headaches, dizziness, loss of memory, etc. Despite this knowledge, until August 4, 2011, the defendant has continued to deny any connection or correlation between players suffering concussions and long-term chronic brain injury or illness. Further, the defendant has taken an active role in concealing or actively disputing any causative connection between concussions in football in the NFL and brain injury/illness.

26. During the decades of the 1960s, 1970s, 1980s, 1990s and 2000s, while the NFL was well aware from its supervisory and management role that NFL players suffering repeated concussions were more likely to experience evolving symptoms of post-traumatic brain injury including headaches, dizziness, loss of memory, impulse control problems, Chronic Traumatic Encephalopathy, Dementia, Alzheimer's disease, etc., the defendant failed to act reasonably by developing appropriate means to identify at risk players and guidelines or rules regarding return-to-play criteria. The defendant's breach of duty in this respect increased the risk of long term injury and illness as referenced above.

27. On September 30, 2009, as a part of its continuing active role in disputing and covering-up the causative role of repeated concussions suffered by NFL players and long-term mental health disabilities and illnesses, the defendant disputed the results of a scientific study that it

funded. On the aforementioned date, newspaper accounts were published detailing (an unreleased) a study commissioned by the NFL to assess the health and well-being of retired players, which found that the players had reported being diagnosed with dementia and other memory-related diseases at a rate significantly higher than that of the general population. Despite the findings of this study, showing that 6.1 percent of retired NFL players age 50 and above reported being diagnosed with dementia, Alzheimer's disease and other memory related illnesses, compared to a 1.2 percent for all comparably aged U.S. men, the defendant's agents disputed these findings and continued the mantra in the Press that there is no evidence connecting concussions, concussion like symptoms, NFL football and long-term brain illness or injury, including but not limited to Chronic Traumatic Encephalopathy (CTE), dementia, etc.

28. Between the 1960s and sometime after September 30, 2009, the NFL ignored the repeated warnings and patterns of injury only it was privy to in its management capacity (and which it concealed) of the devastating effects that on the field concussions and the defendant's return to play policies have had in causing chronic mental defects and illnesses to the plaintiffs and others similarly situated.

29. The defendant has, over the past five decades actively concealed and actively disputed any correlation between on the field concussions, its return to play policies and the chronic mental illnesses and maladies suffered by former players, including the plaintiffs and all others similarly situated. During the decades of the 1990s and 2000s, the defendant through its authorized agents disputed and actively sought to suppress the findings of others that there is a connection between on-field head injury and post career mental illness and both neurological and muscular deficits leading to symptoms similar to ALS.

30. Despite its knowledge of the grave risks players in the NFL have been exposed to because of the defendant's concerted inaction or concealment of safety information, the defendant carelessly failed to take reasonable steps to develop appropriate and necessary steps to alert players to their risk of long-term neurogenic illness.

31. Despite its knowledge of the grave risks players in the NFL have been exposed to because of the defendant's concerted inaction or concealment of safety information, the defendant carelessly failed to take reasonable steps to develop appropriate and necessary guidelines for return to play following a concussion. These omissions either caused or increased the risk that the plaintiffs and others similarly situated would suffer repeated concussions and long-term injury, illness and/or disability.

32. The defendant's relationship with the plaintiff and the plaintiff's decedent was accompanied by a scheme to conceal information and facts it knew regarding the risks of long-term disabilities associated with players suffering concussion, the inappropriate time to return to play and other errors set forth herein.

33. The defendant failed to establish a proper and adequate methodology to monitor and detect when players suffer concussive or sub-concussive injury in practice or game play. This failure increased the risk of injury that materialized.

JURISDICTION AND VENUE

34. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1711, 28 U.S.C. § 1332, and other pertinent federal statutes. The amount in controversy is greater than the minimum dollar value required by law.

35. Venue is proper in this district pursuant to 28 U.S. C. § 1301(a)(2) and 1391(b)(2) as a substantial part of the events and/or omissions giving rise to the claims emanated from activities within this jurisdiction and the defendant conducts substantial business in this jurisdiction.

PARTIES

36. Plaintiff Eric Hilgenberg, who resides at 18526 Judicial Road, Prior Lake, MN 55372 has been duly appointed the Wrongful Death Trustee for the Estate of Wally Hilgenberg, the heirs and next of kin, and brings this lawsuit on their behalf. The Plaintiff's decedent, Wally Hilgenberg played in the NFL for 12 seasons with the Minnesota Vikings including 4 Super Bowls and 3 seasons with the Detroit Lions. Before he retired from the NFL in 1974, the decedent had suffered multiple concussions and was instructed to continue playing on most of these occasions, which was then the acceptable practice sanctioned by the defendant. The decedent was a successful business man until approximately 2003 when he began to suffer memory loss and then muscle weakness. He died in 2008 after a three year battle with what was then misdiagnosed as ALS. Mr. Hilgenberg suffered from increasing weakness in his arms and legs, progressive problems with speech, swallowing and breathing and ultimately he was paralyzed and unable to breathe on his own before he died.

37. Defendant the National Football League is a business entity with its principal offices at 280 Park Avenue, New York, NY 10017.

COUNT I CONCEALMENT

38. Plaintiffs adopt and incorporate by reference all prior paragraphs of this Complaint as if fully set forth herein.

39. The Defendant concealed facts and information which caused the plaintiff's decedent to become exposed to the harm referenced above.

40. As a proximate cause of the concealment of the defendant, the Plaintiff's decedent was caused to suffer harm described above and suffered damages.

41. Wherefore, the Plaintiff individually and in his representative capacity hereby demands damages from the defendant in an amount to be determined at trial, plus interest and costs.

COUNT II
CIVIL CONSPIRACY

42. Plaintiff adopt and incorporate by reference all prior paragraphs of this Complaint as if fully set forth herein.

43. The Defendant actively and deliberately conspired with its team members and/or independent contractors who were directed to continuously discount and reject the causal connection between multiple concussions suffered while playing in the NFL, a non-scientific return-to-play policy for players suffering concussions and the chronic long term effects of these injuries.

44. This conduct between the defendant and others was a proximate cause of the chronic injuries and damages suffered by the Plaintiff and the decedent.

45. Wherefore, the Plaintiff hereby demands damages from the Defendant in an amount to be determined at trial, plus interest and costs.

COUNT III
NEGLIGENCE

46. Plaintiff adopts and incorporates by reference all prior paragraphs of this Complaint as if fully set forth herein.

47. The Defendant assumed a duty toward the Plaintiff's decedent to supervise, regulate, monitor and provide reasonable and appropriate rules to minimize the risk of injury to the players.

48. The Defendant acted carelessly and negligently in its position as the regulatory body for all the team members and the plaintiffs and the class members. The defendant knew or should

have known that its actions or its inaction in light of the rate and extent of concussions reported in the NFL would cause harm to players in both short and long term.

49. The Defendant was generally careless and negligent by breaching the duty of due care it assumed for the benefit of the Plaintiff's decedent, both generally and in the following particular respects:

- a. Failing to warn of the risk of unreasonable harm resulting from repeated concussions;
- b. Failing to disclose the special risks of long term complications from repeated concussions and return to play;
- c. Failing to disclose the role that repeated concussions has in causing chronic life-long cognitive decline;
- d. Failing to promulgate rules and regulations to adequately address the dangers of repeated concussions and a return to play policy to minimize long-term chronic cognitive problems;
- e. Misrepresenting pertinent facts that players needed to be aware of to make determinations of the safety of return to play;
- f. Concealing pertinent facts;
- g. Failing to adopt rules and reasonably enforce those rules to minimize the risk of players suffering debilitating concussions; and,
- h. Other acts of negligence or carelessness that may materialize during the pendency of this action.

50. Wherefore, the Plaintiff hereby demands damages from the Defendant in an amount to be determined at trial, plus interest and costs.

COUNT IV
DAMAGES

51. Plaintiff adopt and incorporate by reference all prior paragraphs of this Complaint as if fully set forth herein.

52. The Plaintiff, on behalf of the decedent's Estate and the next of kin and heirs, hereby seeks damages allowable under the applicable state law for Wrongful Death and the Survival Action, including but not limited to past medical expenses and medically related costs associated with the harm suffered and injuries and disability referenced above, a loss of earnings and earnings capacity associated with the harm suffered and the injuries and disability referenced above, and intangible harm and injuries described including, but not limited to, headaches, dizziness, loss of memory, depression, impulsivity to anger, cognitive dysfunction, loss of bodily function, embarrassment, loss of the pleasures of life, loss of consortium and services and companionship as allowed by law.

53. The Plaintiff is entitled to damages in an amount to be determined at trial.

PRAYER FOR RELIEF

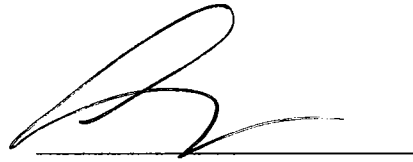
54. WHEREFORE, the Plaintiff prays for judgment as follows:

- a. An award of compensatory damages for all of the named plaintiffs and their heirs and next of kin, the amount of which is to be determined at trial;
- b. An award to the Plaintiff for prejudgment interest and costs and further relief as the Court deems just and proper.

JURY DEMANDED

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiffs hereby demand a trial by jury.

Signed this 30 day of January, 2012.

A handwritten signature in black ink, appearing to be 'L. Coben', written over a horizontal line.

Larry E. Coben, Esquire,
Attorney I.D. No. 17523
Sol Weiss, Esquire
Attorney I.D. No. 15925
Anapol, Schwartz, PC
Attorneys for the Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 18526 Judicial Road, Prior Lake, MN 55372

Address of Defendant: 280 Park Ave. New York, NY 10017

Place of Accident, Incident or Transaction: (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Larry Coben, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
Relief other than monetary damages is sought.

DATE: 1/30/11

Attorney-at-Law signature

17523 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

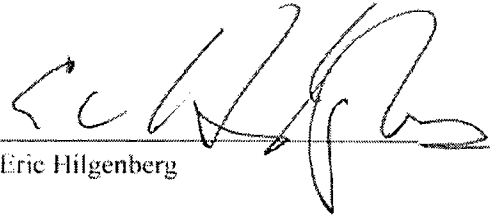
DATE: Attorney-at-Law

Attorney I.D.#

VERIFICATION

Eric Hilgenberg, hereby states that he is a Plaintiff in the within action and verifies that the statements made in the foregoing Plaintiff's Complaint are true and correct to the best of his knowledge, information and belief. He understands that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: January 30, 2012


Eric Hilgenberg