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9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA- SAN FRANCISCO DIVISION

11 MARK ADAMS, CORY BRANDON, JOHN
12 CAMPERLINO, RYAN CARVER, KELVIN
13 CHAISSON, DERRICK CHERRY, ZEBADIAH
14 CORNIST, QUINTON ECHOLS, SIMSON
15 GREEN, KEITH JACK, JAMAAL JOHNSON,
16 JORDY JOHNSON, JOSEPH CHARLES
17 LEWIS, III, CHRISTOPHER LIGON,
18 BRANDON LOGAN, DEMARR LOVE,
19 STEPHEN MCPETERS, BOBBY MEEKS,
20 JERMAINE MILLS, BYRON NEWMAN,
21 DOMINIC PATRICK, MARK POTTER,
22 JARROD BLAKE ROBERTS, ARMANDO
23 ROMAN, JERMAINE SMITH, MICHAEL
24 STERNS, STACEY THOMAS,
25 CHRISTOPHER THOMPSON, TARIQ
26 VLAUN, JOSEPH WALKER, JOHNNY
27 WILLIAMS, LES WILLIAMS, YASHUA
28 WILLIAMS, JEFFRY WODKA,

Plaintiffs,

vs.

BRG SPORTS, INC, RIDDELL, INC., ALL
AMERICAN SPORTS CORPORATION d/b/a
RIDDELL/ALL AMERICAN, formerly known
as RIDDELL SPORTS GROUP, INC.,

Defendants.

CASE NO: 3:17-cv-00457

COMPLAINT FOR DAMAGES

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ORIGINAL COMPLAINT

COME NOW Plaintiffs to file this Original Complaint against the Defendants BRG Sports, Inc., Riddell, Inc., All American Sports Corporation d/b/a Riddell/All American, formerly known as Riddell Sports Group, Inc. (collectively “Riddell” or “Defendants”) and respectfully state:

I.

OVERVIEW OF THE ACTION

A. Case Overview

1. According to the world’s largest football helmet maker Riddell:
THE GAME OF THE FUTURE WILL BE WON *WITH THE BRAIN.* AND THE HELMET, *THE SPACE TO WHICH WE HOLD THE RIGHTFUL OWNERSHIP,* IS THE *HOME OF THE BRAIN.* THAT SPACE MOST REPRESENTS THE FUTURE OF THE GAME.¹

2. Riddell betrayed this self-declared ownership as the protector of its customers’ brains and well-being, when it knowingly and negligently developed, designed, tested, marketed, promoted, advertised, distributed and sold dangerous and defective football helmets that lacked critical and accurate safety information relating to the products. As a direct result of Riddell’s wrongful misconduct and omissions, Plaintiffs have suffered permanent injuries and/or were left at an elevated risk for grievous injuries and latent damages to brain.

3. As a result of Riddell’s bad acts, discussed in detail below, this lawsuit seeks to recover damages for injuries sustained by the Plaintiffs as the direct and proximate result of the negligent and wrongful misconduct of Riddell in connection with the development, design, promotion, marketing, and sale of Riddell football helmets to Plaintiffs.

4. Riddell failed to disclose and warn that the helmets they marketed and sold did not perform in the manner they claimed they could and would. Namely, Riddell represented their helmets would protect players from head trauma, repetitive head impacts, and concussions. In reality, Riddell knew this was false, and failed to take effective action to protect Plaintiffs or

¹ <http://www.riddell.com/history> (last visited 1/10/17) (emphasis added).

1 inform them of the true risks and dangers associated with concussions, brain injuries, and
2 repetitive brain trauma—all of which were known or should have been known to Riddell.

3 **B. Riddell’s history.**

4 5. For decades, Riddell has designed, manufactured, sold, and distributed athletic
5 equipment, especially football helmets to the collegiate players, the NCAA member schools, high
6 schools, and youth leagues throughout the United States.

7 6. Riddell claims it “the premier designer and developer of protective sports
8 equipment” and touts that it was founded in 1929 as a company “dedicated to innovation,
9 protection and performance” of its customers.² Riddell claims that its foray into football helmet
10 manufacturing beginning in 1939 was a “wipe-the-slate-clean, make-a-difference moment” in
11 helmet technology.³ Riddell became a marketing juggernaut when it “created one of the
12 strongest branding placements in all sports for all to see every Saturday, Sunday and Monday”
13 by placing its name “between the screws” of football helmets it marketed to college and NFL
14 players that would be seen on television.⁴

15 7. Recognizing that football over the past several decades can only be described as
16 “BIGGER, FASTER, STRONGER,” Riddell placed on itself a duty to protect the players buying
17 and wearing its products, claiming that in light of the speed of the modern game, “Riddell is the
18 pioneer of *innovating for the good of the player*.”⁵ Riddell has claimed and still claims it is the
19 “recognized leader in helmet technology and innovation for athletes at all levels of football.”⁶
20 Plaintiffs wore Riddell helmets at all times while playing and/or practicing during their collegiate
21 careers.

22 8. It is (and was) vital to the safety of the players that Riddell act reasonably,
23 through research, studies, testing and other means, to help identify the risks of serious injuries
24 associated with playing football with their helmets; to keep the teams and players that use their
25

26 ² <http://www.riddell.com/history> (last visited 1/10/17).

27 ³ *Id.*

28 ⁴ *Id.*

⁵ *Id.* (emphasis added).

⁶ *Id.*

1 helmets informed of the risks; and to take reasonable steps based upon their findings to protect
2 and educate players who rely on their helmets to protect them.

3 9. Football players like Plaintiffs need safety equipment that performs in the manner
4 that it is represented to perform. In instances where there are inherent dangers, or where the
5 safety equipment does not provide sufficient protection from these inherent dangers, the
6 equipment manufacturers and sellers must provide clear, easily understandable, and easily seen
7 warnings.

8 **C. Riddell’s misleading marketing and labelling.**

9 10. Beginning in 1983, warning labels first were placed onto the backs of Riddell’s
10 helmets. At that time, and until the 1990s, the helmets bore roughly postage-stamp-sized
11 warnings, containing the following text, with no express mention of concussions:

12 Do not use this helmet to strike an opponent. Such an action is against
13 football rules and may cause severe brain or neck injury. Playing the game of
14 football in itself can cause injury, and no helmet can prevent all such injuries.⁷

15 11. Since at least 2002, Riddell began to hold itself out as making “the only
16 advancement in helmet technology” in two decades, and specifically referenced concussion
17 reduction capabilities. Hoping to profit from the growing concern over concussions and head
18 injuries, Riddell claimed that they had created a football helmet that would provide a player with
19 a *safer* helmet that would protect the player from concussions as compared with other helmets
20 available on the market during the same time.

21 12. Riddell claimed that its “Riddell Revolution Helmet” was proven to be 31% safer
22 than other helmets available at the time. Riddell knew or had reason to know that these
23 representations about the increased protection offered by Riddell’s Revolution were false, and
24

25 ⁷ This warning implied that the Riddell helmet could prevent many such injuries, including
26 concussions. Since approximately 2003, Riddell’s chief competitor in the football helmet market,
27 Schutt Sports, offered on its labels the following warning: “No helmet system can protect you
28 from serious brain and/or neck injuries including paralysis or death. To avoid these risks, do not
engage in the sport of football.” See Belson, K., “Warning Labels on Helmets Combat Injury and
Liability,” New York Times (Aug. 4, 2013).

1 after a Federal Trade Commission investigation, were forced to stop making that marketing
2 claim.⁸ Riddell knew or had reason to know that their representations would never be questioned
3 by the community of consumers and the players who wore these helmets, because the community
4 and the players relied upon and trusted Riddell.

5 13. The Revolution line of helmets also contain common inherent design defects,
6 including:

- 7 a. a defective rear and/or side padding liner system that fails to incorporate
8 newer, safer and better energy absorbing materials such as air-filled
9 chambers and/or thermoplastic polyurethane (“TPU”) padding that have
10 been shown to substantially reduce the forces transmitted to a player’s
11 head from both linear and rotational impacts thereby mitigating the risk of
12 injury i.e. concussions.
- 13 b. defective padding that cannot absorb most football blows without
14 distributing acceleration onto the head of the player.
- 15 c. substandard foams in the front pad rather than available newer materials
16 that perform better at attenuating energy by reducing force to the
17 forehead.⁹

18 14. Nevertheless, Riddell marketed all of their helmets as safe and/or safer equipment
19 that would protect its players, especially from concussions.

20 15. Riddell had superior knowledge to that of Plaintiffs of the risks that would come
21 from wearing the Riddell helmets, based on Riddell’s own studies and testing, yet Riddell failed
22 in their duty to warn the athletes. Riddell’s conduct constitutes negligence.

23 16. Riddell breached their duty to educate, protect and adequately warn college
24 football players in the face of long-standing and overwhelming evidence regarding the dangerous
25 risks posed by repetitive head trauma known to Riddell. Riddell has profited immensely their
26 inactions, misrepresentations and falsehoods, all to the detriment of the Plaintiffs who relied
27 upon them for accurate and truthful information concerning the safety of their products.

28 ⁸[https://www.ftc.gov/sites/default/files/documents/closing_letters/riddell-sports-group-
inc./130430riddellvillafrancoltr.pdf](https://www.ftc.gov/sites/default/files/documents/closing_letters/riddell-sports-group-inc./130430riddellvillafrancoltr.pdf)

⁹ The proper selection of foam padding for the liner system is extremely important because
players sustain the majority of impacts to the forehead area, which is also the thinnest layer
between the skull and brain.

1 17. The Plaintiffs each suffered the adverse consequences proximately caused by
2 Riddell's negligence, failure to warn, design defects, and Riddell is strictly liable for Plaintiffs'
3 injuries.

4 **II.**

5 **JURISDICTION AND VENUE**

6 18. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 as Plaintiffs are
7 residents of Texas, Georgia, Oklahoma, Tennessee and Alabama, while Defendants are residents
8 of California, Delaware, and Illinois. The amount in controversy exceeds \$75,000 as to each
9 named Plaintiff.

10 19. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1), (2) and
11 1391(c) as the Defendants are deemed to reside in this judicial district because they are subject to
12 personal jurisdiction here; and a substantial part of the events and/or omissions giving rise to the
13 claims emanated from activities within this jurisdiction and the Defendant conducts substantial
14 business in this jurisdiction.

15 **III.**

16 **PARTIES**

17 20. Plaintiffs former collegiate athletes now suffering from several symptoms
18 indicative of long-term brain and neurocognitive injuries resulting. Plaintiffs are residents of
19 Texas, Louisiana, Georgia, Tennessee and Alabama. Plaintiffs respectively played college
20 football at different colleges and universities, including University of Texas, University of
21 Oklahoma, University of Alabama, Florida State, Grambling, Kansas State, University of
22 Arizona, Iowa State, and others. However, each Plaintiff wore Riddell helmets at the times
23 relevant to this suit.

24 21. Defendant BRG Sports, Inc., formerly known as Riddell Sports Group, Inc. is a
25 Delaware Corporation with its principal place of business in California, and may be served
26 through its registered agent for service of process, Corporation Service Company d/b/a CSC-
27 Lawyers Incorporating Service Company, at 2710 Gateway Oaks Dr., Suite 150N, Sacramento,
28 California 95833.

1 22. Defendant Riddell, Inc. is a corporation organized and existing under the laws of
2 the State of Illinois and whose principal place of business is in the State of California. Riddell,
3 Inc. is a wholly owned subsidiary of BRG Sports, Inc., and may be served through its registered
4 agent for service of process, Corporation Service Company d/b/a CSC-Lawyers Incorporating
5 Service Company, at 211 E. 7th Street, Suite 620 Austin, Texas 78701-3218.

6 23. Defendant All American Sports Corporation, doing business as Riddell/All
7 American, is a corporation organized and existing under the laws of the State of Delaware and
8 whose principal place of business is in California. All American Sports Corporation is a wholly
9 owned subsidiary of Riddell Sports Group, Inc., and may be served through its registered agent
10 for service of process, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service
11 Company, at 2710 Gateway Oaks Dr., Suite 150N, Sacramento, California 95833.

12 24. Defendants Riddell, Inc., All America Sports Corporation d/b/a Riddell/All
13 America, and BRG Sports Group, Inc. are collectively referred to as “Riddell.”

14 IV.

15 FACTUAL BACKGROUND

16 A. **Primer on Concussions.**

17 1. **Concussions and what they cause.**

18 25. The brain is made of soft tissue and is cushioned by spinal fluid. It is encased in
19 the hard, protective skull. When a person gets a head injury, the brain can slosh around inside the
20 skull and even bang against it. This can lead to bruising of the brain, tearing of blood vessels, and
21 injury to the nerves. When this happens, a person can get a concussion – a temporary loss of
22 normal brain function.

23 26. A concussion or mild traumatic brain injury (“MTBI”) has been defined as “a
24 complex pathophysiological process affecting the brain, induced by traumatic biomechanical
25 forces.” In simple terms, a concussion is an injury to the brain that may result in temporary or
26 permanent loss of normal brain function.

27 27. The milder indications of a concussion include headaches, lack of concentration,
28 problems with memory and judgment, lack of coordination and difficulty with balance. The more

1 significant effects can include Post-Concussion Syndrome (“PCS”), Chronic Traumatic
2 Encephalopathy (“CTE”) and Second Impact Syndrome (“SIS”).

3 **2. Signs and symptoms of concussions.**

4 28. Although a concussion is commonly perceived as causing loss of consciousness
5 (passing out), a person can have a concussion and never lose consciousness. As the Southern
6 Collegiate Athletic Conference and the NCAA know or should know, symptoms of a concussion
7 may include:

8 “seeing stars” and feeling dazed, dizzy, or lightheaded;

9 memory loss, such as trouble remembering things that happened right before and
10 after the injury;

11 nausea or vomiting; headaches;

12 blurred vision and sensitivity to light;

13 slurred speech or saying things that don’t make sense; difficulty concentrating,
14 thinking, or making decisions;

15 difficulty with coordination or balance (such as being unable to catch a ball or
16 other easy tasks); and

17 feeling anxious or irritable for no apparent reason; or feeling overly tired.

18 29. The general public, including former football players, may not recognize the signs
19 of a concussion. In fact, a concussion may prevent a player from recognizing that one has a
20 concussion, or the lingering symptoms, since by definition a concussion is brain impairment.
21 And because of that, student-athletes may put themselves at risk for another injury. For example,
22 players may return to a game before they should, thinking nothing is wrong. That is a problem
23 because if a player’s brain has not healed properly from a concussion and the player then
24 receives another brain injury (even if it is with less force), it can be serious.

25 30. Repeated injury to the brain can lead to swelling, and sometimes people develop
26 long-term disabilities, or even die, as a result of serious head injuries. It is therefore very
27 important to recognize and understand the signals of a concussion.

28 ///

1 31. When post-concussion symptoms persist beyond a month, most refer to this
2 condition as post-concussion syndrome (PCS). PCS symptoms can include headaches, fatigue,
3 memory problems, feeling in a fog, depression, impulsivity, and other physical, cognitive, mood,
4 and behavioral problems.

5 **3. Chronic Traumatic Encephalopathy or CTE.**

6 32. CTE is a progressive neurodegenerative disease caused by repetitive trauma to the
7 brain which eventually leads to dementia and other neurological disorders. Often there can be a
8 delay of years or even decades between the end of the repetitive head impacts (*i.e.*, the end of
9 playing football) and the beginning of the symptoms. CTE often presents with recent memory
10 loss and other cognitive impairments similar to those experienced by people with Alzheimer's
11 disease. People with CTE can also have changes in behavior (*e.g.*, impulsivity, rage, aggression,
12 having a short fuse) and mood (*e.g.*, depression, hopelessness, feeling suicidal).

13 **4. Second-Impact Syndrome or SIS.**

14 33. When athletes who have sustained a concussion return to competition too soon,
15 they risk the occurrence of SIS, a condition that can cause serious head trauma or even death.¹⁰
16 SIS occurs when an athlete sustains a second blow to the head before the symptoms from the
17 first concussion have subsided, or before the brain has fully recovered. The second injury may
18 occur within minutes, days, or even weeks after the first, and still have a devastating effect.

19 34. Even a relatively light hit, if sustained during this vulnerable post-concussion
20 period, may spark the onset of SIS. The second impact causes rapid swelling of the brain,
21 resulting in cerebral edema. When the brain swells, the pressure inside the skull increases,
22 preventing blood flow to the brain and decreasing the brain's essential oxygen levels, causing
23

24
25 ¹⁰ See *AAN Statement* at 581 (recognizing cumulative damage of multiple concussions);
26 *Handbook, supra* ¶ 37, at 53 ("There are potentially serious complications of multiple or severe
27 concussions, including second impact syndrome, postconcussive syndrome, or post-traumatic
28 encephalopathy"); see also Sean Gregory, *Study: Kids Competing Too Soon After Concussions*,
TIME (Jan. 21, 2009), <http://www.time.com/time/magazine/article/0,9171,1873131,00.html>
(reporting on concussion study by the Center for Injury Research and Policy at Nationwide
Children's Hospital that found half of concussed student-players returned too soon to play).

1 substantial injury or death.¹¹

2 **5. The brain.**

3 35. The brain has three main parts – the cerebrum controls higher mental functions,
4 such as thought, memory, and language; the cerebellum controls balance and coordination; and
5 the brainstem controls bodily function such as breathing, heart rate, and blood pressure.

6 36. A number of structures surround the brain to keep it safe. It is encased in the skull
7 to protect it from outside sources; it has supporting tissues to help stabilize it; and, it is covered
8 on all sides by three membranes and a layer of fluid. For this reason, it is often said that the brain
9 “floats” inside the skull.

10 37. As a result, injuries to the brain occur when the head suddenly stops moving, but
11 the brain, which was traveling at the same speed as the head, continues to move and strike the
12 inside of the skull, transferring part of the force to the brain. This occurs most commonly when a
13 blow is given to the head, and can also occur when the head is forced to accelerate or decelerate
14 rapidly which can lead to bruising of the brain, tearing of blood vessels, and injury to the nerves.
15 When this happens, a person can get a concussion – a temporary loss of normal brain function.

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

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

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27 ¹¹ Cantu RC: Second Impact Syndrome a risk in any contact sport. *Physician and Sports*
28 *Medicine* 23:27 (1995); see also, *Brain and Nervous System Health Center: Brain Swelling*,
WebMD, [http://www.webmd.com/brain/brain-swelling-brain-edema-intracranial-
pressure?print=true](http://www.webmd.com/brain/brain-swelling-brain-edema-intracranial-pressure?print=true) (last updated Mar. 2, 2010) (describing brain swelling).

1 **6. After a concussion.**

2 39. After a concussion, the brain needs time to heal until all symptoms of a
3 concussion have cleared up before returning to normal activities. The amount of time someone
4 needs to recover depends on how long the symptoms last. Healthy teens can usually resume their
5 normal activities within a few weeks, but each situation is different. A doctor should monitor the
6 athlete closely to make sure it is appropriate to return to the game.

7 40. Someone who has had a concussion and has not recovered within a few months is
8 said to have post-concussion syndrome. The person may have the same problems described
9 earlier – such as poor memory, headaches, dizziness, and irritability – but these will last for
10 longer periods of time and may even be permanent.

11 41. If someone has continuing problems after a concussion, the doctor may refer him
12 or her to a rehabilitation specialist for additional help.

13 **B. Long-Term Effects of Concussions.**

14 42. Several major studies of the long-term effects of concussions have been
15 conducted by Boston University’s Center for the Study of Traumatic Encephalopathy, the Brain
16 Injury Research Institute, the Veterans’ Administration, and other institutions. These studies
17 have revealed the “devastating consequences” of repeated concussions, including an increased
18 risk of depression, dementia, and suicide.

19 43. Further, the studies have demonstrated the physiological effect of multiple hits on
20 the brain, manifested by red flecks of protein deposits on the brain called present with CTE.
21 Generally, these proteins appear when the brain is hit, and disappear as healthy brain cells
22 devour them, leading to recovery. Yet, when the brain suffers too many blows, the brain cells
23 cannot keep up with the protein and eventually give up and die, leaving just the red flecks
24 associated with CTE.

25 44. Between 2002 and 2007, Dr. Omalu, of the Brain Injury Research Institute,
26 examined the brains of five former NFL players: Andre Waters, Mike Webster, Terry Long,
27 Justin Strzelczyk, and Damien Nash. Four of the five brains showed “the telltale red flecks of
28 abnormal protein” characteristic of CTE. Dr. McKee, of the Boston University Center has

1 examined the brains of 16 former athletes, and found CTE in all of them. Their research
2 demonstrates how devastating multiple concussions are to the brain and to human function, and
3 reiterates the need for concussion awareness, management, and prevention.

4 45. Published peer-reviewed scientific studies have long shown that concussive and
5 sub-concussive head impacts while playing football are linked to significant risk of permanent
6 brain injury. This head trauma, which includes multiple concussions, triggers progressive
7 degeneration of the brain tissue. The brain degeneration is associated with memory loss,
8 confusion, impaired judgment, paranoia, impulse control problems, aggression, depression, and
9 eventually, progressive dementia. As discussed in detail below, these publications have been
10 available to the NCAA and member conferences for years, yet they failed to act in accordance
11 with their duties to protect their players and warn them of the long-term.

12 46. Most recently, the NFL, which for years disputed evidence that its players had a
13 high rate of severe brain damage, stated in federal court documents that it expects nearly a third
14 of retired players to develop long-term cognitive problems and that the conditions are likely to
15 emerge at “notably younger ages” than in the general population. The NFL has agreed to a class
16 settlement offering certain players with probable diagnoses of one or more long-term brain
17 injuries compensation (between \$1.5 million/player for the least severe, up to \$5 million for Lou
18 Gehrig’s Disease). *See* Case No. 2:12-md-02323 (E.D.Pa.).¹² In addition, the NCAA has agreed
19 to a class settlement for medical monitoring only of former NCAA athletes from a fund of up to
20 \$75 million, though no portion of that fund is to be paid for personal injuries to the athletes or
21 even for their ongoing medical care. *See* Case No. 1:13-CV-09116 (N.D. Ill.).

22 **C. The role of helmets in preventing concussions.**

23 47. The CDC estimates that 100,000 traumatic head injuries occur in football every
24 year. The importance of understanding and preventing these head injuries is increasing because
25 athletes have been getting “bigger, faster, and stronger,” according to Riddell, resulting in more
26 violent collisions that are more likely to cause concussions.

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¹² *See also* <https://nflconcussionsettlement.com/Home.aspx>

1 48. The mechanisms underlying these concussions, as well as methods of prevention,
2 have been investigated both in the laboratory and in the field. Over the years, equipment changes
3 have been proposed in an attempt to help prevent catastrophic brain injuries, including
4 modifications of helmets and mouth guards. This equipment has been critical for injury
5 prevention since helmets have been shown to protect against skull fracture, severe TBI, and
6 death.

7 49. Protective headgear and helmets decrease the potential for severe TBI after a
8 collision by reducing the acceleration of the head on impact, thereby decreasing the brain-skull
9 collision and the sudden deceleration-induced axonal injury. The energy-absorbing material
10 within a helmet accomplishes this by compressing to absorb force during the collision and slowly
11 restoring to its original shape. This compression and restoration prolongs the duration of the
12 collision and reduces the total momentum or force transferred to the head. The protective
13 material in football helmets has evolved over time from inner suspension systems to traditional
14 foam padding to gel-filled and inflatable padding.

15 50. There are variations in helmet design based on the demands and constraints of
16 each sport. Although helmets and headgear in most sports are good at mediating the high-impact
17 collisions responsible for severe TBI, the question remains as to what extent the helmets and
18 headgear of each sport are able to respond to the lower-impact collisions and rotational and
19 linear acceleration forces responsible for concussions.

20 51. Early helmets consisted of nothing more than leather padding but later designs
21 began including metal, rubber, and plastics to provide additional protections. However, even
22 these basic helmets were not required for college play until 1939 and were not mandated until
23 1940 for athletes in the NCAA.

24 52. Despite innovations in helmet design, the incidence of head injuries continued to
25 increase, prompting the formation of the National Operating Committee on Standards for
26 Athletic Equipment (“NOCSAE”) in 1969 to initiate research efforts for head protection and to
27 implement the first football helmet safety standards in 1973.

28 ///

1 53. The goal of NOCSAE was to develop a standard that would measure the ability of
2 the football helmet to withstand repeated blows of various magnitudes under a wide variety of
3 playing conditions without sacrifice in protective quality. Early helmet models were designed to
4 protect areas of the player's head directly covered by the helmet from direct linear impact only.

5 54. Since its inception, NOCSAE has been working to improve athletic equipment,
6 and to reduce injuries through creating uniform standards for athletic equipment. Efforts include
7 the development of performance standards for football helmets as well as research to better
8 understand the mechanism and tolerance of head and neck injuries and the design and structure
9 of football helmets.

10 55. The NOCSAE helmet safety standards are voluntary test standards that have been
11 developed to reduce head injuries by establishing requirements for impact attenuation for football
12 helmets and face masks. Manufacturers test their own helmets to ensure they meet NOCSAE
13 helmet safety standards, but it is mandatory for all football players to wear helmets bearing the
14 NOCSAE certification seal.

15 56. The NOCSAE organization is comprised of representatives from a number of
16 national representative organizations that have an interest in athletic equipment and which
17 include manufacturers, re-conditioners, athletic trainers, coaches, equipment managers, sports
18 medicine doctors, and consumer organizations. The organization is funded with licensing fees
19 collected from helmet manufacturers whose products bear the NOCSAE seal.

20 57. NOCSAE does not possess a surveillance force to ensure compliance with its
21 standards. NOCSAE receives no oversight from any independent agency, such as the Consumer
22 Product Safety Commission or the Occupational Safety and Health Administration, and the
23 standards are voluntary and are available for adoption by any equipment manufacturer, user
24 group, or athletic regulatory body.

25 **1. How Do You Measure Concussion Protection?**

26 58. NOCSAE rates helmets numerically on a "Severity Index." Severity Index scores
27 reflect how well helmets absorb the energy from an impact by measuring the effects on the head
28 and brain. The higher the score the greater and potentially more damaging the effects. In order

1 to obtain the NOCSAE certification seal, helmets are tested on a pass/fail standard. To pass,
2 helmets must score below 1200 SI at all impacts.

3 59. The current testing standard involves mounting a football helmet on a synthetic
4 head model and dropping it a total of 16 times onto a firm rubber pad, including two each from at
5 height of 60 inches onto six locations at ambient temperatures. Two 60-inch drops onto the side
6 are also conducted immediately after exposure of the helmet to 120 degrees Fahrenheit for four
7 hours.

8 60. The NOCSAE standard was developed to reduce the incidence of traumatic brain
9 injuries, like skull fractures and cervical spine injuries; however, these test methods *were not*
10 explicitly developed with the goal of reducing MTBI and/or concussions. The NOCSAE standard
11 SI threshold is well in excess of the values associated with concussions, and all adult helmets in
12 use today vastly outperform the 1200 SI threshold.

13 61. NOCSAE helmet standards have remained largely unchanged since 1973, with the
14 exception of the SI ratings, which changed from 1500 SI to 1200 SI in the early 1990s.
15 According to Mike Oliver, the executive director of NOCSAE, the group's standards do limit
16 linear acceleration – one of the forces behind concussions – but is not designed to rate protection
17 against concussions.

18 62. In a November 2000 report sent to Defendants, Biokinetics (the biomechanics
19 firm hired by Riddell) wrote that SI scores well below the 1200 mark still carried a high risk of
20 concussion. The report concluded “a concussion is almost certain to occur at SI levels half that of
21 the current NOCSAE standard.”

22 63. Elsewhere in the report, Biokinetics reported that a player wearing a helmet that
23 scored 291 SI during an impact – well within the safety threshold – would have a 50 percent
24 probability of suffering a concussion and a helmet that scored 559 SI during the same impact
25 would carry a 95 percent risk of concussion.

26 ///

27 ///

28 ///

1 64. Other studies have suggested that NOCSAE's SI index, which rates helmet
2 protectiveness based solely on the risk of skull fracture, is insufficient as a stand-alone
3 concussion or near-concussive injury risk metric.¹³

4 65. The studies commissioned by Defendants sought to improve guidelines for
5 improved helmet standards and also concluded that the contribution of rotational forces, which
6 are not taken into account by the current SI ratings, play a significant role in the risk of
7 concussion.

8 66. Despite having this knowledge, Defendants have done little to improve upon the
9 current NOCSAE standards and/or incorporate a higher standard of care in order to design and
10 provide safer equipment and better protection to their helmet users.

11 67. The ultimate goal of a helmet manufacturer should not be to simply design a
12 helmet to pass the NOCSAE standards, but rather the goal of helmet design should be to identify
13 and require better impact protection to better protect the player throughout the widest range of
14 injurious impact conditions and mitigate the risk of head injuries during play.

15 68. As a result of the increased awareness of concussions and antiquated standards for
16 testing football helmets, NOCSAE has come forth with a revised football helmet standard that
17 will require helmets to be tested for certain concussion causing forces *i.e.* linear and rotational
18 forces. The revised standard was modified June 2015 and effective October 2015.

19 69. Throughout the latter half of the 20th century and continuing to present day, the
20 Riddell has designed, developed, manufactured, sold, and distributed equipment used in the
21 NCAA, including equipment used by NCAA football players, including, but not limited to, the
22 following:

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

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

27
28 ¹³ A. Bartsch, *et al.*, *Impact Test Comparisons of 20th and 21st Century American Football Helmets*, *J. Neurosurgery* 116:222-233 (2012).

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

6 d. In 1973, the Defendants developed, designed, manufactured, sold,
7 and/or distributed an air cushion helmet (known as the Pac-3) whose
8 interior system consisted of individual vinyl air cushions with layers of
9 fitting and energy absorbing foam.

10 e. In 1982, the Defendants developed, designed, manufactured, sold,
11 and/or distributed a M155 helmet model with a combination of foam and
12 liquid- filled cells used for padding.

13 f. In 1992, Riddell introduced the VSR Series of football helmets. It
14 featured their first air-fitted liner system.

15 g. In 2002, the Defendants developed, designed, manufactured, sold,
16 and/or distributed the Riddell Revolution line of helmets designed with the
17 intent of reducing the risk of concussion.

18 70. Defendants at all relevant times engaged in the business of selling, manufacturing,
19 designing, testing, engineering, marketing, modifying, assembling, inspecting, distributing, and
20 controlling the helmets and other similar equipment for use within the NCAA by football players
21 including Plaintiff.

22 **2. Modern Helmet Designs.**

23 71. Modern football helmets' basic design elements include the use of hard plastic
24 exterior housing materials of various stiffness to absorb the force of collision ("the shell") and an
25 inflating system meant to ensure proper fit ("the liner").

26 72. To understand the impact attenuation effectiveness of football helmets, it is
27 necessary to examine the helmet itself. There are two basic safety components of the helmet: the
28 shell and the liner.

73. The object of the shell is to provide a smooth, hard outer surface, which resists
penetration and is designed to distribute the impact load onto a large area. The shell will reduce
the force transmitted to the liner and the head if it can effectively spread a localized impact load
over a large segment of the shell. Today, most football helmet shells are typically constructed

1 with polycarbonate or thermoplastic material. Thermoplastic is less rigid than fiberglass and can
2 buckle upon impact.

3 74. Football helmets also include a shock absorbing liner system. The shock
4 absorbing liner is positioned on the inside of the helmet to “manage” the force being transmitted
5 through the shell. As the second line of defense, the liner provides absorption in order to manage
6 the force transmitted to a player’s head and neck. The energy of the impact is absorbed as the
7 material in the liner system compresses. If the liner is very dense and stiff, the energy cannot be
8 absorbed into the material and is passed through to the skull of the head. Consequently, the right
9 choice for shock absorbing liner is one which will manage predicable levels of force in
10 foreseeable impacts by deforming in a controlled fashion. The liner, as it is compressed, absorbs
11 the impact force over time.

12 75. The newer energy-absorbing materials within a helmet can reduce acceleration of
13 the head-on impact by compressing to absorb force during the collision; however, not all helmets
14 are designed equally in their ability to reduce this acceleration resulting from impact. The
15 characteristics or properties of the padding or cushioning used in helmet design are an important
16 component of the liner system. Materials such as Vinyl Nitrile (VN) and more recently
17 thermoplastic polyurethane (“TPU”) have been shown to help reduce head impact acceleration
18 by absorbing energy more effectively throughout a wider range of temperatures thus reducing
19 force on the brain and risk of injury.¹⁴

20 76. The goal of a helmet is to mitigate the risk of head injuries and improve the level
21 of safety during play. To better protect against brain injuries and concussions, a well-designed
22 helmet must therefore both absorb energy from the impact, leaving less energy for the skull and
23 brain, and also cushion the impact to minimize the magnitude of deceleration. Other advances
24 include increases in the size and coverage of the helmet which provide more space for better liner
25 materials such as thermoplastic shock absorbers filled with air such as those depicted below:

26
27 ¹⁴ G. Gimbel, *et al.*, *A Comparison between Vinyl Nitrile Foam and New Air Chamber*
28 *Technology on Attenuating Impact Energy for Ice Hockey Helmets*, INTERNATIONAL
JOURNAL OF SPORTS SCIENCE AND ENGINEERING, Vol. 02, No. 3, pp. 154-161 (July
2008).

1 77. Even though recent engineering advances made by helmet manufacturers have
2 undoubtedly improved the overall performance of the football helmet, industry experts
3 acknowledge that helmet manufacturers communicate a level of protection that they do not
4 provide, in part because of lax industry standards and practices.

5 78. However, when newer materials exist (such as TPU cushioning and/or air-filled
6 shock absorbers that are capable of absorbing energy in a more efficient manner and more
7 effectively throughout a wider range of temperatures than traditional foam padding), a helmet
8 manufacturer has a duty to incorporate and utilize those materials in their liner systems to better
9 protect their helmet users.

10 **D. Riddell knowingly capitalizes on the growing concussion crisis by promoting a false**
11 **sense of protection in their helmets.**

12 79. The issue of concussions, their debilitating effects both long and short-term, and
13 player safety at all levels of sport are front and center stage and continue to receive increasing
14 attention. One significant reason for this increased awareness of concussions is due to the
15 publicity and media attention on concussions in professional sports, such as the NFL, and the
16 long-term catastrophic effects of repetitive concussive injuries.

17 80. In order to take advantage of the increased concern and awareness of concussions
18 and their potentially devastating effects, Riddell sought to profit through the production,
19 marketing and sales of equipment that they claim can reduce the frequency and/or severity of
20 concussions. Despite the marketing hype as to how modern helmets reduce the incidence and
21 severity of concussions, the rate of concussions amongst football players continued to rise.

22 81. In 2002, the Defendants released a new helmet, ambitiously called the
23 “Revolution,” specifically manufactured, designed, and marketed to “reduce the incidence of
24 concussions” as “a first- of-its-kind helmet.” This h= would become the most widely used helmet
25 in the NCAA and earn millions in sales to players in college, high school and youth leagues. To
26 the contrary, court documents recently made public during a Colorado lawsuit against the
27 Defendants revealed that Biokinetics sent Defendants a report in 2000 showing that no football
28 helmet, no matter how revolutionary, could prevent concussions. Despite the findings of this

1 report, Defendants were not deterred from marketing their helmet as protection against
2 concussions.

3 82. As part of their effort to capture the largest share of the helmet market,
4 Defendants decided to conduct what would *appear* to be a scientific study regarding the
5 purported concussion protective benefits of the Revolution helmet.

6 **1. The UPMC Study and Misleading Marketing Campaign.**

7 83. Following the release of the Revolution helmet, Defendants funded research at the
8 University of Pittsburgh Medical Center (“UPMC Study”) to study its helmet. The findings of the
9 study were published in the February 2006—four years after Riddell began marketing it—in the
10 issue of the scientific journal *Neurosurgery*.¹⁵ Based on the UPMC Study funded by a grant from
11 Riddell and co-authored by Riddell’s senior vice president for research and development, Thad
12 Ide, Riddell began to tout the Revolution helmet as reducing concussions by 31%.

13 84. The UPMC Study was flawed from the start and presented significant potential
14 conflicts of interest. Commencing in 2002, the authors of the UPMC Study compared the
15 concussion rates and recovery time for athletes wearing *new* Riddell Revolution helmets to
16 athletes wearing what was referred to as *traditional* helmets. The “traditional” helmets were not
17 new, although Riddell claimed that they were reconditioned. Reconditioning involves cleaning,
18 sanitizing, inspecting, repairing (if necessary) and recertifying the helmets but rarely does the
19 process involves replacing the foam padding in the liner system of the helmet, a critical part of
20 the helmet that wears out and degrades over time.

21 85. Defendants provided a grant to pay the salary of two leading authors of the study.
22 A third author, Thad Ide, is a Riddell employee. Defendants’ payment of the salaries of Collins
23 and Lovell is a significant potential conflict of interest that was subsequently raised by many
24 commentators regarding the study. Of equal or greater concern is the fact that Riddell directly
25 employed the third researcher – Thad Ide, the owner of the patents covering the Revolution
26

27 ¹⁵ M. Collins, *et al*, *Examining Concussion Rates And Return To Play In High School Football*
28 *Players Wearing Newer Helmet Technology: A Three-Year Prospective Cohort Study*,
NEUROSURGERY, Vol. 58, No. 2. (February, 2006).

1 helmet. Ide, as owner of at least two patents covering the helmet, had a direct financial stake in
2 the positive outcome of the study. In its marketing campaign, Defendants failed to disclose to its
3 helmet users the potential conflicts of interest as well as significant limitations in the study's
4 design and outcome.

5 86. In addition, three of the study's authors are co-owners of ImPACT, a company
6 that manufactures and distributes computerized neurocognitive testing software. Upon
7 information and belief, ImPACT and Riddell entered into an agreement whereby Riddell would
8 receive a commission for any ImPACT sale that is completed through a Riddell initiated contact.
9 The authors used ImPACT concussion management software for the UPMC Study, but given
10 Riddell's direct financial interest in the success of ImPACT, there is a serious question as to
11 whether the software is effective and useful in a study of this nature. In fact, many in the science
12 community have questioned the reliability and validity of ImPACT's software noting, "the vast
13 majority of studies evaluating ImPACT have been written by the very researchers who
14 developed it."¹⁶ Likewise, in 2007, an ESPN.com investigation found that "on at least seven
15 occasions since 2003, Lovell has authored or co-authored studies on neuropsychological testing,
16 including papers directly evaluating ImPACT, without disclosing his roles in creating and
17 marketing ImPACT."¹⁷

18 87. Beyond the financial conflicts of the study, the study was a "prospective cohort
19 study," not a random study that focused on a subset of high school players in the Pennsylvania
20 Athletic Association. From 2002 to 2004, the study tracked approximately 2,000 high school
21 football players, with slightly more than half wearing Defendants' new Revolution helmets and
22 slightly fewer wearing "traditional" helmets. The traditional helmets were drawn from the
23 schools' inventories and were not new. The study participants were also not randomly assigned
24 helmets which represent a significant limitation in the study design and use of study data.

25 ///

27 ¹⁶ See [http://espn.go.com/espn/otl/story/_/id/8297794/neuropsychological-testing-concussions-](http://espn.go.com/espn/otl/story/_/id/8297794/neuropsychological-testing-concussions-not-panacea)
28 [not-panacea.](http://espn.go.com/espn/otl/story/_/id/8297794/neuropsychological-testing-concussions-not-panacea)

¹⁷ *Id.*

1 88. The final three-year study considered only 2,141 of the 2,207 participants, with
2 1,173 fitted with the Revolution and 968 fitted with traditional helmets. Using these numbers, as
3 opposed to the total number of participants, the concussion rates were 5.3% and 7.6%
4 respectively, which the authors described as a “statistically significant difference.” According to
5 two of the study’s authors, the results “demonstrated *a trend* toward a lowered incidence of
6 concussions” but the “limited size sample precludes a more conclusive statement of findings at
7 this time.” This is a critical and dispositive limitation that Defendants ignored and/or concealed
8 when marketing the line of Revolution helmets.

9 89. Indeed, Defendants ignored other warnings by UPMC about exploiting the data in
10 scientifically inappropriate ways. The authors of the UPMC Study not only disputed the 31%
11 figure, but notified the Defendants that “this data should not be used as a marketing ploy or
12 marketing tactic from a scientific paper that was done not for those purposes.” One of the
13 authors, Dr. Joseph Maroon, later responded that the study actually stated that an athlete wearing
14 the Revolution helmet was associated with “approximately a 31% decreased relative risk and
15 2.3% decreased absolute risk for sustaining a concussion in the study.” By focusing solely on
16 the larger number, which referred to a relative decrease in risk, and without acknowledging the
17 study’s limitations, Defendants exaggerated any benefits.

18 90. In addition, Dr. Robert Cantu, a neurosurgeon and leader in the field of sports-
19 related concussion research, wrote a comment published in Journal of Neurosurgery that the
20 study contained a “serious, if not fatal methodological flaw.” The study was flawed in that it
21 compared the performance of the new Riddell Revolution helmet with players wearing used and
22 reconditioned helmets of unknown age and condition. Dr. Cantu further stated it was “impossible
23 to compare the two” and to be “cautious in drawing any conclusions from this type of study.”

24 91. Nevertheless, the 31% concussion reduction claim was the centerpiece of the
25 Defendants’ marketing campaign, which fueled sales of the Revolution helmet model.
26 Defendants launched a media campaign featuring the concussion reduction claim which,
27 according to its “Riddell Revolution UPMC Media Campaign Highlights” video news release,
28

1 created “over 60 million media impressions, nearly 150 television placements, over 100
2 newspaper clips, over 250 on-line placements, [and] 6 live sports radio interviews.”¹⁸

3 92. In its marketing campaign, Defendants did not, in any way, disclose the warnings
4 about the UPMC Study given to them by the two non-Riddell employee authors. Nor did
5 Defendants disclose that the statistical difference was only arrived at by analyzing an incomplete
6 set of the data population or other limitations in the study’s design. For example, during the
7 study’s peer review process for publication in *Journal of Neurosurgery*, a reviewer criticized the
8 difference in the age of the helmets used, noting that “it is well recognized that a new football
9 helmet has a lower [severity index] rating than an older helmet. This is why helmets are
10 recertified after a period of years. We know the Riddell helmets in this study are new but we
11 have no mention of the other helmets. This invalidates any comparison.”

12 93. In a recent patent infringement case between Riddell, Inc. and Schutt Sports, Inc.,
13 Riddell’s senior vice president for research and development, Thad Ide, testified that Riddell’s
14 sole basis for the 31% reduction in concussion claim was the UPMC study by Dr. Collins.¹⁹
15 “There are no other bases for the specific 31 percent reduction claim.”²⁰

16 94. In 2011, a Congressional hearing was held on the topic of “Concussions and the
17 Marketing of Sports Equipment” which cited yet another example of Defendants’ misleading
18 advertising taken from its website that failed to disclose Riddell’s role in funding and writing the
19 UPMC Study includes:

20 “An extensive long-term study by the University of Pittsburgh Medical
21 Center was published in the February 2006 issue of *Neurosurgery*. The
22 results were impressive: Players wearing the Riddell Revolution football
23 helmet were 31 percent less likely to suffer a concussion than athletes who
24 wore traditional or standard football helmets. For athletes who had never
25 suffered a previous concussion, wearing the Riddell Revolution decreased

26 ¹⁸ Concussions and the Marketing of Sports Equipment: Hearings before the Committee on
27 Commerce, Science, and Transportation, Senate, 112th Cong., 6 (2011) (Statement of Hon. Tom
28 Udall, U.S. Senator from New Mexico).

¹⁹ See *Riddell, Inc. v. Schutt Sports, Inc.*, 724 F. Supp. 2d 963, 977 (W.D. Wis. 2010) (Ides Dep.
221:24-222:8.).

²⁰ *Id.* (Ides Dep. 222:17-18.)

1 their relative risk of concussion by 31 percent. . .²¹

2 95. Even more alarming was Defendants use of the 31% reduced risk of concussion
3 claim to sell helmets *that were not actually tested in the UPMC Study*. The UPMC Study only
4 tested the Riddell Revolution helmet, but not the Revolution Speed, the Revolution IQ, the
5 Revolution IQ Hits, and the Revolution Youth. Nevertheless, Defendants falsely marketed the
6 complete Revolution line of helmets as having "concussion reduction technology."

7 96. In yet another example of Defendants' misleading advertising campaign, Riddell's
8 online store and website advertised the following:

9 Based on the same technology that made the varsity Riddell Revolution
10 helmet possible – we offer in a Youth version – the Riddell Revolution
11 Youth. . . . After an extensive long-term study by the University of
12 Pittsburgh Medical Center was published in the February 2006 issue of
13 Neurosurgery. The results were impressive: research shows a 31 percent
14 reduction in the risk of concussion in players wearing a Riddell Revolution
15 football helmet when compared to traditional helmets.

16 * * NEUROSURGERY, FEBRUARY 2006, VOL. 58, NO. 2²²

17 97. As a result of Defendants' misleading 31% anti-concussion marketing campaign,
18 sales increased across all helmet product lines. Sales of Revolution helmets skyrocketed to more
19 than 2 million sold between 2002 and 2009 and included many helmets that were marketed as
20 having "concussion reduction technology" even though they were not used in the UPMC Study.

21 98. In 2007, NOCSAE's technical director, Dave Halstead, told the New York Times
22 in a story entitled "Studies for Competing Design Called Into Question" that ". . . the [Riddell]
23 Revolution is a good helmet. . . . But I have problems with that particular [2006 Neurosurgery]
24 study. The helmet is not shown to do what they say it does." Public statements from the UPMC
25 Study authors and other helmet safety experts have overwhelming called into question whether
26 there is competent and reliable scientific evidence to substantiate Defendants' marketing claim.

27 ///

28 ²¹ See <http://www.eastonbellsports.com/brands/riddell>, accessed Oct. 19, 2011.

²² See https://shop.riddell.com/riddell/app/displayApp/%28cpgsize=20&layout=7.07_2_3_75_12_13_67_77_6_4_5&care=0000000002&cpgnum=1%29/.do?rf=y, viewed Oct. 17, 2011.

1 99. Despite the well-publicized criticisms concerning the UPMC Study, the Chief
2 Executive Officer of Riddell, Dan Arment, spoke before members of the House Judiciary
3 Committee on January 4, 2010 at a hearing concerning “Legal Issues Relating to Football Head
4 Injuries.” In his testimony, he stated:

5 “We have independent, peer-reviewed, published research in the medical
6 journal *Neurosurgery*, February of 2006, showing that the Revolution
7 [helmet] reduces the risks of concussions by 31 percent when compared to
8 traditional helmets. . . . Today, over one million high school, college, and
9 professional players have made the switch from traditional helmets to the
10 Revolution family of helmets.”²³

11 100. As Revolution helmet sales continued to soar, Defendants’ anti-concussion claims
12 caught the attention of the Senator Tom Udall (D-MN) who sent a letter to the Federal Trade
13 Commission (“FTC”) requesting an investigation into what he called “misleading safety claims
14 and deceptive practices in the helmet industry.” Senator Udall was quoted as saying “several
15 helmet manufacturers advertise helmets as built with “concussion reduction technology” or
16 “designed with the intent to reduce concussions.” These helmets are also marketed as meeting
17 the National Operating Committee on Standards for Athletic Equipment (“NOCSAE”) voluntary
18 industry standard for football helmets. However, this football helmet standard does not
19 specifically address concussion risks.”

20 101. The FTC investigation focused on the flaws in the UPMC Study, and the FTC
21 determined that the limitations of the study were sufficiently serious to preclude the conclusion
22 made by Defendants that the design of the Revolution helmets was responsible for any purported
23 difference in the concussions rates experienced.

24 102. Instead of contesting the FTC’s findings or its criticisms of the UPMC Study’s
25 methodologies and unreliability, Defendants instead chose to wholly abandon making the 31%
26 concussion reduction claim. From 2006 until early 2011, Defendants misrepresented the UPMC
27 Study results and the protective capability of its Revolution helmets to increase its sales.

28 ²³ Legal Issues Relating to Football Head Injuries (Part II & II): Hearings before the Committee
on the Judiciary House of Representatives, 111th Cong. 347-48 (October 28, 2009 and January 4,
2010) (Testimony of Dan Arment)

1 Amazingly, Defendants continue to make the broader “concussion reduction technology” claim
2 which continues to create a false sense of protection against concussions.

3 103. In the wake of concussion reduction claims made by certain equipment
4 manufacturers, Mike Oliver, NOCSAE executive director issued the following warning:
5 “Because of the efforts of researchers, manufacturers and others, the
6 progression and improvement of football helmets over the last 20 years
7 has been remarkable. We have no doubt that technology will continue to
8 improve. But claims or representations that a particular helmet is anti-
concussive or concussion-proof, without scientific support, can be
misleading and dangerous.”²⁴

9 104. Defendants have long since been aware that their football helmets cannot actually
10 reduce the frequency of concussions; however, Defendants have continuously marketed their
11 Revolution helmets as having “concussion reduction technology” thus promoting a false sense of
12 security to football players, equipment managers, colleges and the public.

13 105. Defendants’ marketing efforts—however misleading—paid off. According to
14 2013 trial testimony in *Ridolfi v. Riddell*, a case that eventually settled in Colorado State court,
15 Nelson Kraemer, the Riddell corporate representative, testified that Riddell holds an
16 approximately 50% market share of football helmets sold in the United States. Upon information
17 and belief, Defendants also have a dominant market share – well over 50% – of the football
18 helmet market.

19 **E. Since its Inception, Riddell has Continuously Promoted its Helmets as Safe Yet it**
20 **Failed to Properly and Adequately Warn of the Dangers and Risks Associated with**
21 **Concussions.**

22 106. The company was started by John Tate Riddell. Riddell first invented the
23 removable cleat and then went on to invent the first ever plastic helmet in 1939.²⁵

24 107. In the early 1940s, Riddell invented the first plastic suspension helmet followed
25 by a series of newer models with different designs and liner systems such as the TAK-29, Pac-3,
26 M155, VSR Series to the Revolution line of helmets released in 2002.

27
28 ²⁴ See http://www.mshsaa.org/resources/pdf/NOCSAENews_242011.pdf

²⁵ See <http://www.riddell.com/history#>

1 108. In 1962, Riddell designed and began using an open/closed cell foam and
2 composite liner system in its football helmets to increase the efficiency of the webbed
3 suspension.

4 109. In 1982, Riddell developed, designed, manufactured, sold, and/or distributed a
5 newer model football helmet, the M155 that utilized a polyurethane front pad and updated
6 suspension system with a combination of foam and liquid-filled cells used for padding.

7 110. In 1992, Riddell introduced the VSR Series of football helmets. It featured their
8 first air-fitted liner system.

9 111. Throughout Riddell's history, the company has continuously marketed and
10 advertised its football helmets to the public as "SAFE" as depicted in the advertisements below:

11 112. Riddell's helmets had become synonymous with the football-safety legacy built
12 up by this 50-year advertising campaign. And in 1989, Riddell's notoriety reached new heights
13 through its signing of an exclusivity agreement with the NFL.

14 113. According to Riddell's website, the VSR-4 helmet dominated the football
15 landscape during its time and was used by 60% of players in the NFL, and nearly the same levels
16 of market share were achieved in both college and high school helmets made by Riddell.

17 114. Throughout the 1980s and 1990s, the helmet warnings on Riddell helmets
18 mentioned nothing about concussions. In fact, prior to 2002, Riddell's label stated:

19 "Do not use this helmet to butt, ram or spear an opposing player. This is in
20 violation of the football rules and such use can result in severe head or
21 neck injuries, paralysis or death to you and possible injury to your
22 opponent. No helmet can prevent all head or neck injuries a player might
23 receive while participating in football."

24 115. It was not until the release of the Revolution in 2002 that Riddell's helmets
25 contained the limited warning which is still inconspicuous, still incomplete, non -permanent and
26 still otherwise- deficient:

27 ///
28 ///
///
///

**NO HELMET CAN PREVENT SERIOUS HEAD OR NECK INJURIES A
PLAYER MIGHT RECEIVE WHILE PARTICIPATING IN FOOTBALL.**

Do not use this helmet to butt, ram or spear an opposing player. This is in violation of the football rules and such use can result in severe head or neck injuries, paralysis or death to you and possible injury to your opponent.

Contact in football may result in **CONCUSSION-BRAIN INJURY** which no helmet can prevent. Symptoms include: loss of consciousness or memory, dizziness, headache, nausea or confusion. If you have symptoms, immediately stop playing and report them to your coach, trainer and parents. Do not return to a game or practice until all symptoms are gone and you have received **MEDICAL CLEARANCE**. Ignoring this warning may lead to another and more serious or fatal brain injury.

116. Riddell marketed the Revolution helmet as having “concussion reduction technology” despite having knowledge to the contrary. Riddell’s helmets were advertised as a safe and effective means to reduce the likelihood and/or mitigate the risk of injury but knew that their helmets did not provide sufficient protection from the inherent dangers associated with concussions and repetitive brain trauma.

117. Riddell’s helmets were insufficiently capable of providing full protection against the risk of concussions and Defendants knew of these limitations.

118. Riddell breached their duty to properly educate and/or properly warn their helmet users of these dangers. Such a warning should alert, inform, and/or remind Riddell’s helmet users of the hazards associated with the product’s use, the recommended methods of using the product, certain limitations or restrictions placed on its use, procedures for properly fitting or adapting the product to an individual user, procedures to be followed if an injury (or suspected injury) occurred while using the product, and admonitions regarding how and when an injured football player might return to the activity after recovery from the injury.

119. Riddell failed to include adequate warnings – in the form of on-product labels affixed to different portions of the helmet – that would alert and/or inform football players of the true risks and hidden dangers associated with concussions, brain injuries and repetitive brain trauma.

1 120. Riddell failed to disclose that the helmets as supplied did not perform in the
2 manner represented. By failing to provide adequate warnings, Riddell created and profited off of
3 a false sense of protection and led players such as Plaintiffs to take more risks as opposed to
4 mitigating such risks.

5 121. At bare minimum, Riddell's warnings should have: a) been conspicuous and
6 noticeable to those needing to be warned; b) explicitly identify the hazards; c) stated the
7 consequences associated with coming into contact with the hazards; and d) advised the user as to
8 how to avoid being exposed to or affected by the hazards.

9 122. Riddell's helmet warnings pre- and post-2002 were inadequate based upon
10 warning and design defects or deficiencies that failed to include the above-referenced
11 considerations and Riddell knew or should have known of the product warning deficiencies and
12 failed to adequately correct these deficiencies at any time during the initial warning label design
13 and after becoming aware of the dangers and risks associated with repetitive head impacts and
14 concussions.

15 123. Riddell breached their duty to ensure that any hazards contained in or associated
16 with the foreseeable use of their products are properly mitigated. Methods of hazard mitigation
17 include: a) designing out or eliminating those hazards; b) modifying the product so that users are
18 protected or shielded from exposure to the hazards; and c) by instructing users how to properly
19 use their product, and/or by adequately warning users of the hazards they are likely to face when
20 using the product.

21 124. Riddell's inadequate warnings failed to comply with established standards or
22 generally recommended practices regarding the form, configuration, and content of
23 precautionary messages and/or safety instructions.

24 125. Riddell was fully aware of and yet failed to adequately warn, protect and educate
25 NCAA football players, including Plaintiffs and, to the dangers and increased risks of repeated
26 traumatic head impacts and development of neurodegenerative disorders and diseases.

27 126. One example of the important roles and responsibilities helmet manufacturers
28 have to their helmet users was recently shared by Mr. Vincent Ferrara, CEO of Xenith, LLC.

1 Mindful that previous helmet improvements have occasionally led athletes to feel a false sense of
2 security and take more risks, Ferrara said “part of his rollout plan would be to emphasize to
3 players and coaches proper, head-up tackling technique, so that the helmet sees fewer dangerous
4 hits to begin with – as well as encouraging athletes to admit when they think they might have a
5 concussion. The educational side of it is just as important, *if not more important*, as the helmet
6 itself.” (emphasis added).²⁶

7 127. Riddell had a duty to provide necessary and adequate safety and instructional
8 materials and warnings of the risk and means available to reduce and/or minimize the risk of
9 concussive brain injuries while playing football but breached their duty to Plaintiffs by placing
10 deficient and/or inadequate warning labels on their helmets.

11 **F. The Defective Helmet Liner System.**

12 128. Not only was Riddell’s warnings pre- and post-2002 inadequate, but Riddell has
13 continued to utilize substandard materials in their helmet liner systems. These substandard
14 materials are less effective at absorbing energy, and thus substantially less likely to reduce the
15 forces transmitted to a player’s head from both linear and rotational impacts and mitigate the risk
16 of injury, i.e. concussions.

17 129. As early as 2000, Riddell was on notice that newer and better energy absorbing
18 materials were available for use in their helmet liner systems. In November 1999, Riddell’s
19 consultant Biokinetics examined four different liner materials and configurations and sent
20 Riddell a memorandum recommending a newer material, Vinyl Nitrile (VN), as the best material
21 for use in their football helmets.

22 130. Despite these recommendations, Riddell has continued to use urethane foam in
23 the front pad over newer materials such as Vinyl Nitrile which perform better at attenuating
24 energy at a wider range of temperatures thereby reducing force to the forehead. The proper
25 selection of foam padding for the front pad of the liner system is extremely important because
26 players sustain the majority of impacts to the forehead area, which is also the thinnest layer

27
28 ²⁶ See Schwarz, Alan, “Helmet Design Absorbs Shock in a New Way,” New York Times
(October 27, 2007).

1 between the skull and brain.

2 131. Upon information and belief, Riddell utilized urethane foam padding in the front
3 pad of their VSR helmet model until that model was discontinued in 2011, and continued the use
4 of the same urethane foam padding in the front pad of the Revolution helmets (from 2002
5 through present).

6 132. Upon information and belief, Riddell designed, developed and/or manufactured
7 their own urethane foam pads until 2006. Riddell then began using a third-party supplier to
8 develop, manufacture and/or supply urethane foam pads for use in the line of Revolution
9 helmets.

10 133. Upon information and belief, Riddell has continued to use a urethane foam in the
11 front pad even though newer and safer materials exist that can be used at similar costs. For
12 example, hockey helmets containing Vinyl Nitrile pads date back to the early 2000's and Vinyl
13 Nitrile pads were not only available but were used in the rear and/or side pad components of the
14 Revolution helmet.

15 134. Upon information and belief, Riddell began using Vinyl Nitrile in the rear and/or
16 side pad components of the Revolution helmet as a means to better protect against rotational
17 forces that can cause concussions. Furthermore, upon information and belief, Riddell used Vinyl
18 Nitrile in the front pads of their lacrosse helmets instead of traditional urethane foam padding.

19 135. Upon information and belief, Riddell has faced multiple lawsuits since the mid-
20 1990s whereby plaintiffs' alleged the use of defective liner materials, in particular the front pad
21 of the helmet that increased risk of injury and/or contributed or caused the plaintiffs' brain
22 injuries. For example, in the Colorado case *Ridolfi v. Riddell, Inc., et al.*, the plaintiff's experts
23 performed a materials comparison analysis and concluded that use of Vinyl Nitrile for the front
24 pad instead of the urethane foam front pad used in the Revolution helmet at issue would have
25 provided significantly better protection against brain injury. The analysis concluded that the
26 Vinyl Nitrile padding was able to attenuate and absorb energy at a better rate across a wider
27 range of temperatures and conditions than the urethane foam used in the front pad of Revolution
28 helmet.

1 136. In addition to Riddell’s use of a substandard material in the front padding
2 component of the defective liner system, Riddell’s disregard for advancing technologies is
3 exhibited by their choice to not utilize newer and safer materials in the rear and/or side pad
4 components of the Revolution helmet. For example, Riddell has failed to incorporate newer,
5 safer and better energy absorbing materials such as air-filled chambers and/or thermoplastic
6 polyurethane (“TPU”) padding throughout the helmet liner system.

7 137. In a recent New York Times article that discusses the energy absorbing
8 characteristics of helmet liner materials, another helmet manufacturer, Xenith LLC,
9 recommended the use of thermoplastic shock absorbers throughout the liner system because
10 these air-filled absorbers were capable of distributing a wider range of forces in a manner that
11 reduced forces transferred to the head. Laboratory tests performed by Xenith, LLC showed that
12 the thermoplastic disks could withstand hundreds of impacts without any notable degradation in
13 performance, a drawback commonly found in traditional and/or urethane foams.

14 138. Another helmet manufacturer, Schutt Sports (“Schutt”) developed a liner system
15 that incorporates thermoplastic polyurethane (“TPU”) cushioning to attenuate energy as well as
16 foam-filled air bladders for better fit. Schutt began using TPU technology in their helmet liner
17 systems in 2003 because independent laboratory testing showed that TPU padding was superior
18 to traditional foam padding by providing better impact absorption, better heat management and
19 better hygienics.

20 139. More recently, other studies have shown that TPU air chamber technology is able
21 to absorb more energy and perform better throughout more impact conditions than traditional
22 foam padding.

23 140. The importance of the helmet liner system and use of adequate liner materials is
24 twofold. First, if the density of the liner pads is too soft for a given impact, the pads will
25 compress too quickly and bottom-out; whereas, if the liner density is too hard for a given impact,
26 the liner pads will fail to compress and mitigate the energy and forces distributed to the player’s
27 head. Thus, it is critical for a helmet to incorporate the right choice in liner materials/padding
28 because the energy absorbing material is able to manage the impact over a longer period of time,

1 helping reduce the forces of energy from both linear and rotational impacts and thereby
2 mitigating the risk of injury.

3 141. Replacing traditional foam padding contained in a helmet's liner system with new
4 technology such as air-filled materials and/or TPU materials will not only reduce the risk of
5 brain injury, but has been shown to maintain its energy absorbing characteristics over a longer
6 period of time. This is important because once a helmet is put in use by high schools, colleges
7 and/or professional football leagues it is typically reconditioned every one to three years to
8 ensure it meets NOCSAE certification standards.

9 142. According to Dave Halstead, NOCSAE technical director, the reconditioning
10 process involves cleaning the helmets, replacing bolts and other hardware and undergoing
11 random drop testing to meet the agency's severity index standards. However, the process does
12 little to address the foam padding that degrades over time and provides less protection against
13 lower-level impacts that cause concussion.

14 143. Riddell has known that different helmets, by design, provide different levels of
15 absorption which can therefore reduce the amount of force transferred to a player's head and
16 spine. Nevertheless, instead of constantly striving to improve upon the helmet's liner system and
17 energy absorbing materials to reduce the force of impact, Riddell has haphazardly modified the
18 liner systems with substandard materials in various helmet models like the VSR Series and/or
19 line of Revolution helmets. Riddell has essentially ignored any opportunity to improve upon the
20 helmet liner system and design performance to reduce a player's risk of brain injury and
21 concussions.

22 144. The ultimate goal of a helmet should not be to simply pass the certification
23 standards, but rather to protect the player throughout the widest range of injurious impact
24 conditions possible and mitigate the risk of head injury and improve the level of safety during
25 play.

26 145. Riddell has failed to meet this goal by continuing to use a defective liner system
27 comprised of substandard materials that do not attenuate energy in an efficient and effective
28 manner to reduce the force transmitted to a player's head and minimize the risk of injury.

1 **G. Riddell Assumed a Leadership Responsibility for Educating Their Helmet Users**
2 **and Promoting Safety in Collegiate Sports But Failed at all Levels to Provide**
3 **Adequate Warnings and Prudent Concussion Management Tools.**

4 146. Despite Riddell's superior knowledge about the risks associated with concussions
5 and repetitive head impacts, Riddell has never warned Plaintiffs or former professional football
6 players of the long-term health effects of concussions.

7 147. In 1989, Riddell partnered with the NFL and became the League's official helmet.
8 The NFL formed the Committee on mild traumatic brain injury ("MTBI") in 1994 in response to
9 a growing number of concussions. One of the committee's stated goals was to improve
10 understanding of the biomechanics of concussions, and to use that information to engineer a
11 concussion-resistant helmet. Riddell worked closely with the NFL to conduct research and share
12 data on helmet design and safety.

13 148. During the Congressional Hearings in 2010, Riddell's President Dan Arment
14 testified that, "for more than 70 years Riddell has passionately been at the forefront of providing
15 state-of-the-art helmet technology," and "as a market leader, we have always felt we have an
16 obligation, not just as a business but in the public interest, to collaborate where possible and
17 maintain the highest standard of innovation and research that has continued to stand the test of
18 time, scrutiny and independent research..."

19 149. Over the years, Riddell has continuously represented itself as a market leader that
20 formed significant partnerships with a number of organizations including USA Football,
21 American Youth Football, the NFL, the NFL Players Association, Collegiate and National
22 Athletic Trainers' Association to promote player education.

23 150. Riddell's voluntary actions and authority throughout its history demonstrate that
24 for over 70 years, Riddell shouldered the common law duty to make the game of football safer
25 for the players through advancements in helmet technology and to keep the players informed of
26 safety information.

27 151. By voluntarily undertaking to study and report on the issue of concussions and
28 helmet safety in football, Riddell assumed a duty to exercise reasonable care in their work and

1 their public statements about a helmet's ability to effectively reduce the risk of concussion.

2 152. Plaintiffs did not know, appreciate or understand the long-term impact of
3 concussions and relied on Riddell to provide the protection that they promised.

4 **H. Riddell was in a superior position of knowledge and authority and owed a duty to**
5 **Plaintiffs.**

6 153. The high incidence of concussions among football players has been well known to
7 the Riddell. Riddell had a duty to adequately inform and warn football players of the risks
8 associated with concussions. Players and their families have relied on the Riddell to disclose
9 relevant risk information and protect their health and safety through instruction, counseling, and
10 proper use of their products.

11 154. Riddell accumulated knowledge about head injuries to football players and the
12 associated health risks therefrom, was at all times superior to that available to former football
13 players.

14 155. Riddell studied the biomechanics of head movement. Riddell knew or should have
15 known that traumatic brain injury generally occurs when the head either accelerates rapidly and
16 then is stopped, or is rotated rapidly. The results frequently include, among other things,
17 confusion, blurred vision, memory loss, nausea, and sometimes unconsciousness.

18 156. Riddell knew or should have known for many years that medical evidence has
19 shown that symptoms of MTBI can appear hours or days after the injury, indicating that the
20 injured party has not healed from the initial blow.

21 157. Riddell knew or should have known for many years that once a person suffers an
22 MTBI, he is up to four (4) times more likely to sustain a second one. Additionally, after suffering
23 even a single sub-concussive or concussive blow, a lesser blow may cause MTBI, and the injured
24 person requires more time to recover.

25 158. Riddell knew or should have known for many years that NCAA football players
26 and their families were unaware of the serious risk posed to the players' long-term cognitive
27 health, caused by repeated head impacts while playing football.

28 ///

1 159. Riddell knew or should have known for many years that clinical and
2 neuropathological studies by some of the nation’s foremost experts demonstrate that multiple
3 head injuries or concussions sustained during a football player’s career can cause severe
4 cognitive problems such as depression, early-onset dementia, Parkinsonism, ALS, among other
5 serious neurological conditions.

6 160. Riddell knew or should have known for many years that published peer reviewed
7 scientific studies have shown that repeated traumatic head impacts (including sub- concussive
8 blows and concussions) cause ongoing and latent brain injury. These injuries have been
9 documented and associated with sports-related head impacts in both football and boxing since
10 1963.

11 161. Riddell knew or should have known for many years that neuropathology studies,
12 brain imaging tests, and neuropsychological tests on many former football players have
13 established that football players who sustain repetitive head impacts while playing the game have
14 suffered and continue to suffer brain injuries that result in any one or more of the following
15 conditions: early-onset of Alzheimer’s Disease, dementia, depression, deficits in cognitive
16 functioning, reduced processing speed, attention, and reasoning, loss of memory, sleeplessness,
17 mood swings, personality changes, and the debilitating and latent disease known as Chronic
18 Traumatic Encephalopathy (“CTE”). CTE is also associated with an increased risk of suicide.

19 162. Riddell knew or should have known for many years that CTE is found in athletes,
20 including football players and boxers, with a history of repetitive head trauma. Conclusive
21 studies have shown that this condition is prevalent in retired professional football players who
22 have a history of head injury. The changes in the brain caused by repetitive trauma are thought to
23 begin when the brain is subjected to that repetitive trauma, but symptoms may not appear until
24 months, years, or even decades after the last traumatic impact or the end of active athletic
25 involvement.

26 163. Riddell knew or should have known the helmet standards set forth by NOCSAE
27 are not designed to rate protection against concussions.

28 ///

1 164. Riddell knew or should have known that helmets without a proper liner system
2 are ineffective in reducing both linear and rotational forces that result in a concussions and/or
3 brain injuries.

4 165. Riddell knew or should have known that materials such as Vinyl Nitrile and/or
5 thermoplastic polyurethane (“TPU”) are better at absorbing energy throughout a wider range of
6 temperatures and provide better protection against head impacts when used throughout liner
7 systems of football helmets than the materials Defendants used in the VSR Series and Revolution
8 line of helmets.

9 166. Riddell knew or should have known that helmets designed with materials such as
10 thermoplastic polyurethane provide a safer means of attenuating and absorbing energy thereby
11 reducing forces and energy directed to a player’s head and minimizing the risk of head injuries.

12 167. Riddell knew or should have known that there is no definitive scientific research
13 to support claims that football helmets can protect against or reduce the frequency of
14 concussions.

15 168. At all times herein mentioned, Riddell was fully informed of the actions of their
16 agents and employees, and thereafter no officer, director or managing agent partner of Riddell or
17 the other Defendants repudiated those actions, which failure to repudiate constituted adoption
18 and approval of the actions and all Defendants and each of them, thereby ratified those actions.

19 169. The harm, which has been caused to Plaintiffs, resulted from the conduct of one,
20 or various combinations of the Defendants, through no fault of Plaintiffs.

21 170. Riddell was under a continuing duty to disclose and warn of the true character,
22 quality, and nature of the after effects of head injuries. Because of the Riddell’s deceitful and
23 fraudulent concealment and failure to warn of the true character, quality, and nature of the
24 dangers and risks inherent in the sport of football, from which no helmet could protect Plaintiffs,
25 Riddell is estopped from relying on any statute of limitations defense.

26 171. As a direct result of the material misrepresentations by the Riddell, former players
27 have for many decades been led to believe that the symptoms of early-onset dementia, ALS, loss
28 of memory, headaches, confusion, and the inability to function were not caused by events

1 occurring while they played football in the NCAA. And, as a result of this willful and malicious
2 conduct, these former players including Plaintiffs have been deprived of medical treatment,
3 incurred expenses, lost employment, suffered humiliation, and sustained other damages to be
4 specified.

5 **V.**

6 **CAUSES OF ACTION**

7 **COUNT I**

8 **NEGLIGENCE**

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

11 173. Riddell was negligent in the design, testing, marketing, and engineering of the
12 helmets as described herein.

13 174. Riddell owed a duty of care to the Plaintiffs in the design, testing, marketing, and
14 sale of the helmets and all components and sub-assemblies of the helmets.

15 175. Riddell was or should have been aware that repeated blows to the head can cause
16 to long-term brain and neurocognitive injuries in its customers, including, but not limited to,
17 memory loss, dementia, depression, and CTE and its related symptoms. Riddell breached its duty
18 of reasonable care by failing to provide necessary and adequate safety and instructional materials
19 and warnings of the risk and means available to reduce and/or minimize the risk of concussive
20 brain injuries while playing football using their helmets.

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

24 177. Riddell possessed special and superior knowledge of the potential risks and
25 substantial dangers to users of its football helmets, but negligently and carelessly failed to
26 adequately warn or instruct users of the potential risks and dangerous and defective conditions of
27 their above-described football helmets including but not limited to helmets with a safer means of
28 attenuating and absorbing the foreseeable forces of impact in order to minimize and/or reduce the

1 forces and energy directed to the player's head.

2 178. As a result of Riddell's breach of duty, Plaintiffs have suffered harm described
3 above.

4 179. Furthermore, because Plaintiffs did not know, nor could they have discovered
5 through the exercise of reasonable diligence that Riddell's breaches and misrepresentations
6 increased Plaintiffs' risk and exposure to traumatic brain injuries as a result thereof, any
7 applicable statute of limitations is tolled by Riddell Defendants' misconduct and concealment of
8 information.

9 **COUNT II**

10 **DESIGN DEFECT**

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

13 181. At the time the Riddell helmets were designed, manufactured, sold, and
14 distributed by the Defendants, the Pac-3, M155, VSR Series and Revolution line of helmets were
15 defective in design, unreasonably dangerous, unsafe for their intended purpose, and failed to
16 perform as safely as an ordinary consumer would expect when used in an intended or reasonably
17 foreseeable manner because the helmets did not provide adequate protection against the
18 foreseeable risk of concussive brain injury. Riddell acted unreasonably at the time of design in
19 light of the foreseeable risk of injury from the use of their helmets. Any purported benefits in the
20 design of the Pac-3, M155, VSR Series and Revolution helmets do not outweigh the risk of
21 danger inherent in their defective design.

22 182. The design defects include, but are not limited to the following:

- 23 a. Negligently failing to design any of its helmet-system's front padding
24 with materials capable of distributing force;
- 25 b. Negligently failing to consistently test helmet systems in non-ambient
26 temperatures, thereby capable of adducing product-performance
27 information;
- 28 c. Negligently failing to design an adequate and comprehensive warning

1 system for its helmet systems appropriately tailored to the product it
2 manufactured;

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

7 e. Negligently designing all liner systems within each subject helmet
8 systems with shock attenuating system not safely configured;

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

11 g. Failing to warn Plaintiffs that their helmets would not protect against
12 the long- term health consequences of concussive brain injury;

13 h. Prior to 2002, Defendants made no attempt to design a helmet to protect
14 against concussive injuries. The helmets they designed, manufactured,
15 sold, and distributed had insufficient padding to protect against
16 concussive injuries;

17 i. Even the Revolution helmets (introduced in 2002) were not designed to
18 sufficiently protect against concussions as shown by the demonstration
19 before a congressional panel, by P. David Halstead, Technical Director
20 of Southern Impact Research Center ("SIRC") on January 4, 2012;

21 j. Failing to warn Plaintiffs that Revolution helmets were not significantly
22 safer against sub-concussive impacts and concussive blows than other
23 helmet systems on the market, and in fact marketing the Revolution
24 helmet and its progeny as being 31% safer against concussions; and

25 k. Other acts of negligence that may be discovered during the course of
26 this matter.

27 183. The defective design and unreasonably dangerous condition were a proximate and
28 producing cause of the injuries suffered by Plaintiffs and other damages, including but not

1 limited to, economic damages and non-economic damages.

2 184. At all times, the helmets were being used by Plaintiffs for the purpose for which
3 they were intended.

4 185. Riddell is strictly liable for designing a defective and unreasonably dangerous
5 product and for failing to warn which were proximate and producing causes of the injuries and
6 other damages including, but not limited to, economic damage as alleged herein. A safer
7 alternative design was economically and technologically feasible at the time the product left the
8 control of Riddell.

9 **COUNT III**

10 **FAILURE TO WARN**

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

13 187. Riddell knew or should have known of the substantial dangers involved in the
14 reasonably foreseeable use of its helmets.

15 188. Riddell failed to provide necessary and adequate safety and instructional materials
16 and warnings of the risk and means available to reduce and/or minimize the risk of concussive
17 brain injuries while playing football.

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

21 190. Riddell ignored years of published literature warning of the dangers of concussive
22 injuries until 2002, when a warning involving return to play after a concussion was placed on all
23 Riddell helmets. The warning was still defective and inadequate and remains today defective and
24 inadequate because it does not warn about the later life cognitive effects of concussive injury.

25 191. Riddell knew that these substantial dangers were not recognizable to an ordinary
26 consumer or user and that such person would use these products without inspection for defects.

27 192. Plaintiffs neither knew, nor had reason to know of the existence of these defects,
28 or increased risks of harm.

1 193. Plaintiffs used the helmets in a foreseeable manner at all times.

2 194. Plaintiffs' damages were the legal and proximate result of the actions of Riddell
3 who owed a duty to warn Plaintiffs of the risks of substantial harm associated with the use of
4 their products.

5 195. Riddell's failure to warn proximately caused the Plaintiffs' personal injuries.

6 **VII.**

7 **DEMAND FOR JURY TRIAL**

8 196. Plaintiffs demand the causes of actions alleged herein be tried before a jury.

9 **VIII.**

10 **PRAYER**

11 WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to
12 appear and answer herein, and that upon final hearing or trial, Plaintiffs have the following:

- 13 a. Monetary Judgment against Defendants for a sum within the jurisdictional limits
14 of this Court for all actual damages, both past and future, as indicated above;
- 15 b. Prejudgment interest as provided by law;
- 16 c. Post-judgment interest as provided by law;
- 17 d. Attorney's fees;
- 18 e. Costs of suit; and
- 19 f. Such other and further relief, at law and in equity, to which they may show
20 themselves to be justly entitled.

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JS 44 (Rev. 12/12) cand rev (1/15/13)

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Mark Adams, Cory Brandon, John Camperlino, Ryan Carver, Kelvin Chaisson, Derrick Cherry, Zebadiah Cornist, Quinton Echols, Simson Green, Keith Jack, Jamaal Johnson, Jordy Johnson, et al

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

The Law Firm of Joseph H. Low IV
100 OceanGate, 12th Floor
Long Beach, CA 90802 (562) 901-0840

DEFENDANTS

BRG Sports, Inc., Riddell, Inc., All American Sports Corporation d/b/a Riddell/All American, formerly known as Riddell Sports Group, Inc.

County of Residence of First Listed Defendant Santa Cruz County, CA
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 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 type="checkbox"/> 1 | <input checked="" 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 checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input 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 (Excludes 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 type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical 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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <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 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"/> 375 False Claims Act <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"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | | | |
| <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 | <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

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

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

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

VI. CAUSE OF ACTION

Brief description of cause:
Product Liability, Strict Liability, Negligence

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000,000.00 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

01/30/2017

SIGNATURE OF ATTORNEY OF RECORD

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

- SAN FRANCISCO/OAKLAND
- SAN JOSE
- EUREKA