

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF New York

Alterra America Insurance Company

Plaintiff(s),

*-against-*

National Football League and NFL Properties, LLC

Defendant(s).

Index No.

**Summons**

Date Index No. Purchased:

To the above named Defendant(s)

National Football League, 280 Park Avenue, New York, New York  
NFL Properties, LLC, 280 Park Avenue, New York, New York

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is each Defendants' principle place of business is located at 280 Park Avenue, NY, NY which is 280 Park Avenue, New York, New York

Dated: 8/13/2012

Gordon & Rees, LLP

by 

Elizabeth F. Lorell, Esq.

Attorneys for Plaintiff

Alterra America Insurance Company  
90 Broad Street  
23rd Floor  
New York, New York 10004

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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ALTERRA AMERICA INSURANCE COMPANY,

INDEX NO.

Plaintiff

-v-

**COMPLAINT**

NATIONAL FOOTBALL LEAGUE

and NFL PROPERTIES, LLC,

Defendants.

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Plaintiff Alterra America Insurance Co. (“Alterra”) alleges the following against Defendants National Football League and NFL Properties, LLC (collectively, “Defendants” or “NFL”):

**NATURE OF ACTION**

1. This is a civil action for declaratory relief.
2. In Count I, Alterra seeks a declaration regarding its duty to defend the Defendants in numerous lawsuits that former NFL players have filed against the Defendants, alleging they sustained neurological injuries during their playing careers (“Underlying Actions”).
3. In Count II, Alterra seeks a declaration regarding its duty to indemnify the Defendants in the Underlying Actions.

## **VENUE**

4. Venue lies in New York County pursuant to CPLR § 503 because, upon information and belief, Defendants have offices in New York County.

## **PARTIES**

5. Alterra is a corporation duly organized under the law of the State of Delaware and its principal place of business is in Richmond, Virginia. Alterra is authorized and licensed to issue policies in the State of New York.

6. Defendant National Football League is an unincorporated association with its headquarters and principal place of business located at 280 Park Avenue, New York, New York.

7. Defendant NFL Properties is a limited liability company organized and existing under the laws of the State of Delaware with its headquarters in the State of New York.

## **FACTUAL BACKGROUND**

8. Alterra issued to the Defendants an Excess Casualty Follow Form Policy, Policy No. MAX6XL000288, effective August 1, 2011 to August 1, 2012 (“Alterra Policy”).

9. The Alterra Policy under form AEC0501 (03/11) has a Per Occurrence Limit of \$25 million, which is excess of Chartis’ Commercial Umbrella Liability Policy, Policy No. 25030450, with a Per Occurrence Limit of \$50 million (“Chartis Policy”) and excess of ACE American Insurance Company’s Commercial General Liability Policy, Policy Number G23857285 004, with a Per Occurrence Limit of \$1 million.

10. The terms and conditions of the Chartis Policy are made part of the Alterra Policy, except with respect to any contrary provisions contained in, or endorsed in, the Alterra Policy.

11. Upon information and belief, beginning in July 2011, numerous former NFL players initiated the Underlying Actions against the NFL in various jurisdictions, alleging that they sustained neurological injuries during their playing careers.

12. The players claim that their neurological injuries were caused by, *inter alia*, the NFL's negligence and fraud.

13. The majority of the Underlying Actions have been transferred and consolidated in the NFL Players' Concussion Injury Litigation MDL No. 2323 in the United States District Court for the Eastern District of Pennsylvania ("U.S.D.C. - E.D. Pa.").

14. The NFL has tendered some of the Underlying Actions to Alterra, seeking defense and indemnification under the Alterra Policy.

15. The NFL has tendered the following Underlying Actions to Alterra:

- a. *Vernon Maxwell, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01023-AB;
- b. *Dave Pear, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01025-AB;
- c. *Charles Ray Easterling, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:11-cv-05209-AB;
- d. *Larry Barnes, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01024-AB;
- e. *Jim Finn, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01034-AB;
- f. *Harry Jacobs, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01035-AB;

- g. *Fulton Kuykendall & Sherry Kuykendall v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01030-AB;
- h. *Dorsey Levens v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01028-AB;
- i. *Jamal Lewis v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01031-AB;
- j. *Ryan E. Stewart & Javonne Stewart. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01029-AB;
- k. *Marvin Jones, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01027-AB;
- l. *Reginald Rucker, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01036-AB;
- m. *Reginald Austin, et al v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01032-AB;
- n. *Brent Boyd, et al v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00092-AB;
- o. *Christine Dronett v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01033-AB;
- p. *Andrew Glover, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00287-AB;
- q. *Ron Solt, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00262-AB;

- r. *Joel Steed v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01026-AB;
- s. *Steve Wallace, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00336-AB;
- t. *Rob Johnson, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00324-AB;
- u. *Shawn Wooden, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01037-AB;
- v. *Fred Barnett v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00546-AB;
- w. *Eric Hilgenberg v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00598-AB;
- x. *Britt Hager, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-0601-AB;
- y. *Ashley Lelie, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-0600-AB;
- z. *George W. Adams, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00683-AB;
- aa. *Janet Duranko v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00702-AB;
- bb. *Steve Everitt, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-AB-00731-AB;

- cc. *Brian Henesey, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00729-AB;
- dd. *Tyrone Hughes, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01423-AB;
- ee. *John Brodie, et al v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00861-AB;
- ff. *Sirr Parker, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00868-AB;
- gg. *Tregg Duerson v. NFL, et al.* pending in the U.S.D.C.-N.D. Ill., under Case No. 1:12-cv-02513;
- hh. *Michael Myers v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01424-AB;
- ii. *Carl Hairston, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-00989-AB;
- jj. *Jethro Pugh, Jr., et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01165-AB;
- kk. *William Rademacher, v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03776-AB;
- ll. *Wes Hopkins, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01239-AB;
- mm. *Charles Alexander, Jr., et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01923-AB;

- nn. *Eric Allen & Lynn Allen, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01281-AB;
- oo. *Mark Rypien, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01496-AB;
- pp. *John "Golden" Richards, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01623-AB;
- qq. *Greg Landry, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01643-AB;
- rr. *George Adams & Michelle Adams v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02099-AB;
- ss. *Michael Haddix, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-3532-AB;
- tt. *Alfred Camarena v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-3125-AB;
- uu. *Victor Jones & Stacey Jones v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02101-AB;
- vv. *Kerry Justin & Lisa Justin v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02100-AB;
- ww. *Sydney Justin & Mari Justin v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02098-AB;
- xx. *Lincoln Kennedy & Patricia Kennedy v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02105-AB;



- yy. *Pete Koch v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02104-AB;
- zz. *David M. Krieg v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02103-AB;
- aaa. *Frank LeMaster, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02464-AB;
- bbb. *Frank LeMaster, et al. v. NFL, et al.* pending in Philadelphia City Court of Common Pleas, under Case No. 120302540;
- ccc. *Scott Darwin Player & Julianna Player v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02102-AB;
- ddd. *Bernard Paul Parrish v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01700-AB;
- eee. *Jay Taylor v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02097-AB;
- fff. *Jamal Anderson, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03124-AB;
- ggg. *Michael Brooks, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02505-AB;
- hhh. *Alex Karras, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-01916-AB;
- iii. *Myron Guyton, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03336-AB;

jjj. *Thomas Franklin McDonald, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02728-AB;

kkk. *Matt Schobel v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02801-AB;

lll. *Mark Chmura, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02108-AB;

mmm. *Rickey Jackson, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02799-AB;

nnn. *Jeff Hostetler, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02199-AB;

ooo. *Lee Roy Jordan, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02802-AB;

ppp. *Floyd Little, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02219-AB;

qqq. *Art Monk, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03533-AB;

rrr. *Robert Kuechenberg, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03535-AB;

sss. *Brad Culpepper, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02490-AB;

ttt. *Charles Hannah v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02489-AB;

uuu. *Thomas Henderson, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03534-AB;

vvv. *Nathaniel D. Abraham, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03716-AB;

www. *Leddure Rashad Bauman, et al. v. NFL, et al.* pending in the U.S.D.C.-C.D. Cal., under Case No. 2:12-cv-05835-R-MAN;

xxx. *Sam "Bam" Cunningham, et al. v. NFL, et al.* pending in the U.S.D.C.-C.D. Cal., under Case No. 2:12-cv-06008-R-MAN;

yyy. *Eric Dickerson, et al. v. NFL* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03338-AB;

zzz. *Robert L. Edwards et al. v. NFL* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-04086-AB;

aaaa. *Byron Evans, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-02682-AB;

bbbb. *Charlie Granger, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03337-AB;

cccc. *John Hannah, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-3379-AB.

dddd. *Joe Kapp, et al. v. NFL, et al.* pending in the U.S.D.C. C.D. Cal., under Case No. 2:12-cv-05833-R-MAN;

eeee. *Johnnie Morton, et al. v. NFL, et al.* pending in the U.S.D.C.-C.D. Cal., under Case No. 2:12-cv-05435-R-MAN;

ffff. *Jeff Nixon, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03352-AB;

gggg. *Errict Rhett, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03537-AB;

hhhh. *Scott M. Ross v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03479-AB;

iiii. *Frank V. Sanders, et al. v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03536-AB;

jjjj. *Todd Scott v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-4241-AB;

kkkk. *Jason Short and Kierston Short v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03478-AB;

llll. *David D. Studdard v. NFL* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03531-AB;

mmmm. *Steve Wallace v. NFL, et al.* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03715-AB;

nnnn. *Danny White, et al. v. NFL* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03778-AB; and

oooo. *Kevin Williams, et al. v. NFL* pending in the U.S.D.C. - E.D. Pa., under Case No. 2:12-cv-03777-AB.

16. Alterra timely declined coverage to the Defendants under the Alterra Policy for the tendered Underlying Actions.

**COUNT I**  
**(Declaratory Relief as to Duty to Defend)**

17. Alterra repeats and incorporates by reference the allegations of paragraphs 1 through 16 above.

18. Pursuant to the terms of the Alterra Policy, Alterra is not obligated to defend the Defendants in the tendered Underlying Actions.

19. An actual controversy of a justiciable nature presently exists between the Plaintiff and the Defendants concerning the proper construction of the Alterra Policy and the rights and obligations of the parties. The controversy is of sufficient immediacy to justify the issuance of a declaratory judgment.

**COUNT II**  
**(Declaratory Relief as to Duty to Indemnify)**

20. Alterra repeats and incorporates by reference the allegations of paragraphs 1 through 19 above.

21. Pursuant to the terms of the Alterra Policy, Alterra is not obligated to indemnify the Defendants in the tendered Underlying Actions.

22. An actual controversy of a justiciable nature presently exists between the Plaintiff and the Defendants concerning the proper construction of the Alterra Policy and the rights and obligations of the parties. The controversy is of sufficient immediacy to justify the issuance of a declaratory judgment.

WHEREFORE, Alterra demands judgment against the Defendants:

- a. declaring that Alterra does not have a duty to defend the Defendants in the tendered Underlying Actions;

- b. declaring that Alterra does not have a duty to indemnify the Defendants in the tendered Underlying Actions; and
- c. Awarding Alterra attorneys' fees, costs, and disbursement herein, and such other legal and equitable relief as the Court deems just and proper.

GORDON & REES, LLP  
90 Broad Street, 23<sup>rd</sup> Floor  
New York, New York 10004  
Attorneys for Alterra America Insurance Co.



By: \_\_\_\_\_  
ELIZABETH F. LORELL

Dated: August 13, 2012