

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

RUSS McCULLOUGH, <i>et al.</i> ,	:	No. 3:15-cv-01074 (VLB)
	:	Lead Case
Plaintiffs,	:	
	:	
vs.	:	
	:	
WORLD WRESTLING ENTERTAINMENT, INC.,	:	
	:	
Defendant.	:	

EVAN SINGLETON and VITO LOGRASSO,	:	No. 3:15-cv-00425 (VLB)
	:	Consolidated Case
Plaintiffs,	:	
	:	
vs.	:	
	:	
WORLD WRESTLING ENTERTAINMENT, INC.,	:	
	:	
Defendant.	:	

**DEFENDANT WORLD WRESTLING ENTERTAINMENT, INC.'S
REDACTED LOCAL RULE 56(a)(1) STATEMENT**

Pursuant to Rule 56(a)(1) of the Local Rules of the United States District Court for the District of Connecticut, Defendant World Wrestling Entertainment, Inc. (“WWE”) hereby sets forth a concise statement of each material fact as to which it contends there is no genuine issue to be tried.

I. Deemed Admissions By Both Plaintiffs LoGrasso and Singleton

1. WWE served its First Set of Requests for Admission (the RFAs) on LoGrasso and Singleton on February 8, 2016. On March 11, 2016, Plaintiffs filed a

motion for extension of time to respond to WWE’s RFAs (on consent) seeking to extend their time to respond to the RFAs from March 14, 2016 to April 13, 2016. By Order dated March 11, 2016, the Court granted Plaintiffs’ motion for extension. See Dkt. 115. On April 14, 2016 (at 11:42 am eastern), Plaintiffs’ counsel served by email Plaintiffs’ responses to the RFAs with the cover note “We apologize for not getting these to you last night. There was simply a miscommunication among co-counsel regarding service.” (Objections and Responses to WWE’s First Set of RFAs to LoGrasso, App. Tab 1¹; Objections and Responses to WWE’s First Set of RFAs to Singleton, App. Tab 2).

2. Thus, Plaintiffs did not respond to WWE’s First Set of Requests for Admission on the due date and consequently they are deemed to have admitted each of WWE’s 237 RFAs to LoGrasso and 222 RFAs to Singleton by operation of law under Rule 36(a)(3). At no time thereafter did Plaintiffs file any motion pursuant to Rule 36(b) seeking relief from the automatic provisions of Rule 36 establishing that requests are deemed admitted if not timely answered.

3. A great number of the requests went to a major issue in this case, as recognized by the Court in its Memorandum of Decision on WWE’s Motions to Dismiss (Dkt. 116), specifically, the nature and extent of public discussion of reported risks of repetitive head trauma and links to neurodegenerative diseases such as CTE.

4. WWE attached to its RFAs various print and electronic media articles demonstrating widespread media reports of links between repetitive head trauma

¹ “App. Tab _” refers to exhibits attached to the Appendix filed concurrently herewith.

and long-term neurodegenerative diseases. (Exhibits to WWE's First Set of RFAs to LoGrasso & Singleton, App. Tab 3).

5. Plaintiffs' responses to these requests were not merely untimely, but substantively defective and evasive and refused to admit the authenticity of any of the media articles. Indeed, Plaintiffs refused to admit the authenticity even of articles they had relied upon and cited in the SAC and other pleadings. (Response to Request No. 203 of WWE's First Set of RFAs to LoGrasso, App. Tab 1; Response to Request No. 194 of WWE's First Set of RFAs to Singleton, App Tab 2).

6. Even if Plaintiffs were to belatedly now move to withdraw those admissions, any such motion should fail because Plaintiffs' tardy responses are substantively incomplete, evasive and otherwise deficient under Rule 36 and would greatly prejudice WWE because discovery has now closed. *See Beberaggi v. New York Transit Auth.*, No. 93 Civ 1737, 1994 WL 18556, at *2-5 (S.D.N.Y. Jan. 19, 1994).

7. LoGrasso is deemed to have admitted that there was extensive media coverage throughout 2007, 2008, 2009, 2010 and 2011 reporting that Chris Benoit, a former WWE performer and friend of his, had CTE caused by head trauma sustained while wrestling. (Request 233 of WWE's First Set of RFAs to LoGrasso, App. Tab 1).

8. Both LoGrasso and Singleton are deemed to have admitted that they were aware of at least sixty-one (61) media reports in 2007, 2008, 2009, 2010 and 2011 reporting that Chris Benoit had CTE associated with head trauma sustained

while wrestling. (Requests 50-119, 124-47, 163-64, 169-74, 189-92, 197-98, 203-04, 211-14, 217-18, 223-26, 229-30 of WWE's First Set of Requests for Admission to LoGrasso, App. Tab 1; Requests 50-119, 122-45, 158-59, 164-69, 180-83, 188-89, 194-95, 198-201, 204-05, 210-13, 216-17 of WWE's First Set of Requests for Admission to Singleton, App. Tab 2).

II. Facts Pertinent to Plaintiff LoGrasso

A. Admissions of LoGrasso that He Knew and Accepted the Risks Inherent in Professional Wrestling

9. LoGrasso admits that every wrestler understands there is risk associated with entering the wrestling ring. (LoGrasso Depo. at 199:15-19, App. Tab 4). Specifically, LoGrasso knew there was a risk of serious injuries, up to and including death. (LoGrasso Depo. at 199:21-25, App. Tab 4).

10. LoGrasso was a professional wrestler for most of his adult life, and performed for many other wrestling promotions. (LoGrasso Depo. Ex. 3, App. Tab 5).

11. **CONFIDENTIAL** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex. 19, App. Tab 6).

12. **CONFIDENTIAL** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex. 19, App. Tab 6)

(emphasis in original).

13. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex. 19, App. Tab 6)

(emphasis in original).

14. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex. 19, App. Tab 6) (emphasis in original).

15. CONFIDENTIAL [REDACTED]

[REDACTED]

CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso

Depo. Ex. 19, App. Tab 6) (emphasis in original).

16. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso

Depo. Ex. 19, App. Tab 6).

17. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex.

19, App. Tab 6).

18. CONFIDENTIAL [REDACTED]

[REDACTED]

CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex. 19, App. Tab 6).

19. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex. 19,

App. Tab 6). Despite the foregoing, LoGrasso testified to a code of conduct of not ever saying he was hurt because he did not want to lose his spot. (LoGrasso Depo. at 270:11-271:13, App. Tab 4).

20. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (LoGrasso Depo. Ex. 19, App. Tab 6).

21. While performing for WWE, LoGrasso would go over the wrestling moves and maneuvers of the match in advance with his partners/opponents so

no one would be surprised by what happened in the match. (LoGrasso Depo. at 197:6-17, App. Tab 4).

22. While performing for WWE, LoGrasso knew that if he or one of his partners/opponents were hurt during a match he was to signal the referee to stop the match and LoGrasso saw that occur on multiple occasions. (LoGrasso Depo. at 197:18-198:17, App. Tab 4).

23. LoGrasso last performed in a match for WWE in February 2007. (Affidavit of George Germanakos (“Germanakos Aff.”), App. Tab 7 at ¶ 9).

24. **CONFIDENTIAL**
(LoGrasso Depo. at 339:8-9, App. Tab 4; WWE-SING00000305-06, App. Tab 8).

25. LoGrasso admits that, prior to bringing this lawsuit, he always stated that he had the best time of his life in WWE, had lived his dream, and had no negatives at all. (LoGrasso Depo. at 105:7-13, 109:9-112:14, App. Tab 4).

B. LoGrasso Never Sought Or Received Treatment For A Head Injury In WWE

26. **CONFIDENTIAL**
[REDACTED]
[REDACTED] (Levesque Depo. at 104:9-18, App. Tab 9;
S. McMahon Depo. at 16:13-19, 96:24-97:12, App. Tab 10).

27. LoGrasso admitted that Dr. Rios was not his personal physician. (LoGrasso Depo. at 194:18-195:2, App. Tab 4).

28. LoGrasso admitted that Dr. Rios was not present at ringside during matches, but remained back in the locker room area. (LoGrasso Depo. at 352:1-7, App. Tab 4). LoGrasso admits Dr. Rios was a good doctor. (LoGrasso Depo. at

377:11-14, App. Tab 4).

29. **CONFIDENTIAL**

(Declaration of John Laurinaitis, App. Tab 11).

30. LoGrasso admitted that he had his own personal physician, Dr. Jeffry Tambor, during the entirety of the time that he performed for WWE. (LoGrasso Depo. at 190:23-191:20, App. Tab 4).

31. **CONFIDENTIAL**

(Levesque Depo. at 156:12-19, 170:2-18, App. Tab 9; S. McMahon Depo. at 14:16-15:11, App. Tab 10; V. McMahon Depo. at 9:17-22, 36:4-37:21, 41:14-23, App. Tab 12).

32. While performing for WWE, LoGrasso never told Dr. Rios that he suffered a head injury in a match. (LoGrasso Depo. at 319:8-15; 376:7-9, App. Tab 4). Similarly, LoGrasso never had Dr. Rios examine him for a specific head injury that LoGrasso reported to him. (LoGrasso Depo. at 58:14-59:15, App. Tab 4).

33. LoGrasso never once told Vince McMahon that he thought he had a head injury in a match.² (LoGrasso Depo. at 375:24-376:2, App. Tab 4).

34. LoGrasso never once told Stephanie McMahon that he thought he

² Vince McMahon is the Chairman and chief executive of WWE.

had a head injury in a match.³ (LoGrasso Depo. at 375:19-23, App. Tab 4).

35. LoGrasso never once told WWE Senior Vice President of Talent Relations, John Laurinaitis, that he thought he had a head injury in a match. (LoGrasso Depo. at 376:3-6, App. Tab 4).

36. LoGrasso admitted that he “never received medical treatment from WWE or WWE’s Talent Wellness Program” before or after he was released by WWE for the head injuries he now claims to have sustained. (Response to Interrogatory No. 5 of LoGrasso’s Supplemental Objections and Responses to WWE’s First and Second Set of Interrogatories, App. Tab 13).

37. In the Second Amended Complaint (“SAC”), LoGrasso only identified one specific match in which he now claims to have sustained head trauma, specifically, a match with Steven Regal⁴ which LoGrasso claimed took place in September 2006. LoGrasso claimed that “he struck his head against concrete steps.” SAC ¶ 134.

38. In subsequent interrogatory responses, LoGrasso identified five specific matches in which he now claims to have suffered traumatic brain injury (“TBI”). (Response to Interrogatory No. 1 of LoGrasso’s Supplemental Objections and Responses to WWE’s First and Second Set of Interrogatories, App. Tab 13).

39. LoGrasso’s interrogatory answers changed the date of the Regal match in which he claimed he hit his head on the steps to October 10, 2006 and

³ At all times while LoGrasso was performing for WWE, Stephanie McMahon was Senior Vice President of Creative Writing. She subsequently assumed the position of Executive Vice President of Talent Relations as well.

⁴ Steven Regal and William Regal are the same person. The names are used interchangeably in discovery responses.

changed the description of the steps from “concrete” to “metal”. (Response to Interrogatory No. 9 of LoGrasso’s Supplemental Objections and Responses to WWE’s First and Second Set of Interrogatories, App. Tab 13).

40. LoGrasso was “trying to be as thorough as possible” in identifying the five matches in which he now contends he suffered an unreported TBI. (LoGrasso Depo. at 158:7-159:6, App. Tab 4).

41. LoGrasso admits that he “did not seek or receive any treatment” for a head injury following any of the five WWE matches identified in LoGrasso’s interrogatory responses in which he now claims to have suffered a traumatic brain injury. (Response to Interrogatory No. 2 of LoGrasso’s Supplemental Objections and Responses to WWE’s First and Second Set of Interrogatories, App. Tab 13).

42. Of the five matches listed by LoGrasso during which he now claims to have suffered a TBI, four involved Steven Regal. (Response to Interrogatory No. 1 of LoGrasso’s Supplemental Objections and Responses to WWE’s First and Second Set of Interrogatories, App. Tab 13).

43. LoGrasso admitted, contrary to the allegations of the SAC alleging that matches are entirely scripted by WWE, that it is common practice for performers to work out their matches beforehand after they are given the time allotted for their match and the finish, or desired end, to the match. (LoGrasso Depo. at 72:10-73:10, App. Tab 4).

44. Prior to this lawsuit, LoGrasso publicly described the time he spent wrestling Regal as one in which he went undefeated for 4-5 months and that he

had a lot of fun doing it. (LoGrasso Depo. at 109-110, App. Tab 4).

45. LoGrasso admitted that the storyline of the Regal matches was designed to make LoGrasso a bigger and more popular character. At that time, LoGrasso's character performed wearing a woman's dress. The storyline had Regal being humiliated by LoGrasso beating him while wearing a dress. He and Regal worked out each match beforehand. (LoGrasso Depo. at 72:1-73:10, App. Tab 4).

46. Following the match on October 10, 2006 with Regal, in which LoGrasso claimed to have hit his head on metal steps, LoGrasso admits he did speak to Dr. Rios, but did not report any head injury at all. **CONFIDENTIAL**

[REDACTED] (Response to Interrogatory No. 1 of LoGrasso's Supplemental Objections and Responses to WWE's First and Second Set of Interrogatories, App. Tab 13; LoGrasso Depo. Ex. 21, App. Tab 14).

47. In his deposition, LoGrasso initially swore under oath that he suffered a head injury in the October 10, 2006 match from his head supposedly hitting the steel steps leading to the ring and that this injury was the start of his alleged symptoms of traumatic brain injury including headaches. (LoGrasso Depo. at 35:5-37:15, 205:1-206:15, App. Tab 4). However, LoGrasso was forced to admit later in his deposition — after refusing to recant his prior false testimony — that his head never actually hit the steps when showed slow motion footage from that match. (LoGrasso Depo. at 209:19-212:15, App. Tab 4; DVD depicting slow motion footage from 10/10/06 match, App. Tab 15).

48. After a match on August 29, 2006, which is another of the five matches identified by LoGrasso in which he now claims that he sustained an unreported TBI, he also spoke to Dr. Rios thereafter. **CONFIDENTIAL**

[REDACTED] (LoGrasso Depo. at 224:19-225:24, App. Tab 4; LoGrasso Depo. Ex. 21 at WWE_SING_00000518, App. Tab 14).

49. At the conclusion of the match with Regal on August 29, 2006, LoGrasso actually dances for a considerable period in the ring after the match is over, consistent with his later public statements he had fun with that program. (DVD depicting footage of 8/29/06 match, App. Tab 16).

C. LoGrasso Regularly Received Blows to the Head From Chairs and Other Objects While Performing In Other Wrestling Promotions Before Coming to WWE, But Not In WWE

50. Prior to performing for WWE under the LoGrasso Booking Contract, LoGrasso performed for Extreme Championship Wrestling (“ECW”) and World Championship Wrestling (“WCW”). (LoGrasso Depo. at 38:3-19, App. Tab 4).

51. ECW was an extreme style of wrestling that was characterized by much more violence than the other wrestling promotions at the time. (LoGrasso Depo. at 41:5-14, App. Tab 4). In ECW, the wrestlers used metal chairs to hit each other on the head without any attempt to block the blow. (LoGrasso Depo. at 41:15-19, App. Tab 4). LoGrasso was one of the performers who voluntarily took such blows to his head from metal chairs and did not try to block the blow with his hands or arm. (LoGrasso Depo. at 41:20-42:2, App. Tab 4).

52. In both ECW and WCW, LoGrasso did “hard core” wrestling. A “hard

core” match is when the wrestlers use candlesticks, chairs, bats, tables, cookie pans, and garbage cans to hit each other, including over the head. (LoGrasso Depo. at 38:20-39:14, App. Tab 4).

53. Footage from LoGrasso’s matches in ECW and WCW demonstrates that LoGrasso repeatedly received blows to the head from chairs and other objects while performing in ECW and WCW. (Germanakos Aff. at ¶ 5, App. Tab 7).

54. Based on what he now knows, LoGrasso believes he was getting a concussion when he was getting whacked on the head with chairs in ECW. (LoGrasso Depo. at 43:4-11, App. Tab 4).

55. LoGrasso has known since 1999 that a famous wrestler named Bret Hart was forced to retire after suffering a concussion in the WCW Starrcade show in December 1999. (LoGrasso Depo. at 49:8-14, 51:9-16, App. Tab 4).

56. LoGrasso also wrestled in the December 1999 WCW Starrcade event and actually watched the match in which Bret Hart sustained a career-ending concussion from a kick to the head. (LoGrasso Depo. at 52:7-23, 65:6-25, App. Tab 4).

57. LoGrasso saw that Bret Hart was not knocked unconscious from the career-ending concussion resulting from the kick to the head during the Starrcade show and continued to perform the match to the end. (LoGrasso Depo. at 65:6-25, App. Tab 4).

58. LoGrasso admitted that what happened to Bret Hart at the December 1999 WCW Starrcade show was big news in the wrestling business. (LoGrasso Depo. at 54:4-10, 67:11-24, App. Tab 4).

59. Despite knowing that Bret Hart was forced to retire from wrestling after suffering a concussion from a kick to the head, LoGrasso took blows to the head from chairs and other objects in 21 different WCW matches after the December 1999 WCW Starrcade show. (Germanakos Aff. at ¶ 7, App. Tab 7).

60. Videotape evidence shows LoGrasso being hit over the head in other promotions with steel chairs with enough force that the chairs bent from impact with his head. LoGrasso's explanation was "when you live that life, that's the way you live your life." (LoGrasso Depo. at 165-67, App. Tab 4).

61. LoGrasso admitted he was not forced or coerced to receive unprotected blows to the head with other promotions, and proclaimed that "nobody on God's green earth" could make him do something he did not want to do. (LoGrasso Depo. at 172, App. Tab 4).

62. LoGrasso further admitted that he had the ability to refuse to take chair shots to the head, but never did so. (LoGrasso Depo. at 41:15-42:9, App. Tab 4).

63. When asked in his deposition how he knows that the symptoms he is now claiming were not caused by receiving blows to the head from chairs and other objects while performing in ECW and WCW, LoGrasso admitted "[n]obody knows, I don't know." (LoGrasso Depo. at 177:15-20, App. Tab 4).

64. LoGrasso never did a "hard core" match in WWE. (LoGrasso Depo. at 38:23-25, App. Tab 4).

65. LoGrasso did not receive any blows to the head with chairs during his time in WWE. (LoGrasso Depo. at 265:24-266:4, App. Tab 4).

66. LoGrasso took his last chair shot prior to his time at WWE; he admitted that “[d]uring my time at WWE, I did not take any chair shots.”

(LoGrasso Depo. at 265:24-266:4, App. Tab 4).

D. LoGrasso Has Asserted Differing, Inconsistent Claims Of When His Alleged Symptoms Began But, Regardless, It Is Undisputed That He Never Advised WWE Of Any Such Symptoms Or Received Medical Treatment from WWE After He Was Terminated In 2007

67. LoGrasso has inconsistently claimed that his symptoms of traumatic brain injury began in three different years; first in 2008, then in 2007, and then in 2006 in deposition testimony.

68. In the SAC, filed on June 15, 2015, LoGrasso initially claimed that “[b]y 2008, [he] was showing symptoms of neurological injury in the form of residual, pounding headaches.” (SAC at ¶ 140).

69. Then, in his subsequent interrogatory responses, served on March 30, 2016, LoGrasso claimed that his alleged “symptoms have been chronic since the time of their inception in approximately 2007.” (Response to Interrogatory No. 6 of LoGrasso’s Supplemental Objections and Responses to WWE’s First and Second Set of Interrogatories, App. Tab 13).

70. Still later, LoGrasso initially claimed in his deposition on May 18, 2016 that his symptoms started after he supposedly suffered a head injury in a October 10, 2006 match against Steven Regal from his head supposedly hitting the steel steps. (LoGrasso Depo. at 35:5-37:15, 205:1-206:15, App. Tab 4). But LoGrasso was forced to admit later in his deposition when showed slow motion footage from that match that his head never hit the steps. (LoGrasso Depo. at 209:19-212:15, App. Tab 4).

71. LoGrasso admitted that he did not have any communications with WWE about symptoms of traumatic brain injury after he last performed for WWE in 2007. (Response to Request No. 7 of WWE’s First Set of Requests for Admission, App. Tab 1).

72. LoGrasso admitted that WWE has not provided any kind of medical care to him since he left WWE. (LoGrasso Depo. at 279:3-6, App. Tab 4).

73. LoGrasso “does not believe that he received any medical treatment from or as a result of WWE’s Talent Wellness Program.” (Response to Interrogatory No. 5 of LoGrasso’s Supplemental Objections and Responses to WWE’s First and Second Set of Interrogatories, App. Tab 13).

74. **CONFIDENTIAL**

[REDACTED] (Levesque Depo. at 142:2-6, App. Tab 9; V. McMahon Depo. at 227:2-228:6, App. Tab 12; S. McMahon Depo. at 132:12-16, 133:11-15, App. Tab 10).

75. The only written communications that LoGrasso has received from WWE since he left WWE are annual letters in which WWE offers to pay for drug or alcohol rehabilitation if needed by a former performer. (LoGrasso Depo. at 277:10-279:12, App. Tab 4; WWE_SING00000507, App. Tab 17; WWE_SING00000508, App. Tab 18; WWE_SING00000509-10, App. Tab 19; WWE_SING00000511, App. Tab 20).

76. **CONFIDENTIAL**

[REDACTED] (Levesque Depo. at

153:8-154:14, App. Tab 9; S. McMahon Depo. at 132:12-133:15, App. Tab 10; V. McMahon Depo. at 227:2-228:6, App. Tab 12).

77. In April 2008, LoGrasso gave an interview to “Slam Wrestling” in which he described his time with WWE as “one of the most enjoyable times of my career” and said nothing about any alleged symptoms of traumatic brain injury. (LoGrasso Depo. at 108:16-109:20, App. Tab 4). LoGrasso also stated “[i]f the opportunity arose to go back, I’d go back. I have nothing to be bitter about. I always wanted to be a wrestler in the WWE and I did. I have no regrets. I’m not bitter about one thing.” LoGrasso admitted that he made these statements in 2008 at a time that he now claims he was having horrible headaches as a result of an alleged traumatic brain injury. (LoGrasso Depo. at 109:9-111:3, App. Tab 4).

78. **CONFIDENTIAL**

(LoGrasso Depo. at 92:25-93:19, App. Tab 4; LoGrasso Depo. Ex. 3, App. Tab 5).

79. **CONFIDENTIAL**

(DeMott Depo. at 68:5-69:19, App. Tab 21).

80. LoGrasso continued to wrestle for other wrestling promotions after

he was terminated by WWE in May 2007 during the time that he now claims to have been suffering from alleged symptoms of traumatic brain injury from wrestling. (LoGrasso Depo. at 94:4-7, 265:4-7, App. Tab 4).

81. **CONFIDENTIAL**

[REDACTED] (Handler020516_000023-Handler020516_000026, App. Tab 22).

82. WWE has not provided LoGrasso with any medical treatment since he last performed for WWE in 2007. (Response to Request No. 8 of WWE's First Set of Requests for Admission, App. Tab 1).

83. Among the symptoms LoGrasso claims as a result of traumatic brain injury is deafness. Prior to this lawsuit, LoGrasso repeatedly stated that he has been deaf since birth. (LoGrasso Depo. Ex. 7, App. Tab 23) ("I don't advertise that I am handicapped. I am three quarters deaf and I've been that way my whole life. I made it, I did my thing."); (DVD of February 11, 2014 "AngryMarks" podcast, App. Tab 24) ("I've said this before, you know, and I've mentioned a few times in interviews—a lot of people don't know that I'm deaf, and you know, people ask me all the time, 'How the hell do you wrestle if you're deaf, and how did you play ball, and how did you do it?' I was born deaf. I was born deaf, you know").

84. In his deposition, LoGrasso testified that he would not lie to his doctors about his condition. (LoGrasso Depo. at 130:3-17, App. Tab 4). **CONFIDE**

[REDACTED]
[REDACTED] (Smith020516_00031-40, App. Tab 25);
WWE_SING00003015, App. Tab 26, **CONFIDENTIAL**

CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (Smith020516_00031-40, App. Tab 25).

85. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] (Adams Depo. Ex. 9, App. Tab 27).

86. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] (Adams Depo. Ex. 6, App. Tab 28).

87. CONFIDENTIAL [REDACTED]

CONFIDENTIAL (Adams Depo. at 41:17-42:11, App. Tab 29).

88. **CONFIDENTIAL**
CONFIDENTIAL (LoGrasso Depo. at 140:17-142:4, 144:16-23, App. Tab 4; Brandywine050416_000020-37, 68-83, App. Tab 30; OpenMRI_032316_000002-3, App. Tab 31).

E. During the Time that LoGrasso Performed for WWE Between 2005-2007, WWE Had No Knowledge Of Any Reports Linking Concussions with Long-Term Degenerative Neurological Diseases

89. **CONFIDENTIAL**
CONFIDENTIAL
CONFIDENTIAL

CONFIDENTIAL (Levesque Depo. at 173:12-174:3, App. Tab 9; S. McMahon Depo. at 51:3-11, App. Tab 10; V. McMahon Depo. at 22:12-22, 117:8-118:1, App. Tab 12).

90. There is no evidence that WWE had knowledge of the 2005 Mayo Clinic web page referenced in paragraphs 28-30, and 56 of the Plaintiffs' SAC. (App. Tab 32).

91. During discovery, Plaintiffs' Counsel did not even ask any of the WWE witnesses if they knew of the 2005 Mayo Clinic article, and if so, when they knew of it.

92. The 2005 Mayo Clinic article says nothing about long-term neurodegenerative diseases being caused by repetitive head traumas. (App. Tab 32).

93. **CONFIDENTIAL**

CONFIDENTIAL

[REDACTED] (S. McMahon Depo. at 75:22-76:2, App. Tab 10).

94. Dr. Omalu's sentinel findings of CTE in an NFL player, Mike Webster, were published in July 2005 in a peer-reviewed article in Neurosurgery. The article did not mention professional wrestling, and its conclusions were limited to the NFL. In that regard, the 2005 article stated "[t]his case study by itself cannot confirm a causal link between professional football and CTE"; it then went on to conclude that it "constitutes a forensic epidemiological sentinel case that draws attention to a possibly more prevalent yet unrecognized disease because of the rarity of CNS-targeted autopsies in the cohort of retired NFL players." (App. Tab 33).

95. LoGrasso admitted that there was no talk about CTE in WWE's locker rooms in 2005. (LoGrasso Depo. at 231:18-20, App. Tab 4).

96. LoGrasso admitted that there was no talk about CTE in WWE's locker rooms in 2006. (LoGrasso Depo. at 232:9-11, App. Tab 4). LoGrasso does not recall any WWE wrestlers or WWE management talking about CTE in 2006. (LoGrasso Depo. at 232:12-17, App. Tab 4).

97. On or about June 24, 2007, Chris Benoit, who was a WWE performer at the time, murdered his wife and son, and then committed suicide in a widely publicized crime. (Exhibit 85 to WWE's First Set of Requests for Admission, App. Tab 3).

98. **CONFIDENTIAL**

CONFIDENTIAL

[REDACTED] (Levesque Depo. at 173:12-174:3, App. Tab 9; S. McMahon Depo. at 51:3-11, App. Tab 10; V. McMahon Depo. at 22:12-22, 117:8-118:1, App. Tab 12; WWE_SING00000550-70, App. Tab 34).

99. CONFIDENTIAL

[REDACTED] (Levesque Depo. at 226:21-228:5, App. Tab 9; V. McMahon Depo. at 32:7-33:25, App. Tab 12).

100. On September 25, 2007, WWE, through counsel, requested certain non-public information from SLI regarding Chris Benoit's reported diagnosis with CTE, including evidence of the chain of custody of Chris Benoit's brain. CONFID

[REDACTED] (Levesque Depo. at 226:21-228:5, App. Tab 9; V. McMahon Depo. at 32:7-33:25, App. Tab 12; WWE_SING00000575-78, App. Tab 35; WWE_SING00000579-83, App. Tab 36; WWE_SING00000584-89, App. Tab 37; WWE_SING00000590-91, App. Tab 38; WWE_SING00000592-94, App. Tab 39; WWE_SING00000619-20, App. Tab 41; WWE_SING00000621-23, App. Tab 42).

101. Because LoGrasso was terminated in May 2007, he was no longer affiliated with WWE at the time of or after the Benoit murders/suicide in June 2007 or SLI's press conference regarding Benoit's reported diagnosis with CTE in

September 2007. (LoGrasso Depo. at 252:17-253:1, 339:8-10, App. Tab 4).

102. Dr. Omalu did not publish a peer-reviewed article regarding Benoit until September 2010, when he published an article styled “Chronic Traumatic Encephalopathy in a Professional American Wrestler” in the Journal of Forensic Nursing. In that report, Dr. Omalu described his presentation as “the first reported case of chronic traumatic encephalopathy (CTE) in a professional American wrestler.” Dr. Omalu’s description of how he obtained Benoit’s brain was that it had been initially cut during the original autopsy and put back into Benoit’s truncal cavity for cremation. Following Dr. Omalu’s efforts to get consent, he describes that “partially decomposed brain pieces were later retrieved from the truncal cavity by the forensic pathologist and submitted for neuropathologic analyses.” His report indicated that three sections of Benoit’s brain, specifically sections containing the mesial temporal lobe, amygdala, and hippocampus, were not examined because they were most probably inadvertently left inside Benoit’s body and were possibly cremated. In his final concluding section, he stated that “[s]ince the definitive diagnosis of CTE, like all types of dementias and brain degeneration, can only be made by direct tissue examination of the whole brain, this case underscores the invaluable role of forensic nurses and physicians in the forensic surveillance and diagnosis of cases of CTE.”

(App. Tab 43).

F. LoGrasso Knew Of The Extensive Media Reports Beginning In September 2007 That Chris Benoit Was Diagnosed With CTE, But Did Nothing To Determine the Cause Of His Own Alleged Symptoms

103. LoGrasso knew both Chris Benoit and his wife Nancy, and Chris

Benoit was a friend of LoGrasso. (LoGrasso Depo. at 235:15-236:2, App. Tab 4).

104. LoGrasso was aware in 2007 of Chris Benoit murdering his wife and son and then committing suicide. (LoGrasso Depo. at 236:9-12, App. Tab 4).

105. LoGrasso admitted that Chris Benoit's murder of his wife and son and subsequent suicide was a huge story in the media and was well-known in the wrestling business. (LoGrasso Depo. at 236:13-20, 239:6-18, App. Tab 4).

106. LoGrasso knew it was publicly reported that Benoit had CTE around the time of the murders. (LoGrasso Depo. at 239:2-5, App. Tab 4).

107. The various media reports that LoGrasso is deemed to have admitted knowing about describe the symptoms of CTE as including symptoms that he claims to have been experiencing. Specifically, the Reuters article entitled "Brain injury, not steroids, seen in wrestler death" published on September 5, 2007 stated "[n]eurologists with the Sports Legacy Institute who examined Benoit's brain found it pockmarked throughout with evidence of chronic traumatic encephalopathy (CTE) whose symptoms include depression, dementia, and erratic behavior." (Request 76 of WWE's First Set of Requests for Admission, App. Tab 1; Exhibit 32 to WWE's First Set of Requests for Admissions, App. Tab 3).

108. The Miami Herald article entitled "Benoit diagnosed with brain disorder" published on September 5, 2007 stated "CTE occurs in people who have suffered multiple concussions, commonly manifests as dementia or declining mental ability and Parkinsonism or tremors and lack of coordination. It can also cause unsteady gait, inappropriate behavior and speech problems."

(Request 78 of WWE's First Set of Requests for Admission, App. Tab 1; Exhibit 33 to WWE's First Set of Requests for Admissions, App. Tab 3).

109. The USA Today article entitled "Brain damage from a game; Former star Primeau knows concussion risks and passes on lessons" published on May 28, 2009 stated "[t]he array of CTE symptoms includes loss of memory, confusion, emotional problems and early-onset dementia." (Request 154 of WWE's First Set of Requests for Admission, App. Tab 1; Exhibit 69 to WWE's First Set of Requests for Admissions, App. Tab 3).

110. The Vancouver Sun article entitled "MMA fighters at risk of brain damage" published on October 3, 2009 stated "CTE is 'a progressive degenerative disease' seen in athletes 'who have a history of head trauma . . . which includes multiple concussions.' The trauma . . . 'is associated with memory loss, confusion, impaired judgment, paranoia, impulse control problems, aggression, depression, and, eventually, progressive dementia.'" (Request 163 of WWE's First Set of Requests for Admission, App. Tab 1; Exhibit 73 to WWE's First Set of Requests for Admissions, App. Tab 3).

111. The ABC News article entitled "Chris Benoit's Murder, Suicide: Was Brain Damage to Blame?" published on August 26, 2010 stated "Benoit was believed to have been prone to insomnia, mood swings, depression and alcohol abuse. All of these behaviors can be symptoms, doctors say, of brain damage." (Request 191 of WWE's First Set of Requests for Admission, App. Tab 1; Exhibit 85 to WWE's First Set of Requests for Admissions, App. Tab 3).

112. LoGrasso admitted that he did not visit his personal doctor after

hearing about the Benoit reported CTE diagnosis to inquire whether he had anything to worry about. (LoGrasso Depo. at 241:11-242:4, App. Tab 4).

113. LoGrasso admitted that he could have asked his own personal doctor, Dr. Tambor, any questions he wanted to about headaches, but admitted he never told Dr. Tambor about getting headaches. (LoGrasso Depo. at 56:24-57:24, App. Tab 4).

114. LoGrasso cannot identify anything he did in 2008, 2009, 2010, 2011, 2012 or 2013 to determine the cause of the symptoms he now contends he was experiencing in those years. (LoGrasso Depo. at 261:5-262:6, App. Tab 4).

115. LoGrasso admitted that WWE did not do anything between 2008 and 2013 to prevent him from discovering the cause of his alleged injuries. (LoGrasso Depo. at 264:16-25, App. Tab 4).

116. LoGrasso admitted there was no reason between 2008 and 2013 he could not have read or watched public media reports that discussed at length the emerging science about CTE and concussions. (LoGrasso Depo. at 374:14-25, App. Tab 4).

117. LoGrasso admitted that he could have read reports of the emerging science about CTE and concussions in the newspapers the same as anybody else. (LoGrasso Depo. at 375:1-5, App. Tab 4).

118. During an interview on CNN on November 7, 2007, which is referenced in ¶ 73 of the SAC, Vince McMahon questioned from a common sense standpoint that part of the reported diagnosis of Benoit's brain that he had the brain of an 85 year old with dementia and expressed his opinion that Benoit could

not have done what he did in his profession if that were true. (Doc. 118-3, App. Tab 44).

119. LoGrasso admitted that the Chris Benoit he knew did not have a brain like an 85 year old with dementia. (LoGrasso Depo. at 254:25-255:3, App. Tab 4).

120. LoGrasso admitted that nobody who knew Chris Benoit would have thought he had dementia or the brain of an 85 year old with dementia. (LoGrasso Depo. at 255:5-10, App. Tab 4).

121. If somebody had said to him back in 2007 when Chris Benoit died that “Vito, he’s like an 85 year old with dementia,” LoGrasso would have said “no way, I can’t believe it. But that’s I think everybody’s reaction.” (LoGrasso Depo. at 255:11-19, App. Tab 4).

122. LoGrasso believes that if you express an opinion based on your knowledge of Chris Benoit that he was not like an 85 year old with dementia, it would not be committing some kind of fraud. (LoGrasso Depo. at 255:20-256:14, App. Tab 4).

123. LoGrasso admittedly knew that the deterioration of Muhammad Ali was due to blows to the head, and that one could deduce he had brain damage from blows to the head. (LoGrasso Depo. at 251:15-252:14, App. Tab 4).

124. LoGrasso never read any congressional testimony related to the Benoit matter. (LoGrasso Depo. at 250:9-13, App. Tab 4).

125. LoGrasso did not know that Chris Nowinski wrote a book about concussion research. (LoGrasso Depo. at 235:7-14, App. Tab 4).

G. Admissions Of LoGrasso That He Has No Basis To Assert A Claim For Fraud By Omission Against WWE

126. LoGrasso admitted he could not identify anyone at WWE who supposedly defrauded him. (LoGrasso Depo. at 229:21-230:18, App. Tab 4; DVD Depicting Video Excerpts of LoGrasso's Depo., App. Tab 45).

127. LoGrasso is not accusing anyone at WWE of trying to defraud him. (LoGrasso Depo. at 230:13-18, App. Tab 4).

128. When asked in his deposition what specific information WWE should have told him but did not, LoGrasso first testified "there was no evaluation on how my head was or any evaluation on how my physical well-being was. And WWE never sought to evaluate me at any time and never, you know, sought to check and see if I was okay, if I had any problems." (LoGrasso Depo. at 226:23-227:11, App. Tab 4).

129. When asked a second time what specific information he contends WWE should have told him but did not, LoGrasso testified that the information they "should have provided was an evaluation or a physical of some sort to see if I was suffering from any head trauma, if I had any head injuries, if I needed any assistance." (LoGrasso Depo. at 227:12-21, App. Tab 4).

130. When asked for a third time what information about head injuries he is contending that WWE should have given him but did not, LoGrasso testified "[t]hey should have given me the information that there was something that could be happening to your head, some awareness or some knowledge of head trauma." And when then asked what is the something that could be happening to your head that they should have told you, LoGrasso testified "[t]hat you can

suffer from a concussion and that you can, you don't have to be knocked out to get a concussion. Because that was my understanding of what a concussion was." (LoGrasso Depo. at 228:3-18, App. Tab 4).

131. LoGrasso does not have any knowledge that anyone in WWE management ever told Dr. Rios not to tell him something about head injuries or concussions. (LoGrasso Depo. at 377:15-378:3, App. Tab 4).

132. LoGrasso never heard anyone in WWE management tell Dr. Rios not to tell him something about concussions. (LoGrasso Depo. at 377:24-378:3, App. Tab 4).

133. LoGrasso has no evidence that anybody at WWE ever directed someone in the medical staff to withhold any information from him. (LoGrasso Depo. at 378:4-13, App. Tab 4).

134. LoGrasso has no knowledge that anybody at WWE ever told Dr. Rios or the medical staff to lie to him about anything. (LoGrasso Depo. at 378:9-13, App. Tab 4).

135. LoGrasso believes that this lawsuit is an opportunity to get benefits in the form of healthcare and a pension for the guys who put their time in wrestling, including himself. (LoGrasso Depo. at 271:14-15, App. Tab 4).

III. Facts Pertinent to Plaintiff Evan Singleton

A. Admissions of Singleton that He Knew and Accepted the Risks Inherent in Professional Wrestling

136. Singleton started watching professional wrestling when he was seven or eight years old in the late-1990s. He watched WWE's shows, Raw and Smackdown, and WCW Nitro. (Singleton Depo. at 24:4-25:1, App. Tab 46).

137. Singleton saw wrestlers doing choke slams, power slams, jumping off ladders, and hitting each other over the head with chairs. In his sophomore year of high school Singleton decided that is what he wanted to do. (Singleton Depo. at 25:7-22, App. Tab 46).

138. Before joining WWE, Singleton specifically watched on YouTube the WWE match in which Owen Hart executed a move incorrectly and dropped Stone Cold Steve Austin on his head that resulted in Stone Cold Steve Austin almost getting paralyzed. (Singleton Depo. at 33:5-22, App. Tab 46).

139. Singleton wrestled through high school on his high school team. (Singleton Depo. at 25:23-26:7, App. Tab 46).

140. Singleton also played high school football, banged his head repeatedly doing so, and was taught that a concussion was a brain injury from impact. (Singleton Depo. at 34:22-35:8, App. Tab 46).

141. Singleton admitted that he knew there is a risk of injury the minute you walk into a wrestling ring. (Singleton Depo. at 29:1-13, App. Tab 46).

142. Singleton understood that the object in professional wrestling is not to hurt your opponent, but if you don't perform moves correctly you could hurt yourself or your opponent. (Singleton Depo. at 29:8-16, App. Tab 46).

143. Singleton specifically knew you could hit your head while wrestling and get injured. (Singleton Depo. at 163:13-15, App. Tab 46).

144. After high school and before going into WWE's developmental system, Singleton trained with an outfit called Combat Zone Wrestling in which he learned basic in-ring activity including the "flat back," which is the technique

for falling flat on your back so as not to hurt yourself. (Singleton Depo. at 26:9-27:8, App. Tab 46).

145. As a result of his training even before coming to WWE, Singleton knew to tuck his chin when doing a “flat back” so as to avoid head injury. (Singleton Depo. at 26:13-27:13, App. Tab 46).

146. Singleton also knew that the difference between Muhammad Ali’s condition when he was a fighter and later in his life was due to brain injury. (Singleton Depo. at 37:3-17, App. Tab 46).

147. After being a high school wrestler and training at Combat Zone Wrestling, Singleton entered into a booking contract with WWE effective as of December 16, 2011. (Singleton Depo. Ex. 11, App. Tab 47; Singleton Depo. at 26:9-14,145:24-146:4, App. Tab 46).

148. Singleton performed for WWE under the name Adam Mercer. (SAC ¶ 13).

149. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (Singleton Depo. at 146:20-147:23, App. Tab 46; Singleton Depo. Ex. 11, App. Tab 47)

(emphasis in original).

150. CONFIDENTIAL

[REDACTED]

[REDACTED] (Singleton Depo. Ex. 11, App. Tab 47)

(emphasis in original).

151. CONFIDENTIAL

[REDACTED]

(Singleton Depo. Ex. 11, App. Tab 47) (emphasis in original).

152. CONFIDENTIAL

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Singleton

Depo. Ex. 11, App. Tab 47) (emphasis in original).

153. CONFIDENTIAL

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Singleton

Depo. Ex. 11, App. Tab 47).

154. CONFIDENTIAL

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CONFIDENTIAL [REDACTED] (Singleton Depo. Ex. 11, App. Tab 47).

155. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] (Singleton Depo. Ex. 11, App. Tab 47).

156. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] (Singleton Depo. Ex. 11, App. Tab 47).

157. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CONFIDENTIAL

██████████ (Singleton Depo. Ex. 11, App. Tab 47).

B. Singleton Was Injured Performing A Move That He Fully Expected To Perform When He Signed Up To Be A Professional Wrestler

158. When doing a “flat back” you are taught to tuck your chin, the same thing you are supposed to do when on the receiving end of a choke slam.

(Singleton Depo. at 27:9-16, App. Tab 46).

159. Singleton was told before executing the move that he would get hurt if he did not tuck his chin when getting a choke slam. (Singleton Depo. at 28:6-21, App. Tab 46).

160. Singleton received a choke slam in a match with Erick Rowan on June 17, 2012. Singleton executed the flat-back maneuver correctly by tucking his chin and did not get injured from the move. (Singleton Depo. at 238:5-240:1, App. Tab 46).

161. Singleton received the same choke slam maneuver in another match against Erick Rowan on September 27, 2007 and claims to have received a concussion when he did so. (Singleton Depo. at 40:19-25, 142:16-143:3, 242:4-243:4, App. Tab 46).

162. The choke slam maneuver which Singleton claims injured him is a common move performed in professional wrestling and one that Singleton had seen performed countless times and one he fully expected that he would perform when he signed up to be a professional wrestler. (Singleton Depo. at 244:2-15,

App. Tab 46).

163. Singleton knew that if he performed the choke slam maneuver wrong he would get hurt, and admitted that is what happened on September 27, 2012. (Singleton Depo. at 244:16-25, App. Tab 46).

164. Singleton knew in advance that the choke slam move was going to be done to him on September 27, 2012. (Singleton Depo. at 211:9-12, App. Tab 46).

165. It was necessary for Singleton to participate in the choke slam maneuver by jumping up and turning his body horizontal to the mat to give the appearance that he was being lifted up by his neck with one hand by Erick Rowan. (Singleton Depo. at 210:19-213:8, App. Tab 46).

166. Singleton signed a contract with WWE that provided that he agreed to the proposition that wrestling had inherent risks and that he accepted those risks. (Singleton Depo. at 38:2-9, App. Tab 46; DVD Depicting Video Excerpts of Singleton Depo., App. Tab 48).

167. **CONFIDENTIAL**

[REDACTED] (Singleton Depo. at 38:10-13, App. Tab 46; DVD Depicting Video Excerpts of Singleton Depo., App. Tab 48).

168. Singleton admitted he got injured doing exactly what he signed up to do and could not explain in his deposition why he is suing WWE after thinking about it for 22 seconds. (Singleton Depo. at 38:14-18, App. Tab 46; DVD Depicting Video Excerpts of Singleton Depo., App. Tab 48).

C. After Retaining Dr. Maroon and ImPACT in March 2008, WWE Regularly Provided Information to Its Performers, Including Singleton, Regarding the Risks of Head Injuries

169. **CONFIDENTIAL**

(WWE_SING00000277-97, App. Tab 49; S. McMahon Depo. at 62:10-63:7, 91:15-91:17, App. Tab 10; V. McMahon Depo. at 105:16-106:1, App. Tab 12; Levesque Depo. at 129:21-24, App. Tab 9; Maroon Depo. at 8:11-23, App. Tab 50).

170. **CONFIDENTIAL**

(Lovell Depo. at 11:5-10, App. Tab 51).

171. **CONFIDENTIAL**

(Lovell Depo. at 24-27, App. Tab 51).

172. **CONFIDENTIAL**

(V. McMahon Depo. at 36:2-37:21, App. Tab 12; Levesque Depo. at 130:24-131:6, App. Tab 9).

173. **CONFIDENTIAL**

(Lovell Depo. at 57:20-59:1, App. Tab 51).

174. CONFIDENTIAL [REDACTED]
[REDACTED]

[REDACTED] (Lovell Depo. at 58:3-59:1, App. Tab 51).

175. CONFIDENTIAL [REDACTED] (Lovell Depo. at 63:9-12, App. Tab 51).

176. CONFIDENTIAL [REDACTED]
(Maroon Depo. Ex. 18, App. Tab 52)

177. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (WWE_SING00000056-79, App. Tab 53; Levesque Depo. at 129:25-131:6, App. Tab 9; S. McMahon Depo. at 49:20-50:6, App. Tab 10; Lovell Depo. at 58:3-59:1, App. Tab 51).

178. CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED] (V. McMahon Depo. at 188:16-189:5, App. Tab 12). CONFIDENTIAL [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (Maroon Depo. at 161:3-162:2, App. Tab 50).

179. CONFIDENTIAL [REDACTED]
[REDACTED]

CONFIDENTIAL

(V. McMahon Depo. at 42:16-43:3, App. Tab 12; Levesque Depo. at 137:12-18, App. Tab 9).

180. CONFIDENTIAL

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⁵ CONFIDENTIAL

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181. **CONFIDENTIAL**

(V. McMahon Depo. at 42:16-43:22, App. Tab 12; S. McMahon Depo. at 106:7-107:12, App. Tab 10; Levesque Depo. at 138:8-24, App. Tab 9).

182. **CONFIDENTIAL**

(WWE_SING00000096, App. Tab 74; DeMott Depo. at 247:24-248:12, App. Tab 21).

183. **CONFIDENTIAL**

(WWE_SING00000096, App. Tab 74). **CONFIDENTIAL**

(DeMott Depo. at 247:24-248:12, App. Tab 21).

184. **CONFIDENTIAL**

(Singleton Depo. at 18:1-25, App. Tab. 46). The Twitter account @MercerWWE tweeted on August 9, 2012 "Thank You @WWE for giving me the background." (Singleton Depo. Ex. 8 at 61, App. Tab 75). To the best of WWE's knowledge, the @MercerWWE twitter handle came directly from Evan Singleton. (Affidavit of Amanda Tustian, App. Tab 76; Affidavit of Rob Naylor, App. Tab 77).

D. By The Date Of His Alleged Injury On September 27, 2012, Singleton Knew He Was Not Going To "Make It" In WWE

185. Singleton has no history of gainful employment. He has had four

jobs since high school, and was fired from each job except for one job as a cashier. (Singleton Depo. at 113:3-114:23, App. Tab 46).

186. Singleton told a lot of people in his hometown when he left to train in WWE's developmental program in Florida that he was going to become a WWE star. (Singleton Depo. at 10:22-11:2, App. Tab 46).

187. Singleton began training in WWE's developmental program in Florida in January 2012. (Singleton Depo. at 124:5-9, App. Tab 46).

188. Shortly after starting his training in January 2012, Singleton came down with mononucleosis which kept him out of action for several weeks. (Singleton Depo. at 124:5-12, App. Tab 46).

189. Singleton returned from his illness and actually trained with WWE from approximately March through September 2012. (Singleton Depo. at 125:24-126:3, App. Tab 46).

190. During that time period, Singleton had a total of seven matches, some of which were tag team matches, that lasted 5-6 minutes. In total, Singleton wrestled in matches approximately 42 minutes in six months. (Singleton Depo. at 126:4-127:2, App. Tab 46).

191. Singleton did not find his training to be a heavy workload. (Singleton Depo. at 127:5-6, App. Tab 46).

192. Singleton realized as soon as he got to Florida that he was not as talented as the people who eventually made the WWE main roster. (Singleton Depo. at 129:12-130:17, App. Tab 46).

193. Singleton was competing against people who were bigger, stronger,

and more accomplished than him. (Singleton Depo. at 131:1-20, App. Tab 46).

194. Singleton thought he should have been a star, but he was not becoming a star in WWE. (Singleton Depo. at 86:25-87:10, App. Tab 46).

195. Singleton made no friends in Florida, and does not stay in touch with any of the performers he competed against. He did however meet his first serious girlfriend while in Florida. (Singleton Depo. at 92:2-25, App. Tab 46).

196. Before his injury, Singleton told his girlfriend that he felt like a crash dummy, but he did not tell anyone at WWE that he felt that way. (Singleton Depo. at 85:6-86:4, App. Tab 46).

197. Singleton's entire tenure with WWE was spent in WWE's developmental program; he never made WWE's main roster. (Singleton Depo. at 39:3-40:7, App. Tab 46).

198. Prior to September 27, 2012, Singleton was told by a WWE physician, Dr. Christopher Amann, that he would not be permitted to perform if he received a concussion and remained symptomatic. (Singleton Depo. at 84:4-85:2, App. Tab 46).

199. Singleton knew that as long as he continued to report headaches or memory problems or subjective symptomology, he would not be put back in the ring following a concussion. (Singleton Depo. at 84:23-85:2, App. Tab 46).

E. Singleton Was Never Medically Cleared By WWE To Wrestle After His Alleged Injury on September 27, 2012 And Spent the Next Two Years With His Girlfriend and Lifting Weights

200. Other than the incident on September 27, 2012, Singleton did not report suffering any other head injury to WWE doctors or trainers. (Singleton

Depo. at 142:16-24, App. Tab 46; Response to Interrogatory No. 2 of Supplemental Objections and Responses to First and Second Set of Interrogatories, App. Tab 78).

201. Singleton admitted that he did not suffer any other head injury while performing for WWE. (Singleton Depo. at 142:25-143:3, App. Tab 46). Singleton was never hit in the head with any object, including a chair, during any of his WWE matches. (Response to Request No. 4 of WWE's First Set of RFAs to Singleton, App. Tab 2).

202. Singleton claims not to remember anything at all for the two weeks following his alleged concussion on September 27, 2012. (Singleton Depo. at 66:3-16, App. Tab 46).

203. Objective evidence shows that his girlfriend was posting pictures on social media of the two of them smiling and cuddling on September 30, 2012, which was 3 days after the alleged injury. (Singleton Depo. Ex. 13, App. Tab 79).

204. On September 3, 2012, Singleton's girlfriend announced on Facebook that they were in a relationship, and on October 8, 2012, some 11 days after his concussion, he gave her an engagement ring. (Singleton Depo. Ex. 13, App. Tab 79; Singleton Depo. at 155:4-9, App. Tab 46).

205. Singleton admitted that he wanted to stay in Florida with his girlfriend after his injury, but could not have lived there with no money if he told WWE he did not want to perform any longer. (Singleton Depo. at 223:1-24, App. Tab 46).

206. **CONFIDENTIAL**

CONFIDENTIAL

(Greenberg021916_000027, App. Tab 80).

207. CONFIDENTIAL

(DeMott Depo. at 112:20-113:12, App. Tab 21).

208. CONFIDENTIAL

(Lovell Depo. at 189:6-190:2, App. Tab 51).

209. CONFIDENTIAL

(Lovell Depo. at 190:3-13, App. Tab 51).

210. CONFIDENTIAL

(DeMott Depo. at 113:13-114:4, App. Tab 21; WWE_SING00000419, App. Tab 81; Response to Request 2 of WWE's First Set of Requests for Admission,

App. Tab 2).

211. CONFIDENTIAL

(Lovell

Depo. at 190:18-191:5, App. Tab 51).

212. CONFIDENTIAL

(WWE_SING00002236- 37, App. Tab 82;

WWE_SING00002243- 44, App. Tab 83; WWE_SING00002247- 49, App. Tab 84).

213. CONFIDENTIAL

(Stacy DePolo Affidavit, App. Tab 85).

214. In the SAC, it was alleged that Singleton sustained an intracranial hemorrhage as a result of the September 27, 2012 match. SAC ¶ 113.

215. CONFIDENTIAL

(Singleton Depo. at 41:22-42:9, App. Tab 46).

216. CONFIDENTIAL

(Singleton Depo. at 44:19-46:5, App. Tab 46).

217. CONFIDENTIAL

(Rodgers-

Neame020316_000085-86, App. Tab 86).

218. CONFIDENTIAL

(Singleton Depo. at 49-

50, 52, App. Tab 46).

219. CONFIDENTIAL

(Singleton Depo. at 43:4-11, 45:24-46:11, App. Tab 46; Mattingly Depo. at 65:3-10, App. Tab 87; Rodgers-Neame Depo. at 35:8-10, 39:5-43:11, App. Tab 88).

220. Singleton admitted that he told people in his hometown that he did not make it in the WWE because he has an intracranial hemorrhage CONFIDENTIAL (Singleton Depo. at 11:17-13:14, 45:24-46:11, App. Tab 46).

221. CONFIDENTIAL

(WWE_SING00000416-17, App. Tab 89 (Lovell); IMPACT_SING00000634-38, App. Tab 90 (Unterberg); IMPACT_SING00000572-75, App. Tab 91 (Maroon); Mattingly Depo. Ex. 28, App. Tab 92 (Mattingly)).

222. CONFIDENTIAL

(Lovell Depo. at 96:25-97:25, App. Tab 51; WWE_SING00000416-17, App. Tab 89).

223. CONFIDENTIAL

(Lovell Depo. at 117:5-118:2, App. Tab 51).

224. CONFIDENTIAL

CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED] (Lovell Depo. at 182:5-183:11, App. Tab 51).

225. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED] (Lovell Depo. at 183:12-23, App. Tab 51).

226. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED] (Lovell Depo. at 118:20-120:20, App. Tab 51).

227. CONFIDENTIAL [REDACTED]

[REDACTED] (Lovell Depo. at 136:6-12,

App. Tab 51).

228. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Mattingly Depo. Ex. 28 at 3, App. Tab 92). CONFIDENTIAL [REDACTED]

[REDACTED] (Mattingly

Depo. at 75:25-76:14, App. Tab 87).

229. CONFIDENTIAL [REDACTED]

[REDACTED]

[REDACTED] (Mattingly Depo. Ex. 28 at 2, App. Tab 92; Mattingly Depo. at

77:17-78:6, App. Tab 87).

230. CONFIDENTIAL [REDACTED]

CONFIDENTIAL

(Mattingly Depo. at 76:15-25, App. Tab 87). CONFIDENTIAL

(Mattingly Depo. at 78:3-6, App. Tab 87).

231. CONFIDENTIAL

(Mattingly Depo. at 69:9-70:8, App.

Tab 87; Mattingly Depo. Ex. 28 at 1, App. Tab 92).

232. CONFIDENTIAL

(Mattingly Depo.

Ex. 28 at 1, App. Tab 92).

233. CONFIDENTIAL

(Mattingly Depo. at 71:3-23, App. Tab 87; Mattingly Depo. Ex. 28 at 1, App. Tab 92).

234. CONFIDENTIAL

(Mattingly Depo. at 69:14-71:2, App. Tab 87).

CONFIDENTIAL

CONFIDENTIAL

[REDACTED] (Mattingly Depo. Ex. 28 at 3, App. Tab 92).

235. CONFIDENTIAL

[REDACTED] (Rodgers-Neame Depo. at 115:8-13, App. Tab 88).

236. CONFIDENTIAL

[REDACTED] (SAC ¶ 107; Singleton Depo. at 64:25-65:2, 81:23-25, App. Tab 46).

F. Singleton Concealed From WWE And His Treating Physicians Activities That Are Inconsistent With His Claimed Symptoms

237. Singleton is a passionate and dedicated weightlifter; he works out six days per week. (Singleton Depo. at 245:6-21, App. Tab 46).

238. Singleton's one rep max bench press is 550-600 pounds and one rep max leg press is 1700 pounds. (Singleton Depo. at 245:12-16, App. Tab 46).

239. Singleton posted photographs and videos of himself on Instagram working out in Florida during the time that he claimed to be symptomatic to various health care providers and could not wrestle for WWE. (Singleton Depo. at 251:3-260:16, 268:11-272:22, App. Tab 46).

240. Singleton never showed the photographs or videos of himself working out to any of the doctors he was seeing during this time frame.

(Singleton Depo. at 257:11-14, App. Tab 46).

241. CONFIDENTIAL [REDACTED]

[REDACTED]
[REDACTED] (Rodgers-Neame Depo. at 77:21-78:7, App. Tab 88).

242. CONFIDENTIAL [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (Rodgers-Neame Depo. at 72:19-73:18, App. Tab 88).

243. CONFIDENTIAL [REDACTED]

[REDACTED]
[REDACTED] (Rodgers-Neame Depo. at 76:9-17, App. Tab 88).

244. Singleton competed in a bodybuilding competition in June 2015, contemporaneous with Plaintiffs' counsel representing to the Court in this case that Singleton is "permanently injured." (Singleton Depo. at 261:16-262:24, App. Tab 46; 6/8/15 transcript at 57, App. Tab 93). Singleton does not consider himself to be completely disabled. (Singleton Depo. at 104:2-4, App. Tab 46).

245. In preparation for the bodybuilding competition, Singleton lost 120 pounds in twenty-four weeks from 360 pounds to 240 pounds while training two to two and a half hours per day to get his body in the right shape. (Singleton Depo. at 264:1-265:7, App. Tab 46).

246. In or around April 2015, while this lawsuit was pending and Singleton supposedly was “permanently injured,” Singleton became the strongest that he has ever been. (Singleton Depo. at 262:7-263:6, App. Tab 46).

247. After September 27, 2012, Singleton never performed again for WWE. (Singleton Depo. at 148:21-149:19, App. Tab 46).

248. In October of 2014, Singleton determined unilaterally to leave Florida, return to Pennsylvania with his fiancé, and discontinue medical treatment. WWE paid him through the end of his contract even though he never performed for WWE for over two years after his September 27, 2012 injury. (Singleton Depo. at 94, 148:21-149:19, App. Tab 46).

G. Admissions of Singleton That He Has No Basis To Assert A Claim Of Fraud By Omission Against WWE

249. Singleton had never heard of CTE until he was asked about it in his deposition. (Singleton Depo. at 118:7-23, App. Tab 46).

250. Nobody has told Singleton that he has CTE and he does not have any fear of having CTE. (Singleton Depo. at 119:1-14, App. Tab 46).

251. After he was unable to articulate a basis in his deposition for suing WWE, Singleton stated the lawsuit was about “WWE and how they treat talent with severe brain injuries.” Singleton did not know what claims he has asserted in this case. (Singleton Depo. at 119:15-120:7, App. Tab 46).

252. Singleton conceded that he was injured by an accident. (Singleton Depo. at 162:21-23, App. Tab 46).

253. Singleton did not know that he is making a fraud claim in this case. (Singleton Depo. at 164:8-13, App. Tab 46; DVD Depicting Video Excerpts of Singleton Depo., App. Tab 94).

254. Singleton was unable to identify anyone at WWE who committed a fraud on him. (Singleton Depo. at 164:17-22, App. Tab 46; DVD Depicting Video Excerpts of Singleton Depo., App. Tab 94).

255. Singleton was unable to identify anything done or not done by WWE that he considers to be fraudulent to him. (Singleton Depo. at 165:14-22, App. Tab 46; DVD Depicting Video Excerpts of Singleton Depo., App. Tab 94).

256. Singleton was unable to identify anything that anybody at WWE failed to tell him that he thought he should have known. (Singleton Depo. at 164:20-22, App. Tab 46; DVD Depicting Video Excerpts of Singleton Depo., App. Tab 94).

257. Singleton was unable to identify anything that was said to him by Dr. Amann or Dr. Maroon that was false. (Singleton Depo. at 168:15-169:12, App. Tab 46).

258. Singleton has never read any testimony that anybody gave before a committee of Congress and, in particular, Singleton never read any testimony of Stephanie McMahon. (Singleton Depo. at 19:4-19, App. Tab 46).

259. Singleton never watched any television programs where Mr. and Mrs. McMahon were being interviewed regarding Chris Benoit. (Singleton Depo. at 19:20-20:9, App. Tab 46).

260. Singleton never heard of Chris Nowinski and did not know of his involvement in the science of CTE. (Singleton Depo. at 117:4-118:6, App. Tab 46).

IV. The State of CTE Science Is Not A Known Fact

261. The First International Conference on Concussion in Sport was held in Vienna in 2001. It was chartered by the International Olympic Committee, FIFA, and the International Ice Hockey Federation. Its objectives were to provide recommendations for the improvement of safety and health of athletes who suffer concussive injuries in sport. To this end, a range of experts were invited to both meetings to address specific issues of epidemiology, basic and clinical science, injury grading systems, cognitive assessment, new research methods, protective equipment, management, prevention, and long-term outcome. (Declaration of Mark R. Lovell, App. Tab 95).

262. The Summary and Agreement Statement issued by the First International Conference on Concussion in Sport in 2001 does not mention chronic traumatic encephalopathy or any other long-term neurocognitive disease as a potential risk of concussions. (Lovell Declaration at Ex. 1, App. Tab 95).

263. The Summary and Agreement Statement issued by the First International Conference on Concussion in Sport in 2001 stated “the science of concussion is at the early stages and therefore management and return to play

decisions remain largely in the realm of clinical judgment on an individual basis.”
(Lovell Declaration at Ex. 1, App. Tab 95).

264. The Second International Conference on Concussion in Sport was held in Prague in 2004. The Summary and Agreement Statement issued by the Second International Conference on Concussion in Sport in 2004 does not mention chronic traumatic encephalopathy or any other long-term neurocognitive disease as a potential risk of concussions. (Lovell Declaration at Ex. 2, App. Tab 95).

265. The Summary and Agreement Statement issued by the Second International Conference on Concussion in Sport in 2004 continued to state that “the science of concussion is at an early stage, and therefore management and return to play decisions remain largely in the realm of clinical judgment on an individual basis.” (Lovell Declaration at Ex. 2, App. Tab 95).

266. The Third International Conference on Concussion in Sport was held in Zurich in 2008. The Consensus Statement on Concussion in Sport issued by the Third International Conference on Concussion in Sport in 2008 stated with regard to “chronic traumatic brain injury”: “Epidemiological studies have suggested an association between repeated sports concussions during a career and late life cognitive impairment. Similarly, case reports have noted anecdotal cases where neuropathological evidence of chronic traumatic encephalopathy was observed in retired football players. Panel discussion was held and no consensus was reached on the significance of such observations at this stage. Clinicians need to be mindful of the potential for long-term problems in the

management of all athletes.” (Lovell Declaration at Ex. 3, App. Tab 95) (emphasis added).

267. The Fourth International Conference on Concussion in Sport was held in Zurich in 2012. The Consensus Statement on Concussion in Sport issued by the Fourth International Conference on Concussion in Sport in 2012 stated with regard to chronic traumatic encephalopathy: “[I]t was . . . agreed that a cause and effect relationship has not been demonstrated between CTE and concussions or exposure to contact sports. At present, the interpretation of causation in the modern CTE case studies should proceed cautiously.” The 2012 Consensus Statement further stated: “It was agreed that CTE represents a distinct tauopathy with an unknown incidence in athletic populations. It was further agreed that CTE was not related to concussions alone or simply exposure to contact sports. At present, there are no published epidemiological, cohort or prospective studies relating to modern CTE. Owing to the nature of the case reports and pathological case series that have been published, it is not possible to determine the causality or risk factors with any certainty. As such, the speculation that repeated concussion or sub-concussive impacts cause CTE remains unproven.” (Lovell Declaration at Ex. 4, App. Tab 95) (emphasis added).

268. A 2014 paper written by Christine M. Baugh, Clifford A. Robbins, Robert A. Stern, and Ann C. McKee, MD, entitled “Current Understanding of Chronic Traumatic Encephalopathy,” stated “our neuropathologic understanding of CTE is based on a biased sample of individuals who are predominantly among

those most exposed to repetitive head impacts (eg, professional football players, professional boxers). That 2014 paper also voiced the concern that

As CTE research has a particular ability to be misunderstood by the lay public and sensationalized in the media, caution needs to be exercised when discussing results of scientific studies and generalizing the results to the population as a whole. Many individuals have some history of head impacts incurred through sports participation or other activities. However, the pathological mechanism linking this initial trauma, whether concussive or subconcussive, to later-life CTE, pathology has yet to be elucidated. Furthermore, without a more complete understanding of the incidence, prevalence, and possible risk factors that lead to the development of CTE, it is impossible for the general population to accurately assess their risk of CTE. Unfortunately, the popular media, which has reported on CTE because of its association with professional athletics, often does not present findings with the same accuracy, caution, or contextualization as the original peer-reviewed scientific publications. In order to avoid causing undue panic in individuals who have a history of concussions or other traumatic brain injuries, the scientific community and the media need to clearly address the considerable gaps that exist in our understanding of CTE.

(Lovell Declaration at Ex. 5, App. Tab 95) (emphasis added).

269. A 2015 paper published by the Department of Defense entitled “Literature Review: The Biological Basis of Chronic Traumatic Encephalopathy Following Blast Injury,” stated:

The current state of the science does not allow for a conclusive determination of whether exposure to head injury is associated with the development of CTE pathology or clinical symptoms. Existing data are limited, observational in nature, and subject to several methodological concerns, leading some researchers to question whether CTE is a unique neurodegenerative disease. CTE has drawn significant public and media attention given the large at-risk population (e.g., military service members, contact sport athletes). Experts have noted concern over the potential clinical and legal consequences of widespread misunderstanding of CTE. In light of these factors, the need for additional research is clear, particularly population-based studies, the use of standardized pathology protocols, and the development of clinical diagnostic criteria.

The 2015 DOD paper further stated that “the evidence does not allow for a conclusive determination of whether exposure to head injury is sufficient and causative in the development of CTE pathology.” (Lovell Declaration at Ex. 6, App. Tab 95) (emphasis added).

270. The National Institute of Health stated in a report published in 2015 that “[i]t is also especially important for the community to understand that it is not yet possible to correlate clinical symptoms or future brain health with the signature pathologic feature of CTE.” (Lovell Declaration at Ex. 7, App. Tab 95).

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