

Scott Seaman Examines the Insurance Coverage Implications of a Recent NFL Concussion Ruling

In *Law360 Insurance Authority*

In The News | 1 min read

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Hinshaw partner Scott Seaman was recently quoted in *Law360 Insurance Authority*, examining the significance of a New York appellate court's ruling regarding how many "occurrences" are involved for purposes of insurance coverage for the National Football League's (NFL) concussion litigation settlement.

What the Court Ruled

Earlier this month, New York's Appellate Division, First Judicial Department, held that each former player's alleged injury was at least one separate occurrence.

Because of that ruling, the excess insurer does not have to indemnify the NFL for the uncapped multidistrict litigation settlement with former players.

Its fifth-layer policy covered a portion of any loss exceeding \$51 million. The court said coverage would instead fall under a primary policy issued for the same 2001–2002 policy period.

The Ruling's Implications on Insurance Coverage Litigation

Scott explained that a party's position on the number of occurrences often depends on where its policy sits in the coverage program. "As this case illustrates, where a party stands on the number of occurrences issue may depend upon where it sits on the coverage chart."

He also said the court's decision shows that the number of occurrences is still a major issue in insurance litigation. Coverage turns on the size of the loss, where each policy attaches, and whether aggregate limits apply.

Additionally, Scott noted that the First Judicial Department applied New York’s “unfortunate event” test in a straightforward way. “Although the claims shared some commonalities, the claims of over 20,000 former players who participated in approximately 10,000 games over multiple decades in approximately 90 different stadiums did not share the same ‘temporal and spatial’ characteristics to unify them as one occurrence,” he explained.

[Read the full article](#)

- *Law360 Insurance Authority*: “[NY Panel Tackles Injury Occurrences In NFL Ruling](#)” (October 22, 2026)

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