

# NFL files formal answer to Jim Trotter's civil complaint

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Mike Florio

July 8, 2024



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The battle has officially been joined. More than a year after it began.

With the NFL failing to secure full dismissal of the lawsuit filed against it after terminating the employment of reporter Jim Trotter, the league was required to file a formal response to Trotter's civil complaint. The document is known as an answer.

PFT has obtained a copy of the document, which was filed on Friday.

The answer is a lengthy but largely mechanical document. The complaint has a series of numbered paragraphs with specific statements and allegations. The defendant, in preparing the answer, responds to each and every numbered paragraph.

In simplest terms, the defendant admits the allegation, denies it, or says it doesn't have enough information to admit or deny. (Lawyers tend to be more verbose than that.) After responding to each of the numbered paragraphs of the complaint (in Trotter's case, there are 239 of them), the defendant lists various affirmative defenses.



It's standard practice, with in this case 18 defenses listed by the NFL. Typically, the lawyer representing the NFL has a standard set of defenses for employment cases, which are copied and pasted into the document prepared specifically in response to the present case.

The goal is to plant a flag as to anything that could come up during the discovery process and to otherwise preserve the defendant's rights. It's far easier to be comprehensive at the outset of the case than to amend the answer later. (Amending the answer isn't rocket science, but it's still more cumbersome than putting all of the defenses in the original answer.)

For example, every answer filed by every defendant in every civil lawsuit contains a defense based on the failure of the plaintiff to file the case within the relevant statute of limitations — even when it's obvious that the case was filed on a timely basis. Also, in every case that seeks punitive damages, the defendant includes a defense that punitive damages are barred by the U.S. Constitution (even if they aren't).

The first defense that stands out is this one is the NFL's sixth defense: "Plaintiff's claims fail because any and all employment actions allegedly taken with respect to Plaintiff were based upon legitimate, non-retaliatory reasons including, but not limited to, Plaintiff's unsatisfactory work performance, industry changes, and budgetary constraints, and were not pretextual."

Among other things, the NFL now claims that Trotter's work performance was "unsatisfactory." This opens a new front in the effort by Trotter's lawyer to prove that the reasons given for his discharge were a pretext for retaliation.

It also opens the door for aggressive discovery as to any efforts by the NFL to tell Trotter that his performance was unsatisfactory. Performance reviews, if any, become critical. Also, if there's a clear record of Trotter being told "good job" and little or no proof of him being told "bad job," the NFL's effort to be comprehensive in its answer could blow up in its face.

Here's how it would go during the deposition of Trotter's immediate supervisor:

1. "Please identify all evidence supporting your opinion that Mr. Trotter's work performance was unsatisfactory."
2. "Please identify all efforts to communicate to Mr. Trotter that his work performance was unsatisfactory."

The lawyer would then press for every bit of evidence, culminating in something like this: "Is there anything else? Are you sure? Is there any reason why you wouldn't remember something else now but might remember something else later?"

The discovery process also will entail seeking all documents relating to his work performance — good, bad, or otherwise.

The next step in the litigation will be the entry of a scheduling order, which will give both sides a period of multiple months to engage in the discovery process. The NFL will have a deadline for filing a motion for summary judgment, with dates for Trotter's response and the NFL's reply brief. There will also be a preliminary trial date, possibly 12 to 18 months out.

There also will be a requirement to submit the case to mediation. The two sides won't be required to settle the case, but they'll be required to submit to the process in good faith, as a mediator tries to see if the controversy can be resolved without further proceedings in court.

However it plays out, Trotter's case is finally past square one. Squares two and beyond will inevitably feature deposition testimony of Commissioner Roger Goodell, since the pointed questions posed by Trotter to Goodell during the Super Bowl LVII press conference regarding equity and diversity in the NFL Media newsroom arguably prompted the NFL to have a dramatic change of heart about giving Trotter a new contract.

That's the core of the case. Trotter will contend they wanted to extend his contract before he pressed Goodell (for the second straight year) at a Super Bowl press conference regarding these issues. Trotter also will contend that, after he confronted Goodell in early 2023, the NFL decided to go in a different direction.