

RECENT SPECIAL MASTER AND COURT DECISIONS

These recent Special Master Decisions have been added to the Portal since June 1, 2023:

1. Monetary Award Claims – Special Master Appeal Decision: [Validity Testing](#)

July 14, 2023

The NFL Parties appealed the Claims Administrator's determination that a Retired NFL Football Player was entitled to a Level 1.5 Neurocognitive Impairment Monetary Award on the grounds of invalid neuropsychological testing. According to the Special Master, the NFL Parties must show by clear and convincing evidence that the Player's test data was not "a valid reflection of his optimal level of neurocognitive functioning," based on his performance on the nine Slick validity criteria. The NFL Parties asserted that he failed two Slick criteria (#1 and #7) and both the AAP Consultant and AAP Member who reviewed the claim agreed. The Special Master determined that no deference was due to the evaluating neuropsychologist because he provided no explanation or context with his Slick checklist. Thus, the AAP was to "thoroughly and independently" evaluate the file, however, the AAP panel members disagreed as to whether the failure of the two Slick criteria was sufficient to determine the evaluation invalid. The Special Master found that the disagreement itself indicated that the NFL Parties did not satisfy their burden of showing clear and convincing evidence that the Player is not entitled to an award, and denied the appeal.

2. Audit – Special Master Decision: [Byron Cuthbert and Associates, LLC](#)

June 28, 2023

On June 28, 2023, pursuant to Rule 27 of the Rules Governing the Audit of Claims, the Special Masters issued a Decision on the Audit Proceeding regarding Byron Cuthbert and Associates, LLC. This Decision is redacted to conceal the identities of certain parties. The Decision directs the Claims Administrator to suspend processing of Monetary Award claims submitted by Settlement Class Members both currently and formerly represented by Mr. Cuthbert, and to deny certain claims that exhibit issues central to the Audit, including those that rely on PET scans from Dr. Daryl Eber of 3T Radiology & Research. The Decision also directs the Claims Administrator, after certification to the Special Masters, to resume processing of claims that are entirely free of the issues discussed in the Audit.