

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Appeal 2026-11

THIS DOCUMENT RELATES TO:
APPEAL OF SETTLEMENT CLASS
MEMBER [REDACTED]
REGARDING DENIAL OF
MONETARY AWARD

has observed that he misplaces items, leaves clothes in the washer for days, and sometimes forgets to close the refrigerator relying on its beeping reminder. His involvement in household chores has decreased. Aside from turning on the floor-cleaning robot, he no longer helps much around the house because his fiancée has taken over due to mistakes he was making. While he used to cook regularly, she now handles most of the cooking, as his meals sometimes contain too much of an ingredient or are over- or undercooked. She has also noticed changes in his hygiene; he occasionally forgets to brush his teeth or put on deodorant, which is previously unlike him. In the past, he took care to dress well, but she notes that he no longer does so. Financially, he is not in charge of his expenses and relies on a financial advisor. His bills are set to autopay because he had difficulty managing them in the past. When driving, he sometimes zones out and has taken wrong turns, requiring his fiancée's help to get back on track. He has been relying more on GPS for navigation. He has also noticed occasional speech issues, sometimes catching himself slurring his words or getting stuck mid-sentence. His daughter lives with him part-time, and he has occasionally picked her up when it was not his turn due to forgetfulness. Just yesterday, he went to pick her up from school, not realizing there was no school that day. He is in the process of adjusting his custody agreement to help manage these challenges.

He does not have any hobbies but goes to the gym about three times a week. During the day, he spends time watching television and taking his daughter to tennis practice. He is not very social and has noticed that he becomes irritated more easily. He struggles to be around large groups of people and finds it difficult to socialize for extended periods. In the past, he was more outgoing.

Id. at 1-2.

In his report, Dr. [REDACTED] also discussed the neuropsychological testing performed by Dr. [REDACTED] in January 2025 and the third-party affidavit that accompanied Mr. [REDACTED] claim. He summarized the third-party affidavit:

They have been best friends since 2005-2006 and have noticed a change in interpersonal relationships especially involving his immediate family. Also his hygiene and cleanliness had significantly declined aided only by his getting engaged and moving in with his fiancée who has taken over most of the household duties. He no longer enjoys previous hobbies and has developed an obsession with conspiracy theories. His appearance and hygiene have declined significantly and he may not abide by rules such as a dress code. He may not bathe for days, wear deodorant, or wear dirty or stained clothes “looking like he was in Castaway”. He has also forgotten to flush the toilet after using it or has urinated on the seat or floor without cleaning up after himself. He no longer enjoys social situations or participating in charitable events. He has trouble maintaining conversations with people including losing his train of thought and stuttering. It is difficult to get him to go out socially. [REDACTED] noted that his position on the charity board was impacted

by ratings online concerning him which were low due to his postings about his conspiracy theories. They note that he drives but only locally due to his getting lost or getting frustrated on the road. In public he has become paranoid thinking that people are staring at him or talking about him and others have had to diffuse the situation before he confronts someone.

Id. at 4.

Both BAP examiners signed Mr. [REDACTED] Diagnosing Physician Certification Form, asserting a Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment and a date of Diagnosis of April 1, 2025. Doc. 394156.

The Claims Administrator referred Mr. [REDACTED] claim to an Appeal Advisory Panel (AAP) Member who disagreed with Dr. [REDACTED] and found that Mr. [REDACTED] documented functional impairment only supported an overall CDR score of 0.5. Doc. 401964. The Claims Administrator adopted the AAP Member's judgment in the Notice of Denial:

Criterion (iii): Dr. [REDACTED] reported (Doc ID 387496) that the Player continued to drive but with problems, was less social, had decreased involvement for household chores, no longer cooked regularly, relied on a financial advisor and used autopay for bills, left clothes in the washer, forgot to close the refrigerator, had a decline in appearance, did not have hobbies except going to the gym three times per week, watching TV, and taking his daughter to tennis practice, misplaced items, occasionally forgot to brush his teeth or put on deodorant, and had scores of 1 for Community Affairs, Home/Hobbies, and Personal Care, with an overall CDR score of 1.

The CDR Worksheet (Doc ID 387497) reported the Player no longer worked but memory/thinking problems did not contribute to the decision to retire, he continued to drive with problems/risks due to poor thinking, he was sometimes able to shop and usually was able to carry out activities outside the home independently, a casual observer would think he was ill, he continued to take out the garbage and mow the lawn, he functioned in limited activities for household chores and was no longer able to do simple chores such as cleaning and putting away dishes or clothes. He went to the gym for hobbies, scores of 0 were circled for eating and sphincter control, and scores of 1 were circled for dressing and washing/grooming.

The third-party affidavit (Doc ID 387501) corroborated that the Player did not work, continued to drive but with problems, was less social, needed assistance to shop, did not clean his home well and let dishes/garbage pile up, his fiancée did most of the cooking, he had less interest in painting, had interest in conspiracy theories, no longer went to the gym, forgot to flush the toilet, had a decline in appearance, re-wore clothes, did not always bathe every day, went 1-2 days without brushing his teeth, and did not wear deodorant.

External evidence (Doc ID 395800) indicated concern that the Player worked as a manager for a business in 2022 and 2023 and continued to participate in a Podcast in 2024. Audit responses (Doc ID 396005) clarified the Player did not work as manager for a business in 2022 or 2023, but instead had registered a business for tax reasons, but then forgot about it and the business was never used and never functioned in any way. He participated in Podcasts three times in the last 3-4 years but with problems, and the final videos were edited to remove speech difficulties.

Overall, the information would support a score of 0.5 for Community Affairs, since while problems were reported, the Player is still able to drive, sometimes shop, and usually carry out activities outside the home independently, including participating in Podcasts (even though he participated in these at home via Skype, this would still be an outside activity); a score of 0.5 for Home/Hobbies, because while the Player is reported to not be able to clean or put away clothing/dishes, and left clothes in the washer, he was also reported to be able to take out the garbage, mow the lawn, and continued hobbies such as going to the gym three times per week, watching TV, and taking his daughter to tennis practice; and a score of 0 for Personal Care, since occasionally forgetting to brush teeth or put on deodorant would not indicate consistent need for reminders to perform daily activities. Consequently, an overall CDR score of 0.5 would be supported. Therefore criterion (iii) is not fulfilled.

Id. at 2.

The Claims Administrator denied the Claim on August 5, 2025. Mr. [REDACTED] timely appealed on August 15, 2025.

I remanded that Appeal on October 14, 2025 so that the Claims Administrator could audit the Claim based on new information.¹ The Claims Administrator sought further information about Mr. [REDACTED] coursework at the University of [REDACTED] and Nonemployee Compensation reported on his tax records, as well as about an appearance on a podcast that was published on June [REDACTED]. Docs. 411102; 411592. The Audit Evidence indicated that Mr. [REDACTED] is not now enrolled at the University of [REDACTED] did not pursue coaching jobs, and that the 2024 Form 1099-NEC was used for an isolated event of signing memorabilia. Doc. 412700. On November 6, 2025 the Claims Administrator found that there was no reasonable basis to conclude that there was a “misrepresentation, omission, or concealment of a material fact.” Doc. 412780.

On November 21, 2025, the Claims Administrator, denying Mr. [REDACTED] Claim, offered the same reasoning as that contained in the first Notice of Denial. Doc. 414992.

¹ Mr. [REDACTED] claims that the Claims Administrator’s statement that the remand was to consider new evidence is “without merit” because the new information could only have resulted in a denial. I don’t fully understand this argument. I remanded because Mr. [REDACTED] had submitted New Evidence with the Claim which might have affected the Claims Administrator’s judgment—perhaps it could have corroborated the original submission, or perhaps it raised new issues that an Audit could parse. Ultimately, neither turned out to be true and the Administrator essentially reissued its earlier decision.

Mr. ██████ filed this Appeal on December 22, 2025. Doc. 418438.

RESOLVING THIS APPEAL

To prevail on appeal, Mr. ██████ must show, by clear and convincing evidence, that the Claims Administrator erred in adopting the AAP Member's conclusion that he did not meet the Settlement's requirements for functional impairment under the BAP.²

A Level 1.5 Diagnosis obtained through the BAP requires CDR scores of 1.0 in the areas of Community Affairs, Home and Hobbies, and Personal Care.³ Mr. ██████ diagnosing neurologist, Dr. ██████ concluded that his functional impairment justified those scores. At issue here is whether or not the Claims Administrator should have deferred to Dr. ██████ judgment.

The Claims Administrator will defer to articulated and reasoned medical judgments.⁴ Descriptively, it is particularly solicitous of diagnoses obtained through the BAP, given the Program's design and the Administrator's visibility into its operations.⁵ However, deference is neither compulsory nor automatic: the "the degree of (and justification for) deference will wax with the carefulness of the underlying reasoning. cursory reports will fairly provoke more skepticism than thoughtful assessments."⁶

Here, the ultimate problem is that Dr. ██████ did not provide an internally coherent justification for Mr. ██████ CDR scores. The Claims Administrator's adoption of AAP Member's conclusions rather than Dr. ██████ is not clear and convincing evidence of error.⁷

A score of 1.0 in Community Affairs requires that Mr. ██████ be "[u]nable to function independently" at a job, shopping, volunteer or social groups, even if he "appears normal to casual inspection." Doc. 387497. But on the CDR worksheet, Mr. ██████ continues to drive, sometimes shops, and usually is "able to independently carry out activities outside the home." *Id.* at 4. Dr. ██████ did not explain how the answers in this worksheet, or his own narrative, in which he describes Mr. ██████ continued driving, participation in social events, and attendance at his daughter's tennis practices, were compatible with a score of 1.0 in Community Affairs. The AAP focused on just this inconsistency: "while problems were reported, the Player is still able to drive,

² Class Counsel, filing a supportive brief, argues that the BAP administrator consults the AAP in the BAP diagnosis process, that Claim should not be subject to AAP review, absent new relevant evidence. Doc. 429005. I appreciate the force of this argument as a matter of efficient claim processing. Here, however, the BAP Administrator did not consult with the AAP about functional impairment before the diagnosis was finalized. Further, there is no textual authority in the Settlement to limit the Claims Administrator's duty to assure itself that Qualifying Diagnoses are sufficiently supported.

³ Settlement Agreement, Exhibit A-1(1)(a)(iii).

⁴ Special Master Ruling on Stroke Definition, at 8 (Apr. 25, 2022), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=stroke_SM_2.pdf.

⁵ Special Master Ruling on In re: Appeal of SPID #100009213, 2026-6 at 5 (Mar. 25, 2026), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=appeal_100009213_2026_6.pdf.

⁶ Special Master Ruling on Stroke Definition, at 9 (Apr. 25, 2022), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=stroke_SM_2.pdf.

⁷ Although the Denial Notice cites external evidence of podcasts, the Audit Evidence indicates that these events were from years prior to the diagnosis, and they do not buttress the finding. Doc. 412700.

sometimes shop, and usually carry out activities outside the home.” It therefore felt constrained to advise that the records could sufficiently support only a score of 0.5 in Community Affairs. Doc. 414992 at 2.

A score of 1.0 in Home and Hobbies requires “mild but definite impairment of function at home,” including abandonment of more difficult chores and hobbies. Doc. 387497. The CDR worksheet, and Dr. ██████ report, indicate that Mr. ██████ still participates in some household chores and hobbies, like taking out the trash, mowing the lawn, and going to the gym. *Id.* at 5; Doc. 387496. Although Mr. ██████ argues on appeal that his documented functioning reflects a significant decline from his prior engagement with his hobbies, no such decline is discussed in Dr. ██████ contemporaneous report. Doc. 418437 at 3-4. The AAP therefore again advised that a score of 0.5 was most appropriate:

[Mr. ██████ is reported to not be able to clean or put away clothing/dishes, and left clothes in the washer, [but] he was also reported to be able to take out the garbage, mow the lawn, and continued hobbies such as going to the gym three times per week, watching TV, and taking his daughter to tennis practice.

Doc. 414992 at 2.

Finally, a score of 1.0 in Personal Care requires the Mr. ██████ need prompting for dressing, hygiene and self-care. Dr. ██████ report states that Mr. ██████ “occasionally forgets to brush his teeth or put on deodorant.” Doc. 387496 at 2. While the third-party affidavit emphasizes that Mr. ██████ “[n]ever wears deodorant” and has “stained yellow” teeth, Dr. ██████ explanation is more directly connected to Mr. ██████ CDR score in this area. The AAP relied on Dr. ██████ own reporting to advise that a score of 0 for Personal Care was more consistent with the evidence. Doc. 414992 at 2.

Judgment calls about whether a Claimant has met the binary thresholds set out by the Settlement, given the complexity of the real world of inconsistency and complex expressions of functional loss in a population of retired professional athletes, continue to make the Settlement’s determinations challenging and controversial. That is why they are left first to examining physicians, who are charged to justify their choices with clear reasoning, and second to the Claims Administrator, which seeks to ensure that like cases are treated as such. My role on appeal is generally to “police the process, not the outcomes” in this review system.⁸

Here, the AAP, in advising the Claims Administrator, appropriately paid attention to the quality of the documentation of functional loss the Claimant and his physician collected and paid attention to what his Diagnosing Physician said and did not say about discrepancies. After engaging in a thoughtful and careful process, it determined that the available evidence was not sufficiently consistent with the Injury Definition for Level 1.5 Neurocognitive Impairment.

⁸ Special Master Ruling on Neuropsychological Testing: Slick Criteria and Validity Testing, at 12 (Oct. 21, 2020) https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=slick_validity_testing_sm.pdf.

The record of Mr. [REDACTED] function is mixed, and reasonable minds clearly can and do disagree about its import. But my role on appeal is not to start from scratch, but rather to determine if Mr. [REDACTED] has shown, by clear and convincing evidence, that there was error in the Claims Administrator's decision to deny his Claim. That is, is it "highly probable or reasonably certain" that he was entitled to an Award.⁹ I conclude that Mr. [REDACTED] has not surmounted that high hurdle.

CONCLUSION

Because Mr. [REDACTED] has not offered clear and convincing evidence that the Claims Administrator erred, I deny his Appeal.

Date: April 29, 2026



David A. Hoffman, Special Master

⁹ *Id.* at 10 (quoting *In re Fosamax Alendronate Sodium Prods. Liab. Litig.*, 852 F.3d 268, 285–86 (3d Cir. 2017)).