

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Appeal 2026-6

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

to go back to the home multiple times to retrieve things that he has forgotten, leaving the stovetop burner on and forgetting to turn it off.” *Id.*

The BAP Administrator, after receiving this report,² in April 2025 noted that Dr. [REDACTED] had not had the chance to look at Mr. [REDACTED] third-party affidavit. It asked him to log back into the portal and review the files, before providing an “addendum clarifying whether the information corroborates the CDR scores you assigned.” Doc. 389068. It followed up a month later (Doc. 390962) and one week after that. Doc. 392199.

Finally, on May 27, 2025, Dr. [REDACTED] assistant responded that on reviewing the additional documentation for Mr. [REDACTED] and other patients, “none of the diagnoses have changed . . . but all have an addendum added to their reports.” Doc. 393648.

The next recorded event in the Claim occurred on July 17, 2025, when the BAP Administrator issued a results letter, stating that two Qualified BAP Providers had agreed that a Level 1.5 Diagnosis had been appropriately supported. Doc. 399659. Dr. [REDACTED] and Dr. [REDACTED] certified the Diagnosis. Doc. 399660. A few days later, Mr. [REDACTED] filed a Claim Form. Doc. 400009.

A month later—and now acting in its role as Claims Administrator—BrownGreer emailed Dr. [REDACTED] assistant again. Doc. 404513. It reported that an Appeals Advisory Panel Leadership Council neurologist, which it consulted as a part of the normal process of claim review under Section 8.6(b) of the Settlement Agreement, had questions about the conclusions Dr. [REDACTED] had reached following his March 25, 2025, exam. It wrote:

Please review the feedback and provide an addendum clarifying whether the Player is able to drive, even with GPS, and if he is able to function outside of the home independently. In addition, please note the following observation from AAPLC:

Please remember that a score of 1.0 for Community Affairs should indicate an individual who is not able to function independently outside the home which, would not appear to be consistent with continued running of a ranch, meeting with friends for meals on a regular basis, and driving even with GPS. Please remember that a score of 1.0 for Home/Hobbies should indicate an individual with definite impairment in these activities, abandonment of chores, and abandonment of hobbies.

Id.

In September of 2025, Dr. [REDACTED] office uploaded documents reflecting a revised CDR rating following this feedback. While in March of 2025, Dr. [REDACTED] had identified functional deficits consistent with a score of 1 in Community Affairs, 1 in Home and Hobbies, and 0 in Personal Care, with an overall score of 1, those scores now changed. Retaining the same anchor

² The appointed roles of BAP Administrator and the Claims Administrator are now both held by BrownGreer. Which hat it wears depends on where in the claims preparation and submission process it is acting.

text, Dr. [REDACTED] assigned a new score of 0.5 in Community Affairs, maintained the 1 in Home and Hobbies, and 0 in Personal Care, but offered a materially different overall rating of 0.5. Doc. 407001.

On December 16, 2025, the Claims Administrator denied the Claim. It agreed that Criterion (i), (ii) and (iv) were satisfied. But regarding criterion (iii), it wrote:

Criterion (iii): On 3/10/2025, Dr. [REDACTED] reported (Doc ID 382392) the Player was retired, but also continued to run a ranch, and was less social and less involved in community activities, but continued to get together with friends once a month for lunch and/or dinner. He forgot to lock up and feed animals on his ranch, required help to run his ranch, forgot items, which required multiple trips back to his house to retrieve, and left the stovetop burner on. Dr. [REDACTED] listed an overall CDR rating of 1, noting that the Player had deficits in the Community Affairs and Home/Hobbies categories. The CDR Assessment Form dated 3/10/2025 (Doc ID 382390) noted similar functional impairments, but also that the Player depended on GPS (presumably when driving), forgot to lock up at home, and that his wife usually oversaw any issues at home, and reported scores of 1 for Community Affairs, 1 for Home/Hobbies, and 0 for Personal Care, with an overall CDR score of 1.

The third-party affidavit by [REDACTED] dated 4/14/2025 (Doc ID 401262) corroborated that the Player was forgetful, less social, repeated himself a lot more, spent more time at home, participated less in gardening as a hobby, had a decline in appearance, and might not eat regular meals.

Overall, the information is not clear regarding the score for Community Affairs, since problems are reported, but the Player continues to run his ranch, which would suggest a score of 0.5, although the Player is reported to need help running the ranch, which would then support a score of 1 for Community Affairs. However, the Player is also reported to get together with friends once a month for lunch and/or dinner, which would indicate continued ability to function independently outside the home, as well as presumably drive with GPS (although it is not clear that he drives, since all that was reported was that he relied on GPS). Otherwise, the information would support a score of 0.5 for Home/Hobbies, since there is report of questionable problems, such as forgetting to turn off burners or lock doors, but not inability to perform household chores or abandonment of hobbies, since he is reported to continue his hobby of gardening; and a score of 0 for Personal Care (no impairment reported for these activities).

The Claims Administrator contacted Dr. [REDACTED] on 8/25/2025, for clarification as to whether the Player was able to drive, even with GPS, and if he was able to function outside of the home independently. Dr. [REDACTED] clarified in documents uploaded on 9/17/2025 (Doc IDs 407001, 407002, 407004, 407005, 407006, 407336, and 407417) that the score for Community Affairs should be 0.5, the score

for Home and Hobbies should be 1, and the score for Personal Care should be 0, with an overall CDR score of 0.5. Given the amended overall CDR score of 0.5, the Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment is no longer supported. Therefore criterion (iii) is not fulfilled.

Doc. 417656.

Mr. [REDACTED] filed a timely appeal. Doc. 419789.

RESOLVING THIS APPEAL

Mr. [REDACTED] Appeal first attacks the process by which the Claims Administrator questioned and then rejected Dr. [REDACTED] March 2025 CDR evaluation in favor of the results he uploaded in September of that same year. Second, Mr. [REDACTED] argues that on the merits, he had sufficiently established the requisite degree of functional impairment to make the Claims Administrator's contrary judgment wrong, by clear and convincing evidence.

The Appeal's procedural argument asserts that the Claims Administrator can only properly reject a Claim derived from the BAP when the Diagnosing Physicians disagree under Section 5.13 of the Agreement. Otherwise, BAP Diagnoses should be "binding." Mr. [REDACTED] charges that unsettling such a fixed determination violates the Settlement Agreement and associated guidance: the only appropriate path to challenging a BAP result is for the NFL Parties to file an appeal.

As the NFL Parties have cogently replied, Mr. [REDACTED] is not the first to advance this understanding of the BAP Program. In her December 27, 2022 Order responding to a Motion for Relief under Article XXVII of the Settlement Agreement, Judge Brody directly rejected the claim that BAP Diagnoses must or can be automatically accepted by the Claims Administrator. She wrote:

Movants rely heavily on a different portion of Special Master Hoffman's Decision, in which he writes that the AAP "should defer to the articulated medical judgments of examining [providers]." . . . But deference is not the same thing as blind and automatic acceptance. AAP review of the medical records underlying Claims Packages is integral to attaining the diagnostic accuracy administration of the Settlement requires, and is expressly provided for by the terms of the Settlement Agreement.

....

A BAP diagnosis is not an automatic rubber stamp for a Class Member to receive a monetary award. Rather, the BAP program is distinct from the claims review process, and BAP diagnosis is simply only one component of a successful Claim Package, which must be reviewed by the Claims Administrator . . . [T]he Claims Administrator may request AAP review of the medical records underlying a Claim

Package in making a determination of whether a Class Member is entitled to receive a Monetary Award, regardless of whether there are conflicting diagnoses.³

The Court's determination disposes of Mr. ██████ argument. Under Judge Brody's order, it was perfectly appropriate for the Claims Administrator to ask its independent medical advisors to opine on Mr. ██████ Claim, and to offer Dr. ██████ feedback suggesting that his textual comments conflicted with the scores he had given. Indeed, this very process of back-and-forth supplementation was "integral" to vindicating the Settlement's important goal of "diagnostic accuracy." Dr. ██████ himself, when encouraged to think carefully about his medical judgment, concluded that Mr. ██████ retained function in community engagement (such as owning and helping to operate a ranch) was inconsistent with a finding of mild impairment in that domain.

The appropriateness of the Claims Administrator's process also bears on the merits. Mr. ██████ argues that his functional impairment was generally consistent with a score of 1.0 in Community Affairs and Home and Hobbies. But both Dr. ██████ and the AAP Member ultimately agreed that a score of 0.5 in Community Affairs better fit the record. And they concurred that Mr. ██████ could demonstrate only a 0.5 overall score. Though Mr. ██████ would weigh the facts differently, his briefing identifies no piece of information the physicians overlooked, and no error in how they applied the scoring system.

I appreciate that these judgments are nuanced, which is precisely why they should typically be left to the articulated views of examining physicians, particularly those making diagnoses through the BAP. Here, that neurologist, when prompted to articulate his views in light of the CDR, concluded that Mr. ██████ day-to-day activities were inconsistent with the Qualifying Diagnosis he had earlier thought appropriate. The Claims Administrator was not wrong to conclude, based on that revised set of views, and the advice of its own independent advisor, that the record evidence does not sufficiently support the asserted Qualifying Diagnosis.

Ultimately, I conclude, based on the considered views of the diagnosing neurologist and the AAP, that Mr. ██████ medical records are not generally consistent with the requisite level of functional impairment for a Level 1.5 Award.

CONCLUSION

I regret that Mr. ██████ was first told he had a Qualifying Diagnosis under the BAP, and then rejected by the Claims Administrator for that very same condition, without any new medical examination or change in the underlying record. That is a painful sequence, and I do not minimize it. Discarding BAP Diagnoses should be, and is, exceedingly rare. But the District Court's direction was unambiguous: BAP diagnoses must go through the same review process as those made through the MAF Program. Iterated scrutiny will occasionally produce outcomes like this one.

³ ECF No. 11931, Explanation and Order Denying 11813 Motion for Relief (December 27, 2022).

Mr. [REDACTED] plainly suffers from real cognitive and functional limitations. That they do not presently meet the threshold for a Monetary Award does not make them any less disabling. I encourage him to undergo retesting and, if appropriate, to submit a new Claim.

Date: March 25, 2026



David A. Hoffman, Special Master