

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Appeal 2026-14

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

Regarding corroboration of functional impairment, which is criterion (iii) of the Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment, Section 1(a)(iii) of Settlement Agreement Exhibit A-1 states:

Such functional impairment shall be corroborated by documentary evidence (e.g., medical records, employment records), the sufficiency of which will be determined by the physician making the Qualifying Diagnosis. In the event that no documentary evidence of functional impairment exists or is available, then (a) there must be evidence of moderate to severe cognitive decline from a previous level of performance, as determined by and in accordance with the standardized neuropsychological testing protocol annexed in Exhibit 2 to the Settlement Agreement, in the executive function cognitive domain or the learning and memory cognitive domain, and at least one other cognitive domain; and (b) the Retired NFL Football Player's functional impairment, as described above, must be corroborated by a third-party sworn affidavit from a person familiar with the Retired NFL Football Player's condition (other than the player or his family members), the sufficiency of which will be determined by the physician making the Qualifying Diagnosis.

Your functional impairment was corroborated by a third-party sworn affidavit. However, after application of the New Method, your neuropsychological testing results show impairments only in the domains of Complex Attention and Language. Because you have Level 1 impairment in the domain of Learning and Memory, and do not have in the domain of Executive Function, your diagnosis does not meet the Settlement criteria for Level 1.5 Neurocognitive Impairment unless you can provide documentary evidence of functional impairment, such as medical or employment records that corroborate the functional impairment. The 2017 medical records in your file are not sufficient to corroborate your current functional impairment.

Doc. 392541. Mr. [REDACTED] submitted additional records, including two prior neuropsychological assessments conducted by non-MAF clinicians in 2014 and 2015 and a 2014 NFL Disability Benefits Award Letter. Doc. 407041.¹

The Claims Administrator denied Mr. [REDACTED] Claim on November 5, 2025 on the basis that Mr. [REDACTED] had not provided documentary evidence of his functional impairment:

Regarding criterion (iii): Dr. [REDACTED] reported that the Player was not working, lived at home with his children and his girlfriend was regularly at the home, completed a bachelor's degree in 2015, continued to drive short distances, went out socially about once a month, did not like to be around people, attended his children's events, did physical therapy two days per week, denied hobbies, no longer cooked, no longer mowed the lawn, no longer performed chores or shopping, his bills were on autopay, his girlfriend managed his medications and appointments, was

¹ The non-MAF clinicians had both been previously disqualified from participation in the Program.

independent for showering and dressing, had scores of 1.0 for Community Affairs and Home/Hobbies, a score of 0 for Personal Care, and an overall CDR score of 1.0.

The CDR Assessment form also reported scores of 1.0 for Community Affairs and Home/Hobbies, a score of 0 for Personal Care, and an overall CDR score of 1.0. The CDR Worksheet reported the Player was no longer working, continued to drive but with problems/risks due to poor thinking, rarely/never was able to shop or carry out activities outside the home independently, a casual observer would think he was ill, forgot trash and laundry for chores, no longer cooked, had difficulty making the bed, no meaningful function for household chores, scores of 0 were circled for washing/grooming, eating, and sphincter control, and a score of 1 was circled for dressing, and scores of 1.0 were circled for Community Affairs and Home/Hobbies, a score of 0 for Personal Care, and an overall CDR score of 1.0.

Dr. [REDACTED] reported the Player no longer worked, continued to drive short distances, did not do household chores, during the day he went to physical therapy on Tuesdays and Thursdays, attended his kids' events, and the Player's girlfriend managed the finances/medications/appointments, and chores.

A third-party affidavit (Doc ID 387176) corroborated many of the functional impairments.

However, Section 1(a)(iii) of Settlement Agreement Exhibit A-1 states that a Player's functional impairment can only be corroborated by a third-party affidavit if there is evidence of moderate to severe cognitive decline in the Executive Function cognitive domain or the Learning and Memory cognitive domain, and at least one other cognitive domain. The Player's neuropsychological testing reports only Level 1 Impairment in the domain of Learning and Memory, and No Impairment in the domain of Executive Function. Therefore, the Player's functional impairment must be corroborated by documentary evidence (e.g., medical records, employment records).

Prior evaluation notes (Doc ID 176452) were from 2017 and so would not be able to serve as documentary evidence to corroborate the current functional impairments. Additional documentary evidence (Doc ID 407041) included an NFL Disability Benefits Award letter from 2014, prior evaluations by Dr. Dolan-Henderson in 2014, Dr. Fuerst in 2015, Dr. [REDACTED] in 2017, and Dr. [REDACTED] in 2017, which are all very outdated (from 7-11 years prior to the current evaluation) and consequently would not be expected to describe the current functional abilities/impairments, as well as a summary of the functional impairments reported by Dr. [REDACTED] in 2024 which is the current evaluation and so this cannot serve as documentary evidence to corroborate itself, and a Social Security Benefit Verification Letter dated 9/11/2025. Consequently, there is no independent corroboration of the functional

abilities/impairments except old evaluations from 7-11 years prior to the current evaluation. Therefore criterion (iii) is not fulfilled.

Doc. 412633.

Mr. ██████ appealed on January 20, 2026. Doc. 421416.

RESOLVING THIS APPEAL

A Diagnosis of Level 1.5 Neurocognitive Impairment requires that Mr. ██████ “exhibit functional impairment generally consistent with the criteria set forth in the National Alzheimer’s Coordinating Center’s Clinical Dementia Rating (CDR) scale Category 1.0 (Mild) in the areas of Community Affairs, Home & Hobbies, and Personal Care.”² Dr. ██████ assigned Mr. ██████ scores of 1.0 in Community Affairs and Home and Hobbies and a score of 0 in Personal Care, for an overall CDR score of 1.0. Doc. 387178. The Claims Administrator accepted Dr. ██████ scoring in its Denial Notice. Doc. 412633. The issue on appeal is solely whether Mr. ██████ Claim included sufficient corroboration of his functional impairment under the Settlement.

The Settlement provides two ways to corroborate functional impairment: documentary evidence *or* a third-party affidavit and specific neuropsychological test scores. Documentary evidence includes “medical records showing the Player’s declining ability to function, employment records citing the Player’s condition, or other materials referencing his cognitive function,” the sufficiency of which must be determined by the Diagnosing physician.³

Here, the only documentary evidence Mr. ██████ submitted to Dr. ██████ were the two rounds of neuropsychological testing conducted by Dr. ██████ in 2017 and 2024. The latter evaluation was done as a part of this Claim and obviously cannot constitute separate documentary evidence. And the Claims Administrator did not err in concluding that Dr. ██████ 2017 testing, standing alone, did not sufficiently corroborate the Qualifying Diagnosis.

Mr. ██████ is correct that the Settlement imposes no strict requirement that documentary evidence be contemporaneous with testing.⁴ Longitudinal documentation can certainly be valuable in corroborating functional impairment, particularly when a body of longitudinal documentation traces a Player’s deteriorating functioning over time. But a single, isolated, neuropsychological evaluation, conducted seven years prior to Diagnosis, does not constitute such longitudinal evidence. And, as importantly, although the Settlement places the determination of sufficiency in the Diagnosing physician’s hands, it does not appear that Dr. ██████ relied on Dr. ██████ 2017 evaluation as corroborating evidence. She rather wrote in her evaluation that she reviewed the

² Settlement Agreement Exhibit A-1(1)(a)(iii).

³ *Frequently Asked Questions: FAQ #108* (“What must the medical records show for Level 1.5 and Level 2 Neurocognitive Impairment diagnoses made in the BAP by Qualified BAP Providers?”), NFL CONCUSSION SETTLEMENT, <https://www.nflconcussionsettlement.com>.

⁴ *Id.* (“[C]orroborating evidence must be dated on or before the Qualifying Diagnosis date. The diagnosing physician determines whether there is sufficient documentary evidence of functional impairment.”).

third-party affidavit submitted by Mr. [REDACTED] suggesting that she sought to use the Settlement's second path to corroboration.

When corroboration rests on a third-party affidavit, the Settlement *also* requires “evidence of moderate to severe cognitive decline from a previous level of performance, as determined by and in accordance with the standardized neuropsychological testing protocol annexed in Exhibit 2 to the Settlement Agreement, in the executive function cognitive domain or the learning and memory cognitive domain, and at least one other cognitive domain.”⁵ But Mr. [REDACTED] neuropsychological testing does not meet that requirement. He was scored at Level 1 Impairment in Learning & Memory and no qualifying impairment in Executive Functioning, falling short of evidence of moderate to severe cognitive decline in those domains. Corroboration via third-party affidavit alone is therefore not permissible under the Settlement.

After receiving the Notice of Preliminary Review explaining this issue, Mr. [REDACTED] did provide additional documentary evidence in support of his Claim, namely neuropsychological assessments from 2014 and 2015 and a 2014 NFL Disability Benefits Award Letter. Doc. 407041. He also submitted more recent records of missed physical therapy appointments as part of this Appeal. Doc. 421418. It is possible that the documentary evidence he has now submitted is sufficient corroboration of his functional impairment. That determination, however, must be made by his Diagnosing neurologist—not by the Claims Administrator or by me—after considering the documentary evidence in the context of an exam, and she did not have that opportunity.

Ultimately, Dr. [REDACTED] evaluation was corroborated either by a single 2017 neuropsychological evaluation or, more likely, on a third-party affidavit without the neuropsychological test scores that would make that reliance permissible. The defective foundation of her Diagnosis cannot be cured by the late-arriving evidence of a different sort. As such, the Claims Administrator did not err in denying Mr. [REDACTED] Claim.

CONCLUSION

Because the Claims Administrator did not err in concluding that Mr. [REDACTED] functional impairment was inadequately supported by either documentary evidence *or* a third-party affidavit and the requisite neuropsychological test scores, I deny his Appeal.

Date: May 26, 2026



David A. Hoffman, Special Master

⁵ Settlement Agreement Exhibit A-1(1)(a)(iii).