UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION	No. 2:12-md-02323-AB Appeal 2026-12 SPID 100014860
THIS DOCUMENT RELATES TO: APPEAL OF SETTLEMENT CLASS MEMBER [redacted] REGARDING DENIAL OF MONETARY AWARD	

[redacted], a Retired NFL Football Player and Class Member under the Amended Class Action Settlement Agreement, filed a Claim for benefits based on a Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment obtained through the BAP. The Claims Administrator found that Mr. [redacted] failed to demonstrate requisite functional impairment and denied his Claim.

On appeal, a panel of the Settlement's independent medical reviewers, applying the relevant Settlement precedents carefully, determined that Mr. [redacted] in fact had demonstrated the functional impairment sufficient to support a Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment. I accept this conclusion and grant the Appeal.

CLAIM HISTORY

This is Mr. [redacted] first Claim. Doc. 369135. It rests on reports by BAP Qualified Providers Dr. [redacted] and Dr. [redacted]

On May 4, 2023, Mr. [redacted] attended an appointment with Dr. [redacted] Doc. 283106. Dr. [redacted] reported that Mr. [redacted] "current concerns" included:

> ongoing problems with his memory and concentration . . . [f]or example, he continues to forget to close the garage door and has problems remembering where he sets his belongings. Regarding driving, he 'has to live by the GPS' since moving to [redacted] because he has had difficulty learning his way around even in areas immediately around his home.
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> His parents continue to help him from afar, as he noted some trouble adjusting to independent living. His mom calls him regularly to make sure he is taking his medication and attending his appointments.

> Regarding finances, Mr. [redacted] parents reportedly helped him set up autopay for his bills before he moved as there is 'no way in hell' he would be able to remember without their help.
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> He also reported that he has had problems keeping up with his kids' scheduled activities. He often forgets to pick them up to take them to their events which has created a lot of tension with his ex-girlfriend.
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> Mr. [redacted] uses a pillbox for his medications but reportedly still forgets to take them as prescribed; Mr. [redacted] noted that his mother usually notices his noncompliance first because he starts 'behaving oddly'.

Id. at 2.

Dr. [redacted] completed a neuropsychological test battery, finding that Mr. [redacted] displayed Level 2 Impairment in the domains of Executive Function and Language, and Level 1.5 Impairment in Visual-Perceptual Processing.[1] Doc. 283105 at 4.

Overall, Dr. [redacted] determined that "per the BAP Clinician's Interpretation Guide, Mr. [redacted] overall impairment rating is Level 2.0," but noted that "these findings need to be corroborated by a CDR administered by a BAP-approved neurologist in the settlement program. Furthermore, these results need to be corroborated by a third party sworn statement and/or medical records." Doc. 283106 at 5-6.

On June 16, 2023, Dr. [redacted] examined Mr. [redacted] Doc. 287008. Dr. [redacted] reported that Mr. [redacted] "mother has been noticing . . . that he delays to respond or pay[] attention, getting worse for the past few years . . . [h]e reports he easily forgets, has to use gps, follows directions otherwise gets lost when he travels." *Id.* at 1.

Dr. [redacted] completed a Clinical Dementia Rating (CDR) Assessment Form. Doc. 300412. In the area of Community Affairs, Dr. [redacted] assigned a score of 1.0, explaining that "[t]he player has memory issues affecting daily activities. He relies on GPS and specific directions for travel, indicating a mild but definite difficulty in functioning independently." *Id.* at 2.

For Home & Hobbies, Dr. [redacted] calculated a score of 1.0, justifying the conclusion by noting "[w]hile the player manages his daily routines, he has abandoned more complicated hobbies and interests due to memory issues." *Id.* at 3. Finally, in Personal Care, Dr. [redacted] assigned a score of 1.0, reasoning that "[t]he player seems to manage personal care with some reported issues." *Id.*

[1] He displayed No Impairment in the other domains, Complex Attention & Processing Speed and Learning and Memory. Doc. 283105 at 4.

Dr. [redacted] found an overall CDR rating of 1.0, concluding that "[t]he player exhibits mild cognitive impairment, primarily affecting memory, impacting daily living and hobbies but not significantly impairing personal care." *Id.* at 4.

In March 2024, Mr. [redacted] submitted multiple third-party sworn statements. Doc. 318129. [redacted], Mr. [redacted] godmother, reported that:

> [h]e is poor at driving and he relies on GPS everywhere and more now than ever. I guess he backed the car into the garage . . . [h]e has a very short attention span . . . you gotta remind him to stay on task even in a conversation and I mean doing tasks for him is super difficult . . .
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> His mom takes care of everything for him . . . [h]is mom helps him with shopping. And you know, sometimes his kids have to help with just basic shopping because he doesn't pay attention well anymore. Because going to the grocery store is utterly impossible because he would forget things at the grocery store or lose track of what he needed to buy or he loses track or forget what he even came there for. I've seen it myself.
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> His mom has to help him setting up auto pay for his bills because there is no way he would be able to remember without their help. There's just no way . . . [i]n keeping up with his kid's schedules, he most definitely needs help with that.

Id. at 3 (breaks added).

As for Mr. [redacted] hygiene, Ms. [redacted] was emphatic:

> His hygiene is awful. It's awful and worse than it was before. He doesn't really think or he gets distracted or he doesn't process things. He just doesn't think, he gets distracted. He is DUSTY. I mean he's dusty to just tell the truth here he is nasty.
>
> He's NASTY! Just the personal hygiene, I'm talking about laundry. Doesn't do no laundry, I mean, somebody has to help him with the laundry . . . If he didn't have help oh my God, it would be like hoarders. And I mean, everything, as far as groceries, somebody has to come in and remove the expired stuff because everything spoils and it just I mean daily tasks like taking out the trash like 'Did you take your trash out?' You know, you gotta make sure I've cleaned for him.

Id. (breaks added).

Ms. [redacted] concluded:

> [h]e doesn't pay attention. He gets distracted . . . it's kind of scary because I mean, we kind of encourage him to try to really cook because he has left the stove on in the

> past. This has happened more than one time. Set off the fire alarm, [redacted] left the pot or something on the stove, constantly replacing cookware because he burns them up . . .
>
> [redacted] is not the safest driver either he doesn't pay attention like he used to. He doesn't pay attention. He just said, oh, I didn't see that. I didn't see that. I didn't see that. I'm like how could you not see that?

Id.

[redacted], Mr. [redacted] friend, similarly reported that "[Mr. [redacted] mom and dad and sometimes sister help him a lot, because he's not himself because of forgetfulness and distractibility and really poor decision-making, his mom always says that." *Id.* at 8. Moreover,

> I've noticed him looking like he is not taking care of his hygiene. Clean up behind him. His mom she has to clean up for him because he'll forget to clean up after himself. He's a lot dirtier than he used to be. I know he messed up his car a couple of times. His mom told me that he messed up the car. He used to be very active in the community . . . [n]ot anymore.

Id.

When he submitted these statements, Mr. [redacted] also turned over other documentary evidence, including: pictures showing damage to two different cars, a letter from the Internal Revenue Service showing outstanding tax liability, a letter indicating that Mr. [redacted] failed to appear in court pursuant to a citation for running a stop sign, and a record of Mr. [redacted] unpaid credit card debt. *Id.* at 11-15, 26.

On November 13, 2024, Dr. [redacted] reviewed Dr. [redacted] report, the third-party sworn statements, and the documentary evidence. Doc. 366909. He concluded that he "agree[d] with Dr. [redacted] Overall CDR Score of 1.0. Therefore, the Overall CDR score of 1.0 modifies the results of my neuropsychological evaluation down from a Level 2.0 to an overall NFL Concussion Settlement rating of Level 1.5." *Id.* at 2.

On December 4, 2024, Mr. [redacted] filed a Claim for Level 1.5 Neurocognitive Impairment. Doc. 369135.

The Claims Administrator wrote to Mr. [redacted] on December 10, 2024, raising questions related to certain newly discovered external evidence. Doc. 369919. First, it asked Mr. [redacted] about his employment history, noting that while documents included with Mr. [redacted] Claim reported that he had not worked since 2014, a 2022 online article indicated that he was "coaching at [redacted] in [redacted], as well as teaching at the school at that time." *Id.*

Second, the Claims Administrator probed Mr. [redacted] ability to attend social events; while Dr. [redacted] and Mr. [redacted] mother indicated that he attended no social events, the Claims

Administrator "observed a Facebook post of you attending a college football game on 10/16/22." *Id.*

> On December 19, 2024, Mr. [redacted] responded. Doc. 371205. He clarified that he was
>
> not currently working at [redacted] . . . I believe I only worked there for one school calendar year from 2013 to 2014 . . . [w]hile the article is dated, [redacted], 2022, I believe the information in the article may have been published around 2014 or 2015.

Id. at 1. A letter from [redacted] Human Resources department confirmed that Mr. [redacted] worked for the school from August 2014 to June 2015. Doc. 371597.

As for the Claims Administrator's inquiry regarding social activities, Mr. [redacted] noted another timing discrepancy:

> the game took place on [redacted], ***2021*** and I did not post it on Facebook until [redacted], ***2022***. When my attorneys informed me about this, I did not even remember that the game actually took place in 2021. My attorneys asked me to look through my photo album in my phone at which point we discovered the photo was taken on [redacted], 2021.

Doc. 371205 at 3.

Because he is "not the best historian due to my cognitive difficulties like forgetting about and misremembering information," Mr. [redacted] attached a statement from his daughter, [redacted] who had attended the game with him. *Id.* at 4. Ms. [redacted] described her father's function both at the game and generally:

> [m]e, my sister, and my dad went to the UT football game together on [redacted], 2021. My dad drove us there and we had to help him with the directions. He relied on the GPS and also relied on me to give him verbal directions because he struggled to follow the GPS. It took us longer to get there because he had difficulties following my directions and took wrong turns.
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> I've noticed that when he struggles to follow the GPS, he gets overstimulated looking at the screen and trying to figure out what the directions are telling him. With driving in general, I've also noticed that he's run some red lights. Also, he frequently takes wrong turns because he thinks he knows where he's going but he actually doesn't and gets confused.
>
> My dad had trouble navigating the stadium. He told me and my sister the information for the gate and seats but he took us to the wrong gate twice. The

> stadium has a few different entrance and he struggled to find the correct one. I had to help him by looking up the correct entrance on my phone . . .
>
> My dad doesn't like being out and it's weird to me. When I talk to my dad, I've noticed that he struggles to get his words out. I will even make fun of him for that. He will try and tell me something and he will be like "Eh buh buh." . . . [w]hen speaking with my dad, I've also noticed that his mind will get sidetracked and he will go on tangents.
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> [a]t the game, my dad lost his Apple Watch. My sister asked my dad a question, and then my dad looked down at this wrist to look at the watch and it wasn't on his wrist. Also, it seems like my dad constantly misplaces or forgets to bring his wallet . . . he forget his car keys.
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> My dad can also be smelly. Sometimes I notice when he forgets to put on deodorant because he smells. I'll tell him that and he may say something like 'Oh, I forgot!'

Id. (breaks added).

On February 18, 2025, the Claims Administrator denied Mr. [redacted] Claim for failure to satisfy criterion (iii). Doc. 378772. The Notice of Denial explained that the Claims Administrator had adopted the conclusions of an Appeals Advisory Panel (AAP) Member, who found that:

> the information supports a score of 0.5 for Community Affairs, since the Player is able to drive, which would indicate at least some continued ability to function independently outside the home even with problems, a score of 0.5 for Home/Hobbies, since there is report of impaired performance of home activities but the Player was able to live alone, and a score of 0 for Personal Care, since the Player was not reported to need either reminders/prompts or assistance with Personal Care activities and was able to live alone.
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> Consequently, an overall CDR score of 0.5 is supported by the currently available information. Therefore, criterion (iii) is not fulfilled.

Id. at 2.

The Notice of Denial did not explain why the Claims Administrator declined to defer to Dr. [redacted] CDR assessment. Mr. [redacted] appealed. Doc. 393322.

While Mr. [redacted] Appeal pended, I issued a decision reiterating the Settlement's approach to evaluating functional impairment and deferring to diagnosing neurologists.[2]

[2] Appeal No. 2025-14, SPID #100003384 (Sep. 15, 2025), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=validity_deference_sm.pdf.

Accordingly, on September 22, 2025, I remanded Mr. [redacted] Claim so the Claims Administrator could evaluate it consistent with that Opinion. Doc. 407372.

On November 13, 2025, the Claims Administrator denied the Claim anew, again for failure to satisfy criterion (iii). Doc. 413667.[3] The Claims Administrator once again adopted the conclusions of an AAP Member:

> the Player's ability to drive and pick up his children (even if he sometimes forgot) would clearly indicate continued ability to function independently outside the home. Consequently, the score for Community Affairs should be 0.5 rather than 1.0.
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> Similarly, the score for Home/Hobbies should also be 0.5 since there is report of impaired performance of home activities but the Player is still able to live alone which would indicate that he is still functioning independently in this category and consequently would have questionable rather than definite impairment.
>
> The score for Personal Care should be 0 since the Player was not reported to need either reminders/prompts or assistance with Personal Care activities (other than forgetting to put on deodorant) and in general was able to live alone which again would indicate ability to function independently in this category as well. Consequently, an overall CDR score of 0.5 is supported by the currently available information.
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> While the Special Master's 9/15/2025 decision does indicate that deference should be given to the Diagnosing Physician's CDR score determinations, in this case the scores assigned by the Diagnosing Physician are not well articulated and are clearly in error since the Player is still able to function independently both inside and outside the home, and does not require either reminders or assistance for Personal Care activities such as bathing, grooming, dressing, toileting, or eating. Dr. [redacted] CDR analysis was a brief one sentence response for each domain with a conclusion stating, "the player exhibits mild cognitive impairment, primarily affecting memory, impacting daily living and hobbies but not significantly impairing personal care" . . .
>
> Consequently, the overall CDR score of 1.0 was not reasonably determined despite the explanations given and is clearly in error. The overall CDR score should be 0.5 in this individual who still functions independently both inside and outside the home, lives alone, and performs bathing, grooming, dressing, toileting, and eating independently. While some individuals who have received a diagnosis of dementia may be able to live alone and drive safely, this is not the issue. The issue is if there is documentation of sufficient functional impairment to support scores of 1.0 for the

[3] In the interim, Mr. [redacted] submitted numerous documents evincing his consistent failure to pay his bills and otherwise meet his financial obligations. Docs. 408107-115.

three relevant CDR categories and an overall CDR score of 1.0, which is clearly not the case in this individual who still functions independently both inside and outside the home, lives alone, and performs bathing, grooming, dressing, toileting, and eating independently.

Therefore, criterion (iii) is still not fulfilled.

Id. at 2 (breaks added).

Mr. [redacted] timely appealed. Doc. 420935.

RESOLVING THIS APPEAL

To ensure the functional impairment analysis here followed the Settlement's guidelines, I requested review of the file by a consensus panel of AAP Members.

I asked the Members to evaluate the quality of Dr. [redacted] reasoning and, if they found his analysis unreasonable or unsupported, to come to an independent conclusion regarding Mr. [redacted] functional impairment.

Accordingly, the Members began by reviewing Dr. [redacted] conclusions:

> [r]egarding the diagnosing neurologist's reasoning the panel was in agreement that scoring for overall function was "on the bubble," i.e. the evidence suggested that the player's abilities were at the threshold between assigning a score of 0.5 and 1.0. There was agreement that no "bright line" or single daily life skill was sufficient to assign one score over another. The instructions for CDR administration are clear that the examiner should ask additional questions as needed to assign the appropriate score. The diagnosing physician's notes do not include documentation that supports assignment of specific domain scores. The primary encounter note does not address daily function apart from the single word "none" to describe "Social and Community Activities" . . .
>
> Similarly, no supporting narrative information is provided to support one-line summaries on the on CDR Assessment Form document . . . The CDR report notes scores of 1 in each domain with minimal supporting narrative or articulated medical reasoning. Without narrative or further reasoning, the text [on Dr. [redacted] CDR Assessment Form] would best support scores as 0.5 in HH, CA, and 0 in PC. The diagnosing physician's conclusion that the player had "Mild Cognitive Impairment is consistent with the minimal narratives, but not the scores assigned, suggesting low reliability of scoring and/or low knowledge of the use of CDR in supporting diagnoses. Specifically scores of 1 are considered indicative of "mild dementia" not "mild cognitive impairment." Those diagnoses are mutually exclusive.

Doc. 432690 (breaks added). Having found Dr. [redacted] analysis lacking, the Members thus reached a consensus opinion regarding the severity of Mr. [redacted] functional impairment:

> [t]he Claims Administrator provided advice that when the medical documentation is insufficient to provide a clear determination of the player's daily function, greater reliance on 3rd party statements is appropriate. This information significantly influenced to panel's discussions. For this player, the third-party statements clearly indicate that his personal hygiene falls below his past standards of self-care, supporting a CDR score of 1 in that domain, based on the anchor text "Needs Prompting."
>
> For Home and Hobbies, the 3rd party statements and Dr. [redacted] report . . . identified that was living alone, but he was receiving substantial assistance with managing finances and cleaning, as well as failing to fulfill family responsibilities. The consensus was that a score of 1 was supported by the available information.
>
> The panel discussed how to score driving performance in the absence of clear reports of impairment (such as crashes or becoming frankly lost), especially as the Special Master had identified that claims had been paid to players who continued to drive. The panel reviewed guidance to patients and clinicians from the American Academy of Neurology identifying that patients with dementia could drive safety. The panel therefore concluded (with some concerns) that continued driving by itself did not provide a discrete cutoff between assigning Community A airs scores of 0.5 and 1.
>
> With so little other evidence regarding Community Affairs in the physician and psychologist notes and 3rd party statements, definitive assignment of a domain score of 0, 0.5, or 1 is not possible.
>
> Overall, with scores of 1 in Home & Hobbies, 1 in Personal Care, and an uncertain determination for Community Affairs, an overall rating of 1 in the required domains is reasonably supported.

Id.

I accept this well-reasoned conclusion. In conducting their review, the Members thoroughly considered Dr. [redacted] judgments, applying the appropriate amount of deference as they went. They then hewed carefully to the Settlement's guidance that CDR scoring results from a "holistic judgment," not a "mathematical exercise," nor "simply an average of the three scores."[4] Faithfully following the Settlement's approach, the Members agreed that Mr. [redacted] displays functional impairment sufficient to support a Qualifying Diagnosis of Level 1.5

[4] Appeal No. 2025-14, SPID #100003384, at 8 (Sep. 15, 2025), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=validity_deference_sm.pdf.

Neurocognitive Impairment. And they justified that determination with a fulsome, thoughtful report.

As I have emphasized repeatedly, the Settlement relies on "a system of layered deference to expertise."[5] It is my role to ensure that the Settlement's applies that rule as fairly and consistently as possible; it is the medical experts' role to make clinical determinations.

Here, I am satisfied that the Settlement's independent medical reviewers appropriately applied relevant precedent when they unanimously assigned an overall CDR score of 1.0. Given that this score is sufficient to support Mr. [redacted] Claim, I grant the Appeal.

CONCLUSION

The Settlement's independent medical reviewers, applying the Settlement's guidelines, have agreed that Mr. [redacted] documented functional impairment supports a Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment. Accepting this conclusion, I grant the Appeal.

Date: May 12, 2026

David A. Hoffman, Special Master

[5] Appeal No. 2020-8, SPID #950002525, at 6 (July 2, 2020), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=pre_diagnosis_evidence_sm.pdf.