

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Appeal 2026-8

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

in Learning and Memory, and a Level 2 Impairment in Language.² Doc. 349866. On December 9, 2024, the Claims Administrator, approving a Monetary Award, downgraded the Qualifying Diagnosis to Level 1.5 Neurocognitive Impairment based on its findings about the functional abilities that Mr. [REDACTED] then retained. Doc. 369505.

On May 1, 2025, the Claims Administrator emailed a program neurologist about Mr. [REDACTED] Monetary Award. Doc. 390113. Referencing a phone conversation in which a MAF neurologist had apparently relayed a question from Mr. [REDACTED] family, the Claims Administrator advised the doctor that:

The Player can schedule a new MAF appointment and pursue a supplemental claim for the Level 2 Neurocognitive Impairment diagnosis. We cannot tell the Player and his wife what to do, but below are a couple of options:

1. He can bring you his prior testing from Dr. [REDACTED] for you to review, and if you deem it valid, you can choose to use it to support a Level 2 diagnosis if you deem the Player to be impaired at that Level after your evaluation and CDR analysis; or
2. You can refer him for a new neuropsychological exam before you complete your evaluation.

Id. (cleaned up).

On June 11, 2025, Mr. [REDACTED] undertook an examination with then-Qualified MAF physician Dr. [REDACTED].³ Doc. 417018. Explicitly relying on Dr. [REDACTED] 2024 neuropsychological testing—which Mr. [REDACTED] had already used to found his original Claim—Dr. [REDACTED] diagnosed Mr. [REDACTED] with a Level 2 Neurocognitive Impairment with a Diagnosis date of July 14, 2024. Doc. 395988. Dr. [REDACTED] handwritten report reads:

1. Current Cognitive Complaints: severe loss of memory, cannot work anymore, no longer drives, cannot remember information
2. Medical History: numerous orthopedic injuries, history of depression in past (less now)
3. Employment and Business Activities: NFL, Real Estate, retired due to cognitive 2020, couldn't do it
4. Social and Community Activities: almost none, does after school events occasionally—has 3 small children
5. Behavioral Health History: history of depression—controlled, mindful meditation
6. Family Medical History: n/a
7. Academic and Social History: has masters and MBA
8. Other Relevant History and/or Behavioral Observations: cooperative

² Both Dr. [REDACTED] and Dr. [REDACTED] misspelled Dr. [REDACTED] name, using many different permutations of letters. *See* Docs. 395847; 352059; 417018; 395988; 395854. In the text above the line I've corrected and standardized the spelling.

³ The Claims Administrator later terminated Dr. [REDACTED].

9. Alcohol and/or Substance Use: none
10. Medications: none
11. Indicate whether the Retired Player's cognitive deficits occurred exclusively in the context of a delirium, acute substance abuse, or as a result of medication side effects: no
12. Summary of CDR Assessment: [decreased] memory, [decreased] personal hygiene, [decreased] community affairs, [decreased] hobbies⁴

Id. (cleaned up).

Dr. [REDACTED] CDR Worksheet details the following:

1. Community Affairs: 2.0
Participates very rarely. Does not go to church or participate in organizations. Did go to son's color guard at school.
2. Home & Hobbies: 2.0
Has no hobbies. No longer reads [or] writes.
3. Personal Care: 1.5
Needs prompting to shower or dress. Needs help—may forget to turn water off but can do it independently. Rare episodes of incontinence.
4. Overall CDR Rating: 2.0 (no comments)

Doc. 395851.

Mr. [REDACTED] filed this Supplemental Claim for a Level 2 Neuropsychological Impairment, on June 13, 2025. Doc. 395986

On June 18, 2025, the Claims Administrator asked Mr. [REDACTED] to respond to external evidence showing that the Player currently held several Real Estate licenses, was listed as the C.F.O and Manager/Member of [REDACTED], and held a [REDACTED] on June 8, 2025.⁵ Docs. 396309; 396395. Mr. [REDACTED] responded on June 23, 2025, stating that he participated in the [REDACTED], did not work despite holding these licenses and positions, and chose to “renew [these professional positions/licenses] as a point of personal pride and dignity.” Doc. 396930.

⁴ Dr. [REDACTED] drew downward facing arrows instead of writing “decreased.” No other information was provided.

⁵ The Claims Administrator noted the following inconsistencies based on this External Evidence: Dr. [REDACTED] July 16, 2024 report states that you “became a passive investor in a family-run real estate business, with day-to-day responsibilities handled by [your] wife [REDACTED]” (Doc. 395843 at 6). Dr. [REDACTED] June 11, 2025 report states that you “did real estate” (Doc. 395848 at 1). Your Employment History and Social and Community Activity Form, dated July 15, 2024, indicates that you are a Passive Investor in Real Estate from 2014 to present, with day-to-day responsibilities handed by your wife (Doc. 349864 at 2). Your Clinical Dementia Rating (CDR) Worksheet, dated June 11, 2025, indicates that you are not working (Doc. 395850 at 4)...Your Employment History and Social and Community Activity Form, dated July 15, 2024, indicates that you are a Registered Agent for [REDACTED] and that you and your wife were “in the process of dissolving and reconsidering here in [REDACTED]” (Doc. 349864 at 2). Doc. 396935.

On July 21, 2025, the Claims Administrator reached out to Dr. [REDACTED] to alert him of two issues with Mr. [REDACTED] Supplemental Claim, stating “first, the new Qualifying Diagnosis must be different, and second, the new Qualifying Diagnosis must be after the date of the Qualifying diagnosis for which the Player previously received a Monetary Award.” Doc. 400196. The Claims Administrator asked Dr. [REDACTED] to “refer the Player for new neuropsychological testing.” *Id.* Eventually, nearly three months later, Dr. [REDACTED] responded with the following:

Based on your note and the fact that Mr. [REDACTED] previously was awarded Level 1.5 Cognitive Impairment with a diagnosis date of July, 2024, I note that the neuropsychological testing you referenced indicated that he qualified for a 2.0 diagnosis, and that his appointment with me was within a year and thus I believed Dr. [REDACTED] report would suffice for 2.0 award, but per the Claims Administrator instruction, that is not the case. I therefore am not sure why the administrator advised him to get additional MAF testing! Per the Claims Administrator, he would need new neuropsychological testing to get his existing award upgraded from 1.5 to 2.0, the level for which I believe he truly qualifies. Should Mr. [REDACTED] have additional neuropsychological testing that suggests a 2.0 diagnosis, I would be happy to reassess.

Doc. 410295.

This message was the last that the Claims Administrator received from Dr. [REDACTED]. On December 9, 2025, the Claims Administrator denied Mr. [REDACTED] Supplemental Monetary Award Claim. Doc. 416748.

The Player received a Notice of Monetary Award Claim Determination on December 9, 2024, for a diagnosis of Level 1.5 Neurocognitive Impairment dated July 30, 2024, based on evaluations by Dr. [REDACTED] on August 6, 2024, and Dr. [REDACTED] on July 16, 2024. The Player was later evaluated by Dr. [REDACTED] on June 11, 2025, who diagnosed the Player with Level 2 Neurocognitive Impairment with the date of July 14, 2024.

Pursuant to Section 6.8 of the Settlement Agreement, a Supplemental Qualifying Diagnosis must be different from any Qualifying Diagnosis for which the Player has previously received a Monetary Award, and the Player must have a Qualifying Diagnosis date that is after the date of the Qualifying Diagnosis for which he previously received a Monetary Award. Dr. [REDACTED] determined a diagnosis date of July 14, 2024 appropriate for this Level 2 diagnosis. This was not only prior to his examination of the Player but was also prior to the July 30, 2024 diagnosis date of the previously awarded Level 1.5.

Despite attempts to relay this rule to Dr. [REDACTED], his asserted diagnosis date remained unchanged . . .

Regarding criterion (ii): On 7/16/2024, Dr. [REDACTED] (Doc ID 395843) reported that the Player met cut-offs for performance validity tests, no Slick criteria concerns, met the minimum standards to permit interpretation of the results, and had average word reading. He had no impairment in Executive Functioning and Visual-Perceptual Processing, and Level 2 impairment in Complex Attention, Learning/Memory, and Language, with an overall Level 2 Cognitive Impairment. In accordance with his 8/6/2023 decision, the Special Master articulated potential factors the Claims Administrator may consider when using its discretion to allow testing, including whether the use of the same testing for two different claims is appropriate.

The Claims Administrator reminded Dr. [REDACTED] that Dr. [REDACTED] 7/16/2024 neuropsychological testing was previously used to render a Level 1.5 diagnosis for which the Player received an Award Notice, and that new testing was needed to support the asserted Level 2 diagnosis. Dr. [REDACTED] replied in a note dated 10/12/2025 (Doc ID 410295) that he would review any new neuropsychological testing in support of a Level 2 diagnosis. However, it does not appear that any such new testing was submitted or was reviewed by Dr. [REDACTED]. Therefore criterion (ii) is not fulfilled, as the same testing cannot be used to support two different impairment levels.

Id. (cleaned up).

Finally, the Claims Administrator found that the Qualifying Diagnosis of Level 2 Neurocognitive Impairment made outside the BAP did not meet criterion (iii). *Id.* The Claims Administrator's analysis was extensive.

Criterion (iii): Dr. [REDACTED] reported (Doc IDs 395848 and 395853) that the Player was not working, unable to drive, traveled back and forth between Tampa and California, had almost no social and community activities, but also attended school events occasionally for his children, and reported that the CDR score qualified for cognitive level 2 (presumably indicating an overall CDR score of 2).

The CDR Worksheet dated 6/11/2025 (Doc ID 395850) reported the Player no longer worked, memory/thinking problems contributed to the decision to retire, no longer drove, was rarely/never able to shop, and was sometimes able to carry out activities independently outside the home. He was able to fold laundry and unload the dishwasher if asked, functioned in limited activities only for household chores, and no longer performed hobbies such as reading. A score of 2 was circled for washing/grooming, and scores of 1 were circled for dressing, eating, and sphincter control, and a score of 1 was circled for Community Affairs, 2 for Home/Hobbies, and 1 for Personal Care, with an overall score of 2 circled.

The CDR Assessment Form completed by Dr. [REDACTED] on 6/11/2025 (Doc ID 395851) reported a score of 2 for Community Affairs due to the Player rarely participating, no longer going to church or participating in organizations, but

continuing to attend his son's color guard at school; a score of 2 for Home/Hobbies due to having no hobbies and no longer reading, and a score of 1.5 for Personal Care (presumably indicating a score of 1) due to needing prompting to shower and dress, forgetting to turn off the water, and having rare episodes of incontinence; and an overall CDR rating of 2.

Dr. [REDACTED] reported (Doc ID 395843) the Player had a higher level of functioning, including the ability to shop on Amazon, complete 50 hours of community service in the year prior to the evaluation, and continuing to make occasional appearances through the NFL alumni foundation. He participated in social events 5-10 times per year, occasionally helped with his son's flag football team, took his daughter to the library, attended farmer's markets, did a movie night with his kids, watched a fashion show in Las Vegas, took walks occasionally, continued to drive with GPS support, but still had problems, and was able to drive a few times per week for short familiar trips. However, this information, obtained in 2024, was outdated by the time of Dr. [REDACTED] evaluation.

The third-party affidavit by [REDACTED], dated 7/15/2024 (Doc ID 395844) corroborated that the Player continued to engage with the community, but maybe only about a quarter of what he used to do or less, and he stayed at home more, was arrested for having a firearm in a bag at an airport, had lost interest in hobbies/activities, did not even like to do basic chores such as cleaning and cooking, and his wife reminded him to shower.

External evidence obtained on 6/18/2025 pursuant to Section 8.6 of the Settlement Agreement (Doc IDs 396309 and 396395) indicated the Player was listed as an officer in a company and a non-profit in 2024 and 2025, had a real estate broker and sales license in [REDACTED] that expired in 2025, and had a salesperson license in [REDACTED] that expires in 2028. The Player clarified in a letter dated 6/23/2025 (Doc ID 396930) that although he did hold real estate licenses in [REDACTED] and [REDACTED], he did not work in real estate and was able to complete online continuing education with help from his wife. He explained maintaining the licenses was symbolic for him rather than functional, he was listed on paperwork for the company as a co-founder or manager for the non-profit, but had no formal role, and he participated in a one-day [REDACTED] in 2025 but was accompanied.

While the Special Master's 9/15/2025 Decision indicates that deference should be given to the Diagnosing Physician's CDR score determinations when they are well-articulated and not in error, in this case, the Diagnosing Physician's explanations are not well-articulated and do not adequately explain why or how the scores were determined for the CDR categories and appear to obviously be in error for the reasons listed above. The AAP is not able to defer to the Diagnosing Physician's determination regarding the overall CDR score of 2. The available information would only support a score of 1 for Community Affairs since the Player is still able

to participate in activities outside the home with assistance (attended school events when accompanied, listed as an officer in a company and a non-profit organization even with no real duties, completed continuing education required to maintain active licenses in multiple states with assistance, and participate in a football camp when accompanied); a score of 2 for Home/Hobbies since there is report of inability to perform chores and no longer participating in hobbies (reading); and a score of 1 for Personal Care due to needing reminders/prompts to shower.

Overall, the Player's functioning is more consistent with an overall CDR score of 1 than 2, and while the overall CDR score is not simply the average of the scores for the three relevant categories, it is significant that his functioning is consistent with a score of 1 in two out of the three relevant CDR categories. Therefore criterion (iii) is not fulfilled for Level 2 Neurocognitive Impairment but would be fulfilled for Level 1.5 Neurocognitive Impairment.

Id. (cleaned up, breaks added).

On January 7, 2026, Mr. [REDACTED] timely appealed, *pro se*. Doc. 419664.

RESOLVING THIS APPEAL

To prevail on appeal, Mr. [REDACTED] must show—by clear and convincing evidence—that the Claims Administrator erred in adopting the AAP Member's conclusions and denying his Claim. He has not met his burden.

To start, the Claims Administrator was correct that a Qualifying Diagnosis for a Supplemental Claim cannot be dated to a time before the earlier filed, successful claim. As I recently explained,

[t]extually, a “subsequent[]” Qualifying Diagnosis must follow an “earlier Qualifying Diagnosis.” The Settlement does not provide merely that a Supplemental Claim may be filed after an earlier physician visit; it requires that the asserted Qualifying Diagnosis itself—both the medical determination and its operative date—postdate the earlier diagnosis for purposes of entitlement under the Monetary Award Grid.⁶

On appeal, Mr. [REDACTED] offered a revised DPC by Dr. [REDACTED], asserting a new Diagnosis date of June 11, 2025. Doc 419662. But that unexplained correction does not itself presumptively cure the erroneously submitted Claim.

⁶ In re: Appeal of SPID #100003003, 2026-3 (March 16, 2026), at https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=appeal_100003003_2026_3.pdf.

Second, as I have previously written, it is well-within the Claims Administrator’s authority to reject the reuse of neuropsychological testing previously used to support a successful claim.⁷ As an aspect of the temporal nature of Supplemental Claims I’ve just discussed, the Settlement contemplates that each supplemental claim result from the submission of new testing that demonstrates that a Claimant’s state has declined. The Claims Administrator has discretion to relax the new contemporaneous testing requirement, but, as I have repeatedly held, “its decision not to exercise that discretion is not itself clear and convincing evidence of error.”⁸

Mr. ██████ objects that he relied on an email from the Settlement which expressly advised that he could obtain a new Qualified MAF evaluation and that the evaluating physician could review and, if deemed valid, rely on prior testing to support a Level 2 Diagnosis following examination and CDR analysis. Doc. 419663. This is a misread of the relevant correspondence. On May 1, 2025, the Claims Administrator expressly stated that it could not advise Mr. ██████ how to proceed, but that relying on Dr. ██████ neuropsychological testing was a *possibility* under the Settlement. Doc. 390113. It was: the Claims Administrator has the discretion ultimately to determine the sufficiency of Claim Forms, and uses that discretion in good faith to advance the Settlement’s efficient administration, consistent with the Settlement Agreement.

But, following Mr. ██████ new MAF testing, it became clear that Mr. ██████ needed new neuropsychological testing. The Claims Administrator then clearly and repeatedly communicated the need for new neuropsychological testing to Mr. ██████ neurologist, Dr. ██████.⁹ And, ultimately, Dr. ██████ appeared to understand the need for those refreshed tests, writing “should Mr. ██████ have additional neuropsychological testing that suggests a 2.0 diagnosis, I would be happy to reassess.” Doc. 410295. Despite this correspondence and the clear direction from the Claims Administrator that Mr. ██████ did in fact need new neuropsychological testing, Mr. ██████ rested on the Claim he had submitted.

The Rules assign the Claims Administrator tasks such as “monitor[ing] Claim Packages received based on Qualifying Diagnoses made by Qualified MAF Physicians to assess and assist with compliance with the Settlement Agreement and these Rules,” and “assist[ing] in the operation of the network of Qualified MAF Physicians” including by “[a]nalyz[ing] any questions raised in its Claims Review regarding provision by Qualified MAF Physicians of complete materials and explanations on Qualifying Diagnoses and other matters affecting compliance with the

⁷ Special Master Ruling on Validity and Historical Testing, at 4 (Aug. 6, 2023) https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=validity_testing_12_sm.pdf.

⁸ Special Master Ruling on Validity and Historical Testing, at 5 (Aug. 4, 2025), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=validity_historical_testing_sm_2.pdf; Special Master Ruling on Neuropsychological Testing, at 6 (Apr. 25, 2025), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=np_testing_sm_5.pdf; Special Master Ruling on Validity and Historical Testing, at 6 (Feb. 20, 2025), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=validity_historical_testing_sm.pdf.

⁹ The Claims Administrator communicated the need for new testing to Dr. ██████ on 07/21/2025, 08/06/2025, and 10/02/2025. *See* Docs. 400196; 402707; 408776. The Claims Administrator also granted Dr. ██████ a two-week extension which he then failed to meet despite several reminders. *See* Docs. 403484; 404505; 406292.

Settlement.”¹⁰ Yet “the Settlement does not command the Claims Administrator to assume the conflicting roles of claim preparer and claim reviewer.”¹¹

Thus, it was not error to deny for the Claims Administrator to deny Mr. ██████ Claim on the grounds that the Diagnosing Physician had wrongly reused a test previously submitted in a successful Claim.

The Claims Administrator also denied Mr. ██████ Claim because Dr. ██████ explanations for his judgments of functional impairment were inadequately justified and clearly in error given the record. This, too, was not an error.

As I have explained, “when rendering any Qualifying Diagnosis under the Settlement, physicians are tasked with clearly articulating their clinical judgments...the Settlement’s system of ‘layered deference to expertise’ relies on them to do so...this process, while inherently deferential, requires that physicians do more than just conclude that a Player meets a certain criterion or presents with a certain symptom...physicians must, at bottom, provide something more.”¹²

In this case, Dr. ██████ failed repeatedly to clearly articulate his clinical judgment. First, Dr. ██████ did not sufficiently explain his hand-written and barely legible scoring on the CDR Worksheet. While Dr. ██████ offered occasional asides, there were no clarifying rationales. The Claims Administrator’s denial thoroughly explained the multiple issues with that functional analysis, both in light of the evidence before Dr. ██████ and the later, substantial, update in Evidence. It’s true that this Settlement is “built around layered deference to expertise.”¹³ But Dr. ██████ analysis addressed none of the inconsistencies the Claims Administrator noted, leaving nothing substantive to defer to. Plainly put: I find as a matter of fact that Mr. ██████ did not sufficiently demonstrate that his functional impairment is consistent with a Level 2 Award.

¹⁰ In re: Appeal of SPID 100016111, 2026-4 (March 17, 2026), at https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=ca_role_maf_physicians_sm.pdf; *Rule 21: Analysis of Claims Based on Diagnoses from Qualified MAF Physicians*, NFL CONCUSSION SETTLEMENT, https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=rules_qualified_maf_physicians.pdf; *Rule 22: Assistance by the Claims Administrator in the Operation of the Network of Qualified MAF Physicians*, NFL CONCUSSION SETTLEMENT, https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=rules_qualified_maf_physicians.pdf.

¹¹ *Id.*; See also *Rule 25(b): Follow up Actions with a Qualified MAF Physician-Changes by the Qualified MAF Physician*, NFL CONCUSSION SETTLEMENT, https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=rules_qualified_maf_physicians.pdf (“Neither the Claims Administrator, the AAP Leadership Council, nor the MAF Steering Committee may at any time direct a Qualified MAF Physician to alter a diagnosis or render a particular diagnosis.”).

¹² Special Master Ruling on Parkinson’s Disease and Deference, at 6 (Sep. 15, 2025), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=pd_deference_sm.pdf.

¹³ *Id.*; Special Master Ruling on Pre-Diagnosis Evidence, at 6 (July 2, 2020), https://www.nflconcussionsettlement.com/Docs/pre_diagnosis_evidence_sm.pdf.

CONCLUSION

Finding no clear and convincing error, I deny Mr. [REDACTED] Appeal. Mr. [REDACTED] remains free to file a new Claim, based on new neuropsychological testing and a new neurological exam, under the terms of the Settlement. That exam should not rely upon the observations made or judgments rendered in Dr. [REDACTED] 2024 report.

Date: April 11, 2026



David A. Hoffman, Special Master