

**ALTERNATIVE
DISPUTE
RESOLUTION
CENTER**

Irell & Manella LLP
840 Newport Center Drive
Suite 450
Newport Beach, CA 92660-6324

Telephone: (949) 760-5288
Fax: (949) 760-5289



**NFL, RETIRED PLAYERS RESOLVE CONCUSSION
LITIGATION; COURT-APPOINTED MEDIATOR
HAILS “HISTORIC” AGREEMENT**

Thousands of Retirees and Families to Benefit

**Medical Testing; Research; Compensation and
Promotion of Safety All Part of Agreement**

Former United States District Judge Layn Phillips, the court-appointed mediator in the consolidated concussion-related lawsuits brought by more than 4,500 retired football players against the National Football League and others, announced today that the parties had reached an agreement that would end the litigation against the NFL and NFL Properties and provide medical and other benefits, as well as compensation, to qualifying injured players or their families.

The agreement came after nearly two months of intensive negotiations under the supervision of Judge Phillips. It will be submitted for approval to United States District Judge Anita B. Brody, who is presiding over these cases in federal court in Philadelphia. Under the agreement, the NFL and NFL Properties will contribute \$765 million to provide medical benefits and injury compensation for retired NFL football players, fund medical and safety research, and cover litigation expenses. Attorneys’ fees, to be approved by the district court, will be paid in addition to the settlement amount.

“This is a historic agreement, one that will make sure that former NFL players who need and deserve compensation will receive it, and that will promote safety for players at all levels of football,” said Judge Phillips. “Rather than litigate literally thousands of complex individual claims over many years, the parties have reached an agreement that, if approved, will provide relief and support where it is needed at a time when it is most needed. I am deeply grateful to Judge Brody for appointing me as mediator and offering me the opportunity to work on such an important and interesting matter.”

“This agreement lets us help those who need it most and continue our work to make the game safer for current and future players. Commissioner Goodell and every owner gave the legal team the same direction: do the right thing for the game and for the men who played it,” said NFL Executive Vice President Jeffrey Pash. “We thought it was critical to

Alternative Dispute Resolution Center

Irell & Manella LLP

get more help to players and families who deserve it rather than spend many years and millions of dollars on litigation. This is an important step that builds on the significant changes we've made in recent years to make the game safer, and we will continue our work to better the long-term health and well-being of NFL players.”

“This is an extraordinary agreement that will provide immediate care and support to retired players and their families,” said lead plaintiffs’ attorney Christopher Seeger of Seeger Weiss LLP. “This agreement will get help quickly to the men who suffered neurological injuries. It will do so faster and at far less cost, both financially and emotionally, than could have ever been accomplished by continuing to litigate.”

“The benefits in this agreement will make a difference not only for me and my family, but also for thousands of my football brothers who either need help today or may need help someday in the future,” said Kevin Turner, a former running back for the Philadelphia Eagles and New England Patriots. Turner, who has been diagnosed with ALS, will serve as the lead plaintiff for one group of retired players. “I am grateful that the NFL is making a commitment to the men who made the game what it is today.”

Once final documentation is completed, the settlement will be filed with Judge Brody, who will then schedule a hearing to consider whether to grant preliminary approval to the agreement. If the settlement receives preliminary approval, Judge Brody will direct the parties to distribute notice to the retired players. After giving retired players an opportunity to file objections to the settlement, Judge Brody will hold a hearing to consider whether to grant final approval. Judge Brody is expected to issue the precise schedule within a few weeks.

“Approval of the settlement will require Judge Brody to determine that it is fair, reasonable, and adequate in light of the claims and defenses, and the expense, uncertainty and time inherent in litigating the claims, particularly given the benefits provided by the agreement,” said Judge Phillips. “There is no question that this settlement will provide benefits much sooner, and at much less cost, for many more retirees, than would have been achieved through extended litigation. For these and other reasons, I will strongly endorse this settlement in my report to Judge Brody.”

A summary of the key terms of the agreement is attached.

**ALTERNATIVE
DISPUTE
RESOLUTION
CENTER**

Irell & Manella LLP
840 Newport Center Drive
Suite 450
Newport Beach, CA 92660-6324

Telephone: (949) 760-5288
Fax: (949) 760-5289



Principal Terms of NFL Litigation Settlement

Class Settlement – The settlement will include all players who have retired as of the date on which the Court grants preliminary approval to the settlement agreement, their authorized representatives, or family members (in the case of a former player who is deceased).

No Admissions of Liability or Weakness of Claims – The settlement does not represent, and cannot be considered, an admission by the NFL of liability, or an admission that plaintiffs' injuries were caused by football. Nor is it an acknowledgement by the plaintiffs of any deficiency in their case. Instead, it represents a decision by both sides to compromise their claims and defenses, and to devote their resources to benefit retired players and their families, rather than litigate these cases.

Payments – The NFL and NFL Properties will make payments in connection with the settlement as follows:

- (A) Baseline medical exams, the cost of which will be capped at \$75 million;
- (B) A separate fund of \$675 million to compensate former players who have suffered cognitive injury or their families;
- (C) A separate research and education fund of \$10 million;
- (D) The costs of notice to the members of the class, which will not exceed \$4 million;
- (E) \$2 million, representing one-half of the compensation of the Settlement Administrator for a period of 20 years; and
- (F) Legal fees and litigation expenses to the plaintiffs' counsel, which amounts will be set by the District Court.

Alternative Dispute Resolution Center

Irell & Manella LLP

Timing of Payments – If the agreement receives preliminary approval from the District Court, the NFL will pay the costs of preparing and distributing notice to the class members (up to \$4 million). If the settlement receives final approval, and any appeals have been concluded, the NFL will pay approximately 50 percent of the settlement amount over three years, and the balance over the next 17 years.

Baseline Medical Examinations – Eligible retired players may receive a Baseline Medical Assessment, the results of which will be used to establish a qualifying diagnosis, either now or at a point in the future. The baseline examination program will operate for a period of 10 years. After 10 years, any funds allocated for this program that have not been spent will be added to the fund for payment of monetary awards.

Injury Compensation Fund – The fund of at least \$675 million will be available to pay monetary awards to retired players who present medical evidence of severe cognitive impairment, dementia, Alzheimer's, ALS, or to their families. The precise amount of compensation will be based upon the specific diagnosis, as well as other factors including age, number of seasons played in the NFL, and other relevant medical conditions. These determinations will be made by independent doctors working with settlement administrators appointed by the District Court.

If a retired player's condition worsens over time, he may apply for a supplemental payment.

In the event the Injury Compensation Fund ultimately is deemed insufficient to pay all approved claims, the Settlement Administrator will make a recommendation to the Court that the NFL make an additional, one-time contribution to the Injury Compensation Fund up to a maximum amount of \$37.5 million.

Research and Education Fund – The NFL will allocate \$10 million toward medical, safety, and injury-prevention research, and toward educating retired players on NFL benefits programs. A portion of this fund will be used to support joint efforts by the NFL and retired NFL players to promote education and safety initiatives in youth football.

Other Benefits – No retired player will forfeit or become ineligible for any other benefits provided by the current Collective Bargaining Agreement between the NFL and the NFL Players Association.

Schedule for Further Activity – The parties will prepare and file complete agreements with Judge Brody in Philadelphia, who will then schedule a hearing to consider whether to grant preliminary approval to the settlement. Assuming preliminary approval is granted, the Judge will direct that notice be given to the retired players and will schedule a hearing to consider whether to grant final approval to the settlement.

**ALTERNATIVE
DISPUTE
RESOLUTION
CENTER**

Irell & Manella LLP
840 Newport Center Drive
Suite 450
Newport Beach, CA 92660-6324

Telephone: (949) 760-5288
Fax: (949) 760-5289



Q & A with Judge Layn Phillips on NFL Litigation Settlement

Who will receive the money and how?

Retired players will have the opportunity to participate in baseline medical exams. Players with demonstrated cognitive injury, now or in the future, will be able to obtain a monetary award. The decisions regarding who qualifies and the amount of the award will be made by independent doctors and fund administrators agreed upon by the parties, and the federal court in Philadelphia will retain ultimate oversight.

How will the medical monitoring work?

A nationwide network of health care providers will be available to give the baseline exams to retired players. The goal will be to make the exam sites convenient so that as many retirees as possible can take advantage of the potential medical benefits.

Is this an acknowledgement by the NFL that it hid information on long-term effects?

No. An agreement doesn't imply anything about either side's position. It doesn't mean that the NFL hid information or did what the plaintiffs claimed in their complaint. It does not mean that the plaintiffs' injuries were caused by football or that the plaintiffs would have been able to prove that their injuries were caused by football. On the other hand, it doesn't mean that the plaintiffs wouldn't have been able to prove their case. The settlement means that the parties reached an agreement to put litigation behind them, get help to retired players who need it, and work proactively to support research and make the game safer. These are goals everyone can share.

What would be the process without a settlement?

Absent a certified litigation class or some creative form of consolidation, every case would have to be addressed individually. Doing so would be complicated, time consuming, expensive, and the outcome for both sides would be highly uncertain.

How were you able to get the parties to settle something that seemed so contentious?

To their credit, both sides recognized that it would be far more productive to get out of court and do something good for retired players with medical needs and focus on the future of the game and making it safer. I would characterize it as a ‘win-win.’ The alternative was for the two sides to spend the next 10 years and millions of dollars on litigation, which would have been great for lawyers, expert witnesses, trial consultants and others. But it would not do much for retired players and their families who are in need. This resolution allows the sides to join together, do something constructive, and build a better game for the future. Both sides faced major risks and uncertainties that made a class settlement far and away the best path for resolving these issues.

Will this prevent other lawsuits of this nature from being filed?

For a variety of reasons, the underlying theory of this lawsuit about what took place in the past would be difficult to replicate in the future. Everyone now has a much deeper and more substantial understanding about concussions, and how to prevent and manage them, than they did 20 or even 10 years ago, and the information conveyed to players reflects that greater understanding. In addition, the labor law defenses asserted by the NFL would represent a very substantial barrier to asserting these kinds of claims going forward. The combination of advances in medical research, improved equipment, rules changes, greater understanding of concussion management, and enhanced benefits should, and hopefully will, prevent similar lawsuits in the future.

What should parents of kids who play football take from this settlement?

Parents should know that the NFL and the plaintiffs are committed to doing what’s right for the game and making it safer at all levels. The proposed settlement includes funds for medical research and education to support those goals.