

# Chapter 15

Christopher R. Deubert  
I. Glenn Cohen  
Holly Fernandez Lynch

Petrie-Flom Center for Health Law Policy, Biotechnology,  
and Bioethics at Harvard Law School

## Officials



Officials, as the individuals responsible for enforcing the Playing Rules, have an important role in protecting player health on the field.

In order to ensure that this chapter was as accurate and valuable as possible, we invited the National Association of Sports Officials (NASO) and the National Football League Referees Association (NFLRA), both described below, to review a draft version of this chapter prior to publication. NASO provided brief comments but also stated that it did “not have any changes [it] feel[s] must be made.”<sup>62</sup> The NFLRA declined our invitation.<sup>63</sup>

## (A) Background

There are seven officials in an NFL game: Referee; Umpire; Head Linesman; Line Judge; Field Judge; Side Judge; and, Back Judge.<sup>1</sup> Each official is equally responsible for calling penalties during a game.<sup>2</sup> Each official is positioned differently on the field and the Referee is in charge of the officiating crew.

There were 122 officials during the 2015 season, with a mean of 11.5 years' experience in the NFL.<sup>3</sup> Most NFL officials have 10 to 20 years of experience at the high school and college levels before becoming an NFL official.<sup>4</sup> The NFL typically hires its officials from the best college football conferences.<sup>5</sup>

NFL officials are represented by the NFLRA. The NFLRA collectively bargains the terms and conditions of the officials' employment with the NFL. In fall 2012, the NFL locked out the officials after the parties were unable to agree on a new collective bargaining agreement (CBA).<sup>6</sup> The lockout stretched from the preseason through the first quarter of the regular season, during which time replacement officials made numerous questionable calls, drawing the ire of players, coaches, and fans.<sup>7</sup> In early September 2012, NFLPA General Counsel Tom DePaso wrote a letter to the NFL warning that the NFLPA would take "appropriate action" if it was determined that the replacement officials jeopardized the health and safety of the players.<sup>8</sup> The NFLPA may have been concerned that the replacement officials would miss certain penalties, thereby effectively allowing riskier and more dangerous play.

In late September 2012, the parties reached a new CBA running through the 2019 season.<sup>9</sup> The new CBA included a modified retirement structure through which the officials would partially contribute, an increase in pay to \$173,000 per year in 2013, rising to \$205,000 in 2019, and the option for the NFL to retain full-time officials (officials previously only worked during the preseason and season).<sup>10</sup> The NFL-NFLRA CBA does not address player health issues.<sup>11</sup>

Every NFL official is a member of NASO.<sup>12</sup> The NFLRA automatically enrolls all of its members as NASO members.<sup>13</sup> NASO is a voluntary organization of approximately 22,000 member officials, ranging from the lowest levels of youth sports to the professionals.<sup>14</sup> NASO provides an extensive list of services to its members, including educational programs, legal advocacy, and insurance policies.<sup>15</sup>

NASO, however, does not certify officials.<sup>16</sup> Each sports organization, whether it is a state high school athletic association, the National Collegiate Athletic Association (NCAA), or the NFL, judges the qualifications of its officials during its hiring process.<sup>17</sup>

## (B) Current Legal Obligations<sup>a</sup>

Sports officials of all levels of play have generally been held to have the following legal duties: (1) inspect the field of play to ensure it is safe; (2) keep the playing field free of spectators and hazards; (3) ensure the game is played in safe weather conditions; and, (4) enforce equipment rules.<sup>18</sup> These duties might appear limited but courts are historically reluctant to consider review of officials' on-field decisions during the course of play, such as whether an official failed to call a penalty or to apply a rule properly.<sup>19</sup> Additionally, if players or other individuals seek to hold officials liable for a breach of one of the aforementioned duties, they must generally prove that the official acted with "gross negligence," as opposed to simple negligence.<sup>20</sup> The gross negligence requirement has historically applied to volunteer officials<sup>21</sup> and thus it is unclear whether the same standard would apply to professional officials.

Official liability has also been shaped by robust lobbying efforts of the NASO.<sup>22</sup> Sixteen states have passed laws requiring proof of gross negligence by an official before liability can be imposed.<sup>23</sup> The application of these laws is limited to youth sports, amateur sports, or volunteer officials in 13 states.<sup>24</sup> Three states (Tennessee, Mississippi, and Nevada) have laws restricting liability against officials that are not restricted to youth sports, amateur sports, or volunteer officials, and thus would protect NFL officials.<sup>25</sup> However, Tennessee is the only one of these states in which NFL clubs play.

NASO is aware of, and concerned about, the reach of state-level concussion-related legislation, discussed at length in Part 7: Other Interested Parties, Section 3: Governments.<sup>26</sup> NASO is concerned that these laws improperly require lay officials to make medical determinations.<sup>27</sup> NASO is working to educate officials on the skills to recognize and report players with suspected medical conditions, and to always err on the side of caution by requiring players to be removed from play.<sup>28</sup>

a The legal obligations described herein are not an exhaustive list but are those we believe are most relevant to player health.

## ( C ) Current Ethical Codes

NASO also issues a Code of Conduct for Sports Officials, but none of NASO's stated principles concern player health and safety.<sup>29</sup> Moreover, NASO does not itself enforce its Code of Conduct.<sup>30</sup> Instead, it is NASO's intention that its Code of Conduct be adopted and enforced by the athletic associations and sports leagues that have authority over the officials.<sup>31</sup>

The NFLRA does not have a code of ethics.<sup>32</sup>

## ( D ) Current Practices

Many people have argued that the Playing Rules, and thus perhaps also the officials, have become overprotective of players' health and safety. That is, people often think that the Playing Rules, and thus also the officials, too frequently penalize players for certain types of tackles or hits, particularly on quarterbacks.<sup>33</sup> This opinion is held by many members of the media,<sup>34</sup> fans,<sup>35</sup> and players,<sup>36,b</sup> among others.

Officials do play some role in the rulemaking process; they attend NFL Competition Committee meetings and participate in the discussion on proposed rule changes.<sup>37</sup> Moreover, certain rules do permit the official to take into consideration the likelihood of injury in determining whether to call a penalty, including roughing the passer<sup>38</sup> and roughing the holder on a place kick.<sup>39</sup> Nevertheless, the NFL makes the Playing Rules and it is the officials' principal job is to enforce them. On that front, there is generally no criticism that officials are failing to enforce the Playing Rules as enacted by the NFL.

In addition to calling penalties, NFL officials are empowered to call an "Injury Timeout" if he or she "determines a player to be injured."<sup>40</sup> In recent years, the NFL has actively encouraged officials to try and pay particular attention to see if players might be injured and to stop play accordingly.<sup>41</sup> While it might be challenging for officials to determine whether a player is actually injured or faking an injury for competitive reasons, according to NASO, officials are taught to err on the side of caution.<sup>42</sup> However, the Playing Rules also direct that the official "should not try to determine if [a] player is injured."<sup>43</sup> There are likely concerns about officials attempting to make medical determinations. Nevertheless, these two provisions seem to contradict and thus clarification may be warranted.

Despite the officials' ability to prevent play from continuing when a player is injured, during the 2014 season there were several publicized examples of players who continued to play in games after suffering concussions.<sup>44</sup> In the case of San Diego Chargers safety Jahleel Addae, "he looked disoriented and seemed to go into a convulsion while remaining on his feet, but he stayed in the game while fans on social media questioned why he was still playing while displaying such obvious distress."<sup>45</sup> While the Addae incident caused the NFL to advise team medical staffs to be more vigilant about spotting concussions,<sup>46</sup> it also raised concerns about the officials' failure to spot Addae's odd movements and to stop play as a result. Similar concerns were raised when New England Patriots wide receiver Julian Edelman looked "woozy" after suffering a hit in the 2015 Super Bowl.<sup>47</sup> Due partially to these incidents, in 2015 the NFL approved a rule that permits an athletic trainer stationed in the press box to stop play if it appears a player has suffered a head injury.<sup>48</sup>

In recent years, the NFL has actively encouraged officials to try and pay particular attention to see if players might be injured and to stop play accordingly.

Players that we interviewed seemed to believe that officials are doing an adequate job in enforcing the current rules but are not likely to take any other action concerning player health:<sup>c</sup>

**Current Player 5:** "I think that they're doing as good of a job as they can. They're trying to do their best. I think with the targeting rules and the head to head contact, I think they've been overly cautious which, when it comes to protecting players, is probably on the right end. But besides that, I've never seen an official step outside the rule book to protect a player."

**Former Player 2:** "I don't think they play much role other than if they see a guy banged up, they're just going to make sure he seeks medical attention and that's what they're supposed to do. But I don't see them going above and beyond."

b Current Player 7: "It's . . . taking away from the game that we'll all learned how to play, by being too protective."

c We reiterate that our interviews were intended to be informational but not representative of all players' views.

## ( E ) Enforcement of Legal and Ethical Obligations<sup>d</sup>

Neither the CBA nor the Constitution and Bylaws address officials' conduct. Thus, it seems that a player would not be bound to arbitrate a claim against an official.<sup>49</sup>

Moreover, litigation against officials seems to be an available remedy for players. It is unclear whether in any such litigations the gross negligence standard that has been applied to volunteer officials would also apply to professional officials officiating professional sports as research has revealed almost no cases where a professional official was sued.

There are only two known litigations concerning NFL officials, neither of which has clearly articulated a standard for judicial review of an official's actions.

In 1972, Baltimore Colts defensive end Charles "Bubba" Smith was injured during a preseason game when he collided with an aluminum yardage marker stuck in the ground on the sideline and which an official had not removed.<sup>50</sup> Smith was forced to sit out the 1972 season and sued the official.<sup>51</sup> After a mistrial resulted in the case being retried, a jury found the official not liable for Smith's injury.<sup>52</sup>

<sup>d</sup> Appendix K is a summary of players' options to enforce legal and ethical obligations against the stakeholders discussed in this Report.

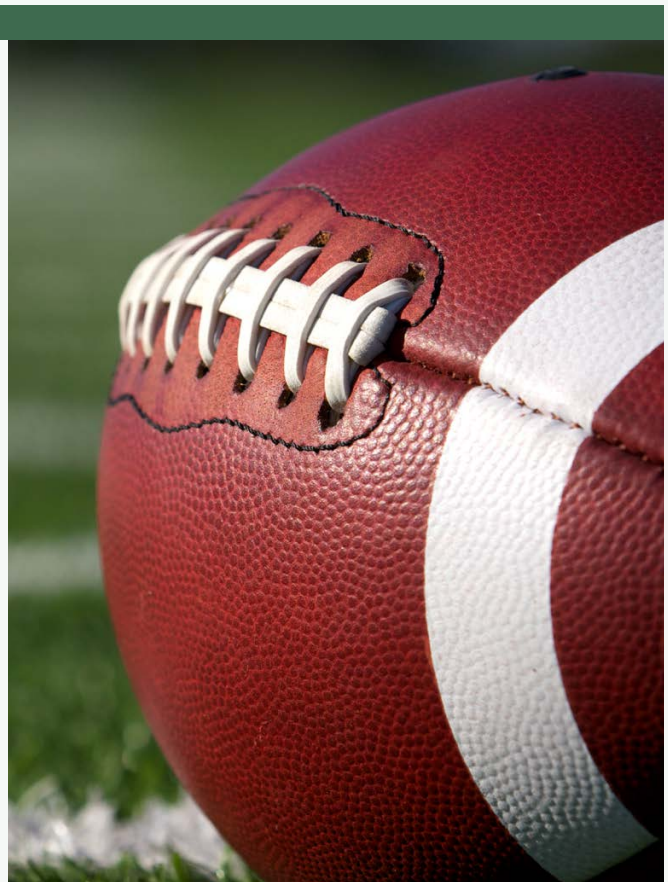
In 1999, Cleveland Browns offensive lineman Orlando Brown was injured when an official threw a penalty flag (weighted with the standard BB pellets) into the air, which struck Brown in the eye.<sup>53</sup> The incident left Brown partially blind in the eye and seemingly unable to continue his football career.<sup>54</sup>

Brown sued the NFL (but not the official) in a New York state court alleging that the NFL had failed to hire and employ competent officials and to properly train and supervise the officials.<sup>55</sup> In addition, Brown sought to hold the NFL vicariously liable for the official's alleged negligence.<sup>56</sup>

The NFL sought to remove Brown's case to federal court and have it dismissed by asserting that his claims were preempted by the Labor Management Relations Act (LMRA) and the terms of the CBA.<sup>57</sup> The United States District Court for the Southern District of New York disagreed, holding that Brown's claims were state law claims which did not require interpretation of the CBA so as to trigger preemption.<sup>58</sup>

The case was remanded to New York state court and reportedly settled for \$15 million to \$25 million in 2002.<sup>59</sup> Brown nevertheless actually returned to the NFL in 2003 and continued playing through 2005.<sup>60</sup>

*There are only two known litigations concerning NFL officials, neither of which has clearly articulated a standard for judicial review of an official's actions.*





## ( F ) Recommendations Concerning Officials

Indications are that officials are generally performing their jobs well concerning player health and safety and thus we have no formal recommendations for them. Officials should be praised for their efforts, particularly considering the high level of scrutiny around these issues. While officials should continue their solid work, they must always be diligent and open to change for additional ways to protect player health. In particular, it has been established that players who suffer brain injuries are at risk of serious aggravation of their conditions if they are injured again shortly after the first injury.<sup>61</sup> While the athletic trainers designated for spotting injuries from the press box can help, officials should exercise their discretion to stop play liberally to ensure, as much as possible, that injured athletes do not remain on the field where they can be exposed to further injury.

## Endnotes

- 1 E-mail from Barry Mano, President, National Association of Sports Officials, to author (Mar. 23, 2016, 2:28 PM) (on file with authors).
- 2 E-mail from Michael C. Arnold, Arnold, Newbold, Winter & Jackson P.C., to author (Apr. 22, 2016, 10:58 AM), (on file with authors).
- 3 Official Playing Rules of the National Football League (NFL Playing Rules), Rule 15, Art. 2.
- 4 *Id.* at Art. 6–7.
- 5 *NFL Officials*, Nat'l Football League, <http://operations.nfl.com/the-officials/officiating-development/scouting-the-next-nfl-officials/2015-nfl-officials/> (last visited Sept. 23, 2015), *archived at* <http://perma.cc/K36J-W9LY>.
- 6 Gary Mihoce, *Path To Becoming NFL Referee Is Usually Long*, USA Today, Sept. 19, 2012, <http://usatoday30.usatoday.com/sports/nfl/story/2012/09/19/path-to-becoming-nfl-referee-is-usually-long/57809626/1>, *archived at* <http://perma.cc/R6EG-HB7N>.
- 7 *Id.*; see Josh Katzowitz, *NFL releases list of all officials for 2014 season*, CBSSPORTS.COM (May 22, 2014, 11:38 AM), <http://www.cbssports.com/nfl/eye-on-football/24569855/nfl-releases-list-of-all-officials-for-2014-season>, *archived at* <https://perma.cc/A2ZW-F2GY> (discussing that the 12 newest officials previously refereed in the Pac-12, SEC, Big 10, Big 12 and ACC).
- 8 Judy Battista, *N.F.L. Reaches Labor Deal With Referees*, N.Y. Times, Sept. 26, 2012, [http://www.nytimes.com/2012/09/27/sports/football/nfl-and-referees-reach-labor-deal.html?\\_r=0](http://www.nytimes.com/2012/09/27/sports/football/nfl-and-referees-reach-labor-deal.html?_r=0), *archived at* <https://perma.cc/XTZ8-WWYT?type=pdf>.
- 9 *Id.*
- 10 Mike Florio, *NFLPA Threatens “Appropriate Action” Over Replacement Officials*, ProFootballTalk (Sept. 9, 2012, 7:49 PM), <http://profootballtalk.nbcsports.com/2012/09/09/nflpa-threatens-appropriate-action-over-replacement-officials/>, *archived at* <http://perma.cc/X887-RPKF>.
- 11 *NFL, NFLRA Reach Eight-Year Agreement*, NFL (Sept. 27, 2012 12:34 AM), <http://www.nfl.com/news/story/0ap100000066739/article/nfl-nflra-reach-eightyear-agreement>, *archived at* <http://perma.cc/4C9Z-CZLR>.
- 12 *Id.*
- 13 Interview with Jim Quirk, Executive Director, NFLRA (March 25, 2015).
- 14 Interview with Barry Mano, President, National Association of Sports Officials (Oct. 29, 2014).
- 15 *Id.*
- 16 *Id.*
- 17 *Id.* For more information on NASO, see its website at <http://www.naso.org>.
- 18 Interview with Mano, *supra* note 14.
- 19 *Id.* The Commissioner and the Supervisor of League Game Officials are responsible for selecting officials. See NFL Constitution and Bylaws (2012), § 8.7.
- 20 Glenn M. Wong, *Essentials of Sports Law*, § 4.7 (4th ed. 2010) (discussing duties of officials and gathering cases); Eric T. Gilson, *Sports Officiating and the Law: A Survey of Risks and Protections*, 7 Willamette Sports L.J. 32 (2009) (same).
- 21 See Alan S. Goldberger, *Sports Officiating: A Legal Guide*, 206–210 (2007) (stating “[t]he American legal system is traditionally reluctant to become involved in second guessing decisions of referees” and collecting cases); Order, Ind. School Dist. No. I-89 of Okla. County, Okla. v. Okla. Secondary School Activities Ass’n, 2014-cv-2235 (Okla. Cnty. Dec. 11, 2014) (dissolving temporary injunction after high school sued to replay state playoff game based on erroneous application of a rule: “it borders on the unreasonable, and in some respects extends far beyond the purview of the judiciary, to this Court more equipped or better qualified than Defendant to decide the outcome or any portion of a high school football game.”); Georgia High School Ass’n v. Waddell, 285 S.E.2d 7 (Ga. 1981) (holding that Courts do not possess the authority to review the decisions of high school football referees).
- 22 See Marc T. Wolin, Robert D. Lang, *Legal Liability for Sports Referees in Today’s Litigious World – If You Can’t Kill the Ump Then Sue Him*, 15 U. Den. Sports & Ent. L.J. 83, 85 (2013); John Cadkin, *Sports Official Liability: Can I Sue If the Ref Missed a Call?* 2008 Den. U. Sports & Ent. L.J. 51, 52 (2008).
- 23 *Id.*
- 24 See Gilson, *supra* note 20, at 41 (discussing NASO’s lobbying efforts); Cadkin, *supra* note 22, at 56–57 (same).
- 25 *Sports Officials Legislative Scorecard*, Nat’l Ass’n Sports Officials, <http://www.naso.org/Resources/Legislation/LegislationStatus/SportsOfficialsLegislativeScorecard.aspx> (last visited Aug. 7, 2015), *archived at* <http://perma.cc/JV5L-98PD>.
- 26 See M.G.L.A. 231 § 85V (Massachusetts statute restricting liability against volunteer officials and those working in youth sports); 745 ILCS 80/1 (Illinois statute restricting liability against volunteer officials and those working in youth sports); 42 Pa.C.S.A. § 8332.1 (Pennsylvania statute restricting liability against volunteer officials and those working in youth sports); Gen.Laws 1956, § 9-1-48 (Rhode Island statute restricting liability against officials in youth sports); R.C. § 3707.511 (Ohio statute restricting liability against officials in youth sports); NDCC, 32-03-46 (North Dakota statute restricting liability against volunteer officials); LSA-R.S. 9:2798 (Louisiana statute restricting liability against volunteer officials); N.J.S.A. 2A:62A-6.1 (New Jersey statute restricting liability against youth sports officials); N.J.S.A. 2A:62A-6 (New Jersey statute restricting liability against volunteer officials); 16 Del.C. § 6836 (Delaware statute restricting liability against volunteer officials); Ga. Code Ann.,

- § 51-1-41 (Georgia statute restricting liability against officials for amateur sports); A.C.A. § 16-120-102 (Arkansas statute restricting liability against officials for amateur sports); V.T.C.A., Civil Practice & Remedies Code § 84.004 (Texas statute restricting liability against volunteers of youth sports organizations); MD Code, Courts and Judicial Proceedings, § 5-802 (Maryland statute restricting liability against officials of amateur sports).
- 27 See T. C. A. § 62-50-202 (Tennessee statute restricting liability against officials “at any level of competition”); Miss. Code Ann. § 95-9-3 (Mississippi statute restricting liability against officials “at any level of competition”); N.R.S. 41.630 (Nevada statute restricting liability against officials “at any level of competition”).
  - 28 Interview with Barry Mano, President, National Association of Sports Officials (Oct. 29, 2014).
  - 29 *Id.*
  - 30 *Id.*
  - 31 See *Code of Conduct for Sports Officials*, Nat’l Ass’n Sports Officials, [http://www.naso.org/Portals/0/downloads/code\\_of\\_conduct.pdf](http://www.naso.org/Portals/0/downloads/code_of_conduct.pdf) (last visited Aug. 7, 2015), *archived at* <https://perma.cc/35SA-8C6H?type=pdf>.
  - 32 Interview with Mano, *supra* note 14.
  - 33 *Id.*
  - 34 Interview with Jim Quirk, Executive Director, NFLRA (March 25, 2015).
  - 35 See Kevin Seifert, *NFL Nation Says: Too Much QB Protection?* ESPN (Nov. 21, 2013), [http://espn.go.com/blog/nflnation/post/\\_id/102074/nfl-nation-says-too-much-qb-protection](http://espn.go.com/blog/nflnation/post/_id/102074/nfl-nation-says-too-much-qb-protection), *archived at* <http://perma.cc/J5YP-V78Y>.
  - 36 Mark Kiszla, *NFL Appears to Prefer Two-Hand Touch*, Denver Post, Aug. 8, 2014, *available at* 2014 WLNR 21946260; Marshall Faulk, *Stupid rule endangers running backs’ well-being*, NFL (March 20, 2013, 11:04 PM) <http://www.nfl.com/news/story/0ap1000000152312/article/crownofhelmet-ban-nfl-rule-draws-criticism-understanding>, *archived at* <http://perma.cc/WW22-6HHJ>.
  - 37 Mike Florio, *On Concussions, Players and Fans Can’t Have it Both Ways*, ProFootballTalk (May 6, 2012, 10:15 AM), <http://profootballtalk.nbcsports.com/2012/05/06/on-concussions-players-and-fans-cant-have-it-both-ways/>, *archived at* <http://perma.cc/9KRW-TJGA>.
  - 38 Michael David Smith, *Vinny Testaverde Thinks the NFL is Overprotective of Quarterbacks*, ProFootballTalk (Nov. 20, 2012, 10:45 AM), <http://profootballtalk.nbcsports.com/2012/11/20/vinny-testaverde-thinks-the-nfl-is-overprotective-of-quarterbacks/>, *archived at* <http://perma.cc/W6NQ-586T>; Kevin Seifer, Tim MacMahon, The Associated Press, *Critics Blast Kickoff Rule Change*, ESPN (Aug. 24, 2011), [http://espn.go.com/nfl/story/\\_id/6887856/donnie-nickey-formerly-tennessee-titans-latest-rip-new-nfl-kickoff-rule](http://espn.go.com/nfl/story/_id/6887856/donnie-nickey-formerly-tennessee-titans-latest-rip-new-nfl-kickoff-rule), *archived at* <http://perma.cc/ZVB8-WG36>; Gregg Rosenthal, *Woodley upset that football is “turning soft”*, ProFootballTalk (May 25, 2011, 4:32 PM), <http://profootballtalk.nbcsports.com/2011/05/25/woodley-upset-that-football-is-turning-soft/>, *archived at* <http://perma.cc/2722-L2ZX>.
  - 39 NFL Comments and Corrections (June 24, 2016).
  - 40 NFL Playing Rules, § 2, Art. 9.
  - 41 NFL Playing Rules, § 2, Art. 11.
  - 42 NFL Playing Rules, § 5, Art. 2.
  - 43 Interview with Jim Quirk, Executive Director, NFLRA (March 25, 2015).
  - 44 E-mail from Barry Mano, President, National Association of Sports Officials, to author (Mar. 23, 2016, 2:28 PM) (on file with authors).
  - 45 NFL Playing Rules, § 5, Art. 2.
  - 46 Mike Florio, *Giants LB Played Nearly Three Quarters with Concussion*, ProFootballTalk (Nov. 13, 2014, 8:30 PM), <http://profootballtalk.nbcsports.com/2014/11/13/giants-lb-played-nearly-three-quarters-with-concussion/>, *archived at* <http://perma.cc/LM4Z-YQJG>; Lions’ Michael David Smith, *Laadrian Waddle Returned to Game After Concussion*, ProFootballTalk (Oct. 23, 2014, 10:41 AM), <http://profootballtalk.nbcsports.com/2014/10/23/lions-laadrian-waddle-returned-to-game-after-concussion/>, *archived at* <http://perma.cc/27UM-X5BJ>.
  - 47 Michael David Smith, *Chargers Now Admit Jahleel Addae Had a Concussion*, ProFootballTalk (Oct. 25, 2014, 6:45 AM) <http://profootballtalk.nbcsports.com/2014/10/25/chargers-now-admit-jahleel-addae-had-a-concussion/>, *archived at* <http://perma.cc/S96G-CKRW>.
  - 48 Mike Florio, *Doctors Advise Team Medical Staffs to Be More Vigilant About Concussions*, ProFootballTalk (Oct. 30, 2014, 4:42 PM), <http://profootballtalk.nbcsports.com/2014/10/30/doctors-advise-team-medical-staffs-to-be-more-vigilant-about-concussions/>, *archived at* <http://perma.cc/QFB8-JSX7>.
  - 49 Darin Gantt, *Injury Timeout Proposal Unanimously Approved by NFL Owners*, ProFootballTalk (Mar. 24, 2015, 1:38 PM), <http://profootballtalk.nbcsports.com/2015/03/24/injury-timeout-proposal-unanimously-approved-by-nfl-owners/>, *archived at* <http://perma.cc/4C5W-ULP9>.
  - 50 *Id.*
  - 51 See 2011 CBA, Art. 43, § 1 (Non-Injury Grievances are the exclusive method for resolving claims concerning “any provision of [the CBA], the NFL Player Contract, the Practice Squad Player Contract, or any applicable provision of the NFL Constitution and Bylaws or NFL Rules pertaining to the terms and conditions of employment of NFL players”).
  - 52 Marc T. Wolin, Robert D. Lang, *Legal Liability for Sports Referees in Today’s Litigious World – If You Can’t Kill the Ump Then Sue Him*, 15 U. Den. Sports & Ent. L.J. 83, 88 (2013); Byron Rosen, *Denver Baseball Flame Brightens*, Wash. Post, Feb. 2, 1978, *available at* 1978 WLNR 229812.
  - 53 *Id.*
  - 54 *Id.*
  - 55 *Brown v. Nat’l Football League*, 219 F. Supp. 2d 372, 376 (S.D.N.Y. 2002).
  - 56 *Id.*
  - 57 *Id.* at 376.
  - 58 *Id.*
  - 59 *Id.* at 377.
  - 60 *Id.*
  - 61 Daniel Slotnik, *Orlando Brown, Who Sued N.F.L. Over Errant Flag, Dies at 40*, N.Y. Times, Sept. 23, 2011, [http://www.nytimes.com/2011/09/24/sports/football/orlando-brown-who-sued-nfl-over-errant-flag-dies-at-40.html?\\_r=0](http://www.nytimes.com/2011/09/24/sports/football/orlando-brown-who-sued-nfl-over-errant-flag-dies-at-40.html?_r=0), *archived at* <https://perma.cc/32U3-C4SS?type=pdf>.
  - 62 *Id.*
  - 63 Ruben Echemendia et al., *Developing guidelines for return to play: consensus and evidence-based approaches*. 29 Brain Inj. 185 (2015) (“Risk for recurrent concussion was greater for individuals with prior concussions and appeared greatest in the first 10 days after a sports-related concussion.”).