



THE FOOTBALL PLAYERS  
**HEALTH STUDY**  
AT HARVARD UNIVERSITY

# Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations

## Appendices

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## APPENDIX A \ Concussion Protocol



### NFL Head, Neck and Spine Committee's Protocols Regarding Diagnosis and Management of Concussion

#### Introduction

Concussion is an important injury for the professional football player, and the diagnosis, prevention, and management of concussion is important to the National Football League, its players and member Clubs, and the National Football League Players Association. The NFL's Head, Neck and Spine Committee has developed a comprehensive set of protocols with regard to the diagnosis and management of concussions in NFL players.

The diagnosis and management of concussion is complicated by the difficulty in identifying the injury as well as the complex and individual nature of managing this injury. Ongoing education of players, NFL team physicians and athletic trainers regarding concussion is important, recognizing the evolving advances in concussion assessment and management. The objective of these protocols is to provide medical staffs responsible for the health care of NFL players with a process for diagnosing and managing concussion.

**Concussion Defined:** For purposes of these protocols, the term *concussion* is defined as (reference McCrory et al BJSM '13): A complex pathophysiological process affecting the brain induced by biomechanical forces. Several common features that incorporate clinical, pathologic and biomechanical injury constructs that may be utilized in defining the nature of a concussive head injury include:

1. Concussion may be caused either by a direct blow to the head, face, neck or elsewhere on the body with an "impulsive" force transmitted to the head.
2. Concussion typically results in the rapid onset of transient impairment of neurologic function that resolves spontaneously. However, in some cases, symptoms and signs may evolve over a number of minutes to hours.
3. Concussion may result in neuropathological changes, but the acute clinical symptoms largely reflect a functional disturbance rather than a structural injury and, as such, no abnormality is seen on standard structural neuroimaging studies.
4. Concussion results in a graded set of clinical symptoms that may or may not involve loss of consciousness. Resolution of the clinical and cognitive symptoms typically follows a sequential course; however, it is important to note that, in some percentage of cases, post-concussive symptoms may be prolonged.

**Potential Concussion Signs (Observable)**

- Any loss of consciousness;
- Slow to get up following a hit to the head (“hit to the head” may include secondary contact with the playing surface);
- Motor coordination/balance problems (stumbles, trips/falls, slow/labored movement);
- Blank or vacant look;
- Disorientation (e.g., unsure of where he is on the field or location of bench);
- Clutching of head after contact;
- Visible facial injury in combination with any of the above.

**Potential Concussion Symptoms (Player reported, following direct or indirect contact)**

- Headache;
- Dizziness;
- Balance or coordination difficulties;
- Nausea;
- Amnesia for the circumstances surrounding the injury (i.e., retrograde/antegrade amnesia);
- Cognitive slowness;
- Light/sound sensitivity;
- Disorientation;
- Visual disturbance;
- Tinnitus.

**NFL Sideline Concussion Assessment:**

The NFL Sideline Concussion Assessment is the standardized acute evaluation that has been developed by the NFL’s Head Neck and Spine Committee to be used by team’s medical staffs to evaluate potential concussions during practices and on game day. This evaluation is based on the Standardized Concussion Assessment Tool (SCAT2) published by the Concussion in Sport Group (McCroory ‘09), modified for use in the NFL in 2011, and consistent with the SCAT3 published in 2013 by the same international Concussion in Sport Group (McCroory ‘13) (Attachment A). The NFL Sideline Concussion Assessment can be used to aide in the diagnosis of concussion even if there is a delayed onset of symptoms. The NFL Sideline Concussion Assessment is also designed for serial testing, which allows it to be used across multiple occasions to track player recovery. Clubs shall maintain all NFL Sideline Concussion Assessment exams and a copy of the same shall be given to both the player and the team medical staff.

Being able to compare the results from the Sideline Concussion Assessment to the baseline information obtained in the preseason improves the value of this instrument. In all circumstances, the Team Physician or other physician designated by the Team Physician (e.g. neurosurgeon or Neurotrauma Consultant) shall assess the player in person. The Team Physician shall be responsible for determining whether the player is diagnosed as having a concussion

## APPENDIX B \ Summary Of Health-Related Changes To The Collective Bargaining Agreements

**Note:** The below summaries represent our efforts to identify and describe those changes to the collective bargaining agreements (CBAs) that we believe affected player health as defined in this Report, but the summaries are not necessarily exhaustive.

### CBA NUMBER: ONE

**Date of Execution:** November 20, 1968

**Effective Begin Date:** July 15, 1968

**Effective End Date:** February 1, 1970

#### Changes to Player Health Provisions:

1. Creation of "Bert Bell NFL Player Retirement Plan and Trust Agreement" ("Retirement Plan").
2. Creation of Group Medical Insurance policy.
3. Creation of Injury Grievance mechanism.
4. Creation of provision requiring clubs to provide worker's compensation benefits.
5. Creation of Injury Protection benefit.

### CBA NUMBER: TWO

**Date of Execution:** March 29, 1971

**Effective Begin Date:** February 1, 1970

**Effective End Date:** January 31, 1974

#### Changes to Player Health Provisions:

1. Injury Grievances: Added impartial arbitration process; clarified filing and hearing process.
2. Creation of Disability Benefits plan.
3. Creation of Life Insurance policy.
4. Creation of Dental Benefits program for players and their families.
5. Off-Season Workouts: Parties "agree that no veteran player shall be required to perform any activities relating to professional football during the off-season except on a voluntary basis."

### CBA NUMBER: THREE

**Date of Execution:** March 1, 1977

**Effective Begin Date:** February 1, 1974

**Effective End Date:** July 15, 1982

#### Changes to Player Health Provisions:

1. Retirement/Pension Plan: Vesting requirement reduced from five to four Credited Seasons for players who achieve fourth Credited Season in 1974 or later.
2. Group Medical Insurance: Major medical coverage increased to \$250,000. Eighty percent of the first \$3,000 and 100 percent of the excess eligible medical expenses will be reimbursed.
3. Disability Benefits: Benefits increased to \$1,000/month for football injuries and \$500/month for non-football injuries + \$50/month for each dependent child.
4. Life Insurance: Coverage increased to \$30,000 for rookies and an additional \$5,000 per year for each Credited Season up to \$50,000.
5. Dental Benefits: Coverage increased to \$1,000 per year and orthodontics coverage added.
6. Off Season Workouts: Each club can hold one mandatory off-season training camp for veteran players which cannot exceed three days in length and will not include contact work. Teams with new coaches can hold two off-season camps and there is no limit on off-season camps for rookies. Players injured during off-season camps are protected "in the same manner as if injured during the club's pre-season training camp."
7. Pre-Season Training Camps: No player required to report to training camp more than 15 days before first preseason game or July 15, whichever is later.
8. Joint Committee on Player Safety and Welfare established "for the purpose of discussing the player safety and welfare aspects of playing equipment, playing surfaces, stadium facilities, playing rules, player-coach relationships, drug abuse prevention programs and any other relevant subjects." Committee has no power to bind either NFL or NFLPA on any issue.
9. Days Off: Players are entitled to at least four off days a month, though players can be required to receive medical treatment and quarterbacks can be required to attend meetings.
10. PUP List: Any player placed on the Physically Unable to Perform List will be paid at the rate of his full contract salary while on the List.

**CBA NUMBER: FOUR****Date of Execution:** December 11, 1982**Effective Begin Date:** July 16, 1982**Effective End Date:** August 31, 1987**Changes to Player Health Provisions:**

1. Group Medical Insurance: Major medical coverage increased to \$1 million.
2. Workers' Compensation: Addition of arbitration mechanism if amount of benefits is disputed.
3. Injury Protection: Maximum benefit increased to \$65,000.
4. Disability Benefits: Benefits increased to \$4,000/month for football injuries and \$750/month for non-football injuries.
5. Life Insurance: Coverage increased to \$50,000 for rookies and an additional \$10,000 per year for each Credited Season up to \$100,000.
6. Dental Benefits: Coverage increased to \$2,000 per year.
7. Season Length: NFL must give 90 days' notice before increasing season to 16 games and must negotiate with NFLPA with regard to additional compensation, subject to arbitration if no agreement reached. Regular season cannot be extended beyond 18 games.
8. Severance Pay: Any player with at least two Credited Seasons who leaves the NFL is entitled to severance payment ranging from \$5,000 to \$140,000 depending on length of service.
9. Club Doctors: "Each club will have a board certified orthopedic surgeon as one of its club physicians. The cost of medical services rendered by club physicians will be the responsibility of the respective clubs. If a club physician advises a coach or other club representative of a player's physical condition which could adversely affect the player's performance or health, the physician will also advise the player."
10. Club Athletic Trainers: All full-time athletic trainers must be certified by the National Athletic Trainers Association.
11. Second Medical Opinion: Players entitled to second medical opinion paid for by club provided player first consults with club doctor and club doctor is provided with report from second opinion doctor.
12. Players' Right to a Surgeon of His Choice: Player entitled to choose his own surgeon at the club's cost provided player first consults with club doctor.
13. Pre-Season Physical: Each player will undergo a standardized minimum pre-season physical examination conducted by the club doctor.
14. Chemical Dependency: Clubs to pay for education and treatment related to chemical dependence.
15. Drug Testing: "The club physician may, upon reasonable cause, direct a player to [a treatment facility] for testing for chemical abuse or dependency problems. There will not be any spot checking for chemical abuse or dependency by the club or club physician."

16. Access to Medical Records: Player entitled to review his medical records twice per season. Players' doctor may obtain copies for use in rendering a medical opinion, but such copies cannot be released to the player or any other person.

**CBA NUMBER: FIVE****Date of Execution:** May 6, 1993**Effective Begin Date:** March 29, 1993**Effective End Date:** March 1, 2000**Changes to Player Health Provisions:**

1. Retirement Plan: Future contributions to be made by NFL clubs as necessary to fund the Plan pursuant to certain actuarial assumptions and methods. Vesting requirement reduced to three Credited Seasons for players with at least one Credited Season during 1993. Early Retirement Option eliminated for players beginning career in 1993 or later. Amendment of Plan to include benefits for players who played prior to 1959.
2. Group Medical Insurance: Lifetime benefits increased up to a maximum of \$1 million.
3. Injury Grievances: Addition of "presumption of fitness" if player passes preseason physical.
4. Worker's Compensation: Addition of joint study on workers' compensation laws and moratorium on lobbying on workers' compensation laws.
5. Injury Protection: Maximum benefits increased to \$150,000–200,000 depending on year.
6. Disability Benefits: Benefits divided into five categories: (1) Active Football: \$4,000/month; (2) Active Nonfootball: \$4,000/month; (3) Football Degenerative: \$4,000/month; (4) Inactive Nonfootball: \$1,500/month; and, (5) Dependent Child: \$100/month. Also, included retroactive increases for payments due under prior CBAs.
7. Life Insurance: Coverage increased to \$100,000 for rookies and an additional \$20,000 per year for each Credited Season up to \$200,000.
8. Off-Season Workouts: Creation of minicamps instead. Clubs can conduct offseason workout programs for no more than sixteen weeks with four workouts per week. No more than 14 team practices. Contact work prohibited.
9. PUP List: Player's contract tolled if in last year and unable to perform after sixth regular season game.
10. Severance Pay: Players with at least two Credited Seasons to receive \$5,000 for each Credited Season between 1989 and 1992 and \$10,000 for each Credited Season between 1993 and 1999.
11. Club Doctors: If a player's "condition could be significantly aggravated by continued performance, the physician will advise the player of such fact in writing before the player is again allowed to perform on-field activity."

12. Pre-Season Physical: Substantially the same, plus inclusion of permission to “conduct random testing for steroids” with limits to be negotiated between Commissioner and NFLPA.
13. Access to Medical Records: Addition of player’s permission to obtain records during the off-season upon request.
14. Creation of Steroid Testing: Clubs permitted to “conduct random testing for steroids” with limits to be negotiated between Commissioner and NFLPA.
15. Creation of Second Career Savings Plan: Each NFL club to contribute a total of \$215,000 to plan per year. Participants in plan can receive various payout structures after age 45 if no longer employed by NFL club.
16. Creation of Supplemental Disability Insurance: Creation of a Voluntary Employees’ Beneficiary Association (VEBA).<sup>a</sup> Increases benefit amounts due under the Retirement Plan.
17. Creation of Benefit Arbitrator to arbitrate any disputes concerning player benefits.

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### CBA NUMBER: SIX

**Date of Execution:** June 6, 1996

**Effective Begin Date:** March 29, 1993

**Effective End Date:** March 1, 2003

**Changes to Player Health Provisions:**

1. Injury Protection: Maximum benefits increased to \$225,000 for 2000–2002.
2. Life Insurance: Coverage increased to \$150,000 for rookies and an additional \$30,000 per year for each Credited Season up to \$300,000.
3. Off-Season Workouts: Healthy, veteran players prohibited from participating in club activities within 10 days prior to training camp; coaches can be fined if club does not comply with rules.

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### CBA NUMBER: SEVEN

**Date of Execution:** February 25, 1998

**Effective Begin Date:** March 29, 1993

**Effective End Date:** March 1, 2005

**Changes to Player Health Provisions:**

1. Retirement Plan: Increase in benefits for Credited Seasons prior to 1997; retroactive decrease in vesting requirement from five to four years for players prior to 1975.
2. Group Medical Insurance: Lifetime benefits increased up to a maximum of \$2 million.
3. Worker’s Compensation: Lobbying moratorium to end June 1, 1999.

4. Injury Protection: Maximum benefits increased to \$250,000 for 2003–2004; players allowed to argue they should not have passed post-season physical.
5. Disability Benefits: Change in definitions: “A disability will be deemed ‘permanent’ if it has persisted or is expected to persist for at least 12 months from the date of its occurrence and if the Player is not an Active Player.” Players can obtain disability benefits for psychological disorders caused by NFL activities.
6. Creation of Player Annuity Program: Establishment of program with NFL contribution \$33 million in 1998 up to \$73 million in 2001; player annuity amounts dependent on experience (four Credited Seasons minimum).

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### CBA NUMBER: EIGHT

**Date of Execution:** January 8, 2002

**Effective Begin Date:** March 29, 1993

**Effective End Date:** March 1, 2008

**Changes to Player Health Provisions:**

1. Group Medical Insurance: Lifetime benefits increased up to a maximum of \$2.5 million.
2. Worker’s Compensation: No moratorium on lobbying.
3. Injury Protection: Maximum benefits increased to \$275,000 for 2006–2007.
4. Disability Benefits: Disability definition changed to that of the American Medical Association’s “Guides to the Evaluation of Permanent Impairment.”
5. Off-Season Workouts: Off-season workout programs reduced from 16 to 14 weeks; players cannot be at facility for more than four hours per day and not on the field for more than 90 minutes per day; NFLPA given authority to commence investigations; potential discipline against violators increased up to a 4th round draft pick for repeat offenders.
6. Joint Committee on Safety and Welfare: NFLPA has right to commence an investigation before the Joint Committee if it believes “that the medical care of a team is not adequately taking care of player safety.” Neutral doctor will investigate and issue a report concerning the complaint.
7. Supplemental Disability Benefits: Payments to be made automatically to qualifying players unless they have waived the right to receive such benefits.
8. Creation of Tuition Assistance Plan: Establishment of plan whereby clubs will reimburse players for tuition up to \$15,000/year.

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<sup>a</sup> A VEBA is a tax-free account created for the purpose of providing benefits to employees, such as insurance benefits, severance pay, sick leave, vacation benefits, etc.

**CBA NUMBER: NINE****Date of Execution:** March 8, 2006**Effective Begin Date:** March 8, 2006**Effective End Date:** March 1, 2013**Changes to Player Health Provisions:**

1. Worker's Compensation: Clarifies method for calculating a club's right to offset a player's salary with any workers' compensation award.
2. Injury Protection: Maximum benefits increased to \$350,000 for 2012.
3. Life Insurance: Coverage increased to \$300,000 for rookies and an additional \$100,000 per year for each Credited Season up to \$800,000.
4. Severance Pay: Payments increased to \$12,500 for each season between 2000 and 2008 and \$15,000 for each season between 2009 and 2011.
5. Player Annuity Program: Clubs to contribute \$65,000 per player with at least four Credited Seasons.
6. Tuition Assistance Plan: Program extended to players retired within last three years.
7. Creation of Health Reimbursement Account: NFL clubs to contribute based on actuarial assumptions and methods. Account credits up to \$300,000 depending on number of Credited Seasons.
8. Creation of 88 Benefit: Establishment of plan to provide players with dementia up to \$88,000 per year, paid for by NFL.
7. Life Insurance: Coverage increased to \$600,000 for rookies and an additional \$200,000 per year for each Credited Season up to \$1.6 million.
8. Off-Season Workouts: Offseason program reduced to nine weeks in three phases of varying intensity; establishment of uniform workout agreement.
9. Pre-Season Training Camps: Limitations imposed on two-a-day practices. Maximum of three hours of padded practice. All practices to be filmed.
10. Days Off: Generally, one off-day every seven days in preseason and four per month during regular and postseason.
11. Season Length: NFL can increase the number of regular season games only with NFLPA approval which may be withheld at the NFLPA's sole discretion.
12. Severance Pay: \$17,500 for each season between 2012 and 2013 up to \$22,500 for each season between 2017 and 2020.
13. Club Physicians: Clubs required to have orthopedic surgeon and internal, family medicine or emergency medicine physician. Club doctors must have Certificate of Added Qualification in Sports Medicine. Club required to have the following consultants: neurological; cardiovascular; nutrition; and, a neuropsychologist. New provision declaring that "each Club physician's primary duty in providing player medical care shall not be to the Club but instead to the player-patient."
14. Pre-Season Physical: Each player will undergo a standardized minimum pre-season physical examination conducted by the club physician. Clubs prohibited from conducting their own tests for PEDs or drugs or alcohol.

**CBA NUMBER: TEN****Date of Execution:** August 4, 2011**Effective Begin Date:** August 4, 2011**Effective End Date:** March 1, 2021**Changes to Player Health Provisions:**

1. Retirement Plan: Benefit amounts increased for past seasons.
2. Group Medical Plan: Elimination of maximum coverage.
3. Injury Grievances: Establishment of Grievance Settlement Committee.
4. Worker's Compensation: Joint committee established to address workers' compensation in California.
5. Injury Protection: Maximum benefits increased to \$1 million in 2011–2012 up to \$1.2 million in 2019–2020. Players can now get "Extended Injury Protection" in second season after injury for \$500,000 in 2012–2014 up to \$575,000 in 2019–2020.
6. Disability Benefits: New plan created, providing for benefits up to \$30,000 per year. "A disability will be deemed 'permanent' if it has persisted or is expected to persist for at least twelve months from the date of its occurrence." Categories of disability include: Active Football; Active Nonfootball; Inactive A; and, Inactive B.
15. Access to Medical Records: Prohibition against showing records to any other person removed. NFL to develop and implement online, electronic medical record system.
16. Minicamps: Greater restrictions on types of activities, pursuant to off-season workout rules. Clubs can hold voluntary veteran minicamp. All minicamps must be videotaped.
17. Supplemental Disability Plan: Incorporated into new NFL Player Disability.
18. Player Annuity Program: Club contributions increase to \$95,000 in 2018–2020.
19. Tuition Assistance Plan: Reimbursement amount increased to \$20,000 in 2015–2020. Program available to players retired within the last four years if they have five Credited Seasons.
20. Health Reimbursement Account: Account credits cannot exceed \$350,000.
21. 88 Benefit: Benefits increased to \$100,000 per year, \$130,000 beginning in 2016.
22. Regular Season and Post-Season Practices: Clubs limited to fourteen padded practices during the season and one per week in the postseason. On-field activities limited to three hours. Four days off during bye weeks. All practices to be filmed.

23. Role of NFLPA Medical Director: NFLPA Medical Director to be a voting member on all NFL healthy and safety committees and will have same access to data as NFL Medical Advisor.
24. Home Game Neutral Physician: “All home teams shall retain at least one [Rapid Sequence Intubation] RSI physician who is board certified in emergency medicine, anesthesia, pulmonary medicine, or thoracic surgery, and who has documented competence in RSI intubations in the past twelve months. This physician shall be the neutral physician dedicated to game-day medical intervention for on-field or locker room catastrophic emergencies.”
25. Creation of Accountability and Care Committee: Committee established “which will provide advice and guidance regarding the provision of preventive, medical, surgical and rehabilitative care for players by all clubs.” Committee has several identified tasks, including conducting a confidential survey every two years to solicit players’ input regarding adequacy of medical care.
26. Creation of Legacy Benefit: Establishment of benefit for players who played prior to 1993. NFL to contribute \$620 million.
27. Long Term Care Insurance Plan: Continues plan already in existence —players are able to obtain a long-term care insurance policy providing maximum benefits of \$150/day for four years.
28. Creation of Former Player Life Improvement Plan: Plan formerly known as NFL Player Care Plan. Plan permits qualifying retired players not otherwise covered by health insurance to receive up to \$250,000 in medical costs for “joint replacements, prescription drugs, assisted living, Medicare supplemental insurance, spinal treatment, and neurological treatment.”
29. Neuro-Cognitive Disability Benefit: Permits qualifying retired players to receive no less than \$3,000 per month for a maximum of 180 months. The medical standards for qualifying for this benefit were to be agreed upon by a Special Committee created by the parties made up of three healthcare professionals with expertise in neuro-cognitive disorders.
30. Support for Former Players: \$22 million annually allocated to healthcare, benefits, funds and programs for former players as determined by the NFLPA.
31. Medical Research: \$11 million annually allocated for medical research.



## APPENDIX C \ Summary of Collectively Bargained Health-Related Programs and Benefits

**Preliminary Note:** The descriptions below are of various collectively bargained health-related programs and benefits. These programs are mentioned in the collective bargaining agreement (CBA) but the actual plan and benefit documents are separate from the CBA. The descriptions below are merely summaries as the actual plan and benefit documents are substantially longer and contain much greater detail and nuance. These descriptions should be not be taken as a complete statement of the benefits, rights, and obligations under the various plans.

Additionally, as a preliminary matter, player eligibility for many of the collectively bargained benefits discussed below depends on the number of “Credited Seasons” a player has earned. Generally, a player earns a Credited Season when he is entitled to be paid for at least three regular season games.<sup>1</sup>

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### RETIREMENT PLAN

**First Created:** 1968

**Last Amended:** 2011

**2011 CBA Provision:** Art. 53

**Administrator:** The Retirement Board, which consists of three members selected by the NFL Management Council (NFLMC)<sup>a</sup> and three members selected by the NFLPA. The current NFLMC members are: Dick Cass, President, Baltimore Ravens; Katie Blackburn, Executive Vice President, Cincinnati Bengals; and, Ted Phillips, President, Chicago Bears. The National Football League Players Association (NFLPA) members are former players Jeff Van Note, Robert Smith, and Sam McCullum. NFL Commissioner Roger Goodell is a nonvoting member and Chairman.

The members of the Retirement Board also serve as the members of the Disability Board, Savings Board, 88 Board, Annuity Board, and HRA Board, the plans of which are discussed in further detail below.

**Description:** Provides eligible players with retirement benefits, and offers survivor benefits for players’ wives and family.

**Eligibility:** Generally, only “Vested Players” are eligible for retirement benefits. A Vested Player is a player who fits one of the following criteria: (1) has three or more Credited Seasons, including at least one Credited Season after 1992; (2) has four or more Credited Seasons, including at least one Credited Season after 1973; or, (3) has five or more Credited Seasons. In addition, regardless of the number of Credited Seasons a player has, if the player qualifies for permanent and total disability benefits under the Disability & Neurocognitive Disability Benefit Plan (discussed below) while an active player, the player can receive benefits under the Retirement Plan.

**When Eligible:** Vested Players can receive monthly retirement benefits for life beginning at age 55. Players with a Credited Season before 1993 can receive reduced monthly benefits as early as age 45. A player can elect to receive retirement benefits until his death or defer some of the benefits to his family upon death.

**Payor:** Contributions are made into a trust fund by NFL clubs each year according to certain actuarial assumptions.

**Payment Type:** Monthly.

**Enrollment Type:** Player must file for retirement benefits upon reaching age 55, but will automatically begin receiving the benefits at age 65 if nothing is filed.

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<sup>a</sup> NFL Management Council is the official name of the organization that collectively bargains on behalf of the NFL clubs.

**Benefit Amount:****Table C-A:****Retirement Benefits (If taken after age 55)**

Credited Season	Monthly Benefit Credit per Credited Season
Before 1982	\$250
1982 through 1992	\$255
1993 through 1994	\$265
1995 through 1996	\$315
1997	\$365
1998 through 2011	\$470
2012 through 2014	\$560
2015 through 2017	\$660
2018 through 2020	\$760

In addition, the Retirement Plan includes \$620 million in Legacy Benefits created as part of the 2011 CBA for players that played before 1993. The Legacy Benefits listed below are in addition to the Retirement Benefits listed above.

**Table C-B:****Legacy Benefits**

Credited Season	Monthly Benefit Credit per Credited Season
Before 1975	\$124
1975 through 1992	\$108

**Additional Notes:** According to the NFL, as of 2015, 3,641 former players receive an average monthly retirement benefit of \$1,656,<sup>2</sup> for a total of approximately \$72,353,952 annually. In addition, about 90 percent of those former players also received Legacy Benefit payments, with an average monthly payment of \$723.85,<sup>3</sup> for a total of approximately \$28,464,677 in Legacy Benefit payments. Thus, in 2015, the NFL Retirement Plan paid a little more than \$100 million to former NFL players.

The Retirement Plan—which until 2011 also covered disability benefits—has historically been viewed negatively by former players. The filing process has been considered complex and lengthy,<sup>4</sup> resulting in many former players suing the Retirement Plan concerning their benefits.<sup>5</sup> During a 2007 hearing before the United States Senate Committee on Commerce, Science, and Transportation, it was revealed that only 317 former players were receiving disability benefits, out of the thousands that were eligible.<sup>6</sup>

Of additional concern, in recent years the NFLPA has been warning players that the Retirement Plan is underfunded.<sup>7</sup> Currently, the Plan only takes in enough money to cover about 54.5 percent of what it pays out,<sup>8</sup> jeopardizing its ability to pay retirement benefits in the future.

## DISABILITY & NEUROCOGNITIVE BENEFIT PLAN

**First Created:** Disability benefits were first offered in 1970 and were historically available as part of the Retirement Plan. The Neurocognitive Disability Benefit was created as part of the 2011 CBA. The 2011 CBA also agreed to combine the disability components of the Retirement Plan, the Supplemental Disability Plan and the Neurocognitive Disability Benefit into this plan.

**Last Amended:** 2014

**2011 CBA Provisions:** Arts. 61, 65

**Administrator:** The Disability Board, which consists of the same members as the Retirement Board.

**Description:** Provides eligible players with disability benefits, including benefits based on neurocognitive disability.

**Eligibility:** A player is eligible for “Total and Permanent Disability Benefits” if the Initial Claims Committee<sup>b</sup> or Disability Board determines “(1) that he has become totally disabled to the extent that he is substantially prevented from or substantially unable to engage in any occupation or employment for remuneration or profit . . . , and (2) that such condition is permanent.”

Each player is awarded benefits pursuant to one of four categories: (1) Active Football: the player is an active player and the disability “results from League football activities”;<sup>c</sup> (2) Active Nonfootball: the player is an active player but the disability does not result from League football activities; (3) Inactive A: the player is a former player who filed for disability benefits within 15 years of his last Credited Season; or (4) Inactive B: the player is a former player who filed for disability benefits more than 15 years of his last Credited Season. Inactive A and Inactive B disability benefits are not dependent on the disability resulting from League football activities.

<sup>b</sup> The Initial Claims Committee consists of three members: one appointed by the NFL, one appointed by the NFLPA, and a medical professional jointly chosen by the parties.

<sup>c</sup> League football activities include any NFL “pre-season, regular-season, or post-season game, or any combination thereof, our out of League football activity supervised by a[] [Club], including all required or directed activities.”

A player is eligible for “Line-of-Duty Disability Benefits” if the Initial Claims Committee or Retirement Board determines that the player “incurred a substantial disablement . . . arising out of [NFL] football activities.” Line-of-Duty Disability Benefits address those injuries or disabilities that are not considered permanent.

A player is eligible for Neurocognitive Disability Benefits if: (1) the player is vested under the Retirement Plan; (2) the player is under age 55; (3) the player had at least one Credited Season after 1994; (4) the player does not receive Retirement Benefits; (5) the player does not receive Total and Permanent Disability Benefits; (6) the player executes a release releasing the NFL and clubs from any liability for head or brain injuries;<sup>d</sup> and, (7) the player is determined to have mild or moderate neurocognitive impairment.

A player has “mild neurocognitive impairment if he has problems with one or more domains of cognitive functioning which reflect acquired brain dysfunction but are not severe enough to cause marked interference in day-to-day activities.”

A player has “moderate neurocognitive impairment if he has problems with one or more domains of cognitive functioning which reflect acquired brain dysfunction resulting in marked interference with everyday life activities, but not severe enough to prevent the Player from working.”

A player must submit to a medical examination by a doctor of the Disability Board’s choosing to determine if the player has neurocognitive impairment.

**When Eligible:** A player can receive Total and Permanent Disability Benefits as soon as the disability is established, retroactive to the time of application. Total and Permanent Disability Benefits continue so long as the player remains disabled and submits to medical examinations.

A player can receive Line-of-Duty Disability Benefits as soon as the disability is established, retroactive to the time of application, for a maximum of 90 months.

A player can receive Neurocognitive Disability Benefits as soon as the disability is established, retroactive to the time of application, for a maximum of 180 months. Also, the Neurocognitive Disability Benefits terminate

upon the player’s 55th birthday regardless of when the benefits began.

Generally, a player cannot receive both retirement and disability benefits at the same time.

**Payor:** Contributions are made into a trust fund by NFL clubs each year.

**Payment Type:** Monthly.

**Enrollment Type:** Player must file for disability benefits.

**Benefit Amount:**

**Table C-C:**  
**Total and Permanent Disability Benefits**

Type of Disability	Monthly Benefit
Active Football	\$22,084
Active Nonfootball	\$13,750
Inactive A	\$11,250
Inactive B	\$5,000

- **Line-of-Duty Disability Benefits:** \$3,000/month.
- **Mild Neurocognitive Disability Benefits:** \$2,250/month.
- **Moderate Neurocognitive Disability Benefits:** \$4,000/month.

**Additional Notes:** As of July 31, 2015, 1,881 players are receiving disability benefits for an average of \$5,178.33 a month,<sup>9</sup> for a total of approximately \$116,885,264.

According to a 2010 analysis of the NFLPA’s disability claims database, disability benefit applications had never exceeded 200 applications in a year until 2008 and 2009, when there were more than 400 claims in both years.<sup>10</sup> As of 2010, NFL disability benefit claims were approved approximately 38 percent of the time.<sup>11</sup> Importantly, the benefits criteria changed after the 2011 CBA, so current data would not be comparable. Moreover, according to the same analysis, of the players who filed for disability benefits, the mean age at which they retired from the NFL was 30.2 years.<sup>12</sup> Additionally, the mean age at which the player filed for disability benefits was 38.1 years.<sup>13</sup>

Finally, through the year 2009, there had been a total of 2,670 disability benefit claims, with 2,423 (90.7 percent) for orthopedic conditions, 52 (1.9 percent) for neurological conditions, 18 (0.7 percent) for psychological conditions, 18 (0.7 percent) for cardiovascular conditions, and 159 for other unspecified conditions (6.0 percent).<sup>14</sup>

<sup>d</sup> The requirement of this release might prevent many otherwise qualified players from receiving Neurocognitive Disability Benefits to which they would otherwise be entitled. When asked, the NFL stated it was unable to provide the number of former players currently receiving neurocognitive disability benefits “without the consent of the NFL Players Association.” The NFLPA declined to provide this consent or the number of former players who have filed for or are receiving these benefits, citing “player privacy and confidentiality concerns.” We are not sure if we agree with these concerns. This information is de-identified aggregate data that is unlikely to reveal the personal medical information of any player.

**SEVERANCE PAY****First Created:** 1982**Last Amended:** 2011**2011 CBA Provision:** Art. 60**Administrator:** NFLMC**Description:** Player is eligible to receive severance pay for each Credited Season.**Eligibility:** A player with at least two Credited Seasons, at least one of which was in 1993 or after.**When Eligible:** 12 months after your last contract expired or was terminated. Payments generally begin within the quarter after claim accepted.**Payor:** The club with whom the player last earned a Credited Season.**Payment Type:** Single lump sum.**Enrollment Type:** Player must file a claim with NFLMC.**Benefit Amount:****Table C-D:****Severance Pay Benefits<sup>e</sup>**

Seasons	Amount for Each Credited Season
1989–92	\$5,000
1993–99	\$10,000
2000–08	\$12,500
2009	\$15,000
2010	0
2011	\$15,000
2012–13	\$17,500
2014–16	\$20,000
2017–20	\$22,500

<sup>e</sup> Pursuant to the terms of the 2006 CBA, the NFL was not required to fund several benefit plans, including the Severance Pay Plan in 2010 if the 2010 season was not played with a Salary Cap — a situation which would only exist if the NFL and NFLPA were unable to agree to an extension of the CBA, which is what actually transpired. See 2006 CBA, Art. L; Art. LVI.

**PLAYER INSURANCE PLAN****First Created:** 1968**Last Amended:** 2011**2011 CBA Provision:** Art. 59**Administrator:** Aon Hewitt; Cigna**Description:** Provides players and their family with life insurance, accidental death and dismemberment insurance, medical coverage, dental coverage, and wellness benefits. The wellness benefits include access to clinicians for mental health, alcoholism, and substance abuse, child and parenting support services, elder care support services, pet care services, legal services, and identity theft services.**Eligibility:** Any player in the NFL, including practice squad players. Players who are vested under the Retirement Plan continue to receive coverage for five years after their career ends. Players who are not vested are only covered through the end of the plan year.After their career has ended, players have the option of continuing coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA)<sup>f</sup> for a period of 18, 29 or 36 months. Players are required to pay the full cost of coverage plus 2 percent for administrative costs.**When Eligible:** Generally, players are eligible on the first day of training camp.**Payor:** Generally speaking, the clubs pay for the costs of the insurance programs, which, under the terms of the CBA, reduces the amount of money that can be paid to players in salary.

The club pays the entire cost of life insurance and accidental death and dismemberment insurance.

The players are responsible for copayments and deductibles of varying amounts depending on the types of medical and dental treatment being provided.

**Payment Type:** Insurance coverage and reimbursement as appropriate.**Enrollment Type:** Player must complete enrollment paperwork.

<sup>f</sup> COBRA, 29 U.S.C. §§ 1161–69, requires continuation coverage to be offered to covered employees, their spouses, former spouses, and dependent children when group health coverage would otherwise be lost due to certain specific events, including, as would be relevant in the NFL, “the termination (other than by reason of such employee’s gross misconduct), or reduction of hours, of the covered employee’s employment.” 29 U.S.C. § 1163(2).

**Benefit Amount:****Table C-E:****Life Insurance Benefits**

Number of Credited Seasons	Benefit Amount
6 or more	\$1,600,000
5	\$1,400,000
4	\$1,200,000
3	\$1,000,000
2	\$800,000
1 or 0	\$600,000

- **Accidental Death and Dismemberment Insurance:** Up to \$50,000 depending on the injured body part.
- **Medical Coverage:** So long as the player is a member of the insurance plan, there is no limit to the amount of benefits the player can obtain.
- **Dental Coverage:** Limited to \$2,000 per person per year.

**SECOND CAREER SAVINGS PLAN****First Created:** 1993**Last Amended:** 2011**2011 CBA Provision:** Art. 54**Administrator:** The Savings Board, which consists of the same members as the Retirement Board.**Description:** A 401(k) plan that helps players save for retirement in a tax-favored manner.**Eligibility:** All NFL players, regardless of the number of Credited Seasons.**When Eligible:** Players can receive their benefits after the player is 45 provided the player is not employed by a club, or after the player is 59½.**Payor:** Players and their clubs.**Payment Type:** The player can receive the benefits in a variety of forms: (1) a single lump sum payment; (2) installments over ten years; (3) an annuity for the player's life; and, (4) an annuity for the player's life and surviving spouse's life.**Enrollment Type:** Players are automatically enrolled in the plan, with 10 percent of their pre-tax salary going towards the plan. Players can change the amount of their contributions or opt out of the plan at any time.**Benefit Amount:** Players can contribute up to the maximum permitted by the IRS (\$18,000 in 2016). The player's club is required to contribute a minimum of: \$1,000 if the player has exactly one Credited Season; \$7,200 if the player has exactly two Credited Seasons; and, \$3,600 if the player has three or more Credited Seasons.

In addition, the club will contribute \$2 for every \$1 contributed by a player during a year in which the player earned a Credited Season, provided the player has at least one Credited Season, up to a maximum of \$26,000 between 2015–18, and \$28,000 between 2019–20.

**Notes:** According to the NFLPA, 99 percent of NFL players are enrolled in the Second Career Savings Plan.<sup>15</sup>**TUITION ASSISTANCE PLAN****First Created:** 2002**Last Amended:** 2011**2011 CBA Provision:** Art. 56**Administrator:** NFLMC**Description:** Players receive reimbursement for tuition, fees, and books from attending an eligible education institution.**Eligibility:** All current NFL players with at least one Credited Season. Former players with at least five Credited Seasons are also eligible provided that the costs are incurred within four years of the player's last season.**When Eligible:** Players must have received a "C" or better in the course and submit their claim for reimbursement within six months of when the final grade is issued.**Payor:** The player's club pays the benefits. NFLMC pays administrative costs and expenses.**Payment Type:** Lump-sum payment within 75 days after player's application is received.**Enrollment Type:** Player must complete application and include copies of all receipts.**Benefit Amount:** The maximum reimbursement is \$20,000 per year. A former player with at least five Credited Seasons is eligible for up to \$60,000 in reimbursements.**Note:** For context, according to the College Board, the average tuition at a public four-year university for an in-state student is \$9,410; the average tuition at a public four-year university for an out-of-state student is \$23,893; and, the average tuition at a private four-year university is \$32,405.<sup>16</sup>

## THE 88 PLAN

**First Created:** 2006

**Last Amended:** 2012

**2011 CBA Provision:** Art. 58

**Administrator:** The 88 Board, which consists of the same members as the Retirement Board.

**Description:** Provides former players suffering from dementia, amyotrophic lateral sclerosis (ALS) or Parkinson's disease with benefits. The 88 Plan is named for John Mackey, a Hall of Fame tight end for the Baltimore Colts and San Diego Chargers from 1963 to 1972, who wore number 88 during his career. Mackey suffered from dementia later in life and died in 2011 at the age of 69.

**Eligibility:** Vested Players under the Retirement Plan and players who have received Total and Permanent Disability Benefits under the Disability & Neurocognitive Benefit Plan who have been diagnosed with dementia, ALS, or Parkinson's disease. The 88 Committee, consisting of an NFLMC designee and an NFLPA designee, determine whether the player qualifies for the benefit.

**When Eligible:** A player is eligible upon diagnosis.

**Payor:** Contributions are made into a trust fund by NFL clubs each year.

**Payment Type:** The 88 Plan will reimburse or pay the following costs for medical care that are related to a player's dementia, ALS, or Parkinson's disease: institutional care; home custodial care provided by an unrelated third party; physician services; durable medical equipment; and, prescription medication.

The player must file claims for reimbursement within 12 months of the later of the date medical care was rendered or the date the bill for covered expenses was received.

**Enrollment Type:** Player must apply for the benefits.

**Benefit Amount:** A maximum of \$130,000 per year.

**Notes:** As of 2014, 214 former players were receiving funds from The 88 Plan.<sup>17</sup>

## FORMER PLAYER LIFE IMPROVEMENT PLAN

**First Created:** 2007

**Last Amended:** 2011

**2011 CBA Provision:** Art. 64

**Administrator:** Aon Hewitt

**Description:** Plan permits qualifying former players (and in some cases their dependents) not otherwise covered by health insurance to receive reimbursement for medical costs for "joint replacements, prescription drugs, assisted living, Medicare supplemental insurance, spinal treatment, and neurological treatment."

**Eligibility:** Former NFL players who are vested under the Retirement Plan. However, there are many benefits under this plan, some of which have additional eligibility requirements, so not every player is eligible for every benefit.

**When Eligible:** Generally, upon the end of the player's career.

**Payor:** Contributions to the plan are made by the clubs on a per-capita basis to a trust in amounts sufficient to pay estimated benefits and expenses.

**Payment Type:** Reimbursement and grants to assist eligible players in need.

**Enrollment Type:** Player must file.

**Benefit Amount:**

- **Joint Replacement Benefits:** A maximum of \$5,250, or \$10,500 in the case of a bilateral procedure.
- **Discount Prescription Drug Benefits:** Unspecified discounts for prescription drugs.
- **Life Insurance Benefits:** Term life insurance in an amount equal to \$20,000, plus \$2,000 for each Credited Season in excess of the number of Credited Seasons the player was required to have to vest under the Retirement Plan, up to a maximum of \$50,000.
- **Assisted Living Benefits:** Special discounts and preferred access at Brookdale Senior Living and Silverado Senior Living facilities.
- **Medicare Benefit:** A range of Medicare Supplemental Insurance plans to former players are available.
- **Spine Treatment Benefit:** Access to top tier medical centers that have particular expertise in treating spinal conditions. However, the plan generally does not cover the costs of any treatment or provide for any discounts.

- **Neurological Benefit:** Access to top tier medical centers that have particular expertise in treating neurological conditions. However, the plan generally does not cover the costs of any treatment or provide for any discounts.
- **Wellness Benefit:** Includes access to clinicians for mental health, alcoholism, and substance abuse, child and parenting support services, elder care support services, pet care services, legal services, and identity theft services.

## PLAYER ANNUITY PLAN

**First Created:** 1998

**Last Amended:** 2011

**2011 CBA Provision:** Art. 55

**Administrator:** The Annuity Board, which consists of the same members as the Retirement Board.

**Description:** Provides deferred compensation to players. The Annuity Plan invests the players' collective deferred compensation. The Annuity Plan is divided between a Qualified Account and a Nonqualified Account. The Qualified Account includes the maximum amount of compensation that can be deferred on a pre-tax basis pursuant to IRS rules. The maximum amount that could be deferred on a pre-tax basis in 2016 was \$53,000.<sup>18</sup> The amount contributed to the Annuity Plan above this amount is the Nonqualified Account portion and must be taxed before being invested as part of the Annuity Plan.

**Eligibility:** A current or former player with at least one Credited Season. A player does not vest in his Qualified Account until he has earned at least three Credited Seasons. In contrast, a player is always vested in his Nonqualified Account.

**When Eligible:** A player can elect to receive a distribution at any time after he is done playing, provided the player is at least 45, or is at least 35 and five years have elapsed since the player last earned a Credited Season. Distributions must begin no later than the first day of the month after the player turns 65.

**Payor:** Paid from player's own deferred compensation.

**Table C-F:**  
**Annuity Plan Benefits**

Credited Seasons	Total Amount Allocated to Annuity Plan for That Season
1	\$0
2	\$5,000
3	\$5,000
4	\$70,000
5 or more	\$80,000

The reason for the large increase in allocation from the third to fourth Credited Season is likely due to the vesting requirements. As stated earlier, a player is not vested in his Qualified Account—which represents the bulk of the Annuity Plan contribution—until after his third Credited Season. If he does not vest in the Qualified Account, it is forfeited. Thus, by minimizing the amounts allocated before players vest in the Annuity Plan, the Annuity Plan minimizes the amount of deferred compensation that might be forfeited.

**Payment Type:** Players may elect different distributions forms for each of their accounts and different dates for payments to begin. Payment forms include: (1) annual installments until the player reaches 45; (2) an annuity for life; (3) a reduced annuity for your life, with a survivor annuity beginning after the player's death; (4) a lump sum, if the former player is at least 45 when the lump sum is to be paid; and, (5) a partial lump sum, if the player is at least 45 when the partial lump sum is paid, with the remainder paid in one of the other payment forms.

**Enrollment Type:** Automatic.

**Benefit Amount:** The benefit the player receives depends on: the value of the player's account; the player's age; the player's marital status; and, the type of payment plan selected by the player.

## HEALTH REIMBURSEMENT ACCOUNT PLAN

**First Created:** 2006

**Last Amended:** 2011

**2011 CBA Provision:** Art. 63

**Administrator:** The HRA Board, which consists of the same members as the Retirement Board.

**Description:** Helps to pay out-of-pocket healthcare expenses after players are no longer employed by an NFL Club and after the period of extended medical coverage under the Player Insurance Plan that is paid by the NFL has ended.

**Eligibility:** (1) Players with at least eight Credited Seasons and whose last Credited Season was in 2004 or 2005; or (2) Players with at least three Credited Seasons and whose last Credited Season was in 2006 or later.

**When Eligible:** Player is eligible to withdraw amounts from Health Account for medical expenses incurred provided he files for reimbursement within 24 months of receiving the medical bill to be reimbursed.

**Payor:** Clubs contribute the amounts to the Health Account. Players do not contribute their own money to their Health Account.

**Payment Type:** Lump sum.

**Enrollment Type:** Automatic.

**Benefit Amount:**

**Table C-G:**

### Health Reimbursement Account Benefits<sup>g</sup>

Credited Seasons	Health Account Contribution per Credited Season
2009 and prior	\$25,000
2010	\$0
2011 through 2015	\$25,000
2016 through 2020	\$30,000

## LONG TERM CARE INSURANCE PLAN

**First Created:** 2011

**Last Amended:** 2011

**2011 CBA Provision:** Art. 62

**Administrator:** NFL

**Description:** Provides medical insurance to cover the costs of long-term care.

**Eligibility:** Vested players under the Retirement Plan who are between the ages of 50 and 76, who have been certified by a licensed healthcare provider as requiring critical supervision, or requiring the presence of another person within arm's reach due to inability to perform a required number of defined activities of daily living.

**When Eligible:** Player is eligible for the insurance as soon as he meets the eligibility requirements.

**Payor:** It is uncertain what the NFL and players' obligations are with respect to the Long Term Care Insurance Plan, as we were unable to obtain Plan documents.

**Payment Type:** Uncertain.

**Enrollment Type:** Player must enroll.

**Benefit Amount:** \$150 a day for a maximum of four years.

<sup>g</sup> Pursuant to the terms of the 2006 CBA, the NFL was not required to fund several benefit plans, including the Health Reimbursement Account in 2010 if the 2010 season was not played with a Salary Cap — a situation which would only exist if the NFL and NFLPA were unable to agree to an extension of the CBA, which is what actually transpired. See 2006 CBA, Art. L; Art. LVI.



## Endnotes

- 1 See Bert Bell/Pete Rozelle NFL Player Retirement Plan (Apr. 1, 2012) § 1.11 (defining “Credited Season”); 2011 CBA, Art. 26, § 2 (same).
- 2 Aaron Gordon, *Battle for Benefits, Part 3: “Don’t Make Proud Men Beg”*, Vice Sports (Sept. 18, 2015), [https://sports.vice.com/en\\_us/article/battle-for-benefits-part-3-dont-make-proud-men-beg](https://sports.vice.com/en_us/article/battle-for-benefits-part-3-dont-make-proud-men-beg), archived at <https://perma.cc/YP4J-8AGY>.
- 3 *Id.*
- 4 See Mark Fainaru & Steve Fainaru, *League of Denial: The NFL, Concussions, and the Battle for Truth* 86–87 (2013).
- 5 Pursuant to the Employee Retirement Income Security Act (“ERISA”), individuals claiming entitlement to benefits under a retirement plan are entitled to bring a civil action to enforce or clarify their rights under the plan. 29 U.S.C. § 1132(a). Former players routinely sue the Retirement Plan alleging they were wrongfully denied benefits, with mixed success. See, e.g., *Atkins v. Bert Bell/Pete Rozelle NFL Player Retirement Plan*, 694 F.3d 557 (5th Cir. 2012) (plan administrator’s determination that player was not entitled to additional benefits was not an abuse of discretion); *Giles v. Bert Bell/Pete Rozelle NFL Player Retirement Plan*, 925 F. Supp. 2d 700 (D.Md. 2012) (Retirement Board’s classification of participant’s disability as “Inactive” rather than “Football Degenerative” was not reasonable decision supported by substantial evidence in the record); *Moore v. Bert Bell/Pete Rozelle NFL Player Retirement Plan*, 282 Fed.Appx. 599 (9th Cir. 2008) (Retirement Board’s decision to terminate player’s benefits was not based on reasonable interpretation of plan’s terms); *Johnson v. Bert Bell/Pete Rozelle NFL Player Retirement Plan*, 468 F.3d 1082 (8th Cir. 2006) (plan administrator did not abuse its discretion in setting date of disability as time of disability determination by physician to whom plan had referred former player); *Boyd v. Bert Bell/Pete Rozelle NFL Players Retirement Plan*, 410 F.3d 1173 (9th Cir. 2005) (administrator did not abuse its discretion in rejecting retiree’s claim, given ambiguity as to cause of neurologic disability at issue); *Courson v. Bert Bell NFL Player Retirement Plan*, 75 F. Supp. 2d 424 (W.D.Pa. 1999) *aff’d* 214 F.3d 136 (3d Cir. 2000) (plan administrator’s determination that former player was not disabled was not arbitrary or capricious); *Brumm v. Bert Bell NFL Retirement Plan*, 995 F.2d 1433 (8th Cir. 1993) (trustees’ interpretation of ERISA plan to allow higher level of disability benefits only in cases involving single, identifiable football injury, and excluding cases of disability resulting from football career’s overall impact on body was unreasonable in light of plan’s goals).
- 6 *Oversight of the National Football League (NFL) Retirement System: Hearing Before the Comm. On Commerce, Sci. & Transp.*, 110th Cong. 1177 (2007), available at <http://www.gpo.gov/fdsys/pkg/CHRG-110shrg76327/html/CHRG-110shrg76327.htm>, archived at <https://perma.cc/RK38-GBYQ?type=pdf>.
- 7 Aaron Gordon, *Battle for Benefits, Part 3: “Don’t Make Proud Men Beg”*, Vice Sports (Sept. 18, 2015), [https://sports.vice.com/en\\_us/article/battle-for-benefits-part-3-dont-make-proud-men-beg](https://sports.vice.com/en_us/article/battle-for-benefits-part-3-dont-make-proud-men-beg), archived at <https://perma.cc/YP4J-8AGY>.
- 8 *Id.*
- 9 Aaron Gordon, *Battle for Benefits, Part 1: “Why Do I Have to Fight You Now?”*, Vice Sports (Sept. 16, 2015), [https://sports.vice.com/en\\_us/article/battle-for-benefits-part-1-why-do-i-have-to-fight-you-now](https://sports.vice.com/en_us/article/battle-for-benefits-part-1-why-do-i-have-to-fight-you-now), archived at <https://perma.cc/FK7X-G3BN>.
- 10 Edgeworth Economics, *DRAFT Dangers of the Game: Injuries in the NFL — Analysis for the NFLPA* (Sept. 6, 2010), [http://esq.h-cdn.co/assets/cm/15/07/54dae83730ce3\\_-\\_Dangers-of-the-Game-Draft-Esquire.pdf](http://esq.h-cdn.co/assets/cm/15/07/54dae83730ce3_-_Dangers-of-the-Game-Draft-Esquire.pdf), archived at <https://perma.cc/X976-GYPU?type=pdf>.
- 11 *Id.*
- 12 *Id.*
- 13 *Id.*
- 14 *Id.*
- 15 *Quotes from NFLPA Press Conference*, NFLPA (Feb. 4, 2016), <https://www.nflpa.com/news/all-news/quotes-from-nflpa-sb50-press-conference>, archived at <https://perma.cc/2GZH-FQ37>.
- 16 See *Average Published Undergraduate Charges by Sector, 2015–16*, CollegeBoard, <http://trends.collegeboard.org/college-pricing/figures-tables/average-published-undergraduate-charges-sector-2015-16> (last visited Mar. 17, 2016), archived at <https://perma.cc/HNW6-FBKG>.
- 17 Ken Belson, *Dementia Care, Tailored to N.F.L. Retirees*, N.Y. Times, Mar. 22, 2016, <http://www.nytimes.com/2016/03/23/sports/dementia-care-tailored-to-nfl-retirees.html>, archived at <https://perma.cc/P3E4-WXRV>.
- 18 See *IRS Announces 2016 Pension Plan Limitations; 401(k) Contribution Limit Remains Unchanged at \$18,000 for 2016*, Internal Revenue Service, Oct. 21, 2015, [https://www.irs.gov/uac/Newsroom/IRS-Announces-2016-Pension-Plan-Limitations%3B-401\(k\)-Contribution-Limit-Remains-Unchanged-at-\\$18,000-for-2016](https://www.irs.gov/uac/Newsroom/IRS-Announces-2016-Pension-Plan-Limitations%3B-401(k)-Contribution-Limit-Remains-Unchanged-at-$18,000-for-2016), archived at <https://perma.cc/G28S-9K6R>.

## APPENDIX D \ Summary Of Programs Offered by NFL's Player Engagement Department<sup>a</sup>

To Whom Available	Program	Program Description (According to NFL)
High School Student-Athletes	NFL PREP 100	Program includes: Classroom sessions on player health and safety; On-field instructions highlighting technical drills and techniques; Insight on the academic and athletic experiences of a professional athlete from current and former NFL players; Leadership Development training by the National Guard; and, classroom sessions led by NCAA representatives to explain the most up-to-date information regarding eligibility, recruiting, and compliance information for parents and student-athletes.
High School Student-Athletes	NFL Prep Sports Career Expo	The NFL Prep Sports Career Expo, produced in conjunction with Why Not Sports, Inc., enlists professionals from all aspects of the sports industry to inform, educate, and enlighten student-athletes on career opportunities within the professional sports arena. Students are educated about the academic requirements needed to successfully transition from high school to college and are enlightened about a broad spectrum of career opportunities within the sports industry outside of being a professional athlete.
Rising Senior High School Student-Athletes	Prep Leadership Program	Program includes: Basics of Leadership – assessments, styles, motivating others; Professional Development – life skills, social media; Career Development – preparing for the future (resume, mock-interview, public speaking, networking); Financial Education – introduction to financial terms, tools, and the role of financial advisors; and, Basics of Management.
High School Student-Athletes in Baltimore	1st & Goal Program	<p>The 1st &amp; Goal program focuses on supporting student athletes with meeting and exceeding academic standards including improving grades, attendance, and graduation rates. The program supports the social-emotional growth of each athlete through a curriculum that focuses on financial literacy, character development, conflict resolution, mentoring, communications and health, safety and wellness.</p> <p>NFL Player Engagement has partnered with the Family League of Baltimore and selected The Academies at Frederick Douglass High School as the target athletic program. The Family League of Baltimore is a non-profit organization that convenes, coordinates, and funds programs to strengthen the lives of children and families in the Baltimore area with the hope of improving the lives of the city's youth from birth to their entry into adulthood.</p>

<sup>a</sup> These programs can be found at the NFL's Player Engagement Department website at <https://www.nflplayerengagement.com>.

To Whom Available	Program	Program Description (According to NFL)
NCAA Student-Athletes	NFL-NCAA Life Skills Roundtable	<p>The NFL-NCAA Life Skills Roundtable for Student-Athletes is designed to provide student-athletes with a forum to discuss the resources and support that they need in order to meet their personal and professional goals. Through intimate discussions with a diverse representation of student-athletes (sport, gender, ethnicity), the NFL and the NCAA will gain a better understanding of the personal and professional development needs and goals of student-athletes. The student-athletes will also afford the opportunity to participate in professional development seminars as well as assessments to increase self-awareness.</p>
Rookie NFL players	Rookie Transition Program	<p>The NFL Rookie Transition Program is an orientation for all drafted and undrafted rookies based on the four principles of NFL History, Total Wellness, Experience and Professionalism. The symposium includes presentations, videos, and workshops focused on these principles as well as other topics, including player health and safety, decision making, mental health, substance abuse and domestic violence prevention, non-discrimination, and maintaining positive relationships. Rookies are provided with resources and best practices to assist them with their shared responsibility in successfully identifying off-the-field challenges and transitioning from college to the professional level.</p> <p><b><i>The Rookie Transition Program is the only program listed here that is mandatory.</i></b></p>
Current players	Continuing Education	<p>The Continuing Education Program (CEP) assists current and former NFL players to complete their undergraduate degree, pursue graduate studies and utilize other educational opportunities to prepare for life after football.</p> <p>The CEP partners with colleges and universities across the country to design detailed plans to assist players in reaching their educational goals. By working closely with academic advisors, these individualized educational plans may include opportunities to pursue coursework in a player's franchise city, at his original institution or through distance learning via Internet-based coursework.</p> <p>Players who have already completed their undergraduate degree may opt to participate in graduate school or professional certification programs aimed at enhancing their skills and abilities. The CEP can assist players to identify appropriate, accredited schools, provide guidance on admission requirements including graduate exams (GRE, GMAT, LSAT, etc.) and assist players in the preparation of their graduate application.</p>
Current players	Financial Education	<p>The National Football League Financial Education Program (FEP) provides players with valuable knowledge to manage their personal finances and improve financial decision-making. The objective of the program is to ensure the long-term financial stability of players throughout the League. The program offers players resources and a realistic perspective on the current economic environment. The non-credit seminars teach players about cash management, insurance, tax planning, estate planning, investments, retirement planning and other related topics.</p>

**Appendix D: Summary Of Programs Offered By NFL's Player Engagement Department (continued)**

To Whom Available	Program	Program Description (According to NFL)
Current and former NFL players	Broadcast Boot Camp	A hands-on program that offers current and former NFL players the opportunity to explore multiple on-air job functions in the television/media business. The program includes sessions on tape study, editing, show preparation, radio production, control room operation, studio preparation, production meetings, field reporting and game preparation. Each player has the opportunity to tape segments in a studio environment as a game analyst and as a field reporter. Players are also able to experience what life is like in the broadcast booth and in other media positions.
Current and former NFL players	NFL Business Management and Entrepreneurial Program	The NFL Business Management and Entrepreneurial Program is a joint effort between the NFL, the NFLPA and premiere graduate business schools. These custom programs seek to improve players' ability to evaluate business opportunities through interactive workshops, stimulating discussions and practical knowledge. This program is ideal for NFL players interested in owning, operating or building their own businesses. Topics covered include: personal investments, non-profit and social awareness foundations, business plan review and assessment, property management, operations and cash-flow management, recruiting, hiring, and human resource management. Players are provided the opportunity to look at realistic business scenarios and dissect opportunities they may be considering. The Wharton School, University of Pennsylvania, Harvard Business School, Kellogg School of Management, Northwestern University, University of Notre Dame, and, the Stanford Graduate School of Business are all participating schools in the program.
Current and former NFL players	Business of Music Boot Camp	The NFL Business of Music Boot Camp is an intensive immersion program for current and former NFL players who are interested in understanding the essential components and make up of today's music industry. Utilizing the world-renowned faculty of NYU's Clive Davis Institute of Recorded Music, top industry professionals, and internationally recognized artists, participants experience the creative process first-hand via classroom sessions and round table discussions. Over the course of four days, participants will engage in discussions and interactive workshops covering all contemporary aspects of the music industry including production, artist development, digital music, publishing, artist management, marketing, and touring. Participants will gain a better understanding of the steps they should take to pursue a successful career in the music industry and will learn how to turn their creative ideas into concrete business plans.
Current and former NFL players	Hospitality & Culinary Management Workshop	Hosted at New York City's award winning Institute for Culinary Education, the Hospitality & Culinary Management Workshop introduces participants to the fundamental skills required for success in the hospitality and culinary industries. Whether you're considering owning or managing a small inn, a large hotel chain, a local café, or a five-star restaurant, learning from some of the best in the business will help you avoid the pitfalls of the industry and get a head start on your future career.

To Whom Available	Program	Program Description (According to NFL)
Current and former NFL players	NFL-NCAA Coaches Academy	<p>The program provides 30 current and former NFL players with tools and networking opportunities for potential careers as football coaches. Many of the participants currently have high school or college coaching positions. The NCAA also invites football coaches who have less than eight years of college coaching experience to take part. This is an excellent opportunity for players who are looking to continue their careers on the football sidelines to learn leadership, management and administrative skills from football coaches at all levels.</p> <p>Sessions include instruction from NFL, college and high school coaches, business leaders and athletic administrators. Topics include how to build a personal and professional brand; managing budgets; successful networking; media messaging; coaching contracts; building relationships in college; effective leadership; understanding the academic landscape; and, the interview process. Participants also experience mock interview sessions.</p>
Current and former NFL players	Pro Hollywood Boot Camp	<p>The NFL Pro Hollywood Boot Camp is an intensive filmmaking workshop for players aspiring to careers in the motion picture industry. Through classroom learning and practical application, current and former NFL players receive a crash course in the art of moviemaking and are introduced to various disciplines and careers in the film business.</p>
Current and former NFL players	Consumer Products Boot Camp	<p>The NFL Consumer Products department is the architect of the NFL's brand as it relates to Retail products, On-Field product, Club Practice Gear and Promotional items. This division works with NFL licensing partners and retailers to identify key product trends and new business opportunities.</p> <p>This custom program is tailored to those who are interested in learning more about the consumer products design, licensing, and manufacturing industries. Under the guidance of faculty from the University of Maryland Robert H. Smith School of Business and official NFL Licensees, participants will receive an overview of the consumer products field with a focus on business planning, product marketing, and industry trends and practices. A tour of a licensee campus and an exclusive visit to the NFL's Consumer Products Summit will enhance the lessons learned in classroom sessions and provide a great backdrop for the extensive mentoring and networking opportunities available.</p> <p>The four days will culminate in a Group Pitch Project in which participants will compete in groups to develop, create, and deliver a product pitch to a panel comprised of League executives and industry experts.</p>

**Appendix D: Summary Of Programs Offered By NFL's Player Engagement Department (continued)**

To Whom Available	Program	Program Description (According to NFL)
Current and former NFL players, along with spouses	Franchising Boot Camp	<p>The NFL Franchising Boot Camp, open to current and former players and their significant others, focuses on the franchising industry and how to take advantage of the resources and business practices franchisors provide to their franchisees. The program will cover the types of businesses that rely on franchising, where to get information about them, how to devise a franchise business plan, what annual and daily operational costs to expect, how to put together a winning team and whether or not franchising is right for each player and spouse.</p>
Former NFL players	Legends Community	<p>The NFL Legends Community is designed to connect former players with each other, their former teams and the NFL. Twenty Legends will lead the outreach and assist the NFL in administering the NFL Legends Community.</p>
Former NFL players and spouses	Transition Assistance Program	<p>The NFL Transition Assistance Program (TAP) marks the evolution of the NFL Career Transition Program (CTP), which hosted over 250 former NFL players from 2010–2013. TAP has been created in a partnership with former players and Georgia Tech faculty experts. The purpose of TAP is to provide transitioning players and their significant others peer to peer support through relationships with trained NFL Transition Coaches (former players) who will emphasize a holistic approach to Total Wellness.</p> <p>Transition is a continuous process unique to each individual's situation. At TAP, all attendees will chart their specific course through conversations with others who have experienced the physical, psychological, and social aspects of transition. The curriculum also features sessions pertaining to fitness, nutrition, career development, financial success, and much more.</p> <p>Upon completion of the program, attendees will leave with their Transition Playbook resource guide, which includes customized tools for success, Player Engagement resources, and NFL Player Benefits information.</p>
Minorities interested in coaching	Bill Walsh NFL Minority Coaching Fellowship	<p>The Bill Walsh NFL Minority Coaching Fellowship is an annual program administered by the NFL Management Council and NFL Player Engagement.</p> <p>The program's objective is to use NFL clubs' training camps, offseason workout program and minicamps to give talented minority coaches opportunities to: observe; participate; gain experience; and, ultimately gain a full-time NFL coaching position.</p> <p>Designed as a vocational tool to increase the number of full-time NFL minority coaches, all 32 NFL clubs participate in the program on an annual basis. Participants are hired for the duration of training camp, including all pre-season games, and clubs are encouraged to hire a minimum of four participants.</p>

To Whom Available	Program	Program Description (According to NFL)
Potential head coaches	NFL-NCAA Champion Forum	The NFL-NCAA Champion Forum is an educational forum where individuals who have been identified as a potential head coaches by administrators in the membership will simulate the intercollegiate interview process from researching the position to their first staff meeting after becoming a head coach. By achieving the following objectives, the forum is providing tailored education to future head coaches at the intercollegiate level.
Potential college football coaches	NFL-NCAA Future Football Coaches Academy	The NFL-NCAA Future Football Coaches Academy is an educational forum where individuals who have recently completed their collegiate eligibility, and have a desire to enter the college football coaching profession, will learn about and explore football coaching careers with a primary focus on intercollegiate athletics. By achieving the following objectives, the academy is educating participants on the various aspects of securing, managing and excelling as a coach at the intercollegiate level.
Head football coaches, athlete development professionals, clinicians, and directors of football operations from the NCAA and NFL	NFL-NCAA Summit	The summit allows each group participating individual sessions focused on becoming a more informed and educated administrator and coach. A clinician led session provides attendees with valuable skill enhancement and professional development education focused on protecting the mental and physical well-being of athletes. In addition, participants spend time together to discuss key cross collaboration opportunities that will allow them to serve student-athletes, professional athletes and executives in a more informed and efficient fashion.
Aspiring journalists and communications professionals	Sports Journalism & Radio Boot Camp	Hosted at Bowling Green State University, the Sports Journalism & Radio Boot Camp will provide aspiring journalist and communications professionals the opportunity to hear the latest from industry leaders; find out what social media options are available, including creating your own blog; and, learn what it would take to become a sports communications professional at the pro or college level.

## APPENDIX E \ Summary of Programs Offered by the NFLPA<sup>1</sup>

To Whom Available	Program	Program Description (According to NFLPA)
Current players	Externship Program	Matches current players with companies for a 3-week internship during the offseason. In 2015, the NFLPA matched 25 players with 9 organizations, including an ESPN radio station, Comcast SportsNet, Under Armour, and two college athletic departments.
Current players	Business Classes	The NFLPA has partnered with Indiana University's Kelley School of Business to give players the opportunity to participate in a variety of webinars, business certificate courses, professional courses, and for-credit courses toward an M.B.A. The Trust, below, runs a similar program in collaboration with Babson College.
Current players	Coaching Internship	The NFLPA partnered with the American Football Coaches Association (AFCA) to place former players as coaching interns at Division II, Division III, and National Association of Intercollegiate Athletics (NAIA) institutions for an entire football season.
Former players with at least 2 Credited Seasons	The Trust	A "set of resources, programs and services designed to provide former players with the support, skills and tools to help ensure success off the field and in life after football." The Trust has partnered with a variety of organizations and institutions to assist former players in the areas of physical health, career transitioning, and financial health. For example, in the area of physical health, the University of North Carolina, the Tulane University Institute of Sport Medicine, the Cleveland Clinic, and Massachusetts General Hospital will all provide former players with a full body physical examination, including but not limited to musculoskeletal, neurological, and cardiovascular analyses. According to the NFLPA, more than 1,500 former players have availed themselves of The Trust's resources since it was launched in 2013.
Former players	Gene Upshaw Player Assistance Trust Fund	"The Gene Upshaw Players Assistance Trust assists former players who are facing financial hardship due to unforeseen crisis, unaffordable medical situations and players who wish to go back to school to finish their undergraduate degrees."

### Endnote

1. For more on these programs, see NFLPA Externship Program Enters Second Year, NFLPA (Feb. 23, 2015), <https://nflpa.com/news/all-news/nflpa-externship-program-enters-second-year>, archived at <https://perma.cc/G2HJ-TCRU>; A Winning Team: Kelley School of Business and the NFLPA, Kelley Sch. Business, [https://nflpawebqa.blob.core.windows.net/media/Default/PDFs/Player%20Development/NFLPA-Kelley\\_%20Program.pdf](https://nflpawebqa.blob.core.windows.net/media/Default/PDFs/Player%20Development/NFLPA-Kelley_%20Program.pdf) (last visited Aug. 7, 2015), archived at <https://perma.cc/8WPH-A8GD?type=pdf>; Career, Trust, <http://playerstrust.com/your-trust/career> (last visited Aug. 7, 2015), archived at <http://perma.cc/QZJ5-9URR>; Active Players – Grow Experience, NFLPA, <https://nflpa.com/active-players/playerdevelopment/experience> (last visited Aug. 7, 2015), archived at <https://perma.cc/5JPR-RR9E> (However, we note that it is unclear why Division I institutions are not included. Additionally, it would seem very possible that players could obtain such positions without the internship program); Emily Kaplan, The Games Go On, And So Does Life, *MMQB* (Dec. 26, 2013), <http://mmqb.si.com/2013/12/26/nfl-nflpa-the-trust-player-retirement-benefits/>, archived at <http://perma.cc/Z2LH-V8PM> (discussing creation of the Trust); Frequently Asked Questions, Trust, <http://playerstrust.com/frequently-asked-questions> (last visited Aug. 7, 2015), archived at <http://perma.cc/7NLC-HDTB> (describing The Trust and its purpose); Brain and Body, Trust, <http://playerstrust.com/your-trust/brain-and-body> (last visited Aug. 7, 2015), archived at <http://perma.cc/4HN3-HSHL>; Gene Upshaw Player Assistance Trust Fund, <https://www.yourpaf.com/gupat/#.VuhhvnrLIU> (last visited Mar. 15, 2016), archived at <https://perma.cc/S9T8-RYHF>.



## APPENDIX F \ Article 39 of the 2011 Collective Bargaining Agreement—Players’ Rights to Medical Care and Treatment

**Note:** Below is the current text of Article 39 of the 2011 Collective Bargaining Agreement, entitled “Players’ Rights to Medical Care and Treatment.” In Appendix G, we provide a revised, Model Article 39 based on the recommendations made in this Report.

### ARTICLE 39

#### PLAYERS’ RIGHTS TO MEDICAL CARE AND TREATMENT

##### *Section 1. Club Physician:*

(a) **Medical Credentials.** Each Club will have a board-certified orthopedic surgeon as one of its Club physicians, and all other physicians retained by a club to treat players shall be board-certified in their field of medical expertise. Each Club will also have at least one board-certified internist, family medicine, or emergency medicine physician (non-operative sports medicine specialist). Any Club medical physician (internist, family medicine or emergency medicine) hired after the effective date of this Agreement must also have a Certification of Added Qualification (CAQ) in Sports Medicine; any head team physician (orthopedic or medical) hired after the effective date of this Agreement must have a CAQ in Sports Medicine; and any current team physician promoted to head team physician after the effective date of this Agreement has until February 2013 to obtain a CAQ in Sports Medicine or relinquish the position.

(b) **Team Consultants.** All Clubs shall have the consultants with the following certifications:

- (i) Neurological (head trauma): Board certification in neurosurgery, neurology, sports medicine, emergency medicine, or psychiatry, with extensive experience in mild and moderate brain trauma;
- (ii) Cardiovascular: Board certified in cardiovascular disease;
- (iii) Nutrition (athletes): licensed;
- (iv) Neuropsychologist: Ph.D and certified/licensed.

(c) **Doctor/Patient Relationship.** The cost of medical services rendered by Club physicians will be the responsibility of the respective Clubs, but each Club physician’s primary duty in providing player medical care shall be not to the Club but instead to the player-patient. This duty shall include traditional physician/patient confidentiality requirements. In addition, all Club physicians and medical personnel shall comply with all federal, state, and local requirements, including all ethical rules and standards established by any applicable government and/or other authority that regulates or governs the medical profession in the Club’s city. All Club physicians are required to disclose to a player any and all information about the player’s physical condition that the physician may from time to time provide to a coach or other Club representative, whether or not such information affects the player’s performance or health. If a Club physician advises a coach or other Club representative of a player’s serious injury or career threatening physical condition which significantly affects the player’s performance or health, the physician will also advise the player in writing. The player, after being advised of such serious injury or career-threatening physical condition, may request a copy of the Club physician’s record from the examination in which such physical condition was diagnosed and/or a written explanation from the Club physician of the physical condition.

(d) **NFLPA Medical Director.** The NFL recognizes that the NFLPA Medical Director has a critical role in advising the NFLPA on health and safety issues. Accordingly, the NFL agrees that the NFLPA Medical Director shall be a voting member of all NFL health and safety committees, including but not limited to the NFL Injury & Safety Panel and its subcommittees and shall have access to all of the same data,

**Article 39: Players' Rights to Medical Care and Treatment (continued)**

records and other information provided to the NFL Medical Advisor and/or any other members of such committees.

(e) **Home Game Medical Coverage-Neutral Physician:** All home teams shall retain at least one RSI physician who is board certified in emergency medicine, anesthesia, pulmonary medicine, or thoracic surgery, and who has documented competence in RSI intubations in the past twelve months. This physician shall be the neutral physician dedicated to game-day medical intervention for on-field or locker room catastrophic emergencies.

**Section 2. Club Athletic Trainers:** All athletic trainers employed or retained by Clubs to provide services to players, including any part time athletic trainers, must be certified by the National Athletic Trainers Association and must have a degree from an accredited four-year college or university. Each Club must have at least two full-time athletic trainers. All part-time athletic trainers must work under the direct supervision of a certified athletic trainer. In addition, each Club shall be required to have at least one full time physical therapist who is certified as a specialist in physical therapy to assist players in the care and rehabilitation of their injuries.

**Section 3. Accountability and Care Committee:**

(a) The parties agree to establish an Accountability and Care Committee, which will provide advice and guidance regarding the provision of preventive, medical, surgical, and rehabilitative care for players by all clubs during the term of this Agreement. The Committee shall consist of the NFL Commissioner and the NFLPA Executive Director (or their designees). In addition, the Commissioner and Executive Director shall each appoint three additional members of the Committee, who shall be knowledgeable and experienced in fields relevant to health care for professional athletes.

(b) The Committee shall meet in person or by conference call at least three times per year, or at such other times as the Commissioner and Executive Director may determine.

(c) The Committee shall: (i) encourage and support programs to ensure outstanding professional training for team medical staffs, including by recommending credentialing standards and continuing education programs for Team medical personnel; sponsoring educational programs from time to time; advising on the content of scientific and other meetings sponsored by the NFL Physicians Society, the Professional Football Athletic Trainers Association, and other relevant professional institutions; and supporting other professional development programs; (ii) develop a standardized preseason and postseason physical examination and educational protocol to inform players of the primary risks associated with playing professional football and the role of the player and the team medical staff in preventing and treating illness and injury in professional athletes; (iii) conduct research into prevention and treatment of illness and injury commonly experienced by professional athletes, including patient care outcomes from different treatment methods; (iv) conduct a confidential player survey at least once every two years to solicit the players' input and opinion regarding the adequacy of medical care provided by their respective medical and training staffs and commission independent analyses of the results of such surveys; (v) assist in the development and maintenance of injury sur-

**Article 39: Players’ Rights to Medical Care and Treatment (continued)**

veillance and medical records systems; and (vi) undertake such other duties as the Commissioner and Executive Director may assign to the Committee.

(d) If any player submits a complaint to the Committee regarding Club medical care, the complaint shall be referred to the League and the player’s Club, which together shall determine an appropriate response or corrective action if found to be reasonable. The Committee shall be informed of any response or corrective action. Nothing in this Article, or any other Article in this Agreement, shall be deemed to impose or create any duty or obligation upon either the League or NFLPA regarding diagnosis, medical care and/or treatment of any player.

(e) Each Club shall use its best efforts to ensure that its players are provided with medical care consistent with professional standards for the industry.

**Section 4. Player’s Right to a Second Medical Opinion:** A player will have the opportunity to obtain a second medical opinion. As a condition of the Club’s responsibility for the costs of medical services rendered by the physician furnishing the second opinion, such physician must be board-certified in his field of medical expertise; in addition, (a) the player must consult with the Club physician in advance concerning the other physician; and (b) the Club physician must be furnished promptly with a report concerning the diagnosis, examination and course of treatment recommended by the other physician. A player shall have the right to follow the reasonable medical advice given to him by his second opinion physician with respect to diagnosis of injury, surgical and treatment decisions, and rehabilitation and treatment protocol, but only after consulting with the club physician and giving due consideration to his recommendations.

**Section 5. Player’s Right to a Surgeon of His Choice:** A player will have the right to choose the surgeon who will perform surgery provided that: (a) the player will consult unless impossible (e.g., emergency surgery) with the Club physician as to his recommendation regarding the need for, the timing of and who should perform the surgery; (b) the player will give due consideration to the Club physician’s recommendations; and (c) the surgeon selected by the player shall be board-certified in his field of medical expertise. Any such surgery will be at Club expense; provided, however, that the Club, the Club physician, trainers and any other representative of the Club will not be responsible for or incur any liability (other than the cost of the surgery) for or relating to the adequacy or competency of such surgery or other related medical services rendered in connection with such surgery.

**Section 6. Standard Minimum Preseason Physical:** Each player will undergo the standardized minimum preseason physical examination and tests outlined in Appendix K, which will be conducted by the Club physician(s) as scheduled by the Club. No Club may conduct its own individual testing for anabolic steroids and related substances or drugs of abuse or alcohol.

**Section 7. Substance Abuse:**

(a) **General Policy.** The parties agree that substance abuse and the use of anabolic steroids are unacceptable within the NFL, and that it is the responsibility of the

**Article 39: Players' Rights to Medical Care and Treatment (continued)**

parties to deter and detect substance abuse and steroid use and to offer programs of intervention, rehabilitation, and support to players who have substance abuse problems.

(b) **Policies.** The parties confirm that the Program on Anabolic Steroids and Related Substances will include both annual blood testing and random blood testing for human growth hormone, with discipline for positive tests at the same level as for steroids. Over the next several weeks, the parties will discuss and develop the specific arrangements relating to the safe and secure collection of samples, transportation and testing of samples, the scope of review of the medical science, and the arbitrator review policy, with the goal of beginning testing by the first week of the 2011 regular season. Pending agreement by both parties regarding the implementation of this program of blood testing, and such other policy amendments as the parties may agree upon, the Policy and Program on Substances of Abuse and the Policy on Anabolic Steroids and Related Substances, will remain in full force and effect as each existed during the 2010 season.

## APPENDIX G \ Model Article 39 of the Collective Bargaining Agreement — Players' Medical Care and Treatment

**Preliminary Note:** Below is a model collective bargaining agreement (CBA) provision setting forth our proposed recommendation for the structure of NFL player healthcare, discussed at length in Chapter 2: Club Doctors. This CBA provision would replace the existing Article 39, which governs “Players’ Medical Care and Treatment.” In particular, the model CBA provision is focused on the creation of a Medical Committee to select, review, and terminate the doctors that care for players. We leave the processes for such selection, review, and termination to medical experts and the proposed Medical Committee. Nevertheless, it seems at a minimum that the Players’ Medical Staff should be reviewed each year.

This model CBA provision does not address certain related issues. First, it does not address medical sponsorships, discussed in detail in Chapter 2: Club Doctors, Section (A)(i). While medical sponsorship is an important issue, it is not an issue that has been collectively bargained, *i.e.*, has not been included in Article 39 or prior CBA provisions governing player medical care. Consequently, we do not address the issue in our model Article 39. Second, our proposal may be complicated to implement. The logistics of implementation, including any phasing in process, are determinations best left to the NFL and NFLPA and thus are not addressed here. Third, the model CBA provision does not include a dispute resolution mechanism. There are a variety of dispute resolution mechanisms in the 2011 CBA, and which one is best for resolving issues under our model CBA provision is not our principal focus and thus not addressed here.

### ARTICLE 39: Players’ Medical Care and Treatment

#### SECTION 1: MEDICAL COMMITTEE

- (a) **Responsibilities.** The Medical Committee shall be responsible for selecting, reviewing, and terminating (as necessary) the Players’ Medical Staff, as described in Section 2. The process for selecting, reviewing, and terminating members of the Players’ Medical Staff is at the Medical Committee’s discretion.
- (b) **Composition.** The NFL and NFLPA shall each select three medical professionals to serve on the Medical Committee. The NFL and NFLPA must each select two doctors (either M.D. or D.O.) and one athletic trainer (certified by the Board of Certification for the Athletic Trainer). The six members collectively chosen by the NFL

and NFLPA shall then jointly select a seventh medical professional to serve as Chairperson of the Medical Committee. The NFL and NFLPA retain the right to select and replace their three members of the Medical Committee according to their discretion, provided neither the NFL or NFLPA shall take any action that interferes or potentially interferes with a member of the Medical Committee performing his or her obligations as described in this Article with the utmost professionalism and independence. The Chairperson may only be replaced or removed by a majority vote of the other members of the Medical Committee.

- (c) **Funding.** The NFL and NFLPA shall be jointly responsible for providing the Medical Committee with funding sufficient to permit the Medical Committee to carry out its obligations as described in this Article, including but not limited to hiring other professionals the Medical Committee determines to be necessary. Nothing in this Article shall be deemed to impose or create any duty or obligation upon the NFL, NFLPA or Medical Committee regarding diagnosis, medical care and/or treatment of any player.

#### SECTION 2: PLAYERS’ MEDICAL STAFF

- (a) **Players’ Doctors.** For each Club, the Medical Committee shall select two appropriately qualified “Players’ Doctors” who shall be responsible for providing medical care to the Club’s players in accordance with all applicable laws and ethical standards, except as otherwise provided for in this Article. The Medical Committee shall designate one of the two Players’ Doctors as the Head Players’ Doctor, who shall be responsible for directing and supervising the work of the other members of the Players’ Medical Staff, as defined in this Section. The Players’ Doctors must have a Certificate of Added Qualification in Sports Medicine at the time of their selection.
- (b) **Players’ Specialists.** In addition to the Players’ Doctors, for each Club, the Medical Committee shall also select a doctor board-certified in each of the following specialties or sub-specialties to be available for the treatment of players as determined to be necessary by the Head Players’ Doctor (“Players’ Specialists”):
- i. Orthopaedic surgery;
  - ii. Internal medicine;
  - iii. Emergency medicine;
  - iv. Family medicine;
  - v. Cardiovascular disease or interventional cardiology; and,
  - vi. Neurological surgery.

If one of the Players' Doctors is certified in one or more of the above-listed specialties or sub-specialties, the Medical Committee need not select an additional Players' Specialist with the same specialty or sub-specialty. The Specialists shall be responsible for providing medical care to the Club's players in accordance with all applicable laws and ethical standards, except as otherwise provided for in this Article. The Players' Specialists will at all times provide medical care and advice that is in the player's best interests, taking into account the player's own goals and interests, without regard to any interest of the Club.

- (c) **Players' Athletic Trainers.** For each Club, the Medical Committee shall select four athletic trainers who shall be responsible for providing medical care to the Club's players in accordance with all applicable laws and ethical standards, except as otherwise provided for in this Article. The Medical Committee shall designate one of the four Players' Athletic Trainers as the Head Players' Athletic Trainer, who shall be responsible for directing and supervising the work of the other Players' Athletic Trainers. The Head Players' Doctor shall supervise and direct the work of all Players' Athletic Trainers. The Players' Athletic Trainers must be certified by the Board of Certification for the Athletic Trainer at the time of their selection.
- (d) **EMRs.** The Players' Athletic Trainers shall be responsible for entering all diagnosis and treatment notations into the electronic medical record ("EMR") system, including the notations of any examinations performed on a player during a game and any consultation with, or treatment provided by, Second Opinion Doctors as described in Section 5 below.
- (e) **Players' Other Medical Professionals.** In addition to the Players' Doctors, Players' Specialists, and Players' Athletic Trainers, for each Club, the Medical Committee shall also select one of each of the following medical professionals to be available for the treatment of players as reasonably determined to be necessary by the Head Players' Doctor:
- i. Physical therapist;
  - ii. Massage therapist;
  - iii. Nutritionist;
  - iv. Psychiatrist; and,
  - v. Neuropsychologist.
- (f) **Access to Club Facilities and Events.** The Players' Doctors, Players' Specialists, Players' Athletic Trainers, and Players' Other Medical Professionals (collectively, "Players' Medical Staff"), shall have access to Club facilities and events (including but not limited to locker rooms, practices, and games) as needed to perform their duties as described in this Article. The Club shall be responsible for providing all equipment and supplies as reasonably determined by the Head Players' Doctor to be necessary for the Players' Medical Staff to perform their duties as described in this Article.
- (g) **Compensation Arrangement.** The Club is responsible for compensating the Players' Medical Staff, in amounts to be determined by the Medical Committee. All members of the Players' Medical

Staff shall enter into written contracts detailing the terms of the arrangement between the Players' Medical Staff member and the Club. The contract between the Players' Medical Staff member and the Club must be approved by the Medical Committee prior to execution and shall explicitly reference this Article as controlling and superseding any provision of the contract in the event of a conflict. The Club has no authority to select, control, or terminate any member of the Players' Medical Staff. It is the intention of the NFL and NFLPA that each member of the Players' Medical Staff be considered and treated as an independent contractor under all applicable laws and regulations.

- (h) **Avoidance of Conflicts.** The Players' Medical Staff will at all times provide medical care and advice that is in the player's best interests, taking into account the player's own goals and interests, without regard to any interest of the Club. No member of the Players' Medical Staff shall have any obligation to the Club, except for the Player Health Report, discussed below in Section 4.

### SECTION 3: CLUB MEDICAL STAFF

- (a) **Retention and Duties.** Each Club is free to retain any qualified medical professional to provide services to the Club ("Club Medical Staff"). The Club Medical Staff shall not provide medical care to any player, except in emergency situations. The Club Medical Staff shall have no communication with players or the Players' Medical Staff, except as otherwise described in this Article.
- (b) **Physical Examinations.** Within the limitations set forth below, the Club shall be permitted to conduct physical examinations of players via Club Medical Staff. During any such physical examinations, the player will make full and complete disclosure of any physical or mental condition known to him which might impair his performance under his contract and will respond fully and in good faith when questioned by the Club Medical Staff about his condition.
- (c) A player under contract to a Club shall, upon the Club's request, submit to a complete physical examination by the Club Medical Staff at the following times:
- i. Once within seven days following the Club's last game of the season.
  - ii. After seven days following the Club's last game of the season, once before two days prior to the commencement of preseason training camp, provided the player is otherwise with the Club, e.g., during offseason workouts or minicamps.
  - iii. Once within two days prior and two days after commencement of the Club's preseason training camp.
  - iv. After two days following commencement of the Club's preseason training camp and before the last game of the season, upon the Club's reasonable request.
- (d) In addition to a physical examination, the Club may also request that the player submit to drills or other football-related activities for the purpose of assessing the player's fitness-to-play, unless the Head Players' Doctor states in writing that such

drills or football-related activities create an unreasonable risk of worsening the player's condition or delaying his recovery from such condition.

- (e) A player not currently under contract may be required to submit to any physical examination, drills or other football-related activities requested by a Club as part of the negotiation of a prospective contract between the player and Club, provided such physical examinations, drills or other football-related activities otherwise comply with all applicable laws and regulations.
- (f) **Access to Medical Records.** The Club Medical Staff shall have full access to the EMRs of each player on its roster, subject to applicable law.
- (g) **Compliance with the Law.** All examinations (physical or otherwise) and possession or use of medical records by Club Medical Staff must comply with all applicable laws.

## SECTION 4: PLAYER HEALTH REPORT

- (a) **Content.** The Players' Medical Staff, under the direction of the Head Players' Doctor and Head Players' Athletic Trainer, are responsible for providing the Club with a regular status report of all players currently receiving medical treatment for a diagnosed condition ("Player Health Report"). The Player Health Report shall briefly describe: (1) the player's condition; (2) the player's permissible level of participation in practice and other Club activities; (3) the player's current status for the next game; (4) any limitations on the player's potential participation in the next game; and, (5) an estimation of when the player will be able to return to full participation in practice and games.<sup>a</sup> The Players' Medical Staff shall complete the Player Health Report in a good faith effort to permit the Club to be properly prepared for its next game.
- (b) **Provision of Player Health Report.** The Player Health Report will be provided to an individual designated by the Club at the following times:
  - i. At least one hour before practice on the day of the practice;
  - ii. Within two hours of the conclusion of practice on the day of the practice;
  - iii. Between 28 and 20 hours prior to kickoff of a game;
  - iv. Between 3 and 2 hours prior to kickoff of a game;
  - v. Within 2 hours after the conclusion of a game (provided there are games or the possibility of games remaining in the season);
  - vi. By the end of the day following a game (provided there are games or the possibility of games remaining in the season); and,
- (c) **Clearance to Practice.** The Head Players' Doctor's determinations, as detailed in the Player Health Report, concerning whether a player can practice or participate in football-related activities, including with any relevant limitations, are controlling, subject to Section 5 below. A Club shall not permit a player to practice or participate in football-related activities beyond the limitations set forth in the Player Health Report. If a player suffers an injury or other condition during the course of a practice, the Head Players' Doctor and Head Athletic Trainer will make best efforts to advise a designated Club representative of a player's status for the remainder of the practice as soon as is practicable.
- (d) **Clearance to Play.** As part of the Player Health Report provided between 3 and 2 hours prior to kickoff of a game, the Head Players' Doctor will declare: (i) whether the player can or cannot play; and, (ii) if the player can play, any relevant limitations on the player's playing. The Head Players' Doctor's determinations, as detailed in the Player Health Report, concerning whether a player can play, or whether the player can play with limitations, are controlling as to the player's status to play, subject to Section 5 below. A Club shall not permit a player to play beyond the limitations set forth in the Player Health Report. If a player suffers an injury or other condition during the course of a game, the Head Players' Doctor and Head Athletic Trainer will make best efforts to advise a designated Club representative of a player's status for the remainder of the game as soon as is practicable.
- (e) **Communication with Club Medical Staff.** The Club Medical Staff may seek reasonable clarification or explanation of the information contained in the Player Health Report via direct communication with only the Head Players' Doctor. The Head Players' Doctor shall make reasonable efforts to respond in good faith to all reasonable inquiries from the Club Medical Staff concerning the Player Health Report. At no time other than provided for in this Section shall the Players' Medical Staff communicate with any employee, representative, consultant or agent of the Club concerning the medical care or condition of a player.
- (f) **Compliance with the Law.** The creation, possession and use of the Player Health Report must comply with all applicable laws.

<sup>a</sup> We recommend that the NFL and NFLPA jointly agree on the form of the Player Health Report, which should be completed electronically and automatically incorporated into the players' EMRs. Additionally, the Player Health Report should mirror the terminology historically used by the NFL's Injury Reporting Policy concerning a player's status: Out (definitely will not play); Doubtful (at least 75 percent chance will not play); Questionable (50-50 chance will not play); and, Probable (virtual certainty player will be available for normal duty).

## SECTION 5: PLAYERS' RIGHT TO A SECOND MEDICAL OPINION

- (a) **Second Opinion Doctors List.** The Medical Committee shall create a list of doctors with whom players are permitted to consult for the purposes of providing a medical opinion other than that of the Players' Medical Staff ("Second Opinion Doctors"). In creating the Second Opinion Doctors List, the Medical Committee shall seek to identify well-qualified doctors in all relevant specialties for which a player might seek a second medical opinion. A player can request that a doctor be added to the Second Opinion Doctors List by submitting such a request to the Medical Committee Chairperson prior to the consultation or treatment. The NFL, NFLPA or a Club can request a doctor be added to or removed from the Second Opinion Doctors List by submitting such a request to the Medical Committee detailing the reason for the request. The Medical Committee shall act promptly with regard to all requests. Where a player has requested a doctor be added to the Second Opinion Doctors List, a doctor need not be added to the Second Opinion Doctors List in advance of such consultation or treatment to be considered a Second Opinion Doctor; so long as the doctor is at some point added to the Second Opinion Doctors List per the player's request. The existence of the Second Opinion Doctor List shall in no way limit players to their own choice of personal doctor. Players need only consult with a Second Opinion Doctor for purposes of Payment, discussed in Section (b) below, and Clearance to Practice or Play, discussed in Section (c) below.
- (b) **Payment.** The Club is responsible for the payment of any consultation with, or treatment provided by, a Second Opinion Doctor provided the following conditions are met:
- i. The player has first consulted in good faith with the Head Players' Doctor;
  - ii. At the time of the consultation or treatment, the Second Opinion Doctor is on the Second Opinion Doctor List, or the player has requested the doctor be added to the Second Opinion Doctors List in accordance with Section 5(a) above and the doctor is added pursuant to the player's request; and,
  - iii. All relevant records from the consultation or treatment are either incorporated into the player's EMR or provided to the Club within two business days of their receipt by the player or the player's NFLPA-certified Contract Advisor.
- (c) **Clearance to Practice or Play.** If at any time on the Player's Health Report, the Head Players' Doctor has limited a player's clearance to practice or has determined that a player is "Out," "Doubtful," or "Questionable" for the next game, the player has the right to seek clearance to practice or play from a Second Opinion Doctor. If the Second Opinion Doctor states in writing that the

player can practice or play in a manner more extensive than that determined by the Head Players' Doctor, the player, at his sole discretion, has the right to practice or play up to the limits imposed by the Second Opinion Doctor, if any. If the Second Opinion Doctor states in writing that the player can practice or play in a manner less extensive than that determined by the Head Players' Doctor, the player, at his sole discretion, has the right to practice or play up to the limits imposed by the Head Players' Doctor.

## SECTION 6: TREATMENT DETERMINATIONS

- (a) **Surgery.** A player has the right to choose the surgeon who will perform any surgery on him. A player is not obligated to undergo any surgery, regardless of the recommendations of the Players' Medical Staff, a Second Opinion Doctor, the Club Medical Staff, or any other party.
- (b) **Payment.** The Club is responsible for the payment of any surgery provided:
- i. The surgery is performed by: (x) a member of the Players' Medical Staff; (y) a surgeon who, at the time of the surgery, is on the Second Opinion Doctor List, or the player has requested the doctor be added to the Second Opinion Doctors List in accordance with Section 5(a) above and the doctor is added pursuant to the player's request and, the player has first consulted in good faith with the Head Players' Health Doctor; or, (z) any other medical professional in an emergency situation.
  - ii. All relevant records from the surgery are either incorporated into the player's EMR or provided to the Club within two business days of their receipt by the player or the player's NFLPA-certified Contract Advisor.

## SECTION 7: HOME GAME EMERGENCY MEDICAL COVERAGE

- (a) For each game, the Medical Committee shall select one doctor who is board-certified in emergency medicine, anesthesiology, pulmonary disease, or thoracic and cardiac surgery, and who has documented competence in rapid sequence intubations in the past twelve months. This doctor shall be responsible for game-day medical intervention for catastrophic emergencies.



## APPENDIX H \ Medical Malpractice Cases Against Club Doctors<sup>a</sup>

### 1. *Butkus v. Chicago Bears, Fox*

In 1976, former Chicago Bears linebacker and Hall of Famer Dick Butkus settled a lawsuit against the Bears and their doctor Theodore Fox for \$600,000 after Butkus alleged that Fox negligently and repeatedly injected Butkus' knee with painkillers and refused to cooperate with Butkus' efforts to obtain a second opinion following a 1971 surgery.<sup>1</sup>

### 2. *Siani v. Oakland Raiders, Rosenfeld*

In 1980, former Oakland Raiders wide receiver Mike Siani settled a lawsuit against the Raiders and Raiders doctor Robert Rosenfeld for \$120,000.<sup>2</sup> Siani alleged that Rosenfeld repeatedly injected Siani's foot with painkillers to numb Siani's broken toes which eventually caused the removal of the bones from his toes.<sup>3</sup>

### 3. *Hendy v. San Diego Chargers, Losse*<sup>4</sup>

In 1988, former San Diego Chargers defensive back John Hendy sued the Chargers and club doctor Gary Losse alleging that: (1) the Chargers were negligent in their hiring and retention of Losse; (2) Losse intentionally and negligently withheld medical information from Hendy concerning the extent of Hendy's knee injury; and, (3) Losse misrepresented to Hendy that he was fit to play.<sup>5</sup> The United States Court of Appeals for the Ninth Circuit held that the Chargers' hiring obligations and Losse's duty to disclose were not controlled by the CBA and thus not preempted.<sup>6</sup> The Ninth Circuit thus remanded the case to state court for consideration of the state tort law claims.<sup>7</sup>

The case eventually reached the Supreme Court of California.<sup>8</sup> Rephrased as a "medical malpractice" claim, the Supreme Court of California held that Hendy's claims were barred by California's workers' compensation statutes.<sup>9</sup> In so doing, the Supreme Court of California relied on Hendy's allegation that Losse was an employee of the Chargers and that Hendy had not alleged any facts which

would have permitted him to amend his complaint to allege that Losse was instead an independent contractor.<sup>10</sup>

Hendy's claims against the Chargers were found to be preempted by the Labor Management Relations Act and dismissed.<sup>11</sup>

### 4. *Krueger v. San Francisco 49ers, Taylor, Millburn*

In 1988, former San Francisco 49ers offensive lineman Charlie Krueger settled a lawsuit against the 49ers and the 49ers' doctors Lloyd Taylor and Lloyd Millburn for approximately \$1.5 million.<sup>12</sup> Krueger alleged that Taylor injected Krueger's knee with painkilling injections dozens of times a season between a 1963 knee surgery and the end of Krueger's career in 1973 without informing him of the true condition of his knee.<sup>13</sup>

### 5. *Easley v. Seattle Seahawks, Scranton, Whitesel, Whitehall Laboratories*

In 1989, former Seattle Seahawks safety Kenny Easley sued the Seahawks, the Seahawks doctor Pierce Scranton, athletic trainer James Whitesel and Whitehall Laboratories, a maker of Advil.<sup>14</sup> Easley alleged that his use of Advil, as prescribed by the club doctors, caused him kidney damage which the doctors failed to treat or disclose and ultimately necessitated a transplant.<sup>15</sup> Easley settled the case for an undisclosed sum in 1991.<sup>16</sup>

### 6. *Daniels v. Seattle Seahawks, Auld*

In 1992, then-Seattle Seahawk David Daniels was treated by the Seahawks' orthopedist, Dr. Merrit Auld, for an apparent groin strain. Daniels was unable to play due to the pain and it was later determined he had a fractured rectus femoris. Daniels alleged he was never able to fully recover from his injury, contributing to the end of his career. Daniels sued Auld for medical malpractice. A Washington state court held that because Auld, like Daniels, was an employee of the Seahawks, Daniels' lawsuit was barred by Washington's workers' compensation laws.<sup>17</sup>

The result of Daniels' claims against the Seahawks is unclear.

<sup>a</sup> The cases listed here were found through searching legal and news databases or otherwise discovered during our research. This list should not be considered an exhaustive list of medical malpractice cases by NFL players against club doctors. For example, the list does not include non-published case dispositions which were not reported in the news. Additionally, we know of one case pending as of the date of publication brought by former Miami Dolphins wide receiver O.J. McDuffie. See *McDuffie v. Mills*, Docket No. 2002-014638-CA-01 (Fla. Cir. Ct.).

**7. Novak v. Lucie**

In 1999, former Jacksonville Jaguars offensive lineman Jeff Novak sued the Jaguars' doctor Stephen Lucie alleging Lucie improperly operated on him in the locker room, a non-sterile environment, resulting in a hematoma and infection in his leg.<sup>18</sup> Lucie settled the case for \$2.2 million.<sup>19</sup>

**8. Hoge v. Munsell**

In 2000, former Chicago Bears running back Merrill Hoge won a \$1.55 million jury award in a lawsuit against former Bears' doctor John Munsell.<sup>20</sup> Hoge alleged that Munsell failed to properly treat Hoge's concussions and negligently cleared Hoge to play, resulting in further injury and Hoge's forced retirement.<sup>21</sup>

**9. Stringer v. Minnesota Vikings, et al.**

In 2001, Minnesota Vikings Pro Bowl offensive tackle Korey Stringer died of complications from heat stroke after collapsing during training camp.<sup>22</sup> Stringer's family later sued the Vikings, Vikings coaches and affiliated doctors, the NFL and Riddell. Stringer's family reached undisclosed settlements with one of the three doctors involved, David Knowles,<sup>23</sup> after a Minnesota trial court determined that Dr. Knowles was an independent contractor.<sup>24</sup> The claims against the two other Vikings doctors (Sheldon Burns and David Fischer) were dismissed on the ground that they were employees of the Vikings and the claims were thus barred by workers' compensation laws.<sup>25</sup>

In 2003, a Minnesota trial court granted summary judgment<sup>b</sup> in favor of the Vikings and its coaches.<sup>26</sup> The *Stringer* case is discussed in greater detail in Chapter 3: Athletic Trainers, Chapter 7: The NFL and NFLPA, and Chapter 9: Coaches.

**10. Wilson v. Prusmack**

In 2008, former Denver Broncos linebacker Al Wilson sued the Broncos' Club doctor, Chad Prusmack, alleging that Prusmack failed to treat properly a neck injury, requiring Wilson's retirement.<sup>27</sup> Wilson commenced the action approximately one month after an arbitrator ruled his grievance against the Broncos concerning the same issue was time-barred.<sup>28</sup> In 2011, a jury found that Prusmack was not negligent.<sup>29</sup>

**11. Jurevicius v. Cleveland Browns, Figler, Miniaci<sup>30</sup>**

In 2009, Cleveland Browns wide receiver Joe Jurevicius sued the Browns and Browns' doctors (Richard Figler and Anthony Miniaci) in Ohio state court, alleging causes of

action for negligence, negligent misrepresentation, fraud, constructive fraud, breach of fiduciary duty, common law intentional tort and statutory intentional tort against the Browns. Jurevicius generally alleged that the Browns and their doctors failed to take proper precautions to prevent staph infections and lied to players about what steps the club had taken to prevent infections.<sup>31</sup> The Browns and the doctors attempted to remove the case to federal court, arguing that Jurevicius' claims were barred by the CBA.<sup>32</sup> In a March 31, 2010 decision, the United States District Court for the Northern District of Ohio determined that Jurevicius' negligence, negligent misrepresentation, fraud, common law intentional tort and statutory intentional tort claims were not preempted while the constructive fraud and breach of fiduciary duty claims were. Concerning the doctors, the Court found that the CBA did not address the alleged obligations of club doctors to warn players about the conditions at a medical facility and thus the claims were not preempted.<sup>33</sup> The lawsuit settled a few months after the Court's decision.<sup>34</sup>

**12. Jones v. Gill, Zarins**

In 2009, former New England Patriots defensive back Tebucky Jones sued Patriots doctors Tom Gill and Bertram Zarins alleging they failed to tell him that he had suffered a tear in his knee ligament during a 2006 game.<sup>35</sup> Jones claimed that the doctors' failure to inform him of his condition delayed proper treatment and caused further problems which ultimately caused the end of his career.<sup>36</sup> A jury awarded Jones \$3.75 million but the verdict was overturned by a Massachusetts judge for reasons which are unclear.<sup>37</sup>

**13. Rolle v. Brigham**

In 2014, former Baltimore Ravens cornerback Samari Rolle was awarded \$650,000 in a medical malpractice lawsuit against then-Carolina Panthers Club doctor Craig Brigham and his OrthoCarolina healthcare practice.<sup>38</sup> In September 2008, Rolle was referred to Brigham by the Ravens' doctors for spinal surgery, an area of Brigham's expertise.<sup>39</sup> Rolle alleged that Brigham cleared Rolle to return to play too soon.<sup>40</sup> Rolle required a second surgery by Andrew Dossett, the Dallas Cowboys' Spine Consultant, which, although performed properly, forced Rolle to retire.<sup>41</sup> Dossett, a member of the NFL Physicians Society, testified against Brigham, also a member of the NFL Physicians Society, at trial.<sup>42</sup>

<sup>b</sup> Summary judgment is "[a] judgment granted on a claim or defense about which there is no genuine issue of material fact and on which the movant is entitled to prevail as a matter of law." Black's Law Dictionary (9th ed. 2009).

## Endnotes

- 1 Fred Mitchell, *Butkus Recalls Battles with Docs*, Chic. Trib., Nov. 1, 2007, available at 2007 WLNR 21518086; Dick Butkus & Pat Smith, Butkus—Flesh and Blood, 227–30, 257, 279–95 (1997) (describing Fox’s treatment of Butkus’ knee conditions and lawsuit).
- 2 Angelo Cataldi & Glen Macnow, *Shots for the Pain Led to Permanent Damage*, Phil. Inquirer, Jun. 21, 1989, [http://articles.philly.com/1989-06-21/sports/26105705\\_1\\_injections-cortisone-robert-rosenfeld](http://articles.philly.com/1989-06-21/sports/26105705_1_injections-cortisone-robert-rosenfeld), archived at <http://perma.cc/LFL5-2N72>.
- 3 *Id.*
- 4 F.2d 1470 (9th Cir. 1991).
- 5 *Id.*
- 6 *Id.*
- 7 *Id.*
- 8 P.2d 1, 54 Cal.3d 723 (Cal. 1991).
- 9 *Id.*
- 10 *Id.* at 743.
- 11 See *Hendy v. Losse*, 274 Cal.Rptr. 31, 33 (Cal. App. 1990).
- 12 Jennifer Lynn Woodlief, *The Trouble with Charlie: Fraudulent Concealment of Medical Information in Professional Football*, 9 SPG Ent. & Sports L. 3, 3 (1991). See also *Krueger v. San Francisco Forty Niners*, 234 Cal.Rptr. 579 (Cal.App. 1987) (ordering judgment in favor of Krueger and remanding for further proceedings).
- 13 *Id.*
- 14 Tom Farrey, *Easley Settles with Doctors, Drug Maker*, Seattle Times, Sept. 18, 1991, available at 1991 WLNR 984467; Glenn Nelson, *Courting Danger Krueger’s Advice to Easley: Put Up Fight*, Seattle Times, May 31, 1989, available at 1989 WLNR 654489.
- 15 *Id.*
- 16 Tom Farrey, *Easley Settles with Doctors, Drug Maker*, Seattle Times, Sept. 18, 1991, available at 1991 WLNR 984467.
- 17 See *Daniels v. Seattle Seahawks*, 92 Wash.App. 576 (Wash. Ct. App. 1998).
- 18 Tom Farrey, *At What Price a Player’s Pain?* ESPN (updated Nov. 4, 2002, 10:44 AM), <http://espn.go.com/gen/s/2002/0912/1431095.html>, archived at <http://perma.cc/TRN5-GQE6>.
- 19 Jason Cole, *Lawsuits Are Bad Medicine for Pro Sports Doctors*, Wash. Post, Apr. 27, 2003, available at 2003 WLNR 19263311.
- 20 Mark Fainaru-Wada & Steve Fainaru, *League of Denial: The NFL, Concussions, and the Battle for Truth* 121 (2013).
- 21 See *id.* at 41–46 (discussing treatment provided by Munsell to Hoge).
- 22 *Stringer v. Minnesota Vikings Football Club, LLC*, 705 N.W.2d 746, 748 (Minn. 2005).
- 23 See *Stringer v. Minnesota Vikings Football Club, LLC*, No. 02-415, 2003 WL 25766738 (Minn. Dist. Ct. Dec. 8, 2003) (mentioning settlement with W. David Knowles, MD and Mankato Clinic, Ltd.).
- 24 Pam Louwagie & Kevin Seifert, *Stringer Claims Against Vikings Dismissed*, Newspaper—Twin Cities (Minneapolis), Apr. 26, 2003, available at 2003 WLNR 14250471.
- 25 See Memorandum and Order, *Stringer v. Minn. Vikings Football Club, No. 02-415*, 20–23 (Minn. Dist. Ct. Apr. 25, 2003).
- 26 See Memorandum and Order, *Stringer v. Minnesota Vikings Football Club, LLC*, No. 02-415 (Minn. Dist. Ct. Apr. 25, 2003); *Stringer v. Minnesota Vikings Football Club, LLC*, No. 02-415, 2003 WL 25766738 (Minn. Dist. Ct. Dec. 8, 2003) (discussing Court’s prior order). Following Stringer’s death, the NFL now issues an annual memorandum to NFL Clubs warning them about the risks of players overheating during training camp. See, e.g., Memorandum from NFL Injury and Safety Panel (Elliott Hershman, M.D., Chairman), to General Managers, Head Coaches, Team Physicians, and Team Athletic Trainers re: 2014 Training Camps—Adverse Weather Conditions (July 11, 2014) (on file with author).
- 27 Felisa Cardona, *Jury finds doctor not negligent in advice to former Bronco Al Wilson*, Denver Post, June 17, 2011, [http://www.denverpost.com/ci\\_18296823](http://www.denverpost.com/ci_18296823), archived at <http://perma.cc/T4QV-7SBD>; *Wilson v. Prusmack*, Case # 2008CV-010376 (Col. Dist. Ct. 2008).
- 28 (Townley, Arb. Oct. 29, 2008), available as Exhibit 16 to the Declaration of Dennis L. Curran in Support of Defendant National Football League’s Motion to Dismiss Second Amended Complaint (Section 301 Preemption), *Dent v. Nat’l Football League*, 14-cv-2324 (N.D. Cal. Sep. 24, 2014), ECF No. 73.
- 29 Cardona *supra* note 27.
- 30 *Jurevicius v. Cleveland Browns Football Co. LLC*, 09-cv-1803, 2010 WL 8461220 (N.D. Ohio Mar. 31, 2010).
- 31 *Id.*
- 32 *Id.*
- 33 *Id.*
- 34 *Jurevicius Settles Lawsuit with the Browns*, ESPN (June 15, 2010, 6:37 PM), <http://sports.espn.go.com/nfl/news/story?id=5289486>, archived at <http://perma.cc/JJH7-CR37>.
- 35 Jessica Farge, *Jones Claims Pats Docs Cut Short Career*, Bos. Herald, Aug. 9, 2009, available at 2009 WLNR 15475294.
- 36 *Id.*
- 37 Bob Hohler, *Lawsuit Won’t Change Jones’s Loyalties*, Bos. Globe, Feb. 2, 2012, available at 2012 WLNR 2249010.
- 38 Erin Bacon, *Former NFL Player Wins Lawsuit Against Orthocarlina for \$650,000*, Charlotte Observer, Sept. 5, 2014, <http://www.charlotteobserver.com/2014/09/05/5152485/former-nfl-player-wins-lawsuit.html#.VFfaBWe9b2o>, archived at <http://perma.cc/98V7-4ENF>. Additional information concerning Rolle’s case was gathered from a November 3, 2014 interview with Gary Fox of Stewart Tilghman Fox Bianchi & Cain, P.A. in Miami, Florida. Fox represented Rolle in the lawsuit. The case did not include any motions to dismiss or for summary judgment. Thus, there were no court orders on the substantive legal issues discussed in this Report.
- 39 *Id.*
- 40 *Id.*
- 41 Interview with Fox, *supra* note 38.
- 42 *Id.*

## APPENDIX I \ History of Health-Related NFL Playing Rules Changes<sup>a</sup>

For an explanation of how rule changes take place, see Chapter 7: The NFL and NFLPA, Section A(ii): Rule Changes.

### 1955:

- The ball is dead immediately if the runner touches the ground with any part of his body except his hands or feet while in the grasp of an opponent.

### 1956:

- The ball is dead immediately if a runner touches the ground with any part of his body except his hands or feet after being contacted by a defensive player.
- Grasping the face mask of any opponent except a runner is illegal use of hands. Penalty: Five yards.

### 1962:

- Grasping the face mask of an opponent is illegal. Penalty: 15 yards.

### 1966:

- All goal posts must be offset from the goal line.

### 1971:

- A team will not be charged a timeout for an injured player unless the injury occurs in the last two minutes of either half.

### 1973:

- A defensive player who jumps or stands on a teammate or who is picked up by a teammate cannot attempt to block an opponent's kick. Penalty: 15 yards.

### 1974:

- Eligible receivers who take a position more than two yards from the offensive tackle, whether on or behind the line, may not be blocked below the waist at or behind the line of scrimmage.
- No receiver can be blocked below the waist after moving beyond the line of scrimmage.
- An offensive player who is aligned in a position more than two yards laterally outside of the offensive tackle may not contact an opponent below the waist if the blocker is moving toward the position of the ball either at the snap or after it is made, and contact occurs within an area three yards on either side of the

line of scrimmage. This is known as a crackback block. Penalty: 15 yards.

### 1976:

- A defender cannot place a hand or hands on a teammate to gain additional height in an attempt to block a kick.
- A defender is not permitted to run or dive into a ball carrier who has fallen to the ground untouched.

### 1977:

- It is illegal for a defensive lineman to strike an opponent above the shoulders (head slap) during his initial charge. (Previously, it was legal only during the first step.)
- The crackback prohibition is extended to running backs who move outside the tight end and back inside to deliver a block below the waist.

### 1979:

- Mandatory equipment is specified for all players to wear during a game.
- Players on the receiving team are prohibited from blocking opponents below the waist during kickoffs, punts, and field goal attempts.
- The crackback zone is extended from three yards to five yards on either side of the line of scrimmage.
- Officials will declare the ball dead as soon as the quarterback is clearly in the grasp and control of any tackler.
- A player may be penalized for unsportsmanlike conduct for non-contact acts such as throwing a punch or a forearm, or kicking at an opponent.
- It is unnecessary roughness if a tackler uses his helmet to butt, spear, or ram an opponent, or if any player uses the crown or top of the helmet unnecessarily.
- A player in the backfield is prohibited from chopping an outside rusher on a pass play.

### 1980:

- A Chop block (below the waist) is also prohibited by a tight end against an outside rusher. The prohibition applies to pass plays and any plays in which the player receiving the snap initially shows pass.

<sup>a</sup> For rule changes through the year 2012, we relied on an NFL website that lists "NFL rule changes focused on protecting player health and safety[.]" See *Evolution of the Rules: From Hashmarks to Crackback Blocks*, NFL Evolution (Aug. 2, 2013, 01:23 AM), <http://www.nfl.com/news/story/0ap1000000224872/article/evolution-of-the-rules-from-hashmarks-to-crackback-blocks>, archived at <http://perma.cc/WZ8Q-GM43> (discussing rule changes from 1920–2012). For rule changes after 2012, we relied on news articles as indicated.

**1981:**

- Chop blocks (at or below the knee) are prohibited by interior linemen on passing plays or plays in which a lineman shows an attempt to pass block. If an offensive player who fires out at the snap blocks an opponent at or below the knee, the defender cannot be double-teamed by a teammate of the offensive player.

**1982:**

- It is illegal for any player to use the crown or top of his helmet against a passer, a receiver in the act of catching a pass, or a runner who is in the grasp of a tackler.

**1983:**

- All mandatory player equipment must be designed and made by a professional manufacturer and cannot be altered, except by direction of the club doctor.
- A player who uses a helmet he is not wearing as a weapon shall be ejected.
- The chop block rule applies to blocks at “thigh or lower.”

**1985:**

- During the last two minutes of a half, the play ends when a quarterback kneels or simulates kneeling on the ground.
- The ball is dead when any runner slides to the ground feet first, thereby declaring himself down.

**1986:**

- Blocking below the waist on punts is prohibited during the entire down.
- The “lure” technique is prohibited. When an offensive tackle shows pass set, a teammate lined up outside him cannot chop a defender who is lined up over the tackle, even if the tackle and defender are not engaged (a “lure”).

**1987:**

- An offensive lineman may not clip a defender who, at the snap, is aligned on the line of scrimmage opposite another offensive lineman who is more than one position away, when the defender is responding to the flow of the ball away from the blocker. Example: A tackle cannot clip the nose tackle on a sweep to the opposite side.
- It is illegal for the kicking team to block below the waist after a free kick or punt has been made. (Low blocks by the receiving team became illegal in 1979).
- Both teams are prohibited from blocking below the waist after a change of possession.

**1989:**

- A defender (approaching from any direction) who has an unrestricted path to the quarterback is prohibited from flagrantly hitting him in the area of the knee(s).

**1990:**

- A player who butts, spears, or rams an opponent may be disqualified if the action is flagrant or vicious.

**1991:**

- Officials will whistle the play dead whenever a defensive lineman clearly penetrates beyond the neutral zone before the ball is snapped and continues unabated toward the quarterback.

**1992:**

- For the first time the chop block is illegal on some running players: It is illegal on a running play for an offensive player who is lined up in the backfield at the snap to deliberately block a defensive player in the thigh or lower (chop) if the defensive player is engaged by an offensive player who was on the line of scrimmage at the snap. This action is prohibited whether on or behind the line of scrimmage in an area that extends laterally to the position originally occupied by the tight end on either side.
- When a defensive player runs forward and leaps in an attempt to block an extra point or field goal, it is a foul only if the leaping player lands on other players.

**1994:**

- Defensive players are prohibited from blocking low during a punt, field goal, or extra point attempt (kick), except those defensive players at the snap that are lined up on or inside the normal tight end position. Previously, all players on the defensive team could block low during the field goal or extra point attempt.

**1995:**

- Protection for defenseless players is clarified and expanded. Since 1982, a defensive player was prohibited from using the crown or top of his helmet against a passer, a receiver in the act of catching a pass, or a runner who is in the grasp of a tackler. The clarification provided that:
  - Defenseless players included a kickoff or punt returner attempting to field a kick in the air, and a player on the ground at the end of a play.
  - Defensive players are prohibited from lowering their heads to make forcible contact with the facemask, or with the “hairline” or forehead part of the helmet, against an opponent, instead of only with the top/crown.
  - Defensive players are prohibited from forcibly hitting the defenseless player’s head, neck, or face with the helmet or facemask.
  - Defensive players are prohibited from launching into a defenseless player in a way that causes the defensive player’s helmet or facemask to forcibly strike the defenseless player’s head, neck, or face, even if the initial contact of the defender’s helmet or facemask is lower than the defenseless player’s neck.
- When tackling a passer during or just after throwing a pass, a defensive player is prohibited from unnecessarily and violently throwing him down and landing on top of him with all or most of the defender’s weight.

**1996:**

- On running plays, a chop block is prohibited by an offensive player who is aligned more than one position away from the engaged defender when the block occurs away from the flow of the play.
- A defender cannot be chopped even after he has disengaged from an offensive opponent, if he is still confronting the offensive player.
- Prohibition of the “lure” technique is applicable all along the offensive line, instead of only to a player outside a tackle.
- Blocking from behind, at, or below the knees in the clipping zone is prohibited.

**2002:**

- The Chop block technique is illegal on all kicking plays.
- It is illegal to hit a quarterback helmet-to-helmet any time after a change of possession.

**2005:**

- It is illegal to grab the inside collar of the shoulder pads to tackle a runner (“horse-collar tackle”).
- Unnecessarily running, diving into, or throwing the body against a player who should not have reasonably anticipated such contact by an opponent is unnecessary roughness. Previously, the rule only protected a player who is out of the play.
- A kicker/punter must not be unnecessarily contacted by the receiving team through the end of the play or until he assumes a distinctly defensive position. An opponent may not unnecessarily initiate helmet-to-helmet contact to the kicker/punter during the kick or during the return.
- An offensive player who is aligned in the tackle box at the snap and moves to a position outside the box is prohibited from initiating contact on the side or below the waist of an opponent if the blocker is moving toward his own end line and approaches the opponent from behind or from the side (“Peel Back Block”). The near shoulder of the blocker must be in front of his opponent’s body.

**2006:**

- Low hits on the quarterback are prohibited when a rushing defender has an opportunity to avoid such contact.
- Blocks in the back above the waist by the kicking team while the ball is in flight during a scrimmage kick are illegal.
- The definition of a “horse-collar tackle” is expanded to include grabbing the inside collar of the jersey.
- During a field-goal attempt or a try, a defensive player who is within one yard of the line of scrimmage at the snap must have his helmet outside the snapper’s shoulder pad.

**2007:**

- A block below the waist against an eligible receiver while the quarterback is in the pocket is a 15-yard penalty instead of a 5-yard penalty (an illegal cut block).

**2009:**

- Teams are not permitted to intentionally form a wedge of more than two players on a kickoff return in an attempt to block for the runner. Penalty: 15 yards.
- The “bunch” formation on kickoffs is eliminated. The kickoff team must have at least three players outside each hash mark, one of whom must be outside the yard-line number.
- It is an illegal “blindside” block if the blocker is moving toward his own endline and approaches the opponent from behind or from the side, and the initial force of the contact by the blocker’s helmet, forearm, or shoulder is to the head or neck area of an opponent. Penalty: 15-yards.
- It is an illegal hit on a defenseless receiver if the initial force of the contact by the defender’s helmet, forearm, or shoulder is to the head or neck area of the receiver. Penalty: 15 yards.
- Clarified rule regarding low hits on passers:
  - A defender cannot initiate a roll or lunge and forcibly hit the passer in the knee area or below, even if he is being contacted by another player.
  - It is not a foul if the defender swipes, wraps, or grabs a passer in the knee area or below in an attempt to tackle him.

**2010:**

- During a field-goal attempt, punt, or try-kick, a defensive team player, who is within one yard of line of scrimmage at snap, must have his entire body outside the snapper’s shoulder pads.
- A player who has just completed a catch is protected from blows to the head or neck by an opponent who launches.
- All “defenseless players” are protected from blows to the head delivered by an opponent’s helmet, forearm, or shoulder.
- Kickers and punters during the kick and return, and quarterbacks after a change of possession, are protected from blows to the head delivered by an opponent’s helmet, forearm, or shoulder, instead of just helmet-to-helmet contact.
- The ball is declared dead at the spot if a runner’s helmet comes completely off.

**2011:**

- The restraining line for the kicking team is moved from the 30- to the 35-yard line in an effort to increase touchbacks.
- All kicking team players other than the kicker must be lined up no more than five yards behind their restraining line, eliminating the 15–20 yard running “head start” that had become customary for many players.
- The list of “defenseless players” is expanded to include a kicker/punter during the kick or during the return, a quarterback at any time after a change of possession, and a player who receives a “blindside” block when the blocker is moving toward his own endline and approaches the opponent from behind or from the side. Previously, these players were protected against blows to

the head, but not against blows delivered by an opponent with the top/crown or forehead/"hairline" parts of the helmet against other parts of the body.

- A receiver who has completed a catch is a "defenseless player" until he has had time to protect himself or has clearly become a runner. A receiver/runner is no longer defenseless if he is able to avoid or ward off the impending contact of an opponent. Previously, the receiver who had completed a catch was protected against an opponent who launched and delivered a blow to the receiver's head.

#### 2012:

- The list of "defenseless players" is expanded to include defensive players on crackback blocks, making it illegal to hit them in the head or neck area.
- Players are required to wear protective knee and thigh pads beginning with the 2013 season.

#### 2013:<sup>1</sup>

- Ball-carriers who grab and twist, turn or pull on an opponent's face mask, or grab the face mask and use it to control an opponent will be penalized 15 yards.
- "Peel back" blocks are illegal inside the tackle box. Previously they were only illegal outside the tackle box.
- Ball-carriers and tacklers cannot lead with the crown of their helmets when both players are outside of the tackle box.
- Long-snappers, while in the act of snapping the ball, are considered defenseless players.

#### 2014:<sup>2</sup>

- Blockers cannot hit an opponent in the side of the legs. Rule previously only prohibited blockers from hitting an opponent in the back of the legs.

#### 2015:<sup>3</sup>

- Defensive players prohibited from pushing teammates at the line of scrimmage when the offense is in punt formation.
- Offensive players prohibited from engaging in peel back blocks.
- Wide receivers are given defenseless player protection when a pass is intercepted.
- Running backs prohibited from chop blocking a defensive player engaged above the waist by another offensive player outside the tackle box.
- Allows the athletic trainer in the press box designated for spotting injuries to stop the game if a player appears to have suffered a concussion.

#### 2016:<sup>4</sup>

- Prohibited all forms of the chop block.
- On a one-year trial basis, any player who is penalized twice in one game for certain types of unsportsmanlike conduct fouls is ejected.
- On a one-year trial basis, any touchback resulting from a kickoff will give the receiving team the ball at the 25-yard line (as opposed to the 20-yard line under the prior rule).
- Expanded the horse collar tackle rule to also prohibit grabbing the jersey at the name plate or above and pulling a runner to the ground.

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## APPENDIX J \ Timeline of Equipment-Related Events and Policies<sup>a</sup>

**Note:** Below we discuss the evolution and advances made in football equipment. Nevertheless, we generally do not know when, if at all, the newer equipment models were first used in the NFL.

### 1869:

- Rutgers University and Princeton University played the first game of what would become American football.<sup>1</sup>

### 1905:

- After 45 players died between 1890 and 1905, President Teddy Roosevelt summoned a meeting of college football coaches to broker changes in the rules that would make the game safer.<sup>2</sup> Among the changes were the introduction of the forward pass and the stoppage of play when the ball carrier was down.<sup>3</sup>

### 1920:

- The American Professional Football Conference begins play, changing its name to the National Football League in 1922.<sup>4</sup>

### 1920s:

- Players used a hardened leather helmet and shoulder pads made of felt wool and leather.<sup>5</sup>

### 1929:

- John T. Riddell, a high school football coach in Indiana, creates the equipment company bearing his name after inventing the removable football cleat.<sup>6</sup>
- Introduction of fibershell helmets, which would be used into the 1950s.<sup>7</sup>

### 1930s:

- Introduction of molded leather helmets, foam pads and facemasks.<sup>8</sup>

### 1940:

- Introduction of hardened leather shoulder pads, used into the 1960s.<sup>9</sup>
- Introduction of the plastic helmet.<sup>10</sup> The plastic was brittle and would tend to break upon impact.<sup>11</sup>
- Introduction of the leather chin strap to help hold the helmet in place.<sup>12</sup>

### 1943:

- Helmets become mandatory in the NFL.<sup>13</sup>

### 1950s:

- Introduction of fibershell shoulder pads, used into the 1960s, and a plastic helmet with pads on the interior.<sup>14</sup>

### 1963:

- Riddell<sup>15</sup> introduces first helmet that uses air inflation for fitting the helmet snug to the head.<sup>16</sup>

### 1969:

- National Operating Committee on Standards for Athletic Equipment (NOCSAE) is formed as a non-profit organization with the purpose of improving athletic equipment and reducing injuries through equipment standards.<sup>17</sup> NOCSAE was formed in response to more than 100 high school and college football players killed by skull fractures and acute brain bleeding.<sup>18</sup>

### 1973:

- NOSCAE introduces its first helmet testing standards. Today, “under NOCSAE’s standard, the football helmet is placed on a synthetic head model that is filled with glycerin and fitted with various measuring instruments. The head model fitted with the helmet is then dropped sixteen times onto a polymer anvil with two of the drops from a height of sixty inches onto six different locations of the helmet at varying temperatures determined by NOCSAE to simulate different potential game temperatures. After each drop a “Severity Index,” which measures the severity of the impact absorbed by the head model at the moment of impact, is determined. Helmets are graded on a pass-fail basis, and the helmets that pass are those meeting an acceptable Severity Index.”<sup>19</sup> For more information on NOCSAE, see Chapter 16: Equipment Manufacturers.

### 1970s:

- Introduction of plastic shoulder pads; facemasks expand beyond the single bar.<sup>20</sup>

<sup>a</sup> To create this timeline, we relied on a timeline included on an NFL website, see *NFL Evolution—Health & Safety*, NFL Evolution, <http://www.nflevolution.com/nfl-timeline/index.html> (last visited Aug. 7, 2015), archived at <http://perma.cc/PVP6-PA6C>, a timeline included on Riddell’s website, *See History*, Riddell, <http://www.riddell.com/history> (last visited Aug. 7, 2015), archived at <http://perma.cc/A9DF-MF5V>, and a variety of other news sources. It should not be considered an exhaustive list. More information and context is available in Chapter 16: Equipment Manufacturers.



**1979:**

- NFL mandates the use of thigh and knee pads. The rule is revoked in 1994, but reinstated in 2013.<sup>21</sup>

**1982:**

- Riddell introduces helmet with a combination of foam and liquid-filled cells used for padding.<sup>22</sup>

**1983:**

- All mandatory player equipment must be designed and made by a professional manufacturer and cannot be altered, except by the direction of the club doctor.<sup>23</sup>

**1988:**

- NFL and Riddell entered into agreement without duration whereby Riddell provides free helmets, pads and jerseys to all NFL clubs in exchange for Riddell receiving the exclusive right to display its logo on Riddell helmets used by NFL players. Competing helmet manufacturers could not display its logo on its helmets used by NFL players. Schutt Athletic, a Riddell competitor, lost its antitrust challenge to the agreement.<sup>24</sup>

**1992:**

- Riddell introduces the Variable Size Range (VSR) series, designed with additional inflation points for a more customized fit.<sup>25</sup> As a result of its agreement with the NFL, VSR helmets would come to be used by more than 60 percent of NFL players.<sup>26</sup>

**1994:**

- NFL removes rule requiring players to wear thigh and knee pads. Rule reinstated in 2013.<sup>27</sup>

**2001:**

- Minnesota Vikings Pro Bowl offensive tackle Korey Stringer died of complications from heat stroke after collapsing during training camp.<sup>28</sup> Stringer's family later sued the Vikings, Vikings coaches and affiliated doctors, the NFL, and Riddell. Stringer's family reached undisclosed settlements with one of the doctors involved,<sup>29</sup> the NFL<sup>30</sup> and Riddell.<sup>31</sup>

**2002:**

- Riddell introduces the Riddell Revolution helmet, designed with the intent of reducing concussion risk.<sup>32</sup>
- Riddell also funds research project led by two University of Pittsburgh Medical Center professors and a Riddell employee designed to compare the concussion rates and recovery times for athletes wearing Riddell's Revolution helmet compared to athletes wearing older model helmets manufactured by both Riddell and its competitors.<sup>33</sup> After tracking 2,141 Pennsylvania high school football players, the authors found 5.3 percent of players using Revolution helmets suffered concussions as compared to 7.6 percent of players using other helmets.<sup>34</sup> The authors described the difference as "statistically significant" and said the results "demonstrated a trend toward a lowered incidence of concussion" but that the

"limited sample size precludes a more conclusive statement of findings at this time."<sup>35</sup> The study also highlighted that there was a 31-percent decreased relative risk for athletes wearing the Revolution helmet, comparing the 5.3-percent and 7.6-percent concussion rates.<sup>36</sup> Riddell seized on that last statistic and began to advertise that the Revolution helmet reduced the risk of concussion by 31 percent.<sup>37</sup> Riddell's competitor, Schutt Sports, later lost a lawsuit alleging Riddell's advertisements were false and based on an unreliable study.<sup>38</sup> The study has nonetheless been controversial, as discussed in Chapter 16: Equipment Manufacturers.

**2008:**

- Introduction of shoulder pads which allow cold air to be pumped through them while on the sidelines.<sup>39</sup>

**2010:**

- NFL clubs test new girdles with built-in padding at the hip, thigh and tailbone during training camp and preseason with hope of encouraging more players to wear leg pads.<sup>40</sup>

**2011:**

- Chicago Bears become the first NFL club to adopt Riddell RipKord shoulder pads. According to Riddell, "[b]y pulling a single cord, shoulder pads outfitted with RipKord can be quickly and easily removed by two trained professionals without elevating a player," providing "more efficient and immediate access to an athlete's chest and airway in the event of a suspected head, spine or chest injury."<sup>41</sup>
- NFL begins relationship with the United States military aimed at preventing and treating head injuries.<sup>42</sup>
- NFL players begin to put Kevlar in their helmets, generating controversy.<sup>43</sup>
- Riddell introduces 360 Helmet, designed to disperse the energy of frontal impacts as a result of examining over 1.4 million impacts collected through Riddell's impact-tracking technology.<sup>44</sup>
- The first lawsuits against the NFL and Riddell concerning concussions are filed. Hundreds followed.<sup>45</sup>

**2012:**

- All cases concerning concussions are consolidated in the United States District Court for the Eastern District of Pennsylvania *In re National Football League Players' Concussion Injury Litigation*, 12-md-23-23 (E.D.Pa.). Claims generally allege that NFL knew of risk of concussions and intentionally and fraudulently concealed those risks from NFL players, and that Riddell made defective helmets while failing to inform players of the risks of using their helmets.<sup>46</sup>

**2013:**

- NFL sends memo to clubs reminding them that players must have the opportunity to see and try "a wide range of helmets from leading manufacturers," at no cost to the player. NFL locker

rooms include large posters with 18 helmets from six different brands including their ratings according to Virginia Tech's "STAR" evaluation system.<sup>47</sup>

- NFL institutes policy whereby teams playing games in "throw-back" uniforms must still use their current, regular helmets.<sup>48</sup>
- NFL reinstates rule requiring players to wear thigh and knee pads. The NFL estimated that, prior to reinstating the rule, 70 percent of players were not wearing thigh and knee pads.<sup>49</sup> Nevertheless, even with the existence of the rule, players have a long-standing practice of modifying and minimizing the required pads in favor of speed and mobility.<sup>50</sup>
- NFL's indefinite agreement with Riddell expired as a result of NFL negotiations. NFL states that there will no longer be an official helmet of the NFL.<sup>51</sup>
- NFL announces a \$40 million research and development program with General Electric and Under Armour to improve concussion diagnosis and treatment, including \$10 million incentive programs aimed at discovering new and improved technology.<sup>52</sup>

#### 2014:

- NFL and Riddell enter into five-year agreement by which Riddell would be the exclusive licensee for collectible helmets.<sup>53</sup>
- Riddell introduces SpeedFlex helmet, which includes a five-sided indentation on the crown of the helmet.<sup>54</sup> The helmets are adopted by several major college football programs.

#### 2015:

- United States District Court for the Eastern District of Pennsylvania approves settlement between NFL and plaintiffs *In re National Football League Players' Concussion Injury Litigation*, providing for compensation to qualifying former NFL players depending on the severity of their medical conditions. The settlement does not limit the total amount the NFL might eventually have to pay to satisfy its obligations under the settlement.<sup>55</sup> The lawsuit was not settled with Riddell.

#### 2016:

- United States Court of Appeals for the Third Circuit affirms the District Court's approval of the settlement between NFL and plaintiffs *In re National Football League Players' Concussion Injury Litigation*. Claims against Riddell remain in litigation.

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## APPENDIX K \ Players' Options to Enforce Stakeholders' Legal and Ethical Obligations<sup>a</sup>

Stakeholder Against Whom Relief is Sought	Enforcement Mechanism	Strengths	Weaknesses
Players	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Conduct must have been intentional, reckless, or willful and wanton</li> <li>• Potentially preempted by CBA</li> <li>• Almost definitely barred by workers' compensation statutes if injured by player's own teammate</li> </ul>
Athletic Trainers	Accountability and Care Committee – Art. 39	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Claim is referred to NFL and club</li> <li>• Committee has no binding authority</li> <li>• No neutral adjudicatory process</li> </ul>
	Non-Injury Grievance – Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> <li>• Can allege ethical violations</li> </ul>	<ul style="list-style-type: none"> <li>• CBA likely cannot be enforced in an action against athletic trainers</li> <li>• Almost definitely barred by workers' compensation statutes</li> <li>• 50-day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Joint Committee on Player Safety and Welfare – Art. 50	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> <li>• Review by neutral doctors</li> </ul>	<ul style="list-style-type: none"> <li>• Claim is referred to NFL and club</li> <li>• Committee has no binding authority</li> <li>• No neutral adjudicatory process</li> </ul>

<sup>a</sup> The chart here includes players' options to enforce a stakeholder's legal and ethical obligations, except for The Media, Fans, and NFL Business Partners. Enforcement against those stakeholders is too unlikely and tangential to be included among these enforcement options.

**APPENDIX K: Players' Options To Enforce Stakeholders' Legal And Ethical Obligations (continued)**

Stakeholder Against Whom Relief is Sought	Enforcement Mechanism	Strengths	Weaknesses
Athletic Trainers (continued)	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Very likely barred by workers' compensation statutes</li> <li>• Potentially preempted by CBA</li> </ul>
	File complaint with Professional Football Athletic Trainers Society (PFATS).	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
	File complaint with National Athletic Trainers Association (NATA).	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
	File complaint with Board of Certification for the Athletic Trainer.	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
Club Doctors	Accountability and Care Committee – Art. 39	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Claim is referred to NFL and club</li> <li>• Committee has no binding authority</li> <li>• No neutral adjudicatory process</li> </ul>
	Non-Injury Grievance – Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> <li>• Can allege ethical violations</li> </ul>	<ul style="list-style-type: none"> <li>• CBA likely cannot be enforced in an action against club doctors</li> <li>• Might be barred by workers' compensation statutes</li> <li>• 50-day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Joint Committee on Player Safety and Welfare – Art. 50	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> <li>• Review by neutral doctors</li> </ul>	<ul style="list-style-type: none"> <li>• Unclear whether Committee has any authority to compensate player</li> </ul>

Stakeholder Against Whom Relief is Sought	Enforcement Mechanism	Strengths	Weaknesses
Club Doctors (continued)	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Potentially preempted by CBA</li> <li>• Possibly barred from workers' compensation statutes (depending on relationships between club and doctor)</li> </ul>
	File complaint with the doctor's state licensing board	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
Second Opinion Doctors	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> </ul>
	File complaint with the doctor's state licensing board	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
Neutral Doctors	Non-Injury Grievance — Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> <li>• Can allege ethical violations</li> </ul>	<ul style="list-style-type: none"> <li>• 50-day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Potentially preempted by CBA</li> </ul>
	File complaint with the doctor's state licensing board.	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
Personal Doctors	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> </ul>
	File complaint with the doctor's state licensing board	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>

**APPENDIX K: Players' Options To Enforce Stakeholders' Legal And Ethical Obligations (continued)**

Stakeholder Against Whom Relief is Sought	Enforcement Mechanism	Strengths	Weaknesses
The NFL	Non-Injury Grievance — Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> </ul>	<ul style="list-style-type: none"> <li>• 50 day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Claims often preempted by CBA</li> </ul>
The NFLPA	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Potentially preempted by CBA and National Labor Relations Act (NLRA)</li> </ul>
	Arbitration pursuant to NFLPA Constitution	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Mechanism has never been used</li> <li>• Unclear if damages available to injured player</li> </ul>
NFL Clubs	Accountability and Care Committee — Art. 39	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Claim is referred to NFL and club</li> <li>• Committee has no binding authority</li> <li>• No neutral adjudicatory process</li> </ul>
	Non-Injury Grievance — Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> <li>• Can allege ethical violations</li> </ul>	<ul style="list-style-type: none"> <li>• 50 day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Joint Committee on Player Safety and Welfare — Art. 50	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> <li>• Review by neutral doctors</li> </ul>	<ul style="list-style-type: none"> <li>• Unclear whether Committee has any authority to compensate player</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Claims likely preempted by CBA</li> </ul>

Stakeholder Against Whom Relief is Sought	Enforcement Mechanism	Strengths	Weaknesses
Coaches	Non-Injury Grievance – Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> </ul>	<ul style="list-style-type: none"> <li>• CBA likely cannot be enforced in an action against coaches</li> <li>• Almost definitely barred by workers' compensation statutes</li> <li>• 50-day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Almost definitely barred by workers' compensation statutes</li> <li>• Potentially preempted by CBA</li> </ul>
	File complaint with the American Football Coaches Association (AFCA)	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Fast</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• AFCA cannot order recompense to the injured player</li> <li>• AFCA generally not involved in NFL coach matters</li> </ul>
Club Employees	Non-Injury Grievance – Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> </ul>	<ul style="list-style-type: none"> <li>• CBA likely cannot be enforced in an action against club employees</li> <li>• Almost definitely barred by workers' compensation statutes</li> <li>• 50-day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Very likely barred by workers' compensation statutes</li> <li>• Potentially preempted by CBA</li> </ul>



**APPENDIX K: Players' Options To Enforce Stakeholders' Legal And Ethical Obligations (continued)**

Stakeholder Against Whom Relief is Sought	Enforcement Mechanism	Strengths	Weaknesses
Equipment Managers	Non-Injury Grievance – Art. 43	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> <li>• Money damages explicitly available</li> <li>• Can allege ethical violations</li> </ul>	<ul style="list-style-type: none"> <li>• CBA likely cannot be enforced in an action against equipment managers</li> <li>• Almost definitely barred by workers' compensation statutes</li> <li>• 50-day statute of limitations strictly enforced</li> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Almost definitely barred by workers' compensation statutes</li> <li>• Potentially preempted by CBA</li> </ul>
	File complaint with Athletic Equipment Managers Association (AEMA)	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> <li>• Not all Equipment Managers are members of the AEMA</li> </ul>
Contract Advisors	Grievance pursuant to Contract Advisor Regulations	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Almost definitely barred by Contract Advisor Regulations</li> </ul>
	File complaint with Committee on Agent Regulation and Discipline (CARD)	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
	File complaint with the contract advisor's state bar (if contract advisor is attorney)	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>

Stakeholder Against Whom Relief is Sought	Enforcement Mechanism	Strengths	Weaknesses
Financial Advisors	File grievance with Financial Industry Regulation Authority (FINRA)	<ul style="list-style-type: none"> <li>• Less costly and faster than court action</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• No jury</li> <li>• Less public scrutiny than court action</li> </ul>
	File complaint with NFLPA	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Likely barred by arbitration clause in financial advisor agreement</li> </ul>
	File complaint with the financial advisor's relevant professional societies	<ul style="list-style-type: none"> <li>• Inexpensive</li> <li>• Informal</li> <li>• Private</li> </ul>	<ul style="list-style-type: none"> <li>• Unlikely to result in tangible benefit to player</li> </ul>
Family Members	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Public airing of family matters</li> </ul>
Officials	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Potentially preempted by CBA</li> </ul>
Equipment manufacturers	Civil lawsuit	<ul style="list-style-type: none"> <li>• Potential for jury award</li> <li>• Public scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Length of time</li> <li>• Cost</li> <li>• Potentially preempted by CBA</li> </ul>

## APPENDIX L \ Authorization for Use and Disclosure of Records and Information

**Note:** Below is a form executed by players permitting their medical records to be used by and disclosed among the NFL, NFL clubs, and related parties. This form was collectively bargained between the NFL and NFLPA.

**INSERT CLUB NAME AND/OR LOGO**

### **AUTHORIZATION FOR USE AND DISCLOSURE OF RECORDS AND INFORMATION**

Name: \_\_\_\_\_ D.O.B.: \_\_\_\_\_

Address: \_\_\_\_\_

#### **1. Persons/Entities Authorized to Release and Disclose Information:**

I hereby authorize and give my permission to the following persons and/or entities to release and disclose my medical records and/or protected health information (“PHI”) (as defined under the Health Insurance Portability and Accountability Act, as amended (“HIPAA”) and the regulations thereunder) in the manner described in this Authorization:

**INSERT CLUB NAME**, (“Club”), the National Football League and each of its member Clubs, as now existing or at any time in the future, the National Football League Drug Advisers, National Invitational Camp, Inc., National Football Scouting, Inc., the advisors to the National Football League’s Policy and Program on Substances of Abuse, the advisors to the National Football League’s Policy on Anabolic Steroids and Related Substances, and respective representatives, agents, and/or employees, owners, officers, servants, staff members, and contractors, any NFL Club medical staff members, team physicians, athletic training staff members, as well as any outside or third-party physicians, physician groups, hospitals, clinics, laboratories, consulting physicians, specialists, and/or healthcare professionals engaged by the NFL or NFL Clubs, and any present and future electronic medical record vendors used by the NFL or NFL Clubs, including, but not limited to, eClinicalWorks, Inc., Infinitt, Inc., and/or Surescripts.

#### **2. Personal Health Information to Be Used and Disclosed:**

I hereby authorize the following medical records and/or PHI to be used and disclosed as described in this Authorization to the Authorized Parties:

My entire health or medical record and/or PHI relating to any injury, sickness, disease, mental health condition, physical condition, medical history, medical or clinical status, diagnosis, treatment or prognosis from any source, including without limitation all written and/or electronic information or data, clinical notes, progress notes, discharge summaries, lab results, pathology reports, operative reports, consultations, physicals, physicians’ records, athletic trainers’ records, diagnoses, findings, treatments, history and prognoses, test results, laboratory reports, x-rays, MRI, and/or imaging results, outpatient notes, physical therapy records, occupational therapy records, prescriptions, and any and all other information pertaining to my past or present medical condition, diagnosis, treatment, history, and prognosis. This Authorization expressly includes all records and PHI relating to any mental health treatment, therapy, and/or counseling, but expressly excludes psychotherapy notes.

For purposes of use and disclosure to the National Football League this disclosure shall be subject to the limitations set forth in Section 4(f) below.

#### **3. Persons/Entities Authorized to Receive and Use:**

I hereby authorize the following persons and/or entities to receive and use my medical records and/or PHI only for the purposes that are permitted under this Authorization. These persons and entities will be referred to as the “Authorized Parties”:

[INSERT CLUB NAME], the National Football League and each of its member Clubs, as now existing or at any time in the future, the National Football League Drug Advisers, National Invitational Camp, Inc., National Football Scouting, Inc., the advisors to the National Football League’s Policy and Program on Substances of Abuse, the advisors to the National Football League’s Policy on Anabolic Steroids and Related Substances, and respective representatives, agents, and/or employees, owners, officers, servants, staff members, and contractors, any NFL Club medical staff members, team physicians, athletic training staff members, as well as any outside or third-party physicians, physician groups, hospitals, clinics, laboratories, consulting physicians, specialists, and/or healthcare professionals engaged by the NFL or NFL Clubs, and any present and future electronic medical record vendors used by the NFL or NFL Clubs, including, but not limited to, eClinicalWorks, Inc., Infinit, Inc., and/or Surescripts.

**4. Purpose of the Disclosure:**

For purposes relating only to my actual or potential employment in the National Football League including the provision of healthcare, evaluation, consultation, treatment, therapy, and related services, which purposes are limited to reviewing, discussing, transmitting, disclosing, sharing, and/or using my medical records and PHI: (a) between and among any of the Authorized Parties; (b) with any of my healthcare providers and/or mental health providers; (c) for employment-related injury reports; (d) for the activities of the National Football League Drug Advisers, the advisors to the National Football League’s Policy and Program on Substances of Abuse, and/or the advisors to the National Football League’s Policy on Anabolic Steroids and Related Substances, specifically limited to due diligence and audit activities, investigations of possible violations of the Policies or eligibility for a “therapeutic-use” exception under either Policy; (e) for ophthalmic examinations, consultations or treatment; and/or (f) with respect to disclosure to the National Football League, this authorization shall not be used by the NFL or its member Clubs to obtain documents, evidence, or material for purposes of litigation, grievances, or any dispute with the National Football League or its member clubs, except as contemplated by the August 4, 2011 Collective Bargaining Agreement (CBA), and as is necessary for the NFL and its member Clubs to fulfill their obligations under the CBA.

**5. Expiration Event:** This Authorization will expire two years from the date on which I was last employed by any NFL Club.

**6. Photocopy:** A photostatic copy of this Authorization shall be considered as effective and valid as the original.

**7. Signature:** By my signature below, I acknowledge that I have read this Authorization, understand my rights as described herein, understand that I am allowing medical and mental healthcare providers to disclose my PHI, and have had any questions answered to my satisfaction. I also acknowledge and understand that: this Authorization has been collectively bargained for by the National Football League and the National Football League Players Association.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTICE: You are entitled to a copy of this Authorization after you sign it. You have the right to revoke this Authorization any time by presenting a written request to the Club’s Head Athletic Trainer or his designee, except to the extent that any Authorized Party has relied upon it. Revocation will not apply: 1) to information that has already been released in connection with this Authorization, 2) during a contestability period under applicable law, or 3) if the Authorization was obtained as a condition of obtaining insurance coverage. We may not condition treatment, payment, enrollment or eligibility for benefits on your execution of this authorization, except for the purpose of creating protected health information for disclosure to a third party on provision of Authorization. Information disclosed pursuant to this Authorization may be re-disclosed by the recipient(s) and no longer protected by federal or state privacy laws or regulations. Information disclosed pursuant to this Authorization may include records created by a healthcare provider or mental healthcare provider other than the disclosing party, unless access to such PHI has been restricted as permitted under HIPAA or such provider has expressly prohibited such re-disclosure.**

## APPENDIX M \ Authorization for Release and Disclosure of Medical & Mental Health Records

**Note:** Below is a form executed by players permitting their medical providers to release their medical records to the NFL, NFL clubs, and related parties. This form was collectively bargained between the NFL and NFLPA.

**INSERT CLUB NAME AND/OR LOGO**

**AUTHORIZATION FOR RELEASE & DISCLOSURE  
OF MEDICAL & MENTAL HEALTH RECORDS**

Player Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Club Name: \_\_\_\_\_

**1. Persons/Entities Authorized to Release and Disclose Information.** I hereby authorize, empower, request, and direct all healthcare providers, physicians, hospitals, mental health providers, counselors, therapists, clinics, schools, universities, colleges, student health services, dispensaries, sanatoriums, any other agencies, NFL Clubs, professional football teams, athletic trainers, all other amateur or professional teams or organizations, facilities, and/or entities that may possess my medical records and/or my protected health information (“PHI”) (as defined under the Health Insurance Portability and Accountability Act, as amended (“HIPAA”) and the regulations thereunder): (1) to release, disclose, and to make these records and/or PHI freely available to the persons and entities identified on this Authorization as the Authorized Parties; and (2) to discuss the contents of these records and PHI with the Authorized Parties and their representatives. I hereby release and discharge all persons and institutions from any and all claims by reason of their releasing such records and information.

**2. Persons/Entities Authorized to Receive and Use the Information.** I hereby authorize, empower, and give permission to the following persons and/or entities and their representatives to receive, inspect, copy, obtain copies, examine, and/or use of any and all medical records and PHI described in this Authorization. These persons and entities will be referred to as the “Authorized Parties”:

*[INSERT CLUB NAME]*, hereinafter “Club”, the National Football League and each of its member Clubs, as now existing or at any time in the future, the National Football League Drug Advisers, National Invitational Camp, Inc., National Football Scouting, Inc., the advisors to the National Football League’s Policy and Program on Substances of Abuse, the advisors to the National Football League’s Policy on Anabolic Steroids and Related Substances, respective representatives, agents, and/or employees, owners, officers, servants, staff members, and contractors, any NFL Club medical staff members, team physicians, athletic training staff members, as well as any outside or third-party physicians, physician groups, hospitals, clinics, laboratories, consulting physicians, specialists, and/or healthcare professionals engaged by the NFL or NFL Clubs, and any present and future electronic medical record vendors used by the NFL or NFL Clubs, including, but not limited to, eClinicalWorks, Inc., Infnitt, Inc., and/or Surescripts.

**3. Description of the Information to be Released and Disclosed.** I hereby authorize, empower, direct, and give permission for the following medical records and/or PHI to be released and disclosed to the Authorized Parties:

My entire health or medical record and/or PHI relating to any injury, sickness, disease, mental health condition, physical condition, medical history, medical or clinical status, diagnosis, treatment or prognosis from any source, including without limitation all written and/or electronic information or data, clinical notes, progress notes, discharge summaries, lab results, pathology reports, operative reports, consultations, physicals, physicians' records, athletic trainers' records, diagnoses, findings, treatments, history and prognoses, test results, laboratory reports, x-rays, MRI, and/or imaging results, outpatient notes, physical therapy records, occupational therapy records, prescriptions, and any and all other information pertaining to my past or present medical condition, diagnosis, treatment, history, and prognosis. This Authorization applies to any and all medical records and/or PHI, including medical records and/or PHI which the Persons/Entities Authorized to Release and Disclose Information may have received from another provider, unless access to such PHI has been restricted as permitted under HIPAA or that provider has expressly prohibited re-disclosure.

This Authorization expressly includes all records and PHI relating to any mental health treatment, therapy, and/or counseling, but expressly excludes psychotherapy notes.

**4. Purpose of the Disclosure.** For purposes relating only to my actual or potential employment in the National Football League including the provision of healthcare, evaluation, consultation, treatment, therapy, and related services, which purposes are limited to reviewing, discussing, transmitting, disclosing, sharing, and/or using my medical records and PHI: (a) between and among any of the Authorized Parties; (b) with any of my healthcare providers and/or mental health providers; (c) for employment-related injury reports; (d) for the activities of the National Football League Drug Advisors, the advisors to the National Football League's Policy and Program on Substances of Abuse, and/or the advisors to the National Football League's Policy on Anabolic Steroids and Related Substances, specifically limited to due diligence and audit activities, investigations of possible violations of the Policies or eligibility for a "therapeutic-use" exception under either Policy; (e) for ophthalmic examinations, consultations or treatment; and/or (f) with respect to disclosure to the National Football League, this authorization shall not be used by the NFL or its member Clubs to obtain documents, evidence, or material for purposes of litigation, grievances, or any dispute with the National Football League or its member

clubs, except as contemplated by the August 4, 2011 Collective Bargaining Agreement (CBA), and as is necessary for the NFL and its member Clubs to fulfill their obligations under the CBA.

**5. Expiration Event.** This Authorization will expire two years from the date on which my employment with any NFL Club ceases.

**6. Photocopy.** A photostatic copy of this Authorization shall be considered as effective and valid as the original.

**7. Signature.** By my signature below, I acknowledge that I have read this Authorization, understand my rights as described herein, understand that I am allowing medical and mental healthcare providers to disclose my PHI, and have had any questions answered to my satisfaction. I expressly and voluntarily authorize the release, disclosure, and use of my medical records and/or PHI as described in this Authorization. I also acknowledge and understand that: this Authorization has been collectively bargained for by the National Football League and the National Football League Players Associations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

If a personal representative signs this Authorization on behalf of the Player, complete the following:

Personal Representative's Name: \_\_\_\_\_

Relationship to Individual: \_\_\_\_\_

**NOTICE: You are entitled to a copy of this Authorization after you sign it. You have the right to revoke this Authorization any time by presenting a written request to the Club's Head Athletic Trainer or his designee, except to the extent that any Authorized Party has relied upon it. Revocation will not apply: 1) to information that has already been released in connection with this Authorization, 2) during a contestability period under applicable law, or 3) if the Authorization was obtained as a condition of obtaining insurance coverage. We may not condition treatment, payment, enrollment or eligibility for benefits on your execution of this authorization, except for the purpose of creating protected health information for disclosure to a third party on provision of Authorization. Information disclosed pursuant to this Authorization may be re-disclosed by the recipient(s) and no longer protected by federal or state privacy laws or regulations. Information disclosed pursuant to this Authorization may include records created by a healthcare provider or mental healthcare provider other than the disclosing party, unless access to such PHI has been restricted as permitted under HIPAA or such provider has expressly prohibited such re-disclosure.**

## APPENDIX N \ Reviewers of This Report

After this Report was reviewed by The Football Players Health Study team at Harvard, we subjected it to review by numerous advisors, experts, readers, and stakeholders before publication. We identify these reviewers below.

Importantly, while the below reviewers had the opportunity to comment, and their comments in many instances did inform the content of this Report, we retained control over its final content. Thus, review alone should not necessarily be considered an individual endorsement by that reviewer of the final Report in its entirety.

### LAW & ETHICS ADVISORY PANEL (LEAP)

The LEAP is a multidisciplinary group of individuals who advise the Law & Ethics Initiative of The Football Players Health Study. We hold semi-annual meetings or conference calls with members of the LEAP to update them on our projects and receive their feedback. In addition, we communicate with individual members of the LEAP from time to time if they have expertise relevant to a particular issue we are facing or working through. The LEAP members are not paid for their assistance.

Specific to the LEAP's role in reviewing this Report, we consulted with LEAP members early in the drafting process, and members were given the opportunity to comment on the Report's organization, selection of stakeholders, and relevant ethics principles. They also had the opportunity to review a complete draft of the Report and provide detailed feedback. We listened to this feedback, and where appropriate, made changes.

#### APPENDIX N-A:

##### LEAP Members

LEAP Member	Relevant Titles and Affiliations	Relevant Expertise
Nita Farahany, J.D., M.A., Ph.D.	Professor, Duke University and Duke University School of Law; Member, Presidential Commission for the Study of Bioethical Issues.	Farahany is an expert in bioethics and the law.
Joseph J. Fins, M.D., M.A.C.P.	Professor, Attending Physician and Chief of Division of Medical Ethics, Weill Cornell Medical College.	Fins is an expert in medicine, public health, and bioethics.
Ashley Foxworth, J.D., M.A.	Attorney; Student, Harvard Graduate School of Education.	Foxworth is an attorney and her husband, Domonique, played in the NFL from 2005–11 and was President of the NFLPA from 2012–14.
Walter Jones	Former NFL Player.	Jones is a former offensive lineman and a member of the Pro Football Hall of Fame. Jones played with the Seattle Seahawks from 1997–2009.



**APPENDIX N-A: LEAP Members (continued)**

LEAP Member	Relevant Titles and Affiliations	Relevant Expertise
Isaiah Kacyvenski, M.B.A.	Former NFL Player; Head of Sport & Fitness, MC10 Inc.	Kacyvenski played in the NFL from 2000–07. After earning his M.B.A. at Harvard Business School, Kacyvenski joined the health technology company MC10.
Bernard Lo, M.D.	President, Greenwall Foundation; Professor of Medicine Emeritus and Director of the Program in Medical Ethics Emeritus, University of California, San Francisco.	Lo is an expert in medicine and bioethics.
Chris Ogbonnaya, B.A., B.S.	Former NFL Player (current player at the time of joining LEAP).	Ogbonnaya played in the NFL from 2009–14.
Dick Vermeil, M.A.	Former NFL Coach.	Vermeil coached in the NFL for 29 years, including 15 as a head coach. Vermeil won Super Bowl XXXIV as the coach of the St. Louis Rams in 1999.

**PEER REVIEWERS:**

Following LEAP review, we provided each of the below reviewers a draft copy of the Report and asked them, within 30 days, to provide written comments focusing on the following items:

- a) Does the Report contain any legal or factual errors or omissions?
- b) Is the Report fair in its tone and analysis?
- c) Is the Report understandable? Do you have any suggestions for improving the Report's accessibility?
- d) Is the Report missing anything that would help contribute to player health?
- e) Are the Report's recommendations meaningful and realistic?
- f) Are there additional recommendations you would make, or recommendations that should be excluded?
- g) Do you have any other comments or feedback concerning the Report?

We reviewed the reviewers' comments and made the changes we believed were necessary and appropriate. The reviewers were paid \$5,000 each for their work.

Gabriel Feldman, Associate Professor of Law and Director, Sport Law Program, Tulane University Law School, additionally served as a "lead" peer reviewer. Professor Feldman provided his own comments on the Report and also reviewed the comments of the other reviewers as well as any changes we made in response to those comments to ensure we had properly considered and addressed the comments of the reviewers. In light of his increased responsibilities, Professor Feldman was paid \$10,000 for his work. Professor Feldman's review of our work is further described in Appendix O.

**APPENDIX N-B:**  
**Peer Reviewers**

Reviewer	Relevant Titles and Affiliations	Relevant Expertise
Andrew Brandt, J.D.	Director, Moorad Center for Sports Law, Villanova University; Contributor on NFL legal and business affairs, ESPN and Sports Illustrated.	Brandt is an expert in sports law and business, including particular expertise in the law and business of the NFL. Prior to his current positions, Brandt was an NFLPA-certified Contract Advisor, the General Manager of an NFL World League Club, and Vice President of the Green Bay Packers from 1999–2008.
Gabriel Feldman, M.A., J.D.	Associate Professor of Law and Director, Sport Law Program, Tulane University School of Law; Associate Provost for NCAA Compliance, Tulane University; Board Member, Sports Lawyers Association.	Feldman is an expert in sports law, including particular expertise in the application of antitrust law to the sports industry.
Michelle Mello, M.Phil., Ph.D., J.D.	Professor, Stanford Law School and Stanford University School of Medicine.	Mello is an expert in health law, including particular expertise in medical liability, patient safety and medical ethics.
Matt Mitten, J.D.	Professor of Law and Director, National Sports Law Institute, Marquette University Law School; Arbitrator, Court of Arbitration for Sport; Board Member and Current President, Sports Lawyers Association.	Mitten is an expert in sports law, including particular expertise in the application of tort law and health law in the sports setting.
William Sage, M.D., J.D.	Professor, University of Texas School of Law; Member, National Academy of Medicine; Fellow, The Hastings Center.	Sage, a licensed attorney and doctor, is an expert in health law and bioethics.
Paul Wolpe, M.A., M.Phil., Ph.D.	Professor of Bioethics, Director, Center for Ethics, Emory University; Senior Bioethicist, National Aeronautics and Space Administration; Fellow, The Hastings Center.	Wolpe is an expert in bioethics.
Cindy Chang, M.D.	Sports Medicine Specialist, University of California, San Francisco, Benioff Children’s Hospitals and Sports Medicine Center for Young Athletes; Team doctor, University of California, Berkeley; Former President, American Medical Society for Sports Medicine.	Chang is a sports medicine expert and practitioner, having served as a physician for University of California, Berkeley athletic teams, Ohio State University athletic teams and the United States Olympic teams.

## ADDITIONAL READERS:

We provided each of the below readers a draft copy of the Report (or parts thereof) and asked them to provide written comments on those chapters or areas relevant to their expertise. We reviewed the readers' comments and made the changes we believed were necessary and appropriate but did not provide Professor Feldman with the comments from the readers. Each of them has a perceived or potential conflict of commitment that differentiates them from the peer reviewers discussed above. Consequently, Carfagna, Goldberg, and Robertson were not paid for their comments. Gusmano, Maschke, and Solomon were not paid directly for their comments, but The Hastings Center does receive compensation from The Football Players Health Study at Harvard University pursuant to an agreement between The Hastings Center and Harvard University under which The Hastings Center is a collaborator on certain Football Players Health Study research projects. Through that agreement, The Hastings Center also arranged the review by Dr. Hoberman.

### APPENDIX N-C:

#### Additional Readers

Reader	Relevant Titles and Affiliations	Relevant Expertise
Peter Carfagna, J.D.	Lecturer, Harvard Law School; Chairman, Lake County Captains; Board Member; Concussion Legacy Foundation.	Carfagna is an expert in sports law.
John Goldberg, M.A., M.Phil., J.D.	Professor, Harvard Law School.	Goldberg is an expert in tort law.
Michael Gusmano, M.A., Ph.D.	Research Scholar, The Hastings Center; Lecturer, Yale University.	Gusmano is an expert in health policy.
John Hoberman, Ph.D.	Professor, University of Texas.	Hoberman is an expert in the culture and history of sports and medicine.
Karen Maschke, M.A., Ph.D.	Research Scholar, The Hastings Center.	Maschke is an expert in bioethics and health policy.
Christopher Robertson	Associate Professor, University of Arizona College of Law; Affiliate, Edmond J. Safra Center for Ethics, Harvard University; Affiliate, Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics, Harvard Law School.	Robertson is an expert in health law and bioethics.
Mildred Solomon, Ed.D.	President and Chief Executive Officer, The Hastings Center.	Solomon is an expert in bioethics, health policy, and social science research.

## STAKEHOLDER REVIEWERS:

After the peer review process, we offered most of the stakeholders covered in this Report the opportunity to review the chapter or chapters concerning them. For example, players only reviewed Chapter 1: Players, but the NFL Physicians Society (NFLPS) reviewed Chapter 2: Club Doctors, Chapter 3: Athletic Trainers, Chapter 4: Second Opinion Doctors, Chapter 5: Neutral Doctors, and Chapter 6: Personal Doctors. To protect the confidentiality of the Report prior to publication, only the NFL and NFLPA were offered the opportunity to review the *entire* Report before publication.

Other than the NFL and NFLPA, all of the stakeholders are a group of individual persons or entities. We could not realistically provide each individual person or entity within these groups the opportunity to respond to the Report. Thus, where possible, we provided an organization that represents these individual persons or entities an opportunity to do so. Additionally, in certain cases, we offered certain individuals or entities within the group the opportunity to review the Report.

Below is a list of individuals and entities we invited to review the Report on behalf of each stakeholder. Some of the stakeholders do not have a well-defined representative to review the Report. Thus, there was no review on behalf of these stakeholders, as is explained in further detail in Table N-D. Table N-D also identifies those individuals or entities that accepted our invitation to review the Report. None of the stakeholders were compensated in any way for their review.

In providing each of the stakeholders the opportunity to review the Report, we requested written comments within 30 days. We reviewed the stakeholders' comments and made the changes we believed were necessary and appropriate.

### APPENDIX N-D:

#### Stakeholder Reviewers

Stakeholder	Invited Reviewer(s)	Reviewer(s)
Chapter 1: Players	All 13 players confidentially interviewed as part of this Report.	Seven of the 13 players that we confidentially interviewed as part of this Report agreed to review the Report; three provided comments.
Chapter 2: Club Doctors	We invited the NFL to arrange review by Club doctors of the NFL's choosing and through the NFLPS.	The NFLPS reviewed relevant parts of the Report and provided its own set of comments via the NFL. The NFLPS also provided a commentary in a Special Report of The Hastings Center Report discussing our recommendations concerning club doctors.
Chapter 3: Athletic Trainers	(1) National Athletic Trainers Association (NATA); and, (2) we invited the NFL to arrange review by athletic trainers of the NFL's choosing and through the Professional Football Athletic Trainers Society (PFATS).	NATA reviewed relevant parts of the Report and provided comments. PFATS reviewed relevant parts of the Report and provided their own set of comments via the NFL.
Chapter 4: Second Opinion Doctors	We did not seek a second opinion doctor reviewer because there is no readily available list of such doctors as described in this Report.	No one reviewed the Report on behalf of second opinion doctors.
Chapter 5: Neutral Doctors	We did not seek a neutral doctor reviewer because there is no readily available list of such doctors as described in this Report.	No one reviewed the Report on behalf of neutral doctors.

**APPENDIX N-D: Stakeholder Reviewers (continued)**

Stakeholder	Invited Reviewer(s)	Reviewer(s)
Chapter 6: Personal Doctors	We did not seek a personal doctor reviewer because there is no readily available list of such doctors as described in this Report.	No one reviewed the Report on behalf of personal doctors.
Chapter 7: NFL	We invited the NFL to arrange review by a maximum of 15 NFL employees or persons working with the NFL, e.g., outside counsel.	The NFL reviewed the entire Report and provided comments.
Chapter 7: NFLPA	We invited the NFLPA to arrange review by NFLPA employees as it deemed appropriate. The NFLPA's review was broader than the NFL's due to the contract between Harvard and the NFLPA, including relevant confidentiality provisions.	The NFLPA reviewed the entire Report and provided comments.
Chapter 8: NFL Clubs	We invited the NFL to arrange review by club officials of the NFL's choosing.	The NFL reviewed the Report and provided comments.
Chapter 9: Coaches	(1) NFL Coaches Association; (2) American Football Coaches Association; and, (3) we invited the NFL to arrange review by coaches of the NFL's choosing.	The NFL, the American Football Coaches Association, and the NFL Coaches Association reviewed relevant parts of the Report and provided comments.
Chapter 10: Club Employees	We invited the NFL to arrange review by club employees of the NFL's choosing.	The NFL reviewed the Report and provided comments.
Chapter 11: Equipment Managers	(1) American Equipment Managers Association; and, (2) we invited the NFL to arrange review by equipment managers of the NFL's choosing.	The NFL and the American Equipment Managers Association reviewed relevant parts of the Report and provided comments.
Chapter 12: Contract Advisors	All 6 contract advisors confidentially interviewed as part of this Report.	Five of the six contract advisors that we confidentially interviewed as part of this Report agreed to review relevant parts; three provided comments.
Chapter 13: Financial Advisors	All 3 financial advisors confidentially interviewed as part of this Report.	Two of the three financial advisors confidentially interviewed as part of this Report agreed to review its relevant parts; Mark Doman, one of the financial advisors interviewed, was the only one who provided comments and asked to be identified.
Chapter 14: Family Members	The Off the Field Players' Wives Association (OTFPWA).	The President of the OTFPWA, Ericka Lassiter, who is also a Family Advisor to The Football Players Health Study at Harvard University, arranged for three wives of former NFL players to review relevant parts of the Report; two provided comments.

Stakeholder	Invited Reviewer(s)	Reviewer(s)
Chapter 15: Officials	(1) NFL Referees Association; and, (2) National Association of Sports Officials.	The National Association of Sports Officials reviewed relevant parts of the Report and provided comments. The NFL Referees Association declined our invitation to review the Report.
Chapter 16: Equipment Manufacturers	(1) National Operating Committee on Standards for Athletic Equipment (NOCSAE); (2) Riddell; and, (3) Schutt.	NOCSAE, Riddell and Schutt all reviewed relevant parts of the Report and provided comments.
Chapter 17: The Media	(1) Pro Football Writers Association; and, (2) National Sports Media Association.	The Pro Football Writers Association and the National Sports Media Association both declined to review the Report.
Chapter 18: Fans	We did not seek a fans reviewer because: (1) NFL fans are too heterogeneous of a group to allow review by only a small sample; and, (2) most (if not all) of the other reviewers of this Report are also fans.	No one reviewed the Report on behalf of fans.
Chapter 19: NFL Business Partners	(1) Verizon; (2) Nike; (3) Anheuser-Busch; (4) Pepsi; (5) Microsoft; (6) Gatorade; (7) McDonald's; (8) Nationwide Insurance; and, (9) FedEx.	Verizon, Anheuser-Busch, Pepsi, and McDonald's did not respond to multiple invitations to review the Report. Gatorade, FedEx, and Nationwide Insurance declined to review the Report. Nike and Microsoft reviewed relevant parts of the Report and provided comments.

## APPENDIX O \ Certification From Gabriel Feldman



TULANE LAW SCHOOL

**Gabe Feldman**  
*Paul and Abram B Barron Associate Professor of Law  
Director, Tulane Sports Law Program  
Associate Provost for NCAA Compliance,  
Tulane University*

To Whom It May Concern:

The authors of this Report have demonstrated a strong commitment to ensuring their integrity and independence as academic researchers. To help ensure the quality of their work, the authors of this Report sought peer reviews from well-respected experts in the relevant fields addressed by the Report, and asked me to serve as “lead reviewer” to certify the adequacy and integrity of the peer review process. In that role, I have reviewed the comments from the reviewers, the changes the authors made to the Report in light of those comments, and the authors’ explanations for changes not made. I have also provided my own comments on the Report and have reviewed the authors’ response to those comments. Based on this review, I certify that the peer reviewers possess the appropriate expertise to review this Report, the authors adequately, fully, and fairly considered the comments received and the Report reflects appropriate changes where warranted.

It is my understanding that the stakeholders discussed in this report also submitted comments to the authors. My certification only applies to the comments made by the peer reviewers. Review and response to the comments made the respective stakeholders was part of a separate process.

Sincerely,

/Gabe Feldman

## APPENDIX P \ Glossary of Terms and Relevant Persons and Institutions

**88 Plan:** Provides benefits for former players suffering from dementia, amyotrophic lateral sclerosis (ALS), or Parkinson's disease. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**ACC:** *See* Accountability and Care Committee.

**Accountability and Care Committee (ACC):** A CBA-mandated committee consisting of the NFL Commissioner (or his designee), the NFLPA Executive Director (or his designee), and six additional members “experienced in fields relevant to health care for professional athletes,” three appointed by the Commissioner and three by the NFLPA Executive Director. The ACC is to “provide advice and guidance regarding the provision of preventive, medical, surgical, and rehabilitative care for players by all clubs.”<sup>1</sup>

**Accrued Season:** A player receives an Accrued Season “for each season during which he was on, or should have been on, full pay status for a total of six or more regular season games.”<sup>2</sup> Accrued Seasons are used for calculating a player's right to be a Restricted Free Agent and Unrestricted Free Agent, as differentiated from a Credited Season.

**AEMA:** *See* Athletic Equipment Managers Association.

**AFCA:** *See* American Football Coaches Association.

**AFL:** *See* American Football League.

**Agent:** *See* Contract advisor.

**All Revenue (AR):** “[T]he aggregate revenues received or to be received on an accrual basis, for or with respect to a League Year during the term of [the CBA], by the NFL and all NFL Clubs (and their designees), from all sources, whether known or unknown, derived from, relating to or arising out of the performance of players in NFL football games,” with a few specific exceptions.<sup>3</sup> The term was introduced as part of the 2011 CBA. From 1993 to 2006, All Revenue was known as Defined Gross Revenue (“DGR”), and from 2006 to 2011, was known as Total Revenue (“TR”).

**AMA:** *See* American Medical Association.

**American Football Coaches Association (AFCA):** A voluntary organization of more than 11,000 high school, college or professional football coaches, but principally focused on college coaches.

**American Football League (AFL):** A major professional American football league that operated from 1960 until 1969, when it merged with the NFL.

**American Medical Association (AMA):** a voluntary professional association for physicians with the leading code for ethical medical practice.

**Appeals Panel:** A three-member arbitration panel designated to hear appeals of System Arbitrations. The Appeals Panel currently consists of Georgetown Law professor James Oldham, former judge on the United States District Court for the Northern District of California Fern Smith, and former judge on the United States District Court for the Southern District of New York Richard Holwell.

**AR:** *See* All Revenue.

**Athletic Equipment Managers Association (AEMA):** A voluntary organization which provides certification to equipment managers working in sports across the country.

**Benefits Arbitrator:** An arbitrator appointed to hear player complaints concerning the benefits available under the CBA.

**Board of Certification for the Athletic Trainer (BOC):** The nation's only accredited certification program for entry-level athletic trainers, setting the standards and codes of conduct for the practice of athletic training.

**BOC:** *See* Board of Certification for the Athletic Trainer.

**Brady v. NFL, 11-cv-639 (D. Minn.):** A class action antitrust lawsuit brought by NFL players in 2011 against the NFL challenging the NFL's policies on compensation, free agency and the NFL Draft. The settlement of the case resulted in the 2011 CBA. New England Patriots quarterback Tom Brady was the lead plaintiff in the case. *See also* *White v. NFL*.



**Canadian Football League (CFL):** A professional football league in Canada that largely follows the same playing rules of the NFL. The CFL has nine teams and it is common for players to leave the CFL for the NFL.

**CARD:** *See* Committee on Agent Regulation and Discipline.

**Casson, Ira:** Neurologist and member of the MTBI Committee from 1994–2009.

**CBA:** *See* Collective Bargaining Agreement.

**CFL:** *See* Canadian Football League.

**Chronic Traumatic Encephalopathy (CTE):** A “progressive neurodegenerative disease.”<sup>4</sup> Retrospective case reports have found CTE pathology in the brains of former athletes—including former professional football players—who manifested mood disorders, headaches, cognitive difficulties, suicidal ideation, difficulties with speech, and aggressive behavior.<sup>5</sup> The vast majority of cases in these studies were associated with repetitive head trauma.<sup>6</sup> However, a mechanistic connection between head trauma and CTE remains elusive.<sup>7</sup> Similarly, whether CTE is distinct from other neurodegenerative diseases<sup>8</sup> or whether repetitive head traumas are necessary and sufficient to cause CTE has not been definitively established.<sup>9</sup>

**Club:** One of 32 separate professional football franchises which collectively, via the NFL’s Constitution and Bylaws, make up the NFL.

**Collective Bargaining Agreement (CBA):** “A contract between an employer and a labor union regulating employment conditions, wages, benefits, and grievances.”<sup>10</sup> The NFL and NFLPA have executed ten CBAs, the first in 1968 and the most recent in 2011.

**Commissioner:** The Chief Executive Officer of the NFL, as elected by NFL club owners pursuant to the NFL Constitution and Bylaws. The current NFL Commissioner is Roger Goodell.

**Committee on Agent Regulation and Discipline (CARD):** A committee made up of three to five players responsible for investigating and taking disciplinary action against contract advisors pursuant to the NFLPA Regulations Governing Contract Advisors.

**Concussion:** As defined in the Concussion Protocol, a complex pathophysiological process affecting the brain induced by biomechanical forces.

**Concussion Protocol:** Officially titled the NFL Head, Neck and Spine Committee’s Protocols Regarding Diagnosis and Management of Concussion (Appendix A), the Concussion

Protocol is the procedures required to be followed by NFL club medical staff in diagnosing and managing players suspected of suffering a concussion.

**Constitution and Bylaws of the NFL:** The governing and operating agreement among the 32 member NFL clubs that dictates and controls many aspects of the NFL’s operations.

**Contract advisor:** An individual certified by the NFLPA to act as a player’s representative in contract negotiations with NFL clubs. More commonly known as an “agent.” Contract advisors are governed by the NFLPA Regulations Governing Contract Advisors.

**Contract Advisor Regulations:** *See* NFLPA Regulations Governing Contract Advisors.

**Covington & Burling LLP:** Washington, D.C. law firm that has served as the NFL’s chief outside counsel since the early 1960s. *See also* Tagliabue, Paul and Pash, Jeffrey.

**Credited Season:** A player receives a Credited Season “for each season during which he was on, or should have been on, full pay status for a total of three or more regular season games.”<sup>11</sup> Credited Seasons are used for calculating a player’s right to financial benefits under the CBA, as differentiated from an Accrued Season.

**CTE:** *See* Chronic Traumatic Encephalopathy.

**Defined Gross Revenue (DGR):** *See* All Revenue.

**DePaso, Tom:** NFLPA General Counsel since 2012. DePaso played in the NFL for one year in 1978.

**Disability & Neurocognitive Benefit Plan:** Provides eligible players with disability benefits, including benefits based on neurocognitive disability. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Dissolution:** The legal process of removing a labor organization as the representative of a group of employees for purposes of collective bargaining with one or more employers. The NFLPA has dissolved itself twice: from December 1989 to March 1993, and from March 2011 to July 2011. Dissolution permits the employees to bring antitrust claims which are otherwise unavailable while represented by a union. Dissolution is sometimes referred to as “disclaimer” or “decertification” but each of these terms has specific legal significance under federal labor and antitrust laws. The distinction is complex and not relevant to this Report and thus, for our purposes here, “dissolution” captures both terms.

**DGR:** *See* All Revenue.

**Extended Injury Protection:** An Injury Protection benefit that permits a player to earn 50 percent of his salary up to \$500,000 for the **second** season after suffering an injury that prevented the player from continuing to play. *See also* Injury Protection.

**Fédération Internationale de Médecine du Sport (FIMS):** The world's leading sports medicine organization, comprised of national sports medicine associations across five continents which seeks to maximize athlete health and performance.

**FIMS:** *See* Fédération Internationale de Médecine du Sport.

**Financial advisor:** A financial professional providing services to NFL players in the areas of tax planning, investment advice and services, budgeting, financial planning, insurance, estate planning, and/or retirement planning.

**Financial Advisor Regulations:** *See* NFLPA Regulations and Code of Conduct Governing Registered Player Financial Advisors.

**Former Player Life Improvement Plan:** A medical plan that permits qualifying former players (and in some cases their dependents) not otherwise covered by health insurance to receive reimbursement for medical costs for “joint replacements, prescription drugs, assisted living, Medicare supplemental insurance, spinal treatment, and neurological treatment.” For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Free Agency:** A system by which players are able to sign contracts with new clubs after a certain number of seasons played (*see* Accrued Season), provided their prior contract is expired. *See also* Unrestricted Free Agent and Restricted Free Agent.

**Garvey, Ed:** Former labor attorney with the Minneapolis law firm Lindquist & Vennum, PLLP, and the NFLPA's first Executive Director, a post he held from 1971–1983.

**General Manager:** The individual generally responsible for the overall control and direction of an NFL club, including player personnel decisions.

**Goodell, Roger:** Commissioner of the NFL since 2006, and NFL employee since 1981. Son of former New York Senator Charles Goodell and 1981 graduate of Washington & Jefferson College.

**Head, Neck and Spine Committee:** Formerly known as the MTBI Committee, an NFL Committee of doctors and scientists that exists for the purpose of studying head, neck and spine injuries in the NFL. The current co-chairmen

of the Head, Neck and Spine Committee are Drs. Richard Ellenbogen and Hunt Batjer.

**Health (for purposes of this Report):** A state of overall wellbeing in fundamental aspects of a person's life, including physical, mental, emotional, social, familial, and financial components.

**Health Reimbursement Account:** Helps to pay out-of-pocket healthcare expenses after players are no longer employed by an NFL club and after the period of extended medical coverage under the NFL Player Insurance Plan that is paid by the NFL has ended. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Injured Reserve (IR):** A roster designation for players who are injured and are unable to return that season, with the exception of one player per season per club who can be placed on the IR but designated to be able to return. Players on IR do not count towards the club's 53-man Active/Inactive List.

**Injury Grievance:** “[A] claim or complaint that, at the time a player's NFL Player Contract or Practice Squad Player Contract was terminated by a Club, the player was physically unable to perform the services required of him by that contract because of an injury incurred in the performance of his services under that contract.”<sup>12</sup> If successful, the club must pay the player his salary for the duration of his injury, but only for the season of injury. An Injury Grievance is a much narrower claim than a Non-Injury Grievance—Non-Injury Grievances can include a wide variety of claims related to player health.

**Injury Protection:** A benefit available to NFL players where the player has met the following criteria: (a) “[t]he player must have been physically unable, because of a severe football injury in an NFL game or practice, to participate in all or part of his Club's last game of the season, as certified by the Club physician following a physical examination after the last game; or the player must have undergone Club-authorized surgery in the off-season following the season of injury; and (b) [t]he player must have undergone whatever reasonable and customary rehabilitation treatment his Club required of him during the off-season following the season of injury; and (c) [t]he player must have failed the preseason physical examination given by the Club physician for the season following the season of injury because of such injury and as a result his Club must have terminated his contract for the season following the season of injury.” In 2015, an NFL player can receive Injury Protection in “an amount equal to 50 percent of his Paragraph 5 Salary for the season following the season of injury, up to a maximum

payment of” \$1,100,000. A player is only entitled to Injury Protection once in his career.<sup>13</sup> *See also* Extended Injury Protection.

**Injury Report:** A list of injured players, each injured player’s type or location of injury, and the injured player’s status for the upcoming game. Each injury must be described “with a reasonable degree of specificity,” *e.g.*, ankle, ribs, hand or concussion. For a quarterback’s arm injury or a kicker’s or punter’s leg injury, the description must designate left or right. The player’s status for the upcoming game is classified into three categories: Out (will not play) (designation not used until 2 days prior to the game); Doubtful (unlikely the player will participate); and, Questionable (uncertain as to whether the player will play in the game). The Injury Report also indicates whether a player had full, limited or no participation in practice, whether due to injury or any other cause (*e.g.*, team discipline, family matter, etc.). The Injury Report is issued after practice each Wednesday, Thursday and Friday. *See also* Injury Reporting Policy.

**Injury Reporting Policy:** An NFL policy that requires each club to report information on injured players to both the NFL and the media each game week. The stated purpose of this reporting is “to provide a full and complete rendering of player availability” to all parties involved, including the opposing team, the media, and the general public. *See also* Injury Report.

***In re National Football League Players’ Concussion Injury Litigation, 12-md-2323 (E.D.Pa.) (“Concussion Litigation”):***

A lawsuit consisting of several hundred consolidated lawsuits whereby approximately 5,500 former NFL players alleged that the NFL had negligently and fraudulently concealed the risk of brain injury associated with playing football. The case was settled in 2013, approved by the United States District Court for the Eastern District of Pennsylvania in 2015, and affirmed by the United States Court of Appeals for the Third Circuit in 2016.

**IR:** *See* Injured Reserve.

**Joint Committee on Player Safety and Welfare (“Joint Committee”):** A CBA-mandated committee consisting of three club representatives and three NFLPA representatives that discusses “player safety and welfare aspects of playing equipment, playing surfaces, stadium facilities, playing rules, player-coach relationships, and any other relevant subjects.”<sup>14</sup> The Joint Committee is merely advisory and has no binding decision-making authority.

**Kessler, Jeffrey:** Partner with the law firm of Winston Strawn LLP and the NFLPA’s chief outside counsel. Kessler has represented the NFLPA and NFL players since the

early 1980s, having previously practiced at Weil, Gotshal & Manges LLP and Dewey & LeBoeuf.

**Labor Management Relations Act (LMRA):** A federal statute (also known as the Taft-Hartley Act), which, in conjunction with the National Labor Relations Act, governs relationships between labor organizations and employers. The LMRA is most often relevant in the NFL due to the fact that it often “preempts” or bars common law claims against the NFL and/or NFLPA. *See also* Preemption.

**League Policies for Players:** An annual document provided by the NFL to players describing various policies, including for discipline, uniforms, media, community relations, personal conduct, workplace conduct, guns and weapons, commercial substances and endorsements, gambling, ticket scalping, bounties, and HIV/AIDS.

**League Year:** The fiscal and operational year for the NFL and NFLPA, generally beginning and ending in March.<sup>15</sup>

**Legacy Benefit:** As part of the 2011 CBA, the NFL contributed \$620 million in benefits to players who played prior to 1993 through credits as part of the Retirement Plan. Players who played before 1975 received a \$124/month credit and those who played between 1975 and 1992 received a \$108/month credit. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**LMRA:** *See* Labor Management Relations Act.

**Long Term Care Insurance Plan:** Provides medical insurance to cover the costs of long-term care for NFL players (but not their family members). For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Lystedt Law:** A form of concussion-related legislation, initially passed in Washington state, generally requiring that youth athletes suspected of sustaining a concussion or head injury be removed from practice or the game and not return to play until approved by a healthcare provider. The law is named after Zackery Lystedt who, at the age of 13 in 2006, suffered brain hemorrhaging after he returned to a youth football game fifteen minutes after having suffered a concussion. All 50 states have some form of the Lystedt Law.

**Mackey-White Committee:** A Committee created by the NFLPA in 2009 consisting of current players, former players, doctors, and others for the purpose of “assist[ing] the NFLPA in its development of policies concerning workplace safety and the health of NFLPA members.”<sup>16</sup>

**Major League Baseball (MLB):** The world's premier professional baseball organization, consisting of 30 member clubs and headquartered in New York City. With the NFL, NBA and NHL, sometimes known as part of the "Big Four."

**Mayer, Thom:** Medical Director of the NFLPA since 2001 and CEO of the physician group Best Practices.

**Mild Traumatic Brain Injury (MTBI) Committee:** A committee created by the NFL in 1994 for the purpose of studying concussions and other head injuries to NFL players. The committee initially consisted of several club doctors, two club athletic trainers, a consulting engineer, a club equipment manager, neurologist Ira Casson (who had studied boxers), and Hank Feuer, an Indianapolis neurosurgeon who worked with the Colts. New York Jets Club doctor Elliot Pellman, a rheumatologist, was designated as Chairman of the Committee by Commissioner Paul Tagliabue. The MTBI Committee was renamed the Head, Neck and Spine Committee in 2010.

**MLB:** *See* Major League Baseball.

**MTBI Committee:** *See* Mild Traumatic Brain Injury Committee.

**Nabel, Elizabeth:** The NFL's Chief Health and Medical Advisor, President of Brigham and Women's Hospital in Boston and a professor of medicine at Harvard Medical School.

**NASO:** *See* National Association of Sports Officials.

**NATA:** *See* National Athletic Trainers Association.

**National Association of Sports Officials (NASO):** A voluntary organization of approximately 20,000 member officials, ranging from the lowest levels of youth sports to the professionals. NASO provides an extensive list of services to its members, including educational programs, legal advocacy and insurance policies. Every NFL official is a member of NASO.

**National Athletic Trainers Association (NATA):** A voluntary professional membership association for certified athletic trainers across all levels of competition. NATA's stated mission "is to enhance the quality of health care provided by certified athletic trainers and to advance the athletic training profession."

**National Basketball Association (NBA):** The world's premier professional basketball organization, consisting of 30 member clubs and headquartered in New York City. With the NFL, MLB and NHL, sometimes known as part of the "Big Four."

**National Collegiate Athletic Association (NCAA):** A non-profit unincorporated association headquartered in Indianapolis through which the nation's colleges and universities govern their athletic programs. The NCAA consists of more than 1,200 member institutions, all of which participate in the creation of NCAA rules and voluntarily submit to its authority.

**National Hockey League (NHL):** The world's premier professional ice hockey organization, consisting of 30 member clubs and headquartered in New York City. With MLB, the NFL and NBA, sometimes known as part of the "Big Four."

**National Football League (NFL):** An unincorporated association of 32 member clubs operating as the world's premier professional football league. The NFL has its headquarters in New York City and is led by Commissioner Roger Goodell. With MLB, the NBA and NHL, sometimes known as the "Big Four."

**National Football League Players Association (NFLPA):** A Virginia nonprofit, tax-exempt corporation and labor organization which, pursuant to the National Labor Relations Act, is "the exclusive representative[] of all the employees in [the bargaining] unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment." The NFLPA has its headquarters in Washington, D.C., and is led by Executive Director DeMaurice Smith.

**National Labor Relations Act (NLRA):** A federal labor law statute that governs labor relations between employees and employers in the private sector and obligates both sides to negotiate in good faith concerning the wages, hours, and other terms and conditions of employment.

**National Labor Relations Board (NLRB):** An independent agency of the United States government responsible for administering and enforcing the provisions of the NLRA, including investigating and remedying unfair labor practices.

**National Operating Committee on Standards for Athletic Equipment (NOCSAE):** A nonprofit organization with the purpose of improving athletic equipment and reducing injuries through equipment standards. Safety standards for athletic equipment are almost exclusively determined by NOCSAE.

**NBA:** *See* National Basketball Association.

**NCAA:** *See* National Collegiate Athletic Association.

**Neuro-Cognitive Disability Benefit:** A medical benefit that permits qualifying retired players to receive no less than \$3,000 per month for a maximum of 180 months as part of the Disability Plan. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**NFL:** *See* National Football League.

**NFLCA:** *See* NFL Coaches Association.

**NFL Combine:** An annual event held each February in Indianapolis in which approximately 300 of the best college football players undergo medical examinations, intelligence tests, interviews, and multiple football and other athletic drills and tests. NFL club executives, coaches, scouts, doctors and athletic trainers attend the Combine to evaluate the players for the upcoming NFL Draft (usually in April). The NFL Combine is organized by National Football Scouting, Inc., a Delaware corporation that is not owned or controlled by the NFL.

**NFL Coaches Association (NFLCA):** “[A] voluntary non-union association that represents the over six hundred coaches and assistant coaches currently employed by the thirty-two individual National Football League Clubs, as well as many retired coaches formerly employed by the NFL teams.” David Cornwell is the NFLCA’s Executive Director in a part-time capacity.

**NFL Draft:** An annual event held each April/May whereby NFL clubs select former college football student-athletes to join their roster. The Draft consists of seven rounds. Clubs are permitted to trade draft picks and players eligible for the Draft but who are not drafted are become Unrestricted Free Agents and are free to sign with any club.

**NFL Injury Surveillance System (NFLISS):** The standardized system, created in 1980, used by the NFL and NFL clubs to track and analyze NFL injuries and to provide data for medical research. Injury information is entered by club athletic trainers. Since 2011, the NFLISS is managed by the international biopharmaceutical services firm Quintiles.

**NFLISS:** *See* NFL Injury Surveillance System.

**NFLPA:** *See* National Football League Players Association.

**NFLPA Constitution:** The governing and operating document of the NFLPA, as voted on by its Board of Player Representatives.

**NFLPA Regulations Governing Contract Advisors (Contract Advisor Regulations):** The NFLPA’s rules of certification and conduct for contract advisors, *i.e.*, “agents.” First instituted in or about 1983, last amended in 2012.

**NFLPA Regulations and Code of Conduct Governing Registered Player Financial Advisors (Financial Advisor Regulations):** The NFLPA’s rules of registration and conduct for Financial Advisors. First instituted in 2002, last amended in 2012.

**NFL Physicians Society (NFLPS):** A voluntary professional membership association for club doctors. NFLPS’ mission is “to provide excellence in the medical and surgical care of the athletes in the National Football League and to provide direction and support for the athletic trainers in charge of the care for these athletes.”

**NFLPS:** *See* NFL Physicians Society.

**NFLRA:** *See* NFL Referees Association.

**NFL Referees Association (NFLRA):** The labor organization that represents NFL officials in CBA negotiations and related proceedings with the NFL.

**NHL:** *See* National Hockey League.

**NLRA:** *See* National Labor Relations Act.

**NLRB:** *See* National Labor Relations Board.

**NOCSAE:** *See* National Operating Committee on Standards for Athletic Equipment.

**Non-Injury Grievance:** “Any dispute . . . arising after the execution of [the CBA] and involving the interpretation of, application of, or compliance with, 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.”<sup>17</sup> A Non-Injury Grievance is a much broader claim than an Injury Grievance and would include player complaints about their healthcare.

**Paragraph 5 Salary:** A player’s base compensation as outlined in Paragraph 5 of the Standard Player Contract. Paragraph 5 Salary is generally not guaranteed.

**Pash, Jeffrey:** Executive Vice President and General Counsel of the NFL. Pash was formerly an attorney with Covington & Burling LLP and joined the NFL in 1997.

**PASPA:** *See* Professional and Amateur Sports Protection Act.

**Pellman, Elliot:** Former New York Jets Club doctor, current NFL Medical Director and Chairman of the MTBI Committee from 1994 to 2009.

**PES Policy:** *See* Policy on Performance-Enhancing Substances.

**PFATS:** See Professional Football Athletic Trainers Society.

**PFWA:** See Pro Football Writers of America.

**Physically Unable to Perform (PUP) List:** A roster designation for players that have failed the preseason physical and are unable to participate in training camp but are expected to be able to play later in the season. A player on the PUP List cannot practice or play until after the sixth game of the regular season and does not count towards the club's 53-man Active/Inactive List during that time.

**Player Annuity Program:** A plan that provides deferred compensation to players. For additional details, see Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Player Benefit Costs:** The total amounts the NFL and its clubs spend on NFL player benefits, programs and medical care.

**Player Cost Amount:** The players' share of All Revenue ("AR"), which is equal to: (1) 55 percent of League Media, which consists of all NFL broadcasting revenues; (2) 45 percent of NFL Ventures/Postseason revenue, which includes all revenues arising from the operation of postseason NFL games and all revenues arising from NFL-affiliated entities, including NFL Ventures, NFL Network, NFL Properties, NFL Enterprises, NFL Productions, and NFL Digital; and, (3) 40 percent of Local Revenues, which includes those revenues not included in League Media or NFL Ventures/Postseason, and specifically includes revenues from the sale of preseason television broadcasts.

**Player Insurance Plan:** An insurance plan that provides players and their family with life insurance, accidental death and dismemberment insurance, medical coverage, dental coverage, and wellness benefits. The wellness benefits include access to clinicians for mental health, alcoholism, and substance abuse, child and parenting support services, elder care support services, pet care services, legal services, and identity theft services. For additional details, see Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Players, Inc.:** A Virginia for-profit entity formed by the NFLPA responsible for group licensing of NFL player rights.

**Playing Rules:** Rules governing the playing of professional football on the field. The NFL amends the Playing Rules from time to time, pursuant to the applicable voting procedures of the NFL Constitution and Bylaws.

**Policy and Program on Substances of Abuse (Substance Abuse Policy):** A collectively bargained document prohibiting players from using common street drugs, such as cocaine, marijuana, amphetamines, opiates, opioids, PCP, and MDMA (ecstasy). The Substance Abuse Policy includes treatment and disciplinary provisions.

**Policy on Performance-Enhancing Substances (PES Policy):** A collectively bargained document prohibiting players from using performance enhancing drugs. The PES Policy includes disciplinary but not treatment provisions.

**Preemption:** "The principle . . . that a federal law can supersede or supplant any inconsistent state law or regulation."<sup>18</sup> In the NFL context, the Labor Management Relations Act will preempt, *i.e.*, bar, common law (*i.e.*, non-statutory) claims where the claim is "substantially dependent upon analysis of the terms" of a CBA, *i.e.*, where the claim is "inextricably intertwined with consideration of the terms of the" CBA.<sup>19</sup> The preemption doctrine corresponds with the law's general preference that complaints between employees and employers be resolved through the collectively bargained grievance and arbitration mechanisms, where applicable.

**Professional and Amateur Sports Protection Act (PASPA):** A federal statute that outlaws sports betting nationwide, exempting certain states which had previously allowed sports betting activities, including Delaware, Montana, Nevada, and Oregon.

**Professional Football Athletic Trainers Society (PFATS):** A voluntary professional membership association for club athletic trainers.

**Pro Football Writers of America (PFWA):** A voluntary organization of journalists and writers that cover the NFL and its 32 clubs on a daily basis.

**Restricted Free Agent:** A "player with three Accrued Seasons, but less than four Accrued Seasons [who] . . . at the expiration of his last Player Contract . . . shall be completely free to negotiate and sign a Player Contract with any Club, and any Club shall be completely free to negotiate and sign a Player Contract with any such player, subject to" certain restrictions set forth in the CBA, including rights of first refusal and draft pick compensation.<sup>20</sup> See also Unrestricted Free Agent.

**Retirement Plan:** A retirement plan that provides eligible players with retirement benefits, and offers survivor benefits for players' wives and family. For additional details, see Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Riddell:** One of the leading manufacturers for football equipment across all levels of football. Riddell offers all pads necessary for the game of football, including but not limited to helmets, faceguards, chin straps, mouth guards, shoulder pads, hip pads, thigh pads, knee pads and rib pads. Riddell is headquartered in Rosemont, Illinois and between 1988 and 2013 was the official helmet sponsor of the NFL.

**Rozelle, Pete:** NFL Commissioner from 1960 to 1989, widely credited with making the NFL one of the most successful sports leagues in the world.

**Salary Cap:** “[T]he absolute maximum amount of Salary that each Club may pay or be obligated to pay or provide to player . . . at any time during a particular League Year.” The Salary Cap is determined by subtracting Player Benefit Costs from the Player Cost Amount and dividing by the number of clubs in the NFL.

**Schutt:** One of the leading manufacturers for football equipment across all levels of football. Schutt offers all pads necessary for the game of football, including but not limited to helmets, faceguards, chin straps, mouth guards, shoulder pads, hip pads, thigh pads, knee pads and rib pads. Schutt is headquartered in Litchfield, Illinois.

**Second Career Savings Plan:** A 401(k) plan that helps NFL players save for retirement in a tax-favored manner. All NFL players are eligible for the Plan, regardless of the number of Credited Seasons. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Severance Pay:** A benefit a player is eligible to receive as severance for each Credited Season. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Smith, DeMaurice:** Executive Director of the NFLPA since 2009. Former Assistant United States Attorney for the District of Columbia and Partner with the law firms of Latham & Watkins and Patton Boggs LLP.

**Society of Professional Journalists (SPJ):** A voluntary organization of nearly 10,000 journalists that promotes and protects the interests of journalism and journalists.

**SPJ:** *See* Society of Professional Journalists.

**SRA:** *See* Standard Representation Agreement.

**Standard Representation Agreement (SRA):** The standard contract between contract advisors and players as provided for in the NFLPA Regulations Governing Contract

Advisors, subject to minimal variation as agreed upon by the parties.

**Substance Abuse Policy:** *See* Policy and Program on Substances of Abuse.

**System Arbitration:** A legal process for the resolution of disputes between the NFL and the NFLPA and/or a player concerning a subset of CBA provisions that are central to the NFL's operations and which invoke antitrust and labor law concerns, including but not limited to the NFL player contract, NFL Draft, rookie compensation, free agency, and the Salary Cap. System Arbitrations are presided over by the System Arbitrator and subject to appeal before the Appeals Panel.

**System Arbitrator:** The arbitrator designated to hear System Arbitrations. The current System Arbitrator is University of Pennsylvania Law School Professor Stephen B. Burbank.

**Tagliabue, Paul:** NFL Commissioner from 1989 to 2006. Prior to becoming Commissioner, Tagliabue was the NFL's chief outside counsel with the Washington, D.C. law firm of Covington & Burling LLP, the firm to which he returned after retiring as Commissioner.

**Termination Pay:** A player benefit whereby a player who has at least four years of credited service under the Retirement Plan is eligible to receive the unpaid balance of his Paragraph 5 Salary for a season after having had his contract terminated during that season, provided he was on the club's Active/Inactive List for at least one game that season. A player is entitled to Termination Pay only once during his career.

**Toradol:** The brand name for ketorolac tromethamine, a non-steroidal anti-inflammatory drug used for short-term relief of acute pain.

**Total Revenue:** *See* All Revenue.

**TR:** *See* All Revenue.

**Tuition Assistance Plan:** A benefit that permits players to receive reimbursement for tuition, fees and books from attending an eligible education institution. For additional details, *see* Appendix C: Summary of Collectively Bargained Health-Related Programs and Benefits.

**Unrestricted Free Agent:** A “player with four or more Accrued Seasons [who] . . . at the expiration of his Player Contract . . . shall be completely free to negotiate and sign a Player Contract with any Club, and any Club shall be completely free to negotiate and sign a Player Contract with such player without penalty or restriction[.]”<sup>21</sup> *See also* Free Agency and Restricted Free Agent.

**Upshaw, Eugene:** Hall of Fame offensive lineman with the Oakland Raiders from 1967 to 1981 and Executive Director of the NFLPA from 1983 to 2008.

**White v. NFL, 92-cv-906 (D. Minn.):** A class action antitrust lawsuit brought by NFL players in 1992 against the NFL challenging the NFL's policies on compensation, free agency and the NFL Draft. The settlement of the case formed the basis of the 1993 CBA and every CBA since. Hall of Fame

defensive end Reggie White was the lead plaintiff in the case. *See also Brady v. NFL.*

**Workers' Compensation:** A state-based system which provides workers injured during the course of their employment with wages and medical benefits and which, as a tradeoff, generally bars employees from suing their employers and co-employees for negligence.

## Endnotes

- 1 CBA, Art. 39, § 3.
- 2 CBA, Art. 8, § 1(a).
- 3 CBA, Art. 12, § 1.
- 4 *See* Michelle Saulle M & Brian D. Greenwald, *Chronic Traumatic Encephalopathy: A Review*, 2012 Rehabil. Res. Pract. 1 (2012) (defining CTE as “a progressive neurodegenerative disease that is a long-term consequence of single or repetitive closed head injuries for which there is no treatment and no definitive pre-mortem diagnosis.”); Bennet Omalu et al., *Emerging Histophormorphic Phenotypes of Chronic Traumatic Encephalopathy in American Athletes*, 69 Neurosurgery 173 (2011) (defining CTE as “a progressive neurodegenerative syndrome caused by single, episodic or repetitive blunt force impacts to the head and transfer of acceleration–deceleration forces to the brain.”); Ann McKee et al., *Chronic Traumatic Encephalopathy in Athletes: Progressive Tauopathy After Repetitive Head Injury*, 68 J. Neuropathology & Experimental Neurology 709 (2009) (describing CTE as “shar[ing] many features of other neurodegenerative disorders”).
- 5 *See* Joseph C. Maroon et al. *Chronic Traumatic Encephalopathy in Contact Sports: A Systematic Review of All Reported Pathological Cases*, PLOS ONE (2015) (summarizing CTE case studies to date); Ann C. McKee et al., *The spectrum of disease in chronic traumatic encephalopathy*, 136 Brain 43 (2013); Bennet I. Omalu, *Chronic Traumatic Encephalopathy, Suicides and Parasuicides in Professional American Athletes*, 31 Am. J. Forensic Med. Pathol. 130 (2010); *What is CTE?* BU CTE Center, <http://www.bu.edu/cte/about/what-is-cte/> (last visited Mar. 31, 2016), archived at <https://perma.cc/W86H-886C> (CTE is associated with “athletes (and others) with a history of repetitive brain trauma,” and “is associated with memory loss, confusion, impaired judgment, impulse control problems, aggression, depression, and, eventually, progressive dementia.”)
- 6 *See* Maroon, *supra* note 5.
- 7 *See id.*; Paul McCrory et al., *Consensus statement on concussion in sport: the 4th Int'l Conference on Concussion in Sport held in Zurich, November 2012*, 47 Br. J. Sports Med. 250, 254, 257 (2013).
- 8 *See* Maroon, *supra* note 5.
- 9 *See* McCrory, *supra* note 7, at 257.
- 10 Black's Law Dictionary (9th ed. 2009).
- 11 CBA, Art. 26, § 2.
- 12 CBA, Art. 44, § 1.
- 13 CBA, Art. 45, § 1.
- 14 CBA, Art. 50, § 1.
- 15 CBA, Art. 1.
- 16 NFLPA Mackey-White Committee Charter, ¶ 2.
- 17 CBA, Art. 43, § 1.
- 18 Black's Law Dictionary (9th ed. 2009).
- 19 *Allis-Chambers Corp. v. Lueck*, 471 U.S. 202, 213, 220 (1985).
- 20 CBA, Art. 9, § 2.
- 21 CBA, Art. 9, § 1(a).