

THE CONCUSSION FILES

By Will Hobson *The Washington Post*
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The Broken Promises Of The NFL Concussion Settlement

The 'Landmark' Deal Promised Payouts For Suffering Players. But Strict Guidelines, Aggressive Reviews And A Languishing Doctors Network Have Led To Denials For Hundreds Of Players Diagnosed With Dementia, Including Many Who Died With CTE, A Washington Post Investigation Has Found.

When Irv Cross Applied For Money From The NFL Concussion Settlement In 2018, His Dementia Was Obvious To Anyone Who Spent More Than A Few Minutes With Him.

At 78, The Former NFL Player And Trailblazing Sports Broadcaster Struggled To Speak Coherently, Forgot To Change His Clothes And Suffered From Urinary Incontinence, His Wife Told Doctors. Cross Had Been Diagnosed By Another Doctor Months Before He Was Evaluated By Two NFL Settlement Doctors, His Medical Records Show.

But The Settlement Doctors Concluded They Couldn't Diagnose Cross With Anything, Their Reports State. While Cross's Symptoms Met The Standard Definition For Dementia In American Medicine, They Agreed, *His Test Scores Didn't Meet The NFL Settlement's Definition.*

"He Does Not Appear To Qualify For Any Diagnosable Conditions Through The NFL Program," A Settlement Neurologist Wrote. Cross died Three Years Later, Of What His Doctors Thought Was Just Alzheimer's Disease. An Autopsy Found He Had Also Suffered From Severe Chronic Traumatic Encephalopathy (CTE), A Brain Disease Linked To Football.

When Al Bemiller Filed His Settlement Claim In 2019, His Children Hoped For A Quick Approval And Money To Help With His Care. He Had Been Diagnosed With Dementia Four Years Earlier And Needed Round-The-Clock Assistance Preparing Meals, Showering And Getting Dressed.

But A Doctor On The NFL Settlement's Review Panel Responded To Bemiller's Records With Skepticism. Perhaps Depression Was Actually Causing His Dementia Symptoms, The Review Doctor Suggested. Claim Denied. Bemiller Died Two Years Later Of Dementia.

The Concussion Files

An Investigation Into The NFL Concussion Settlement, Which Promised To Compensate Former Players Suffering From Dementia, CTE And Other Ailments Linked To Football. This Story Is Based On Hundreds Of Interviews And Thousands Of Pages Of Medical And Legal Records.

And When Don Maynard Applied In 2019, His Doctor Was So Alarmed He Said He Would File The Diagnostic Paperwork Right Away, Maynard's Son Recalled. But That Paperwork Went Into A Bureaucratic Black Hole For More Than Two Years. The Letter Informing Maynard That Settlement Doctors Diagnosed Him With Dementia Arrived In January 2022 — Three Days After He Died Of Dementia.

Finalized In 2015, The NFL Concussion Settlement Resolved The Most Serious Threat America's Most Popular And *Lucrative* Sports League Has Faced. While The NFL *Admitted No Wrongdoing*, It Promised To Pay Every Former Player Who Developed Dementia Or Several Brain Diseases Linked To Concussions. Players Suffering From CTE, The League Pledged, Also Would Get Paid Once They Developed Symptoms Of Dementia. The League Even Agreed To Fund A Nationwide Network Of Doctors To Evaluate Players And Provide Those Showing Early Signs Of Dementia With Medical Care.

In Seven Years Since The Settlement Opened, The NFL Has Paid Out Nearly \$1.2 Billion To More Than 1,600 Former Players And Their Families — Far More Than Experts Predicted During Settlement Negotiations. The League Points To These Figures As Evidence Of The Settlement's Fairness.

But Behind The Scenes, The Settlement ***Routinely*** Fails To Deliver Money And Medical Care To Former Players Suffering From Dementia And CTE, A Washington Post Investigation Found, ***Saving The NFL Hundreds Of Millions Of Dollars, If Not More.***

The Post Reviewed More Than 15,000 Pages Of Documents Relating To Efforts By More Than **100** Former Players To Qualify For Settlement Benefits, Including Thousands Of Pages Of Confidential Medical And Legal Records. The Post Also Interviewed More Than 100 People Involved With The Settlement — Including Players, Widows, Lawyers And Doctors — ***As Well As 10 Board-Certified Neurologists And Neuropsychologists For Their Expertise On How Dementia Is Typically Diagnosed.***

Among The Post's Findings:

The Settlement's Definition For Dementia ***Requires More Impairment Than The Standard Definition Used In The United States.*** Several Doctors Who Have Evaluated Players Told The Post That ***If They Used The Settlement's Definition In Regular Care, They Would Routinely Fail To Diagnose Dementia In Ailing Patients.*** "I Assumed This Was Written This Way, On Purpose, Just To Save The NFL Money," Said Carmela Tartaglia, An Associate Professor Of Neurology At The University Of Toronto.

In More Than 70 Cases Reviewed By The Post, Players Were Diagnosed With Dementia By ***Board-Certified*** Doctors, Only To See Their Claims Denied By The ***Administrative Law Firm That Oversees The Settlement.*** While The NFL Has Often Blamed Denied Claims On Fraud, ***None*** Of The Denials Reviewed By The Post Contained Allegations Of Fraud. Instead, Records Show, Settlement Review Doctors Simply Overruled Physicians Who Actually Evaluated Players, Often Blaming Dementia Symptoms On Other Health Problems Also Linked To Concussions, Including Depression And Sleep Apnea.

The NFL's Network Of Settlement Doctors Has Been Beset By Systematic Administrative Breakdowns Since Its Inception. Former Players Suffering From Dementia Wait, On Average, More Than **15 Months** Just To See Doctors And Get The Records They Need To File A Claim. Maynard Was One Of Two Players

The Post Found Who Waited *More Than Two Years* To Get Paperwork And Died Before They Could Get Paid.

In Total, Court Records Show, The Settlement Has Approved About 900 Dementia Claims Since It Opened In 2017. It has Denied Nearly **1,100**, Including Almost **300** Who Were Diagnosed By The *Settlement's Own Doctors*.

The Collective Value Of Denied Dementia Claims, Based On The Average Cost Of Approvals, Could *Exceed \$700 Million*. And That Figure Doesn't Include Cases Such As Cross's, In Which Players Diagnosed With Dementia Never Bothered To File Claims Because They Were Told They Didn't Meet The Settlement's Requirements.

In August, The NFL And The Top Lawyer For The Players, Christopher Seeger, Asked The Judge Overseeing The Settlement To Replace The Company That Managed The League's Network Of Doctors. The Change, Which The Judge Quickly Approved, Came Weeks After The Post Began Discussing Its Reporting With Seeger. The NFL And Seeger Both Said The Change Was *Unrelated* To The Post's Reporting. [Ed. Note: Yeah, Right!]

The NFL Declined To Make Any League Executive Available For An Interview And Deferred All Questions About The Settlement To Its Attorney, Brad Karp, Who Also Declined Interview Requests. [Ed. Note: Not A Pfuckin' Thang To See Here — Nooooooo!] Karp, In An Email, Disputed The Post's Findings And Argued The Amount The Settlement Has Paid Proves It Is *Managed Fairly*. [Ed. Note: Bullshit! What Stoopid Trumpian Logic.]

"Absent The Settlement, Many Of These Now-Compensated Retired Players And Their Family Members Would Have Received Nothing At All," Wrote Karp, Who Also Emphasized The Settlement Is Overseen By An Independent Administrative Law Firm And A Federal Judge.

Karp Claimed The Settlement's Dementia Definition Isn't More Difficult To Satisfy Than The Standard In American Medicine. It's Just More Objective, He Said, Which He Called A "Necessity... In The Context Of A Compensation-For- Diagnosis Settlement Program."

"It's A Notch Above, Seeger," Seeger Said. "We Explained That To Anybody Who's Ever Asked."

This Was News To One Of The Two Lead Clients In The Settlement Who Helped Seeger Build Support For It Among Thousands Of Former Players. Shawn Wooden, A Former Safety Who Served As A Class Representative, Said In An Interview That Neither Seeger Nor Any Other Lawyer Ever Explained That The Settlement Had Its Own Definition Of Dementia.

"Hell No, I Didn't Know Anything About This," Said Wooden, Now A Financial Adviser. "And I Would Not Have Been Cool With It If He Had Told Me."

The Only Other Class Representative In The Settlement Died In 2016 Of Amyotrophic Lateral Sclerosis (ALS).

This Is Not The First Time A Top Client Or Firm In The Case Has Taken Issue With Seeger, One Of The Nation's Leading Attorney's In Complex Settlements, Whose Firm Has Collected More Than \$65 Million From The Case. In 2018, Several Firms Representing Thousands Of Players Asked The Judge To Appoint A New Lawyer To Represent Them; She Rejected The Request. And In 2020, Seeger Initially Dismissed Accusations Of Racial Bias In Settlement Payments Raised By Other Attorneys Before Reversing His Stance And Publicly Apologizing To Black Players For Not Acting Sooner.

In Two Interviews With The Post, Seeger Defended His Advocacy For Players In The Case.

"A Whole Bunch Of People To This Day Don't Understand The Victories That We've Had In The Deal That Have Caused [The NFL] To Now Be At Almost \$1.2 Billion," He Said.

Two Experts In Class Action Settlements Told The Post They Were Troubled By Allegations Lawyers Didn't Explain Terms To A Lead Client, And They Expressed Outrage About Administrative Breakdowns In The NFL's Network Of Doctors.

"This Is A Systematic Failure, At Every Level," Said Adam Zimmerman, A Professor At USC Gould School Of Law. "For This To Have Been Going On As Long As It Has... And Players Are Dying While Waiting For Their Benefits... I'm Having Trouble Wrapping My Brain Around This."

Medical Disputes Over Who Qualifies For Money In Complex Settlements Are Commonplace, These Experts Said. But They Were Unaware Of Another Case In Which Lawyers Took A Well-Known Medical Condition — Such As Dementia — And Created Their Own Criteria.

As The NFL And Seeger Sold The Settlement A Decade Ago, They Often Described It As "Landmark" And "Historic." Some Players And Their Families Who Have Actually Gone Through The Settlement, However, Use Another Phrase To Describe It.

One Is Sally Benecke. Doctors Diagnosed Her Late Husband, Former NFL Player Freeman White, With Alzheimer's Disease in 2013 And Treated Him As His Condition Worsened Until He Died Of Cancer Five Years Later. His Claim Was Denied Because A Settlement Review Doctor Suggested His Symptoms Were Caused Not By Alzheimer's But By Something Else: *A Vitamin Deficiency.*

"When We Started This Whole Thing, The Lawyers Said If You Were Diagnosed With One Of These Diseases, You'd Get A Check," Benecke Said. *"This Whole Case Feels Like A Bait-And Switch."*

THE PLAYERS VS. THE NFL

The Lawsuits Began In 2011. Seventy-Five Players Sued The NFL In State Court In California, Then Seven More In Federal Court In Philadelphia. Those Lawsuits Inspired Hundreds More Involving Thousands Of

Players, All Accusing The League Of Deceiving Them About The Dangers Of Concussions. The Federal Court System Consolidated The Lawsuits And Sent The Case To Be Heard By U S District Judge *Anita Brody*.

Players Blamed A Long List Of Health Problems On Their NFL Careers, Including Alzheimer's, Parkinson's And ALS. But The Main Reason They Sued Was CTE, The Once-Obscure Disease That Had Been Discovered In The Brains Of Dozens Of Former NFL Players. The Lawsuits Sought Financial Damages As Well As Money For Medical Care, Including For Healthy Players In Case They Developed Problems Later In Life.

Publicly, The League *Dismissed The Cases As Baseless*. But Privately, The League's Top Outside Lawyer Later Acknowledged, He Believed They Posed A Serious Threat.

As He Rose To *Chairman Of The Paul, Weiss Firm*, [Ed. Note: The Cream Of White Shoe Law Firms] Karp Developed A Reputation As A Trusted Adviser To Billionaires And Corporations In Crisis. He Steered Wall Street Firm Smith Barney Through A Sex Discrimination Scandal In The 1990s And Citigroup Through Entanglements To Enron In The 2000s.

"Many Lawyers Come To Speak In Owners Meetings," New England Patriots Owner Robert Kraft Later Told Business Insider Of Karp. "... He Is The Only One I Know That, When He's Up There Talking, He Commands The Respect Of The Entire Room."

In Complex Cases, Judges Select Lawyers To Serve In The Crucial — And *Often Lucrative* — Role Of Lead Counsel, Representing The Plaintiffs. At A Hearing In 2012, Brody Announced She Wanted Two Lawyers Leading The Case For The Players. The First Could Be Selected By The Top Firms Involved In The Case. But Brody Said She Had Someone In Mind For The Other: Seeger.

Several Firms Had Hundreds Of Former Players As Clients. Seeger Represented About 20. But While He Lacked Clients, Seeger Had A Wealth Of Experience Leading Negotiations In Complex Settlements.

Seeger's Online Biography On The Website Of His Firm, Seeger Weiss, Emphasizes His Blue-Collar Background And Passion For Fighting Large Corporations. The Son Of A Union Carpenter, He Worked His Way Through Law School And Fought As An Amateur Boxer Before Entering Private Practice.

Seeger Specializes In Class Actions And Other Cases In Which He Typically Represents Hundreds Or Thousands Of People Against The Same Defendants. It's A System Designed To Unburden The Courts, But Some Legal Scholars Have Expressed Concerns That A Diminished Role For Clients In These Cases Can Lead To Inadequate Settlements That Deliver *Exorbitant Legal Fees*.

"In A Typical Lawsuit, You Hire The Lawyer And You Have Oversight. You Can Get Them On The Phone, And If You're Not Happy With The Job They're Doing, *You Can Fire Them*," University Of Georgia Law Professor Elizabeth Chamblee Burch Said. "Class Actions Are Kind Of The Other Extreme. A Lot Of Times, The Clients Have *No Idea* What The Lawyers Are Doing."

A CONTROVERSIAL SETTLEMENT

In August 2013, The NFL And Top Lawyers For Players Announced Their First Attempt At A Settlement. It Drew Criticism From The Start.

Some Experts Had Predicted The League Would Have To Pay Billions To Settle. But The Proposed Deal Would Have Cost Just \$765 Million, Including \$675 Million That The Lawyers Claimed Would Cover Payments Into The Millions For Any Former Player Who Developed Dementia, Alzheimer's, Parkinson's Or ALS. The Deal Also Included \$112 Million In Legal Fees, A Figure Some Experts Criticized As *Excessive*.

The News Took Players, Including Seeger's Own Clients, By Surprise. In Emails Exchanged In August 2013 And Obtained By The Post, Several Complained They Were Blindsided.

"It Is Embarrassing That I Can't Even Explain To My Own Family What This Settlement Means For Me, And My Attorney Was The Lead Who Settled The Case," One Player Wrote.

"A Leak Would Have Ended The Talks. ... I Had No Choice," Seeger Replied.

[Ed. Note: JFC!!! WTF? What Self-Serving Bullshit. I Already Despise This Pfucking Lawyer.]

Another Client Added Up Cases Of Players With Dementia And CTE And Estimated The Settlement Money Would Run Out In A Few Years.

You Can't Do Simple Math Because It's Not Simple," Seeger Replied. "That's Why We Spent Substantial... On Economists, Actuaries And Medical Experts. There's No Guesswork Here." [Ed. Note: Finally, A Reality-Based Statement By The Unfortunate Mr Seeger. That Said, It Is, Indeed, *Guesswork*. Hopefully, It's Well Qualified And Otherwise *Intelligent* Guesswork Done By The Relevant Professionals Who Were Retained.]

Judge Brody, Though, Agreed With The Skeptical Players And Sent Seeger, Karp And Their Legal Teams Back Into Negotiations. In June 2014, They Announced New Terms: This Time, The NFL Agreed To An "Uncapped" Settlement. Any Player Who Developed Dementia Or The Other Conditions *Get Paid, No Matter How Much It Cost*.

Under The Proposed Terms, Families Of Players Who Died In The Decade Before The Settlement Opened And Were Found To Have Had CTE Would Get Paid. But After The Settlement Opened, Autopsy Diagnoses Wouldn't Qualify For Anything. Players Who Believed They Were Suffering From CTE Would Have To See Whether They Had Dementia — *As The Settlement Defined It*.

Experts Hired By The NFL And Top Lawyers For Players Created Three Definitions Related To Dementia. Players Diagnosed With “Moderate Cognitive Impairment” — Pre-Dementia — Qualified For NFL-Funded Medical Care. “Early Dementia,” As The Settlement Defined It, Earned Payments As High As \$1.5 Million. And Players With “Moderate Dementia” Could Earn As Much As \$3 Million.

The Settlement Itself Didn’t Address *How These Definitions Differed* From How Doctors *Normally* Diagnose Dementia. And While Dozens Of Players And Lawyers Argued In Objections That The Settlement Would *Fail To Help Those Suffering From CTE*, Seeger And Karp *Dismissed Their Concerns* In Interviews And Court Hearings In 2014.

The Settlement Would Not Help Players Suffering From Behavioral And Mood-Related Symptoms Associated With CTE, Such As Depression And Rage-Control Problems, The Lawyers Acknowledged. But Once Players Developed Dementia-Related Symptoms Of CTE, They Said, They Would Qualify For Settlement Benefits.

“People Got Really Hung Up On CTE, But, You Know, This Is All About Symptoms,” Seeger Said During An Interview In 2014. “If You’re Sick And Your Activities Of Daily Living Are Being Interfered With ... You’re Going To Get Paid.

One Outside Expert — Boston University Neuropsychologist Robert Stern, Who Researches CTE And Alzheimer’s — Did Raise Concerns At The Time That The Settlement’s Definitions Could *Prove Too Difficult To Satisfy* For Players Suffering From Dementia. But The NFL And **LEAD PLAYER LAWYERS**, In Court Filings, Argued Stern Was Wrong, Citing Experts Who Defended The Settlement’s Dementia Definitions As “Fair” And “Scientifically Valid.”

And At The Final Hearing In November 2014, Both Seeger And Karp Emphasized How The Settlement Not Only Get Money To Players Suffering From Dementia, It Would Even Provide Critical Medical Care To Those With Early Symptoms.

“It Is Throughout The Medical Literature The Importance Of Diagnosing These Diseases Early, Getting The Treatment And Prevention. This Is A Very Important Part Of The Program,” Seeger Said.

*[Live Chat: What Questions Do You Have About **The Concussion Files**? Ask The Post.]*

Karp, Meanwhile, Invoked The Widow Of An NFL Player Who Had Died Of Dementia. If Only The Settlement Had Been In Place Earlier, He Said, Its Medical Treatment Program Could Have Helped Him.

“The NFL Is Proud Of This Settlement,” Karp Said. “It Provides All Retired Players... With The Peace Of Mind That Substantial Monetary Compensation And Other Substantial Benefits Will Be Available, If And When They Are Needed, Without Any Risk And Without Any Uncertainty.”

Brody Approved It. And Soon, Hundreds Of Retired Players And Their Families Met With Doctors And Began To Fill Out Paperwork. Among Them Was The Family Of Glen Ray Hines, Who Had Been Diagnosed Years Before With Dementia His Doctors Suspected Was From CTE.

“That’s Where It Started To Go Off The Rails For Us,” Son Glen Ray Hines Jr Said Last Year. “I Think That’s Where It Went Off The Rails For A Lot Of People.”

HOW DEMENTIA IS DEFINED

In Interviews With The Post, Seeger Repeatedly Said “A Notch Above” To Describe How The Settlement’s Dementia Definition Compares With The Standard Across The Country, From The Diagnostic And Statistical Manual Of Mental Disorders, Or The DSM-5.

In Negotiations, Seeger Said, The NFL Agreed To Adopt The Regular Definitions For Alzheimer’s, Parkinson’s And ALS. But For Dementia, He Said, The NFL Rejected His Request To Also Use The Standard Definition.

“Their Comeback... Was That There Are Doctors That Hand Out Some Early Diagnoses That May Not Be Technically Accurate,” Seeger Said. “It’s Okay To Get That Person In A Treatment Program Early. But In A Compensation Program, You’re Not Going To Get People To Write A \$5 Million Check... Based On Some Doctor Who Wants To Be a Little Ahead Of The Game On The Medical Treatment.”

A Decade After He And Karp Had Touted How The Settlement Would Get Medical Treatment To Players Who Hadn’t Even Developed Dementia, Seeger Instead Portrayed It As A Compensation Program Designed To Get Money To Those With Moderate Or Severe Dementia.

“In A Doctor’s Office, You May Get That Diagnosis Sooner Than You Would Get It In Our Compensation Program,” Seeger Said.

Karp Offered A Different Recollection Of Settlement Negotiations.

“The NFL’s Principal Goal In Negotiating The Settlement Was *Diagnostic Accuracy*,” Karp Wrote. [Ed. Note: Well, They Certainly Screwed Ye Olde Pooch On That Score.] “There Are Not ‘More Severe’ Requirements For Dementia In The Settlement Program Than In Clinical Practice.”

Experts Who Reviewed The Settlement For The Post Acknowledged Its Dementia Definition Is Less Subjective Than The DSM-5’s. But It *Indisputably* Requires More Impairment, They Said.

Doctors Evaluating For Dementia Usually Put Patients Through A Battery Of Tests In Several Domains, Including Memory, Language And Executive Function. In Everyday Practice, One Or Two Impaired Reports In One Domain, With Other Evidence, Are Enough For A Dementia Diagnosis.

But In The Settlement, Players Must Have *At Least Four Impaired Tests* Across Two Domains To Receive *Any Diagnosis* — Including For Pre-Dementia.

The Regular Definition For Dementia Also Requires Symptoms That Leave A Patient Needing Assistance With Daily Activities. In Everyday Practice, Experts Said, This Requirement Isn't Strict Or Severe: Doctors Commonly Diagnose Patients With Dementia When They Are Still Living On Their Own, Driving Or Even Working. While Dementia Is Incurable, Early Diagnoses Are Important, Experts Said, Because Treatment Can Manage Its Symptoms.

But The Settlement's Definition Requires Doctors To Take An Additional Step, Consulting The Clinical Dementia Rating, Or CDR, Scale. A Tool Created By Alzheimer's Researchers In The 1970s, The Scale Is Designed To Grade The *Severity* Of Dementia, Experts Said, And Is Typically ***Used In Research, Not By Doctors*** In Diagnostic Work.

The Settlement's "Early Dementia" Definition Requires Players To Meet Some Aspects Of What The CDR Scale Terms "Mild Dementia" — Which Calls For Patients To Be "Unable To Function Independently" At Social Events And To "Need Prompting" In Personal Hygiene Activities.

"By The Time People Meet Their 'Early Dementia' Requirements, They've Probably Been Sick For Many Years, And It's Pretty Late In The Game," Said Gil Rabinovici, A Neurologist And Professor At The University Of California San Francisco.

Seeger Said He Made Clear Throughout The Process To Players And Their Lawyers That The Settlements Dementia Definition Was More Difficult To Satisfy Than How Doctors Normally Diagnose The Condition. His Co-Lead Counsel In Negotiations, Sol Weiss, ***Declined*** An Interview Request But Supported This Claim In An Email.

But They Could ***Provide No Evidence*** To Support The Claim, And The Post Was ***Unable To Corroborate It*** Through A Review Of Court Hearings And Interviews With Dozens Of Former Players And Their Lawyers.

In A 55-Minute Recording Of An NFL Alumni Event In Miami In June 2017 Preserved On YouTube, Seeger Explained The Settlement To Former Players But Didn't Explicitly Mention That Players Diagnosed With Dementia By Their Own Doctors Might Not Meet the Settlement's Requirements.

Seeger Was Joined That Day By Woodson, A Former Miami Dolphins And Chicago Bears Safety. Along With Kevin Turner, A Former Fullback For The Patriots And Philadelphia Eagles Who Died Of ALS In 2016, Wooden Served As A Class Representative, Acting As A Liaison Between Seeger And The Thousands Of Players. As Other Players And Lawyers Had Publicly Criticized The Settlement And Challenged It In Court, Wooden Had Pushed Back And Argued For Its Approval In Interviews, Public Appearances And Op-Eds.

According To Wooden, The First Time Anyone Explained To Him That The Settlement Had Its Own, Unique Definition For Dementia Designed, As Seeger Said, To Be "A Notch Above" The Regular Definition, Was In September, In An Interview With The Post.

Wooden Was Directly Represented In NFL Concussion Litigation By Attorney Steve Marks. Wooden Filed An Affidavit In Court, In 2014, Attesting That Marks Explained The Settlement To Him.

But In Interviews With The Post, Wooden Said Marks Never Told Him The Settlement Had Its Own Definition For Dementia. Marks **Did Not** Reply To Multiple Emails Seeking Comment. [Ed. Note: Of Course Mr Marks Didn't Reply. *There's A Wholelotta Booty Coverin' Goin' On In This Pfuckin' Shit Show.*]

Wooden Recalled Discussing The Settlement At Length With Seeger. And He Expressed Skepticism About Seeger's Claim That He Repeatedly Warned Players That, Even If Their Doctors Diagnosed Them With Dementia, They Might Not Meet The Settlement's Requirement's.

"I Don't Recall Anything Like That," Wooden Said.

Seeger, In A Statement To The Post, Pointed To Public Court Filings That Stated Other Attorneys Briefed Wooden On The Settlement.

Several Other Lawyers For Players Who Closely Followed Settlement Negotiations Also Said, In Interviews, That Seeger *Never* Warned Them That The Settlement's Dementia Definition Was More Difficult To Satisfy Than The Regular One Used By Doctors.

"Absolutely Not," Said Attorney Jason Luckasevic, Who Represented More Than 500 Players. "It Wasn't Until I Started Filing Claims That I Realized How Difficult This Was Going To Be."

THE DENIALS PILE UP

The First Players To Experience The Impact Of What Seeger Termed The "Notch Above" Definition Were The Longest Suffering: Those Diagnosed Before The Settlement Opened In 2017. They Were Allowed To Submit Claims Filled Out By Their Own Doctors.

All Claims Went To BrownGreer, A Richmond Administrative Law Firm With Years Of Experience Managing Complicated Settlements. Before Deciding Whether Players Qualified, BrownGreer Employees Could Consult A Panel Of Expert Review Doctors Who Were Vetted By Seeger's And Karp's Firms.

[Ed. Note: BrownGreer PLC www.browngreer.com 250 Rocketts Way Richmond, VA 23231 804/521-7200]

Glen Ray Hines Sr, A Former Offensive Tackle, Was Among Thousands Of Players Who Filed Claims In The Settlement's First Two Years. His Doctors Had Diagnosed Him With Dementia In 2014, And Now, At 74, Hines Was Only Getting Worse.

In College, Hines Played Alongside Future Dallas Cowboys Legends Jerry Jones And Jimmy Johnson On A University Of Arkansas Team That Won A National Title. On The Field, Hines Surpassed Them Both,

Playing Eight Pro Seasons For The Houston Oilers, New Orleans Saints And Pittsburgh Steelers Before He Retired In 1973.

Hines' Cognitive Struggles Started In His Late 60s. His Wife Later Told Doctors. By 2014, He Was Beginning To Have Trouble Expressing Himself In Conversation And, For The First Time, Needed Help Managing His Finances. Doctors At Washington Regional Medical Center In Fayetteville, Ark., Diagnosed Him With Dementia — And Offered An Educated Guess About The Cause.

“Given His Clinical History ... Chronic Traumatic Encephalopathy (CTE) Should Be Strongly Considered,” Neurophysiologist Stephen Gemmell Wrote In February 2014.

By 2017, Hines's Medical Records Show, His Wife Said She Needed To Explain Television Programs And Newspaper Stories To Him. In February 2018, Hines's Son Filled Out Settlement Paperwork. One Of His Father's Doctors Documents Supporting A Payment For Moderate Dementia.

BrownGreer's Response Arrived Seven Months Later. Hines Jr Recalled In An Interview His Confusion And Anger As He Read The Words “*Notice Of Denial.*”

Hines Sr. Didn't Have Moderate Dementia, A Review Doctor Wrote, Summarizing Concerns In A Single Paragraph. He Was Still Exercising And Driving, The Doctor Noted, Activities Inconsistent With The Settlement's Definition For Moderate Dementia. Hines's Doctors had Been Treating Him For Years; The Review Doctor *Had Never Met Him.* But That Was It: Claim Denied.

“Just Because My Dad Could Drive And Walk On A Treadmill Didn't Mean He Didn't Have Dementia ... It Was Reminiscent Of Those Big Insurance Companies That Just Automatically Deny Claims,” Said Hines Jr., A Former Federal Prosecutor.

Hines Jr Could Have Appealed To A Special Master, An Independent Lawyer Appointed By Judge Brody. But It Would Cost Him \$1,000, Under The Terms Of The Settlement, And He Was Skeptical It Would Be Worthwhile.

His Skepticism Had Merits, It Turns Out: Of The 368 Player Appeals Of Denied Claims Through The End Of 2023, According To BrownGreer, 71 — Or About 19 Percent — Resulted In A Changed Decision And A Payment. (The NFL Is About As Successful At Getting Approved Claims Denied, BrownGreer Said, Winning 29 Of 143 Appeals, Or About 20 Percent.)

Within Months Of Getting The Denial Notice, Hines Sr.'s Family Moved Him Into An Assisted-Living Facility, Where He Died In February 2019 Of What His Death Certificate Listed As "End Stage Alzheimer's Disease." An Autopsy Found Hines Had Actually *Suffered From Severe CTE.*

Gemmell, Who Treated Hines, Said In An Interview That His Case Illustrates Why Doctors Don't Typically Use The CDR Scale To Diagnose Dementia. Gemmell Has Dementia Patients Who Still Drive — Although He Advises Them To Stop As Their Conditions Worsen — And He Recommends They Exercise As Long As They Are Capable Because Physical Activity Is Beneficial For Cognitive Health.

"It Was Probably One Of The Easiest Diagnoses Of CTE I've Ever Seen," Gemmell Said Of Hines. "And You Can Tell Just By Looking At The Autopsy The Diagnosis Was Correct."

Diagnoses By Personal Doctors Such As Gemmell Were Overturned Routinely, According To Reports Produced by BrownGreer. Of 1,241 Former Players Who Filed Dementia Claims Based On Diagnoses Made By Their Doctors, 191, Or About 15 Percent, Were Approved. *More Than 800 Were Denied, And More Than 200 Were Withdrawn.*

Karp And Seeger, In Comments To The Post, Partly Blamed The High Rate Of Denials Among These Claims On Fraud. BrownGreer Told The Post It Denied After It Audited Them And Found Evidence Of Fraud. One California Neuropsychologist, BrownGreer Alleged In A Court Filing, Ignored Obvious Signs Players Were Purposely Failing Tests. And A Florida Neurologist, BrownGreer Alleged In Another Filing, Diagnosed Every Player He Evaluated With Dementia.

But Karp And Seeger Also Acknowledge That Many Players Simply Failed To Meet The Settlement's Standards For Dementia. Such As Vaughn Johnson.

In 2016, A Doctor Diagnosed Johnson, Then 54, With Dementia. The Former Saints And Eagles Linebacker Had Been Experiencing Memory Problems For Years, He And His Wife Told Doctors, And His Cognitive Scores Showed Impairment. BrownGreer Denied His Claim, Though, After A Review Doctor Argued His Diagnosis Didn't Meet The Settlement's Criteria, In Part Because He Was Still Driving And Working.

Johnson Died In 2019 Of Kidney Failure. Weeks Before His Death, A Second Neurologist *Also Diagnosed Dementia*. An Autopsy Found Severe CTE.

"I Don't Know How They Came Up With Their Criteria, But Its Clearly Not Working," Said Catherine Hagerty, The Neurologist Who Evaluated Johnson Shortly Before He Died.

In His Response To The Post, Karp Noted That It Is Possible To Have Brain Damage Consistent With CTE And *Not Experience Symptoms*. [Ed. Note: Is This Highly Esteemed Corporate Gangbanger Lawyer Referring Here To The Above-Noted Johnson Case? As Reported, Mr Johnson And His Wife DID Report Longstanding Memory Problems!]

"The Settlement Compensates The Significant Neurocognitive And Neuromuscular Impairments That Are *Allegedly* Associated With CTE. That Does Not Mean That Every Individual Who Is Later Diagnosed With CTE Will Meet The Requirements,' Karp Wrote.

While Much Is Still Unknown About CTE, There Is Little Dispute Among Scientists That People Found With Its Severe Form — What Researchers Call Stage 3 Or 4 — Probably Suffered Significant Cognitive Problems. In These Stages, Brain Tissue Has Often Visibly Shrunk And Atrophied.

Of The **14 Players** The Post Found Who Failed To Qualify For Settlement Benefits, **11 Had Severe Disease.**

All 14 Complained To Doctors Of Dementia Symptoms, Records Show, Most Commonly Progressive Memory Loss. Six Were Never Diagnosed With Dementia Or A Related Disorder In Life, But In Interviews, Their Family Members Said That Doesn't Mean They Didn't Suffer.

Claude Humphrey, a Hall Of Fame Defensive End For The Falcons And Eagles, Told Settlement Doctors In 2019 That He Been Experiencing Only “Mild Memory Lapses,” But His Daughter Told The Post He Had Downplayed His Struggles. Humphrey's Test Scores Showed Impairment, His Records Show. But His Scores Weren't Low Enough For The Settlement, His Medical Records Show, Nor Were His Symptoms Severe Enough. He Died In 2021 Of A Heart Issue, And An Autopsy Found Severe CTE.

Eight Of The 14 Players Were Diagnosed In Life With Dementia Or A Related Condition, Such As Alzheimer's.

Ira Cross Was Among Them. As A Defensive Back, Cross Twice Earned Pro Bowl Honors For The Eagles And Los Angeles Rams In The 1960s. But He Was More Widely Known For His Television Career. In 1975, He Became The First Black Full-Time Analyst For A Network Sports Broadcast, CBS's “The NFL Today,” Where He Worked For 15 Years.

Cross's Cognitive Problems Began In The Early 2000s, When He Was In His Early 60s, His Wife, Liz, Later Told Doctors. In 2016, A Doctor Diagnosed Him With Mild Cognitive Impairment — Often A Precursor To Dementia — And Expressed Concern He Was Suffering From CTE. In 2017, Another Doctor Diagnosed Cross With Dementia. The Next Year, He And Liz Met With Settlement Doctors.

Irv Had Stopped Driving, Liz Told Doctors, And Couldn't Do Anything Around The House More Complicated Than Microwave Frozen Meals. Her Once Even-Keeled, Affable Husband Had Also Become "Uncharacteristically Mean And Rude," Liz Said, Erupting In Outbursts Of Anger And Paranoia Directed At Her And Their Son.

"She Stays With Him Only Because She Knows It Is Not Him And Rather The Disease," A Neuropsychologist Wrote.

Cross's Symptoms Met The Settlement's Definition For Dementia, His Medical Records Show, But He Didn't Score Low Enough On Cognitive Tests. Cross Died Three Years Later. On His Death Certificate, Doctors Cited Alzheimer's, But An Autopsy Found Signs Of Both Mild Alzheimer's And *Severe CTE*.

Ed Lothamer, A Former Defensive Lineman For The Kansas City Chiefs, Had Been Diagnosed With Dementia Two Years Before He Met With NFL Settlement Doctors In 2018. By Then, Lothamer Got Lost On Routine Drives Around Town So Often, His Daughter Said, His Family Had Attached A GPS Tracker To His Car.

But Like Cross, Lothamer Didn't Score Low Enough On Cognitive Tests, His Medical Records Show. His Scores Showed Severe Impairment In One Domain — His Learning And Memory. It Was Enough To Meet The Standard Definition For Dementia But Not Enough For The Settlement, Which Requires Impairment In Two Domains.

When Lothamer Died Four Years Later At A Rehab Facility, His Doctors Were Unsure Whether To List Dementia Or A Heart Condition On The Death Certificate. When The Autopsy Came Back, However, They Decided To Cite Something Else As The Cause Of Death: *Severe CTE*.

Lothamer Is One Of More Than *5,000 Former Players* Who Have Gone Through The Settlement's Network Of Doctors And Come Away *Without A Diagnosis*, Court Records Show.

As Hundreds Of Players And Families Began To Learn In 2017, However, Even If Lothamer Had Gotten A Diagnosis Of Dementia, As The Settlement Defined It, Money Would Have Been *Far From Guaranteed*.

PROVING DEMENTIA IS DEMENTIA

On Stage In Miami In 2017, As Seeger Explained The Settlement To Retired Players, He Introduced The Man Whose Firm Would Stand Between Them And Settlement Checks: “Orran Brown, Founding Partner Of BrownGreer.

“Orran Brown Was Not Brought In By The NFL. ... “He Is The Best Of The Best,” Seeger Said.

Brown, In His Remarks That Day, Emphasized His Firm’s Independence And *Neutrality*.

“We Work For The People Who Deserve To Get Benefits From This Program. ... We Are Not The Cable Company. We ... Want To Get This Done *Correctly And Get It Done Quickly*,” Said Brown, *Who Declined An Interview Request*. [Ed. Note: As Ever, Talk Is Cheap.]

One Thing Players Wouldn’t Have To Worry About, They Thought, Was Seeing Other Health Problems Related To Their NFL Careers *Used Against Them*.

Former NFL Players Commonly Suffer From Several Ailments That Can Cause Symptoms Similar To Early Dementia, Most Prominently Depression And Sleep Apnea. Disproving These Ailments Are Causing Dementia Symptoms Requires Treating Them And Then Seeing Whether Cognitive Problems Worsen, Which Can Take Months Or Years.

But Under The Settlement, The NFL Had Waived Any Arguments About “Causation.” And As NFL Lawyers Had Explained It, This Offered Protections To Players Diagnosed With Dementia Who Had Other Health Problems.

“It Would Also Be Difficult For Retired Players To Show That Neurocognitive Decline Resulted From Football At All, Rather Than From Aging, Poor Health, Or Other Injuries,” NFL Lawyers Wrote In A Brief To The U.S. Supreme Court In 2016. “The Settlement Obviates This Problem By Conferring Benefits On All Class Members *Without Requiring Any Proof Whatsoever Of Causation.*”

But As Denial Notices Began Circulating In 2017 And 2018, Some Players And Their Lawyers Began To Think The *NFL Had Misled Them.*

Jeff Blackshear Was Among The First Players To Send In A Claim Package. An Offensive Lineman For The Baltimore Ravens And Three Other Teams Over Nine Seasons, Blackshear Retired In 2002, And Cognitive Difficulties Started Soon After That. A Neurologist Diagnosed Him With Alzheimer’s In 2014, At 44. Under The Settlement, Blackshear’s Claim Would Cost The NFL About \$3.5 Million.

But When BrownGreer’s Response Came In October 2017, There Was No Information About A Seven-Figure Check.

“While There Is Clear Documentation Of Progressive Cognitive Decline,” The Document Stated, A Review Doctor Also Noted Blackshear Also Had Sleep Apnea. Blackshear’s Diagnosing Doctor Had *Failed* To Prove Sleep Apnea Wasn’t Causing His Symptoms, The *Review Doctor* Argued. *Claim DENIED.*

Blackshear Died Of Pancreatic Cancer Two Years Later. *An Autopsy Found Severe CTE.*

“He Had Hoped, When They Saw His Brain, They Would Understand,” Said Sheila Blackshear, Jeff’s Widow. Asked Whom She Meant By “They,” She Answered: “The People Who Denied His Claim.”

In A Statement To The Post, BrownGreer Declined To Discuss Specific Cases, Citing Medical Privacy Concerns.

“We Generally Defer To The Articulated Medical Judgment Of The Diagnosing Physician,” BrownGreer Wrote. “However, We Do Not Defer To The Medical Judgment Of The Diagnosing Physician If That Judgment Was Clearly Erroneous.”

In Interviews With The Post, Several Doctors Whose Diagnoses Were Overturned Disagreed.

In 2018, BrownGreer Denied An Alzheimer’s Claim Filed By Freeman White, A Former New York Giants Tight End, After A Review Doctor Argued His Cognitive Problems Were Actually Being Caused By Other Ailments, Including A Vitamin B12 Deficiency. Steven Arkin, The Neurologist Who Diagnosed White And Treated Him For Several Years, Said In An Interview That He Had Specifically Ruled Out A B12 Deficiency By Prescribing A Vitamin Supplement.

Today He Knew St. Luke’s Hospital In KC Missouri. He Knew The Year But Not Month Date Or Day Of The Week. Remembered 0 Of 3 Objects After Three Minutes. He Did Not Know The Floor Of The Building. He Was Able Spell World Backward. Motor Strength Of Left Lower Extremity 0-1 Left Upper Extremity 3-4. Face Is Normal. Reflexes Remain Increased Left Side. Sensation Is Symmetric. At This Point, We Will Maintain Aricept 10 mg Daily. *Again, He Does Have Degenerative Dementia.* Everything Else Remained the Same As Well. I Will See Him In 4 Months.

CURRENT MEDICATIONS

cyanocobalamin (VITAMIN B12) 1000 MCG Tablet

[Ed. Note: The Other Eight Medications Were Blurred, Presumably For Mr White’s Privacy.]

“We Spotted That Deficiency Early On, Checked It And Treated It,” Arkin Said. *“This Just Looks Like Bean Counters Looking For A Way To Deny Claims.”* [Ed. Note: It Also Looks Like Mister Orran Doing The Odious Bidding Of Whom He Clearly Understands And Appreciates Is His Firm’s *Real Client* — *The NPFL* — **THE NATIONAL PFUCKING FOOTBALL LEAGUE**] White Died The Same Year, At 74, Of Multiple Myeloma. *He Never Collected Any Money From The Settlement.*

When BrownGreer Denied Former Buffalo Bills Offensive Lineman Al Bemiller's Claim In 2020, A Review Doctor Suggested Depression Was Causing His Dementia Symptoms. But The Doctor Ignored That Bemiller Had Been Diagnosed With Dementia In 2014 — Two Years *Before* The Depression Diagnosis. And While He Underwent Treatment For Depression, Bemiller's Dementia Symptoms Worsened, His Medical Records Show, As He Lost The Ability To Drive And Cook And Began Needing Reminders To Shower.

Asked What He Would Say To The Doctor Who Questioned His Father's Dementia, Bemiller's Son, Todd, Replied: "I'd Rip Their Head Off. My Father Died From Dementia."

Attorney Gene Locks, Who Represented More Than 1,000 Players, Said In An Interview That He And Other Lawyers Never Contemplated That Depression, Sleep Apnea And Other Health Problems Would Be Used Against Their Clients.

"The Original Intention... Was You Didn't Have To Worry About Other Factors," Locks Said. "The Issue Was You Did Or Did Not Have Cognitive Deficits, Period."

But Karp And Seeger Told The Post That Their Public Assurances About "Causation" Meant Only That Players Wouldn't Have To Prove Their NFL Careers Caused Their Dementia. They Still Had To Prove Cognitive Problems Were Being Caused By Dementia And Not Other Ailments, The Lawyers Said.

"The Causation (Benefit)," Karp Wrote, "Is Distinct From The Requirement That The Impairment A Retired Player Is Experiencing Must Be Due To Cognitive Loss (i.e., Dementia) As Opposed To Other, Treatable Non-Dementia Conditions."

Several Lawyers Told The Post They Always Expected The First Wave Of Claims To Receive The Most Scrutiny. But The Settlement Created Two Networks Of Doctors Vetted By The NFL And *Seeger's Firm* For Credentials And Evidence Of Bias. Once These Networks Were Open, These Lawyers Said, They Expected Diagnoses To Quickly Lead To Money.

“These Were Doctors Handpicked By Karp And Seeger That The NFL Signed Off On,” Said Attorney Luckasevic, Who Represented More Than 500 Former Players. “Why Would BrownGreer Question Them?”

A DOCTOR PUSHES BACK

By His Résumé And Credentials, Randolph Evans Seemed Like An Ideal Candidate To See Patient’s Hoping For Settlement Payouts. A Board-Certified Neurologist With An Expertise In Concussions, Evans Had Been Practicing In Houston For More Than 30 Years When He Joined The Settlement’s Doctors Networks In 2017.

But A Few Months After He Began Seeing Players In 2017, Evans Said In An Interview, He Learned Many Claims Based On His Diagnoses Were Getting Denied. Ultimately, 38 Of 138 Claims Submitted Based On His Work Were Denied, BrownGreer Said.

The Post Obtained Two Of These Denials, Which Evans Said Were Representative Of Why BrownGreer And Settlement Review Doctors Often Challenged His Diagnoses. In Both Cases, The Players’ Cognitive Test Scores Met The Settlement’s Dementia Requirements. But Review Doctors Argued That Evans Had Mistakenly Diagnosed Dementia In Players Whose Symptoms *Weren’t Severe Enough Under The CDR Scale* Because They Could Still Drive Or Work.

“No Neurologist In America Uses The CDR Like They Do In This Settlement,” Evans Said In An Interview.

“It’s Junk Science.”

In May 2018, BrownGreer Terminated Evans's Contacts To Work In Settlement Networks. The Decision Was Made "After Noting The Consistent Inadequacy Of His Reports To Include Sufficient Detail," BrownGreer Told The Post. In A Court Hearing, Orran Brown Described Evans Without Naming Him, Noting That Many Players Traveled Hundreds Of Miles To See Him. Brody Agreed This Was A "Reg Flag" And Changed Settlement Rules To Prohibit Players From Traveling More Than 150 Miles From Their Homes For Evaluation.

A Few Weeks After BrownGreer Terminated His Contract, Evans Wrote To Seeger, Expressing His Concerns About The Firm.

"I Have Been Using The Same Sound Medical Judgment And Best Medical Practices When Seeing Retired NFL Players... That I Use Every Day," He Wrote. "I Am Concerned That BrownGreer Cannot Distinguish Between Fraudulent Neurologists... And Those Who Are Knowledgeable And Use Sound Medical Judgment."

Seeger Said The Letter Didn't Raise Any Concerns And Criticized Evans For Diagnosing Dementia In Players Who Didn't Meet The Settlement's Requirements.

Evans Is *Far* From The Only Network Doctor BrownGreen And Review Doctors Have *Overruled*, However.

The Settlement Has Denied 290 Claims Involving Players Diagnosed With Dementia By Network Doctors, According To Reports Produced By BrownGreer. And Public Evidence Of Fraud In These Networks Is *Scant*. Karp Said There Have Been Cases Of Fraud He Cannot Discuss Because Of Privacy Concerns. BrownGreer Has Denied Eight Claims Involving Network Diagnoses After Audits, Which Typically Involve Allegations Of Fraud, According To Court Records.

But The Firm Also Acknowledges That Many Denials Involving Network Diagnoses Are Like The Dozens Reviewed By The Post: Cases In Which An Anonymous Review Doctor Disputed The Diagnosis Made By The Doctor Who Actually Examined The Player. In Some Cases, Records Show, Players Diagnosed By Multiple Network Doctors Have Still Seen BrownGreer Deny Their Claims.

Former Offensive Lineman Gerald Perry Has Been Diagnosed With Alzheimer's By *Three Different* Network Doctors. But BrownGreer Denied His Claim After A Review Doctor Argued The Three Diagnosing Doctors Failed To Rule Out Other Potential Causes For Perry's Cognitive Problems, Including Sleep Apnea, Alcohol Abuse And Bipolar Disorder.

"I Didn't Want This. When I Saw Those Doctors, I Was Hoping Like Hell It Would Turn Out There Was Nothing Wrong With Me," Perry, 59, Said In An Interview. "It Seems Like My Life Don't Matter ... And They're Waiting Me Out, To Maybe Settle With My Kids."

Review Doctors Are Always Anonymous In Claim Paperwork. But The Names Of 12 Current Or Former Members Of The Settlement's Review Panel Are Identified In Court Records.

Eleven Of The 12 *Declined* Interview Requests From The Post Or Didn't Respond To Requests. *One Agreed To An Interview.*

Robert Friedland, A Professor At The University Of Louisville Medical School, Served On The Panel From 2018 Until Early 2023 — When He Resigned, He Said, Because Of How *Appalled* He Was At How Some Review Doctors And BrownGreen Employees Dealt With Claims.

Friedland Declined To Discuss Specific Examples, Citing Medical Privacy Laws. Some Review Doctors Seemed To *Enjoy* Second-Guessing Doctors Who Actually Evaluated Players, Friedland Said. And While He Never Witnessed A BrownGreer Employee Say The Company Was Motivated To Suppress Settlement Costs, Friedland Said, He Noticed What He Believed Was A Telling Pattern Of Conduct: If A Review

Doctor Wanted To Approve A Claim, A BrownGreer Employee Would *Often Ask The Doctor To Reconsider.*

But In Five Years On The Settlement Review Panel, Friedland Said, He *Never* Witnessed A BrownGreer Employee Ask A Doctor To Reconsider A Denial.

“Not Once,” Friedland Said. *“I Thought BrownGreer Was Pushing Us To Get Claims Denied.”*

BrownGreer, In Response To The Post, Did Not Directly Address Friedland’s Allegations, Saying He “Did Not Voice Any Of These Concerns To Us.” The Firm Also Noted That Friedland Had Said He Was Resigning Because Of An Increasing Workload At Louisville And That He Had Told BrownGreer “It Was A Pleasure To Work With You.”

“We Do Not Have Any Incentive To Deny Claims,” The Firm Said. “We Have Only An Obligation To Faithfully Implement The Settlement Agreement.” [Ed. Note: What Bullshit!!! Just How Pfuckin’ Stoopid Do You Peeple Imagine Us To Be?]

In 2021, Complaints Among Network Doctors About BrownGreer And The Review Panel Erupted Into Public View Over Allegations Of Racism In The Settlement. BrownGreer And Review Doctors Had Been Denying Claims If Network Doctors Failed To “Race-Norm” The Cognitive Test Scores For Black Players. Race-Norming Is A Controversial Practice In Neuropsychology Of Adjusting Cognitive Test Scores Using Formulas That Assume Black People Naturally Perform Worse On Common Tests Of Cognition Than White People. In The Settlement, Race-Norming Made It *More Difficult For Black Players To Qualify For Payments.*

Brody Dismissed a Lawsuit Filed Over The Allegations But Ordered Karp And Seeger Into Negotiations That Resulted In Removing Race-Norming From The Settlement.

While The Lawyers Addressed That Issue, Complaints About Another Long-Festering Problem In The Settlement Went Ignored.

A BROKEN DOCTORS NETWORK

At The Final Hearing In 2014 Before The Settlement Was Approved, Karp Highlighted One Of The Aspects The NFL Was Especially Proud Of: The Baseline Assessment Program, A Doctors Network Funded By The League That Would Focus Specifically On Dementia. Players Were Financially Incentivized To See These Doctors, As Opposed To A Second Network Of Settlement Doctors Whom They Would Have To Pay Out Of Pocket.

To Oversee This Network, Seeger and Karp Had Recommended The Garretson Resolution Group, An Ohio-Based Firm Specializing In Settlement Administration. Like BrownGreer, Garrison Had A Long Résumé Of Previous Settlements, Including The 9/11 Fund And The BP Oil Spill Settlement.

“Professionalism Is Critical To Us,” Seeger Said During A Court Hearing In February 2017. “That... They’re Sitting In A Waiting Room For Two Or Three Hours... [Garretson] Has Assured Us That Protocols Are In Place To Ensure That Things Like That Don’t Happen.

But As Players And Lawyers Started Trying To Schedule Appointments, Several Later Complained In Court Filings, They Often Encountered Waits Of Several Months Or More Just To See NFL Network Doctors. And Many Of These Players, After Getting Evaluated, Experienced Lengthy, Unexplained Delays Waiting For Garretson To Send Them The Reports They Needed To Start Getting NFL-Funded Medical Care Or File Claims Seeking Settlement Payments.

Lawyers First Alerted Brody To Problems In The NFL’s Network In March 2018.

“Players Usually Must Wait Months For An Appointment And Often Much Longer To Eventually Receive A Report,” Attorney Steve Marks Wrote. “This Is Not The Efficient, Responsive Program That The Players Were Promised Or The Court Approved.

Marks’s Motion Was One Of More Than 10 Filed That Week As Part Of A Coordinated Effort By Several Firms To Alert Brody To How They Believed The Settlement Was Falling Short Of Its Promises. Some Lawyers Asked Her To Assign A New Lead Attorney.

“Seeger Weiss [Seeger’s Firm] Has *Failed Miserably* In Protecting The Rights Of The Players,” Attorney Russell Berkowitz Wrote.

Seeger Accused The Lawyers Of Failing To Understand The Settlement And Said His Firm Was Working With Garretson To Improve Its Process. Brody Denied The Motions And Declined To Hold A Hearing Or Appoint A New Lawyer To Work With Seeger, Praising The “*Fine Job Seeger Weiss Has Done.*”

A Month Later, Brody Awarded Seeger’s Firm More Than \$50 Million In Fees For Negotiating The Settlement, *10 Times More Than She Gave Any Other Firm.* Seeger Has Asked For \$70 Million. His Firm Also Would Continue To Collect Millions In Yearly Fees To *Oversee* The Settlement’s Administration.

[Ed. Note: JFC!!! Do Tell, Does This Philly-Based Federal Judge ‘Spit or Swallow?’

In 2019, Garrison Was Acquired By Another Firm, Epiq. In Court Filings That Year, Epiq Acknowledged It Was Struggling To Hire Doctors In Several Major Cities, Including New Orleans, Dallas And Seattle. As A Result, It Was Asking Some Former Players To Travel — In Some Cases Hundreds Of Miles — To See Doctors. One Of The Main Reasons Diagnostic Reports Got Delayed, Epiq Suggested In Court Filings, Was Because Its Employees Needed To *Repeatedly Ask Network Doctors* Follow-Up Questions To Ensure Dementia Diagnoses Met The Settlement’s Standards. (An Epiq Spokeswoman Declined To Comment.)

[Ed. Note: Good Decision, Honey. Wouldn’t Be Good To Dip Your Jimmy Choo’s Into That Shit Cesspool.]

In 2020, Brody Again Was Alerted To Problems In The NFL Network, This Time By A Noteworthy Source:
Hall Of Fame Coach Dick Vermeil.

One Of Vermeil's Old Players, Former Philadelphia Eagles Linebacker Frank LeMaster, Had Waited Two Years To Get His Diagnostic Results, Only To Learn That Two Settlement Doctors Disagreed About The Severity Of His Dementia, Sending His Case To The Review Panel.

Five Months Later, LeMaster's Dementia Was Worsening, Vermeil Said In A Phone Interview, And He Still Hadn't Gotten Paid.

"The Process Was Really Slow. It Didn't Make Any Sense To Me," He Said.

So Vermeil Called The Judges Office, According To An Email From One Of LeMaster's Attorneys, And Someone There Referred Him To Seeger's Firm.

"They Said They Were Working On It. I'm Not Sure I Helped Much," Vermeil Said.

Days Later, LeMaster Finally Got Word: The Review Doctor Had Overruled *Both* Network Doctors. He Had Failed "Validity Measures," Tests Designed To Determine Whether A Patient Isn't Giving Full Effort. Research Has Found Some Dementia Patients Can ***Fail*** Validity Measures Because Of The ***Severity*** Of Their Condition.

LeMaster Went Through The Process Again And Eventually Qualified For A Dementia Payment. By The Time His Check For Nearly \$80,000 Arrived In October 2022, He Had Moved To An Assisted-Living Facility. He Died Seven Months Later Of A Heart Issue. An Autopsy Found ***Severe CTE***, Which Doctors Listed As A Contributing Cause On His Death Certificate.

“Frank Really Felt The NFL — And Whoever Else Was In Charge Of The Settlement — Was Elongating The Process In The *Hopes He Would Just Die*,” His Widow, Marylou Robinson, Said In A Phone Interview.

In April 2021, The Judge Again Received A Complaint About The NFL Network, This Time From LeMaster Lawyer, Gene Locks. Locks Had 38 Clients, He Wrote In A Letter To The Judge Obtained By The Post, Who Had Waited More Than One Year After Meeting With Doctors And Still Didn’t Have Their Results.

“Our Clients Continue To Suffer From The Ineffectiveness” Of The Network, Locks Wrote.

Don Maynard, A Hall Of Fame Wide Receiver, Was One Of Those Clients. In The 1960s, Maynard Had Helped Power A Prolific New York Jets Passing Attack Led By Joe Namath. He Went To See NFL Network Doctors In 2019, When He Was 84, And They Agreed He Had Moderate Dementia. But By April 2021, He Still Hadn’t Gotten His Paperwork.

Epiq Employees, In Emails Reviewed By The Post, Said They Needed An Unresponsive Settlement Neuropsychologist To Elaborate On How She Concluded Maynard’s Symptoms Were Severe Enough. Maynard’s Lawyers Asked Whether A Different Doctor Could Review His Records, But Epiq Rejected That Request.

“We Are Following Up With Neuropsychologist... Warm Regards,” An Epiq Employee Wrote In October 2020.

Brody Did Not Reply To Lock’s Letter, He Said. *She Declined An Interview Request Or To Answer Any Questions From The Post About Her Oversight Of The Case.*

[Ed. Note: What A Surprise! If You Were The Judge Responsible For DIRECT Unilateral Judicial Oversight Of This Egregious, Miserably Incompetent SHIT SHOW Of A Process — From Soup-To-Nuts — Would You Make Yourself Available To The Press Or Plaintiff Lawyers?

Maynard Soon Moved Into An Assisted-Living Facility, Where He Died Jan. 10, 2022. The Letter From The NFL Doctors Network Informing Maynard He Qualified For A Dementia Payment Arrived Three Days Later. His Payment, For \$52,529, Came That September.

“I Just Don’t Understand How This Is Legal,” Son Scott Maynard Said In A Phone Interview.

Maynard’s Case Was One Of Two The Post Found In Which A Player Waited For More Than Two Years And Then Died Before Getting His Settlement Payment. And These Cases Are Not Extreme Outliers, According To A Report Filed In Court In June By Epiq. Since The Settlement Opened In 2017, Players Have Waited, On Average, Six Months To See An NFL Network Neurologist, The Report States. Those Diagnosed With Dementia Have Then Waited Another Nine Months, On Average, To Get Their Reports.

Two Widows Of Other Players With Severe CTE Found At Autopsy Told The Post Backlogs In The NFL’s Network Contributed To Them *Giving Up* Trying To Get Their Husbands *Evaluated Before They Died*.

“The Idea Of Getting Him Into A Car In His Condition Just Seemed Ridiculous,” Said Deb Sturm, Whose Husband, Former Offensive Lineman Jerry Sturm, Was Suffering From Advanced Dementia And Unable To Travel By The Time The NFL Network Offered Him An Evaluation In June 2018, Eight Months After She Had Asked For An Appointment.

In August, The Post Sent An Email To Seeger’s To Seeger’s Office Detailing Some Of These Cases. Four Weeks Later, Seeger And Karp Filed Motions Asking The Judge To Remove Epiq As The Administrator Of The NFL’s Network And Replace It With BrownGreer. She Approved Their Request Weeks Later.

Karp Deferred All Questions About “Perceived Historical Inefficiencies” Of The NFL Doctors Network To Seeger.

Seeger Said The Timing Was Coincidental. “It Wasn’t Until Recently That We Realized That They Just We Realized That They Just Weren’t Going To Get The Job Done,” He Said.

A PLEA TO RENEGOTIATE

In 2018, Columbia Law School Held A Panel Discussion On The NFL Concussion Settlement. Seeger and Karp Both Spoke. Brody Attended, And When A Moderator Acknowledged Her Presence, *The Judge Stood, Smiled And Waved To The Crowd*. [Ed. Note: Aw, Isn’t That Lovely? Why I’m About To Piss Myself With What? Anger? Contempt? Disgust? All The Above?]

In Seeger’s Remarks That Day, He Highlighted One Aspect Of The Settlement He Believed Was Unique: A Clause That Requires The NFL And Lawyers For The Players To Meet At Least Once Every 10 Years, Over The 65-Year Life Of The Settlement, To Discuss Potential Changes To How It Defines Dementia And The Other Conditions.

“We Have A Clause In The Agreement That Requires Us To Go Back And Revisit The Science,” Seeger Said. “That’s A Critical Point. This Settlement Lives And Grows Over The 65 Years.”

Seeger Has Invoked This Clause Once, He Said, During Negotiations Over Race-Norming In 2021. Several Surviving Relatives Of Players Who Failed To Get Compensated For Dementia Or CTE By The Settlement, In Interviews With The Post, Said Seeger And Karp Should Do This Again And Rewrite How The Settlement Defines Dementia.

When Asked About This Suggestion, *Seeger Expressed Doubt*.

“Look, If I Could... If You Have A Way To Get [The NFL] There, I’m With You,” Seeger Said. “But You’re Not Going To Get Them There. And I Don’t Think Even The Judge Can Get Them There.”

Karp, In Written Responses, Rejected The Idea Of Rewriting The Definition.

“The Settlement Is Consistent With Medical And Expert Guidance,” He Wrote.

[Ed. Note: Well, The Esteemed Lawyer Karp Neglected To Append The Implied Sentiment. So, I'll Do It For Him.]

“The Settlement Is Consistent With Medical And Expert Guidance — Go Pfuck.”

A Few Surviving Relatives Of Players Who Died With CTE Told The Post They Are Meeting With Lawyers To Discuss Their Options. One Of Them Is Ryan Lothamer-Welch, Daughter Of Ed Lothamer.

Last Fall, Lothamer-Welch And Her Mother, Beth, Met With A Reporter At Beth's Home In Overland Park, Kan., To Discuss The Case. In Their Family, They Explained, It Is A Point Of Dispute Whether Ed's Career In The NFL Actually Improved His Life. When Ed Played, They Said, The Most He Made In One Season Was About \$50,000. After He Retired From Football, Lothamer Built A Successful Concrete Supplies Company That Provided More Money For His Family Than The NFL Ever Did.

As They Shared Photos Of Ed Over The Years, Ryan Stopped On One From 2018, The Same Year He Failed To Qualify For NFL Settlement Benefits. Ed Is Smiling In The Photo But Stares Off Past The Photographer. His Once Blue Vibrant Eyes Seem Vacant.

“You Can See It There. He's Already Gone,” Ryan Said. A Lawyer Recently Told Them They Didn't Have A Strong Case, Ryan Said, But She Remains Undeterred. She Doesn't Need The Money, She Said, And Neither Does Her Mother. But When She Considers Giving Up, She Thinks About Her Father And What He Might Say If He Were Still Alive.

“He'd Tell Me To Fight Like Hell,” She Said. “And Don't Let The NFL Get Away With This.”

About This Story: Reporting By **Will Hobson**. Design And Development By **Brianna Schroer** And **Rekha Tenjarla**. Design Editing By **Virginia Singarayar**. Photo Editing By **Toni L. Sandys**. Editing By **Joe Tone** And **Wendy Galletta**. Copy Editing By **Brad Windsor**. **Will Hobson** Is A National Sports Reporter For The Washington Post. He Has Previously Worked For The Tampa Bay Times, The Daytona Beach News-Journal, And The Panama City News Herald.

The NFL Still Won't Accept Responsibility For Its Damaged Players

By Sally Jenkins, Columnist *The Washington Post*

31 January 2024 (@ 12:00 EST)

It's Difficult To Say Just How Much *Embarrassment And Exposure* It Will Take To Force Those *Rotters In NFL Ownership* To Accept Responsibility For The Hazards Of The Game They Reap Billions From And Stop Treating Players Like Disposable Napkins At Their Profit Banquet. Kansas City Chiefs Tight End Travis Kelce Is Beloved *Now*, But If He Develops Concussion-Related Cognitive Problems Later And Tries To Seek Medical Recompense From The League, Here Is What He Can Expect: *A Slow Walk To A Swindle.*

Anyone Who Doubts That Should Talk To The Family Of Don Maynard. As A Younger Man, Maynard Was Like Kelce Now: An Agile, Dancy-Hipped Record-Setter, Whose Fingertips Were Joe Namath's Favorite Target And Who Helped The New York Jets Win A Sensational Super Bowl. Then He Grew Old And Confused. In 2019, The NFL Concussion Settlement's Own Network Doctors Agreed He Had Dementia. Three Years Later, His Compensation Claim Was Still Stuck In A Tortuous Medical-Legal Bureaucracy That Seems *Intentionally* Built To *Deny And Delay Claims Until Players Die.*

Maynard Finally Got A Letter Saying He Qualified For A Settlement — *Three Days* After He *Died* In An Assisted-Living Facility In January 2022.

Reading The Washington Post's Exposé Of The Concussion Settlement's Failure Provokes A Wildfire Of Anger So Widespread That It's Hard To Know What To Be Angriest About. Let's Start With The Post's Investigative Conclusion That A Breathtaking 1,100 Player Dementia Claims Have Been Denied, Potentially Worth About **\$700 Million** Or More In Compensation.

Ex-Players Have Waited Months For Appointments And Years For Test Results — Only For Anonymous Review Boards To Overturn The Diagnoses Of The Doctors Who Examined Them.

Almost 300 Claims Were Denied Even Though The *NFL's Settlement's Own Doctor Network Diagnosed Them*. One Doctor Told The Post He Felt Pushed To Deny Claims So As To Suppress Settlement Costs, Which Have Risen To Nearly \$1.2 Billion.

Or Maybe What's Most Incensing Is The Revelation That The Settlement Operates On A **More Onerous** Definition Of Dementia From The Standard Used By Doctors In This Country.

This Is Chicanery, Pure And Simple.

As Any American Family With Someone Suffering From Encroaching Dementia Well Knows More Than 6 Million Families And Climbing — One Of The Most Painful Mysteries Of The Disease Is How A Person Can Be Perfectly Functional In One Area And Yet Be Completely Nonfunctional In Another. Someone With Aphasia Can Have Difficulty Speaking Yet Still Drive. But Under The Terms Of The NFL Settlement — Which Some Players Now Say Were Never Explained To Them — Players Must Have At Least Four Impaired Tests Across Two Different Protocols To Receive A Qualifying Diagnosis. Randolph Evans, A Neurologist With A 30-Year Practice In Houston And A Background In Traumatic Brain Injuries, Saw 38 Of His

NFL Patients Rejected, Even Though Their Test Scores Showed Cognitive Decline. They Were Considered *Not* Severe Enough Because They Still Had *Some* Competencies. *DENIED*.

At The Root Of This *Evil* Is A Complicated Mix Of Factors: The Ugly Suspicion That Players Are Taking Advantage And Are Overpaid And Old-Fashioned Skepticism That The Effects Of Concussions Aren't So Bad. "I Think There's Still A *Great Deal Of Uncertainty* About The Causation Issue," NFL Commissioner Roger Goodell Said Cooly In A Recently Unsealed 2022 Deposition, In Which He Also *Intimated* That The Players *Sign Up For This Kind Of Harm*. "*We All Know There's Risks With Playing Football And Other Sports*," He *Said. There's Risks To Walking Down The Street.*"

[Ed. Note: A Contemptible Sentiment Expressed By A Contemptible Commissioner. As For Your Highly-Esteemed Gaggle Of 32 Bosses, Do Tell, Rogie: Do You 'Spit Or Swallow?' And Do You Have A Particular Favorite Suck? "Well, You Don't Have To Get Snippy About It!" (Right, Al Gore?) And As They Used To Say All The Time At ESPN... "C'Mon, Man!"]

Actually, No, Commissioner, The NFL Is *Not* A Risk Like Walking Down The Street. It's An Industry Beset By A Pervasive Environmental Hazard, A 100 Percent Injury Rate And A Special Problem Involving Chronic Traumatic Encephalopathy (CTE) From Those Experienced By Military Personnel — And Which Can Be Dangerous Not Just For The Players But For Those Around Them.

But Maybe What's Really At The Heart Of The Matter Is That The League Has A Black Lung Problem, And It Knows It. That Problem, If The NFL Ever Fully Admitted It, Could Mean *Nearly Unlimited Financial Exposure*. That Is Perhaps Why The Owners Have Such A History Of Trying To Limit Injury Compensation All Along The Line. Studies Have Shown That NFL

Players Are Four Times As Likely To Suffer From A Neurodegenerative Disease Than Their Peers. But Most Of These Symptoms Won't Manifest For 10 Or 15 Years, Long After Their Five-Year NFL Health Insurance Has Expired, At Which Point It's Difficult To Get Coverage. When Players' Claims Are Denied And Family Members Aren't Able To Provide, Where Does The Cost Of Their Care Fall? On You, The Taxpayers. Medicare And Medicaid Become The Backstops.

Owners Are Gluttons For Public Assistance. They Get All Sorts Of Municipal Funding And Services, And It Appears They Want Their Ticket Buyers To Help Them Pick Up The Costs Of Player Medical Care, Too. *That's Not Where The Cost Belongs.*

The Public Has A Couple Of Ways To Leverage Them. First, The Pro Football Hall Of Fame Voting Committee, Mostly Made Up Of Media Members, Should **Not** Admit One More NFL Owner Until The Concussion Settlement Has Been *Reopened* And The Terms *Reformed*. Believe It Or Not, Influential Owners Will Care As Much About That As Any Penalty. Second, *Congress Should Convene New Hearings* On The NFL's Attitudes And Practices To Determine Whether There Has Been An Effort To Improperly Suppress Medical Findings. Legislators Also Should Ask Owners To Implement *Lifetime Health Coverage* For Players And *Threaten To Regulate* Them If They Won't Do It Voluntarily.

[Ed. Note: Right-The-Pfuck-On Re: The Above Paragraph!!!]

The Price Of Owning A Coal Mine Is A Lifetime Of Compensation For Those Who Are Permanently Disabled By Your Coal Dust. It Should Be The Same With The NFL. If You Want To Own An NFL Team — You Should Cover The Cost Of Ruin To Players' Bodies And Brains.

After All, They Aren't Just Your Workers.

They're The Leagues Chief Commodities And Treasures To Their Communities.

[Ed. Note: A-Pfuckin'-men!]

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