

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE)
PLAYERS' CONCUSSION INJURY LITIG.,)

2:12-md-02323-AB

SUPPLEMENTAL OBJECTION TO SETTLEMENT

Objectors Cleo Miller, Judson Flint, Elmer Underwood, Vincent Clark, Sr., Fred Smerlas, Ken Jones, Jim Rourke, Lou Piccone, James David Wilkins II and Robert Jackson hereby submit this supplemental objection to address the amendments made by the proponents of the settlement on February 13, 2015, and their implications for objections previously make by Objectors.

To date, the parties' only defense of an arbitrary cutoff date for Death with CTE benefits has been the argument that offering Death with CTE benefits to living players serves as an inducement to suicide. That argument never held much water, however, since extending Death with CTE benefits for the entire 65-year duration of the settlement would provide every former player with assurance that his family would be paid benefits whenever he died. There would be no arbitrary cutoff when CTE benefits would disappear.

Now, however, for the first time ever, the parties have created an actual incentive for suicide. They have announced a deadline *that has not yet arrived* for the cutoff of Death with CTE benefits. Any former player who dies with CTE between now and the Final Approval Date is eligible to receive up to \$4 million. Any former player who dies with CTE after that date will receive nothing. This has for the first time created an actual

incentive for suicide in that there is a looming arbitrary cutoff date *in the future* for Death with CTE benefits, rather than in the past, as was the case with the July 7, 2014 cutoff.

The parties' readiness to agree to this extension for Death with CTE benefits undermines their previous defense of the arbitrary cutoff date for those benefits, and makes it clear that the July 7, 2014 cutoff date for Death with CTE had nothing to do with a concern about not incentivizing suicide, and everything to do with saving the NFL money. The new arbitrary deadline of the Final Approval Date is similarly unrelated to any rational concerns about players' welfare. It, however, has the added drawback that it sets a cutoff date set in the future, after which class members will receive nothing for Death with CTE.

The parties' agreement to the amended Death with CTE deadline undermines everything they have said to date in defense of the original cutoff date, and casts doubt on the need for any cutoff date for Death with CTE benefits. The Court should take this into account when rendering a decision on the amended settlement currently under advisement. Under no circumstances may a concern about not incentivizing suicide be cynically employed as a defense of this completely arbitrary and unconstitutional line-drawing.

Respectfully submitted,
Cleo Miller, Judson Flint,
Elmer Underwood, Vincent Clark, Sr.,
Ken Jones, Fred Smerlas, Jim Rourke,
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By their attorneys,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed via the ECF filing system on February 27, 2015, and that as a result electronic notice of the filing was served upon all attorneys of record.

/s/ John J. Pentz
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