

BOB HOHLER

Billions-dollar NFL concussion settlement 'on the brink of collapse'



CRAIG F. WALKER/GLOBE STAFF/FILE 2018

Former Patriot Ronnie Lippett is among the 214 former NFL players whose claims have been denied by the NFL.

By [Bob Hohler](#) | GLOBE STAFF MARCH 30, 2018

A rebellion is underway in the billion-dollar NFL concussion case, as lawyers representing thousands of former players are asking a federal judge to curb the

league's influence in the process and correct flaws that have allegedly threatened the settlement's integrity and left many brain-injured players unpaid.

“The settlement is broken” and “on the brink of collapse,” said attorney Peter Shahriari, whose firm represents about 250 former players, in a document seeking the court's intervention.

Shahriari, one of more than 15 lawyers in the case who are pushing for action, claims the league is evading its obligations to compensate brain-injured players by waging “a campaign to hide the truth about the dangers of the game” and by calling the former players and their doctors deceptive and fraudulent.

NFL spokesman Brian McCarthy said the league, which settled the case last year for an estimated \$1 billion, is responsibly fulfilling its commitment but is indeed concerned about fraud.

“We are ensuring that legitimate claims are processed and paid in a timely way to those individuals and families who deserve these benefits,” McCarthy said. “We believe that it is entirely appropriate to continue to oppose fraudulent and unsupported claims. No legitimate claim has been rejected.”

The protesting lawyers are pressing for new leadership in their ranks and contend that the NFL's success in limiting payments to its head-injured former players is evident in the numbers.

As of March 26, 1,731 retired players had submitted claims for monetary awards for various types of brain damage since the process began nearly a year ago, but only 156 — less than 10 percent — have received payments totaling \$150 million.

In all, monetary claims by 350 former players have received initial approval for about \$380 million in payments, but nearly 200 players have yet to receive a check because

of various snags, including NFL appeals.

An additional 214 claims have been denied, including those of former Patriots greats Stanley Morgan and Ronnie Lippett.

Lawyers for the injured players are especially angry about the way they say the NFL has treated players with dementia —one of the forms of brain damage considered under the process. Only six of the 1,119 NFL retirees who filed monetary claims through March 26 for diagnoses of dementia — less than 0.6 percent — have been paid. Payments to four other players with dementia are in progress and monetary awards to 88 others have been approved but are delayed pending possible appeals.

“Sadly, the settlement is failing to provide a fraction of what the NFL promised,” attorney Gene Locks, who heads the Locks Law Firm and represents about 1,110 former players, wrote the judge.

“One year into implementation, the NFL has turned the settlement into a secret, privately litigated claim system that involves changing standards for claim packages, inconsistent and often improper standards of review, a black hole of audits, alleged deficiencies, anonymous opinions, denials, appeals, remands, and technical squabbles over what a valid diagnosis might be,” Locks alleged.

McCarthy said the NFL is adhering to the rules approved by the court and noted that the settlement is administered by an independent party, the BrownGreer firm of Richmond, Va., under court supervision.

Lawyers representing a majority of the players who sued the league have asked US District Judge Anita Brody, the Pennsylvania-based judge who presides over the case, to appoint the Locks firm as an administrative counsel to address their complaints.

Should Brody approve the request, she will decide whether Locks would effectively

replace the current court-approved lead counsels for the plaintiff class, the firms of Seeger Weiss and Anapol Weiss (no relation).

The Seeger firm has taken the lead in representing the former players and has been widely criticized for not fighting aggressively enough against the NFL over rules and moves that have negatively affected player claims.

In a sign of the discontent, the Anapol Weiss firm itself has joined the movement pressing for an administrative counsel to examine the complaints.

On Thursday, lawyer Christopher Seeger asked Brody to set Friday as a deadline for lawyers to file requests for her to appoint Locks. In response, Locks asked the judge to set April 4 as the deadline. She has yet to rule on the requests.

Amid the dispute, Seeger issued a statement citing what he described as the settlement's successes. He noted that about \$380 million in monetary awards have been approved and cited a report the NFL previously submitted to the court that suggested the payments exceeded the estimated \$298 million the league estimated it would pay in the first five years of the process.

"The concussion settlement is on track to cost the NFL far more than it projected, and former players are receiving the benefits they are entitled to and deserve," Seeger said. "The ever-increasing number of claims that are being approved totaling hundreds of millions of dollars show that the NFL concussion settlement is fulfilling its promise."

Seeger said delays that were caused by a large number of claims when the program began are easing. He predicted the process will run more smoothly after two additional physicians recently were approved to sit on an appeals panel.

Both Seeger and the NFL also attributed the delays in part to fraud. They cited a court-appointed special master's allegation last year that a California physician

misrepresented information submitted in monetary claims filed by 153 former players. Seeger said those players will be permitted to seek new evaluations.

The first motion to appoint Locks as an administrative counsel was filed two days after the Globe published a story on March 18 about Lippett, the former Patriot, and [his unsuccessful attempts to get payments from the concussion settlement.](#)

The latest request was filed Friday by Boston-based attorney Anthony Tarricone and his New York partner, Noah Kushlefsky. Their firm, Kreindler & Kreindler, represents more than 190 former NFL players.

“Sadly, the actual implementation of both the claims process and the [baseline testing] program have been riddled with delays and increasingly onerous requirements that are not part of the settlement agreement,” Tarricone and Kushlefsky wrote the judge.

Many players themselves are pushing for the court to intervene, with former NFL running back and Boston College star Fred Willis helping to circulate a petition that asks the judge to streamline the process.

The petition describes the miniscule number of dementia payments as “unjustifiable and brutal.” It also asks, “How many players will have to die while we wait for the promises made to be fulfilled?”

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