

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

IN RE NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY
LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Civ. Action No. 14-00029-AB

Plaintiffs,

v.

National Football League and
NFL Properties LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

**RESPONSE OF CO-LEAD CLASS COUNSEL TO PETITION OF THE MITNICK LAW
OFFICE FOR AN INDEPENDENT AWARD OF ATTORNEYS' FEES**

Co-Lead Class Counsel respectfully submits this response to the Petition of the Mitnick Law Office for an Independent Award of Attorneys' Fees ("Petition") (ECF No. 9990).

Given that it has now ruled on the allocation of common benefit attorneys' fees, including to Mr. Mitnick's firm (ECF No. 10019), the Court should deny the Petition as moot.¹

¹ It is unclear what Mr. Mitnick meant by an "Independent Award" of attorneys' fees or from what source the "Independent Award" was to be paid. This response is submitted on the assumption that Mr. Mitnick was seeking a fee award out of the available funds in the Attorneys' Fees Qualified Settlement Fund and other available monies for the payment of common benefit attorneys' fees that the undersigned presented at the May 15, 2018 fee allocation hearing. The

Even were it not moot, the Petition was, as the Court noted in its May 24, 2018 Explanation and Order, improper. *See* ECF No. 10019, at 17. Mr. Mitnick had been afforded an opportunity to respond to the undersigned's October 10, 2017 proposed allocation of common benefit fees (ECF No. 8447). He availed himself of that opportunity (ECF No. 8653), only to withdraw his counter-declaration shortly thereafter (ECF No. 8917; *see also* ECF No. 8934, at 2 n.1 (noting withdrawal)). At the time of the Petition's May 14, 2018 filing (the very eve of the allocation hearing), the time had long passed for the filing of common benefit fee petitions and objections to the undersigned's recommended fee allocations. The eleventh-hour filing of the Petition flouted the timetables that the Court established for the orderly briefing of common benefit fee issues.

At any rate, Mr. Mitnick had an opportunity to speak at the May 15 hearing, and he presented his argument that his work deserved more recognition than was reflected in Co-Lead Class Counsel's recommendation. In making his recommendation, the undersigned considered all of the points that Mr. Mitnick raised in his Petition – which were the same points he had made in his now-withdrawn counter-declaration – and the undersigned addressed Mr. Mitnick's arguments at the May 15 hearing. But far more importantly, notwithstanding that the Petition was filed at 11:00 p.m. the night before May 15 hearing, the Court, in the interest of fairness, considered Mr. Mitnick's arguments. It simply did not find them persuasive. ECF No. 10019, at 17.

Date: May 29, 2018

Respectfully submitted,

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CO-LEAD CLASS COUNSEL

undersigned is unaware of any other source of payment for such attorneys' fees. The undersigned assumes that Mr. Mitnick was not petitioning the Court for an award of fees directly from the NFL.

CERTIFICATE OF SERVICE

I, Christopher A. Seeger, hereby certify that a true and correct copy of the foregoing response was served electronically via the Court's electronic filing system on the date below upon all counsel of record in this matter.

Dated: May 29, 2018

Respectfully submitted,

/s/ Christopher A. Seeger
Christopher A. Seeger