EXHIBIT 5

NFL CONCUSSION SETTLEMENT

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION
No. 2:12-md-02323 (E.D. Pa.)

APPEALS FORM FOR MONETARY AWARD OR DERIVATIVE CLAIMANT AWARD CLAIM DETERMINATION

DATE OF NOTICE: December 4, 2017
DEADLINE TO APPEAL: January 3, 2018

I. SETTLEMENT CLASS MEMBER INFORMATION

Settlement Program ID			
Name:	First	M.I.	Last
Settlement Class Member Type	Retired NFL Football Player		
Primary Counsel	Lieff Cabraser Heimann & Bernstein, LLP		

II. REASON FOR THIS APPEAL

Here is a short statement explaining the reason(s) for my appeal. Raise all issues you wish to appeal. Issues not raised at this time will not be addressed by the Court.

Please see the attached appeal submission with exhibit filed on behalf of the NFL Parties.

III. HOW TO SUBMIT THIS FORM

You may submit this Appeals Form and any accompanying documents using one of these methods:

By Mail: (must be postmarked on or before the appeal deadline date)	NFL Concussion Settlement Claims Administrator P.O. Box 25369 Richmond, VA 23260
By Delivery: (must be placed with the carrier on or before the appeal deadline date)	NFL Concussion Settlement c/o BrownGreer PLC 250 Rocketts Way Richmond, VA 23231

If you would like to receive and submit forms like this one electronically online rather than on paper, go to www.NFLConcussionSettlement.com/Login.aspx, click the Create New User button and follow the instructions there to establish a secure online portal account with us.

IV. HOW TO CONTACT US WITH QUESTIONS OR FOR HELP

If you are represented by a lawyer, consult with your lawyer if you have questions or need assistance. If you are unrepresented and have any questions about this Form or need help, contact us at 1-855-887-3485 or send an email to ClaimsAdministrator@NFLConcussionSettlement.com. If you are a lawyer, call or email your designated Firm Contact for assistance. For more information about the Settlement Program, visit the official website at www.NFLConcussionSettlement.com to read the Frequently Asked Questions or download a copy of the complete Settlement Agreement.

Appeal of Claim Determination for

Claimant received a purported pre-Effective Date Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment (*i.e.*, early dementia) on June 3, 2015 from neurologist Dr. Michael A. Lobatz. The NFL Parties respectively appeal the Monetary Award Claim supported by that Qualifying Diagnosis because there is clear and convincing evidence that n did not exhibit the level of impairment necessary for the diagnosis alleged.

The Settlement Agreement permits a Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment outside of the BAP, but only if that diagnosis is "based on evaluation and evidence generally consistent with the diagnostic criteria set forth in" the Settlement Agreement's Injury Definitions. The purpose of that requirement is to ensure that Settlement Class Members—both inside and outside the BAP, and both before and after the Effective Date—are placed on equal footing when evaluating their medical conditions for possible compensation. Thus, while the battery of tests administered to a claimant outside of the BAP need not be identical to the battery of tests required under the BAP, the level of impairment necessary for a diagnosis of Level 1.5 Neurocognitive Impairment must be the same regardless.

In this case, results on the same tests called for under the BAP (as well as other tests) plainly failed to satisfy the criteria necessary for a diagnosis of Level 1.5 Neurocognitive Impairment in any cognitive domain.

Curiously, despite Dr. Lobatz's stated familiarity with the Settlement Agreement's criteria, Dr. Lobatz reported neuropsychological scores as scaled scores, rather than T scores (as called for under the Settlement Agreement). Even so, Dr. Lobatz failed to explain how scores—whether presented as scaled scores or otherwise—satisfied the required level of impairment. When scores are converted to T scores, they plainly do not meet, and are not generally consistent with, the required impairment criteria in any cognitive domain. Indeed, actually scored above average in subtests in at least four of the five cognitive domains in which he completed testing, and within the average range in nearly every other subtest administered.

For these reasons, and those set forth herein, the claim determination should be reversed.

Background

Claim Package was supported by a neurological evaluation and report by Dr. Lobatz ("Lobatz Report"), a neuropsychological evaluation and report by Dr. Hopper ("Hopper Report"), and three MRI scans and an MMPI-2-RF Report submitted by Dr. Robert Knol.

Dr. Hopper conducted her neuropsychological evaluations of on December 24, 29 and 30, 2014. Dr. Hopper determined that presented with a "Superior" range premorbid IQ—*i.e.*, "above average" in Settlement program parlance—and concluded that, at the time of his examination, "general intellectual ability, as measured by the WAIS-IV, [wa]s similar to others his age" and still "f[e]ll within the average range" at the time of his evaluation. (Hopper Report at 3, 8, 10.)

Based on neuropsychological test results, Dr. Hopper concluded that while he "performed better than his peers" or "similar to others his age" in many areas, including verbal comprehension, visual scanning, number sequencing, letter sequencing, cognitive flexibility and attention, his difficulty in "both auditory and visual memory" suggested "deficits in both speed of processing and memory." (*See id.* at 10-11.) Dr. Hopper also indicated that the results of these tests and history of head injury "suggest[ed] possible damage to brain," but that a "SPECT scan is recommended to identify impacted areas in order to effectively develop a treatment plan." (*See id.* at 11.)

Approximately six months later, on June 3, 2015, Dr. Lobatz conducted his clinical evaluation of . Based on that evaluation and the neuropsychological test results provided by Dr. Hopper, Dr. Lobatz diagnosed with Level 1.5 Neurocognitive Impairment, based on "test scores in the domains of learning/memory and executive functioning (processing)." (Lobatz Report at 34-35.)

I. Neuropsychological Test Scores Are Insufficient to Establish the Requisite Neurological Impairment in Any Cognitive Domain

As stated above, the Settlement Agreement requires that a claimant meet specific impairment criteria based on his premorbid intellectual functioning in at least two of five cognitive domains to support a Level 1.5 Neurocognitive Impairment diagnosis, which is intended to be the equivalent of early dementia. In this case, Dr. Hopper diagnosed with a "Superior"—*i.e.*, "above average"—premorbid IQ. (*See* Hopper Report at 9.) The threshold T scores for each of the five cognitive domains required to support a Level 1.5 Neurocognitive Impairment diagnosis with above average premorbid IQ are included below. (*See* Appendix.)

In his report, Dr. Lobatz concluded that scores met the criteria for "Level 1.5 based on test scores in the domains of learning/memory and executive functioning (processing)." (Lobatz Report at 34-35.) That is not so. In fact, test scores plainly did not meet the requisite impairment cutoffs for Level 1.5 Neurocognitive Impairment in either of these (or any other) domain.

Although Dr. Lobatz relied only on test scores in the two domains of Learning and Memory and Executive Function, for completeness, the NFL Parties explain why test scores failed to satisfy the requisite criteria under all five domains.[1]

1. Learning and Memory

Turning first to the domain of Learning and Memory, the Settlement Agreement specifies six tests to be administered in the BAP. (*See* Appendix.) Retired NFL Football Players with premorbid IQ must score below a T score of 37 in at least

[1] As stated, Dr. Hopper scored all of tests with a scaled score, as opposed to a T score. For ease of reference and comparison to the required criteria, scaled scores are converted in this appeal to T scores. The scores were converted by the following method: A scaled score is a mean of 10 and a standard deviation of 3, while a T score is a mean of 50 and a standard deviation of 10. *See* Exhibit 1.

three of these six tests with at least two of the three scores below a T score of 35. (*See id*.)

took all six contemplated tests—Logical Memory I, Logical Memory II, Visual Reproduction I, Visual Reproduction II, Verbal Paired Associates I and II. He did not generate a T score below 37 on any of the six tests. Specifically, generated scaled scores of 9, 7, 12, 10, 7 and 8, respectively. (*See* Hopper Report at 7-8.) These scores translate to T scores of approximately 46.6, 40, 56.3, 50, 40 and 43.6—all of which fall into the above average range. Accordingly, did not meet the criteria for any level of Neurocognitive Impairment in the Learning and Memory domain.

2. Executive Function

Dr. Lobatz also relied on neuropsychological test scores in the Executive Function domain to support his diagnosis. The Settlement Agreement specifies four tests to be administered in the Executive Function domain for the BAP: Similarities, Verbal Fluency (FAS), Trails B and the Booklet Category Test. (*See* Appendix.) Retired NFL Football Players with premorbid IQ must score below a T score of 37 in at least three of these four tests, or, alternatively, score below a T score of 37 in at least two of these four tests with at least one score below a T score of 30. (*See id*.)

Dr. Hopper administered three of the four contemplated Executive Function tests or tests generally consistent therewith: Similarities, Letter Fluency (in place of Verbal Fluency), and Trails B. (*See* Hopper Report at 7-8.) did not receive a T score below 37 on any of these three tests. Specifically, Dr. Hopper reported that generated scaled scores of 11 and 19 in the Similarities and Letter Fluency tests, respectively, which convert approximately to T scores of 53.3 and 80. Dr. Hopper confirmed that Letter Fluency score fell within the "Superior range." (*See id.* at 8.) While Dr. Hopper did not provide a numerical score of administered test generally consistent with Trails B, she stated that performance on the Trail Making Test was similar [sic] to others his age on all conditions he was presented [with]." (*See id*.)

Dr. Hopper did not administer any test generally consistent with the fourth Executive Functioning test—the Booklet Category Test—but that is of no consequence; the criteria requires at least two scores below a T score of 37, and did not achieve such a score on any of the three generally consistent tests administered in the Executive Function domain. Thus, —regardless of any fourth test—cannot satisfy the required impairment criteria in the Executive Function domain for the diagnosis alleged.

3. Complex Attention

The Settlement Agreement specifies six tests to be administered in the domain of Complex Attention for the BAP. (*See* Appendix.) Retired NFL Football Players with premorbid IQ must score below a T score of 37 in at least three of these six tests with at least two of the three scores below a T score of 35. (*See id*.)

took all six tests—Digit Span, Arithmetic, Letter Number Sequencing, Coding, Symbol Search and Cancellation. (*See* Hopper Report at 8.) He

generated scaled scores of 10, 12, 14, 8, 3 and 11, respectively, which convert approximately to T scores of 50, 56.3, 62, 43.6, 28.6 and 53. Accordingly, only one of T-scores fell below 37, and he therefore cannot meet the criteria for Level 1.5 Neurocognitive Impairment in the Complex Attention domain.

4. Visual Perception

The Settlement Agreement specifies three tests to be administered in the domain of Visual Perception for the BAP. (*See* Appendix.) Retired NFL Football Players with premorbid IQ must score below a T score of 40 in all three tests or, alternatively, score below a T score of 40 in two of the three tests with at least one score below 37.

Dr. Hopper administered all three Visual Perception tests on —Block Design, Visual Puzzles and Matrix Reasoning. (*See* Hopper Report at 8.) generated scaled scores of 11, 9 and 8, respectively, which translate approximately to T scores of 53, 46.6 and 43.6. Accordingly, none of his T scores were below a T score of 40 and he therefore did not meet the criteria for Level 1.5 Neurocognitive Impairment in the Visual Perception domain; to the contrary, his scores once again were in the above average range.

5. Language

Finally, in the Language domain, the Settlement Agreement specifies three tests to be administered in the BAP: the Boston Naming Test, BDAE Complex Ideational Material and Category Fluency (Animal Naming). (*See* Appendix.) Players with premorbid IQ must score below a T score of 40 in all three tests or, alternatively, below a T score of 40 in two of the three tests with at least one score below a T score of 37. (*See id*.)

Dr. Hopper administered only two Language tests or tests that even arguably could be considered generally consistent—Boston Naming and DKEFS Category Fluency. (*See* Hopper Report at 9.) generated a scaled score of 16, which converts approximately to a T score of 70, on the Category Fluency Test. Dr. Hopper confirmed that this score is "within the Above Average Range." (*See id.* at 8.) Although Dr. Hopper did not provide a numerical score for the Boston Naming Test, she stated in her report that " was administered the Boston Naming Test, [and] . . . [h]is performance on this measure was similar to others his age, indicating that he does not have any difficulty with word retrieval." (*See id.* at 9.) Dr. Hopper did not administer any test generally consistent with the third Language test specified in the Settlement Agreement—the BDAE Complex Ideational Test—but, as with in the Executive Function domain, it is of no consequence because already cannot meet the diagnostic criteria for this domain based on his lack of any T-scores below 40 in the two administered tests. Accordingly—and consistent with his scores in the other four domains— did not meet the criteria for Level 1.5 Neurocognitive Impairment in the Language domain.

In sum, test scores failed to satisfy the required criteria for Level 1.5 Neurocognitive Impairment in any of the five cognitive domains based on the tests required for the BAP. Put differently, if participated in the BAP and

achieved these same results, he indisputably would not qualify for a Level 1.5 Neurocognitive Impairment diagnosis. To allow claim to proceed would thus greatly diminish the integrity of the Settlement program by giving players outside the BAP an unfair and arbitrary advantage over those who participate in the BAP.[2]

Conclusion

For the reasons set forth herein, the Monetary Award determination for the claim submitted by should be reversed. If believes that he is entitled to a Qualifying Diagnosis, he should participate in the complimentary Baseline Assessment Program for evaluation and potential diagnosis. Denial will not result in any prejudice to to the extent that he is entitled to a Qualifying Diagnosis today or in the future. In fact, will remain eligible to recover the same Monetary Award he applied for in this Claim Package for another ten years given that he is only 35 years old and the Monetary Award deductions by age do not begin until age 45.

Dated: January 3, 2018

Respectfully submitted,

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[2] Dr. Hopper and Dr. Lobatz's conclusions of impairment are curious given clear failure to establish the requisite levels of impairment. For example, Dr. Hopper concluded that was impaired in domains where his test scores plainly fell within (or even above) normal limits, or where only a single outlier score fell below normal limits. Specifically, Dr. Hopper determined that had deficits in Processing Speed based on a single outlier score. (*See* Hopper Report at 10.) But scored average or above average on all Processing Speed subtests with the exception of only one test, Symbol Search. (*See id.* at 5.) One outlier subtest score does not reasonably support Dr. Hopper's conclusion that is impaired in this domain. Similarly, Dr. Hopper concluded that was impaired in the Learning and Memory domain tests, despite the fact that all of his scores on these tests fell within or above the normal limits. (*See id.* at 6-7.)

APPENDIX

Neuropsychological Test Score Criteria by Domain of Cognitive Functioning

Domain/Test	**Ability**
Complex Attention/Speed of Processing (6 Scores)	
Digit Span	Attention & Working Memory
Arithmetic	Mental Arithmetic
Letter Number Sequencing	Attention & Working Memory
Coding	Visual-Processing & Clerical Speed
Symbol Search	Visual-Scanning & Processing Speed
Cancellation	Visual-Scanning Speed
Executive Functioning (4 scores)	
Similarities	Verbal Reasoning
Verbal Fluency (FAS)	Phonemic Verbal Fluency
Trails B	Complex Sequencing
Booklet Category Test	Conceptual Reasoning
Learning and Memory (6 scores)	
Logical Memory I	Immediate Memory for Stories
Logical Memory II	Delayed Memory for Stories
Verbal Paired Associates I	Learning Word Pairs
Verbal Paired Associates II	Delayed Memory for Word Pairs
Visual Reproduction I	Immediate Memory for Designs
Visual Reproduction II	Delayed Memory for Designs
Language	
Boston Naming Test	Confrontation Naming
BDAE Complex Ideational Material	Language Comprehension
Category Fluency	Category (Semantic) Fluency
Visual-Perceptual	
Block Design	Spatial Skills & Problem Solving
Visual Puzzles	Visual Perceptual Reasoning
Matrix Reasoning	Visual Perceptual Reasoning

Impairment Criteria: *Above Average* Estimated Intellectual Functioning (A3 – E3)

A3. Complex Attention (6 test scores)
1. Level 1 Impairment: 2 or more scores below a T score of 35
2. Level 1.5 Impairment: meet for Level 1 and 3 or more scores below a T score of 37
3. Level 2 Impairment: 3 or more scores below a T score of 35
B3. Executive Function (4 test scores)
1. Level 1 Impairment: 2 or more scores below a T score of 37
2. Level 1.5 Impairment: meet for Level 1 and 3 or more scores below a T score of 37; or meet for Level 1 and 1 score below a T score of 30
3. Level 2 Impairment: 2 or more scores below a T score of 30
C3. Learning and Memory (6 test scores)
1. Level 1 Impairment: 2 or more scores below a T score of 35
2. Level 1.5 Impairment: meet for Level 1 and 3 or more scores below a T score of 37
3. Level 2 Impairment: 3 or more scores below a T score of 35
D3. Language (3 test scores)
1. Level 1 Impairment: 2 or more scores below a T score of 40
2. Level 1.5 Impairment: 3 scores below at T score of 40; or meet for Level 1 and 1 score below a T score of 37
3. Level 2 Impairment: 2 or more scores below a T score of 37
E3. Visual-Perceptual (3 test scores)
1. Level 1 Impairment: 2 or more scores below a T score of 40
2. Level 1.5 Impairment: 3 scores below at T score of 40; or meet for Level 1 and 1 score below a T score of 37
3. Level 2 Impairment: 2 or more scores below a T score of 37

EXHIBIT 1

T-Score Equivalents Table

Conversion of T-Scores to Standard Scores (Mean = 50; Standard Deviation = 10)

T-Score (M=50; SD=10)	**Standard Score (SS)** (M=100; SD = 15)		**T-Score (M=50; SD=10)**	**Standard Score (SS) (M= 100; SD= 15)**
90	160		50	100
89	158		49	98
88	157		48	97
87	155		47	95
86	154		46	94
85	152		45	92
84	151		44	91
83	149		43	89
82	148		42	88
81	146		41	86
80	145		40	85
79	143		39	83
78	142		38	82
77	140		37	80
76	139		36	79
75	137		35	77
74	136		34	76
73	134		33	74
72	133		32	73
71	131		31	71
70	130		30	70
69	128		29	68
68	127		28	67
67	125		27	65
66	124		26	64
65	122		25	62
64	121		24	61
63	119		23	59
62	118		22	58
61	116		21	56
60	115		20	55
59	113		19	53
58	112		18	52
57	110		17	50
56	109		16	49
55	107		15	47
54	106		14	46
53	104		13	44
52	103		12	43
51	101		11	41
			10	40

Directions:

Locate the T-Score you want to convert in the left column. Read across to the right column to find the corresponding Standard Score.

APPENDIX C

Conversion Table: Scaled Scores to Standard Scores*

Scaled Score (M = 10; SD = 3)	Standard Score (M = 100; SD = 15)
19	145
18	140
17	135
16	130
15	125
14	120
13	115
12	110
11	105
10	100
9	95
8	90
7	85
6	80
5	75
4	70
3	65
2	60
1	55

*The formula for converting *t*-scores to standard scores is *t*-score × 1.5 + 25.