

**FINDINGS AND REMEDIES OF THE SPECIAL MASTERS
PURSUANT TO SECTION 10.3(i) REGARDING 66 MONETARY AWARD CLAIMS**

I. INTRODUCTION.

Pursuant to Section 10.3 of the Settlement Agreement and Rule 7(b) of the Rules Governing Audit of Claims (the “Audit Rules”), the Claims Administrator audited 62 Monetary Award claims supported by neuropsychological testing from seven neuropsychologists (referred to hereinafter as “these neuropsychologists”) who used substantially the same template report used by Dr. Serina Hoover (for more information on Dr. Hoover, see Findings and Remedies of the Special Master Pursuant to Section 10.3(i) Regarding 153 Monetary Award Claims (Document 9507)). These neuropsychologists are: Drs. Daniel Zehler, Charles Furst, Therese Moriarty, Julia Johnson, Julie Keck-Olson, Nicole Anders and Phillip Pines. The Claims Administrator’s investigation included reviews of relevant records, interviews with relevant individuals, and consultation with an Appeals Advisory Panel Consultant (“AAPC”).

The Claims Administrator concluded that these neuropsychologists misrepresented information submitted to the Program in connection with the 62 Monetary Award claims. On 2/28/18, the Claims Administrator referred these 62 Monetary Award claims to the Special Masters for review and findings pursuant to Section 10.3(i) of the Settlement Agreement and notified the affected Settlement Class Members. Since making the referral, the Claims Administrator identified an additional four claims that rely on evaluations from one of these neuropsychologists and these four will be subject to the same treatment as the 62 claims addressed in the Audit Report. The Special Masters reviewed the Record of the Audit Proceeding and issue these findings and remedies.

II. REVIEW OF FACTS.

The Claims Administrator began auditing claims supported by neuropsychological testing from these neuropsychologists after finding that the neuropsychological reports that they used were remarkably similar in their form and in their actual wording to the report template that Dr. Serina Hoover used. The Claims Administrator sought to determine whether the testing results from these neuropsychologists presented misrepresentations, omissions, or concealment of material fact.

The Claims Administrator asked an AAPC to review seven sample reports from these neuropsychologists. The AAPC concluded that these neuropsychologists’ reports were problematic as follows:

1. Their assessments often violated standardized procedures.
2. They ignored test results indicating invalid performances.
3. They accepted player self-reports of impairment at face value, despite indications that players exaggerated or demonstrated unbelievable symptoms in light of the standardized, validated tests.

4. Even if the players' test scores were valid, the doctors did not always reach diagnostic conclusions suggested under the Settlement Agreement framework.
5. They grossly inflated the time they spent on assessments.

The Claims Administrator attempted to interview these neuropsychologists and report the following:

Drs. Furst and Moriarty stated that they got the report template from Peter Shahriari of the Law Office of Hakimi & Shahriari (f/k/a Top NFL Lawyers). Dr. Gabichvadze, the director of the Psych Testing Center where Drs. Olsen-Keck, Pines, and Anders performed neuropsychological evaluations of players, stated that the doctors at the Center also received the template from Mr. Shahriari. Dr. Johnson was too busy for an interview and asked the Claims Administrator to direct any questions to Mr. Shahriari. Dr. Zehler informed the Claims Administrator that his employer was an acquaintance of Dr. Hoover and that she instructed him on how to perform his evaluations; Dr. Zehler used Dr. Hoover's psychometrists.

Regarding evaluation timing, Drs. Zehler and Keck-Olson performed multiple test sessions on the same day, which the AAPC stated devalues the reliability of the submitted reports. Even if some of Dr. Zehler's recorded hours should instead be attributed to the psychometrists Dr. Hoover recommended, the multiple evaluations on the same day suggest that the time billed for the testing was inflated. Table 1 lists the dates and times Dr. Zehler spent testing and evaluating the players, excluding report preparation time, which Dr. Zehler says occurred on another day:

Table 1	Multiple Players Dr. Zehler Evaluated on the Same Day	
Testing Date	Players Examined	Total Hours Spent
5/27/17	4	52.25
5/31/17	3	39
6/7/17	3	39.25
5/2/17	2	20
6/10/17	2	27.25
8/9/17	2	27.25
8/16/17	2	25

Dr. Keck-Olson evaluated and tested two players apiece on 11/21/16 and 12/1/16 for 15 hours each. Dr. Keck-Olson's reports state that testing, scoring and interpreting testing, and report preparation all occurred on the same date. She said she did all the testing herself. For all 16 of her reports, Dr. Keck-Olson indicated that testing took seven hours, scoring and interpretation took three hours and report preparation took five hours. Performing 30 hours of work in one day is impossible and suggests inflated billing. These dates and times spent are listed in Table 2:

Table 2	Multiple Players Dr. Keck-Olson Evaluated on the Same Day		
Player Testing Date	Players Examined	Total Hours Spent	
11/21/16	2	30	
12/21/16	2	30	

The Claims Administrator also noted potential discrepancies between players' Level 2 Neurocognitive Impairment determinations by these neuropsychologists, and the activities and/or employment reported by the players. According to an Appeals Advisory Panel ("AAP") member, a player's continued ability to function independently outside the home should be considered a "red-flag" that a diagnosis of Level 2 Neurocognitive Impairment may not be consistent with the clinical abilities. Twelve claims were analyzed in which the player received a Level 2 Neurocognitive Impairment Qualifying Diagnosis but told the neuropsychologist that he was working or studying. In seven of these instances, the players engaged in significant employment or other activities.

III. CONCLUSION AND REMEDIES.

Under Section 10.3(i) of the Settlement Agreement, the Special Masters' review and findings may include the following relief, without limitation: (a) denial of the claim in the event of fraud; (b) additional audits of claims from the same law firm or physician (if applicable), including those already paid; (c) referral of the attorney or physician (if applicable) to the appropriate disciplinary boards; (d) referral to federal authorities; (e) disqualification of the attorney, physician and/or Settlement Class Member from further participation in the Class Action Settlement; and/or (f) if a law firm is found by the Claims Administrator to have submitted more than one fraudulent submission on behalf of Settlement Class Members, claim submissions by that law firm will no longer be accepted, and attorneys' fees paid to the firm by the Settlement Class Member will be forfeited and paid to the Settlement Trust for transfer by the Trustee into the Monetary Award Fund.

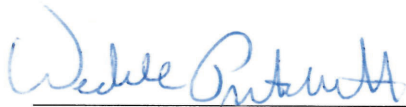
Upon review, the Special Masters find that claims relying on these neuropsychologists' testing may involve a misrepresentation, omission, or concealment of a material fact. Accordingly, and pursuant to Section 10.3 of the Settlement Agreement and Audit Rule 31(i), the Special Masters order these remedies for the 66 claims based on testing by these neuropsychologists (and any future claim resting on neuropsychological testing by one of these neuropsychologists):

- 1. Individualized Assessment by the AAP:** The Monetary Award claims that rely on neuropsychological testing by any one of these neuropsychologists shall be directed to a single member of the AAP, with consultation from a single AAPC, for individualized assessment.

2. **Final Determination:** After this AAP review, the Claims Administrator will issue an Award or Denial Notice on each claim, which will be subject to appeal under Section 9.5 of the Settlement Agreement.

It is noted that some of these 66 Monetary Award claims are subject to another Audit investigation or an Audit Proceeding before us. These claims will not proceed under the remedy above unless and until the other Audit issues are resolved without denial of the claim.

Several players who were seen by one of these neuropsychologists have withdrawn their claims. Under Audit Rule 13, a Retired NFL Football Player with a claim in Audit may at any time withdraw that claim. As is always the case, that player may be examined by a Qualified BAP Provider (if eligible for the BAP) or by a Qualified MAF Physician and, if found to have a Qualifying Diagnosis, substitute a new Diagnosing Physician Certification, including a medically indicated date of diagnosis (that may precede the date of the new exam), to the Claims Administrator for review in the claims process.



Wendell Pritchett, Special Master

9/11/18
Date



Jo-Ann Verrier, Special Master

9/11/18
Date