

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

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IN RE: NATIONAL FOOTBALL	:	No. 2:12-md-02323-AB
LEAGUE PLAYERS' CONCUSSION	:	
INJURY LITIGATION	:	MDL No. 2323

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	:	<b>Hon. Anita B. Brody</b>
THIS DOCUMENT RELATES TO:	:	
ALL ACTIONS	:	

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**REPORT OF THE SPECIAL MASTERS**

1. Wendell E. Pritchett and Jo-Ann M. Verrier, as Special Masters appointed by the Court on July 13, 2016 (ECF 6871) pursuant to Article X of the Class Action Settlement Agreement (Settlement Agreement) in this matter, submit this Report to the Court alongside Status Reports from the Claims Administrator, Brown Greer LLC ("Claims Administrator"), and the Baseline Assessment Program Administrator, Garretson Resolution Group ("BAP Administrator"; now known as Epiq Mass Tort), to provide an update on the Agreement's effectuation and progress.

2. The Special Masters have reviewed the 4th Quarter 2019 Status Reports submitted by both Administrators. These accurately and thoroughly reflect the work of both firms.

3. In the following, the Special Masters augment their weekly reports to the Court by highlighting work detailed in these Status Reports and commenting on work outside of the Administrators' purview.

#### **Overall Administration**

4. The Special Masters continue to participate in bi-weekly calls with the Claims Administrator and the BAP Administrator. Additionally, both Administrators make themselves available for additional discussions and communications as necessary to support the fair and efficient administration of the Settlement Agreement.

5. The Special Masters remain constantly informed about the progress of all Claims through the Claims Administrator's robust systems, including its published reports as found on the NFL Concussion Settlement website.

6. Each month, after review with the Claims Administrator, the Special Masters approve the monthly disbursement report to the Trustee authorizing payments of Monetary Awards to Settlement Class Members (SCMs) as well as to relevant attorneys, lienholders, and third-party funders where appropriate.

7. The Special Masters are informed about the BAP Administrator's management of requests for and scheduling of Baseline Assessment Program examinations as well as of the BAP Administrator's ongoing work to ensure that trained BAP authorized neuropsychologists and neurologists complete their work effectively. The BAP Administrator also oversees the Supplemental Benefits program for Players within the Settlement Agreement.

8. The Special Masters ensure that the work of the Administrators is communicated to the Court via a weekly report and other communication and ensure the Court's input into matters arising in the efficient and fair administration of the Settlement Agreement.

**Baseline Assessment Program Milestones**

9. The BAP Administrator has received requests for appointments, as noted in its report, from 57.8% of Players eligible to receive a BAP examination.

10. The BAP Administrator oversees a Supplemental Benefit program for Players diagnosed with Level 1 Neurocognitive Impairment under the Settlement Agreement. This program provides medical attention to Players. As part of this program, the BAP Administrator is currently piloting a cognitive rehabilitation therapy, in response to request from participating Players.

11. As of December 2, 2019, 4,044 Players have had full BAP examinations completed, resulting in 89 Level 2 diagnoses, 128 Level 1.5 diagnoses, 131 Level 1 diagnoses (entitling these Players to Supplemental Benefits under the Settlement Agreement), and 3,696 cases with no diagnosis.

**Claims Administrator Milestones**

12. As of December 2, 2019, the Claims Administrator issued 1,025 Notices of Monetary Award, totaling \$714,132,721. Nine hundred twenty one of these have been paid as of December 2, 2019, for a total payment to Settlement Class Members of \$611,945,878.

### **Audits**

13. Under the terms of Section 10.3 of the Settlement Agreement, the Special Masters review determinations of the Claims Administrator concerning misrepresentation, omission, or concealment of a material fact in connection with a Monetary Award Claim.

14. The Claims Administrator continues its careful and detailed recommendations of Audits to the Special Masters.

### **Special Investigator**

15. Upon a motion of the NFL Parties and at the request of the Special Masters, the Court appointed a Special Investigator on December 10, 2018 (ECF 10355). The Special Investigator has four open matters for investigation out of the Audit process.

16. The Special Masters have ongoing communication, formalized in a regular conference call, with the Special Investigator, to discuss ongoing investigations, proposed investigations, and results of investigations.

17. The Special Masters have initiated reports to the Parties on a regular basis concerning the progress and processes of the Special Investigator.

18. The Special Masters collaborate with Special Master Susan Lin, appointed by the Court on July 15, 2019, to advise the Court on matters regarding the rights of those engaged in these investigations.

### **Appeals**

19. Alongside the Special Masters' authority to hear appeals of Registration determinations under the terms of Section 10.1(b)(i)(3) of the Settlement Agreement, the Court

has directed the Special Masters to hear appeals of the Claims Administrator's decisions on Claims pursuant to the Rules Governing Appeals of Claim Determinations.

20. To date, approximately 5.4% of payable awards have been appealed by Players, 12.8% of payable awards have been appealed by the NFL, and 30% of denied claims have been appealed by Players. The Special Masters continue to review and issue decisions on these appeals.

#### **Statute of Limitations Matters**

21. The Special Masters are charged, under the Rules Governing Statute of Limitations Proceedings, with deciding whether claims by SCMs on behalf of Players who died prior to January 1, 2006, are eligible for Monetary Awards pursuant to Article 6.2(b) of the Settlement Agreement.

22. The Special Masters are working closely with the Court and the Parties to ensure a careful and efficient review of these matters; the final briefing deadline for response briefs is in late January.

#### **Monitoring of the Qualified Attorneys' Settlement Fund**

23. Pursuant to order of the Court, the BAP Administrator serves as Trustee of an Attorney's Fees Qualified Settlement Fund under Section 23.7 of the Settlement Agreement. The Fund is established for the payment of attorneys' fees.

24. The Special Masters request and review reports on the performance of the Attorneys' Fees Qualified Settlement Fund to assure timely availability of funds, pursuant to the Settlement Agreement.

25. The Court appointed a Pro Se Liaison to assist pro se Representative Claimants who are pursuing claims involving Statute of Limitations matters. The Pro Se Liaison's fees are paid from interest earned on the Qualified Attorneys' Settlement Trust. The Special Masters review the Pro Se Liaison's time on a monthly basis to ensure billed work is incurred in the fair and efficient administration of the Settlement Agreement, per the Court's appointment.

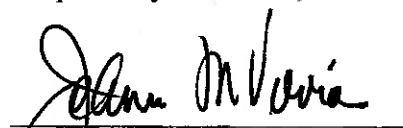
**Education Fund**

26. At the request of the Court, the Special Masters have been working with Class Counsel and Counsel for the NFL Parties to establish, pursuant to Article XII of the Settlement Agreement, programs promoting safety and injury prevention with respect to football players. These programs will be paid for out of a Fund established under Article XII and funded by the NFL Parties.

27. This process is proceeding with cooperation and support of all involved. The Parties have drafted proposals and received feedback from the Special Masters and the Court. We expect to bring a proposal for the effectuation of this requirement of the Settlement Agreement to the Court in the weeks ahead. This proposal will include suggestions for the active participation of Retired NFL Football Players in the Education Fund initiatives.

  
Wendell E. Pritchett  
Special Master

Respectfully submitted,

  
Jo-Ann M. Verrier  
Special Master