

Lawyers, others vie for pieces of NFL concussion settlement

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The \$1 billion [NFL concussion settlement](#) -- nearly six years in the making yet still to deliver a penny to former players and their families for brain injuries stemming from football -- is revealing the underbelly of the legal system to former players and their families.

As they finally close in on being compensated for brain injuries stemming from football, those former players and their families have been facing an onslaught of issues -- from attorney retainer fees that could reach as high as 40 percent to lawyers poaching clients from competing attorneys; from a slew of opportunists seeking a piece of the pie to lawyers effectively threatening to sue former players to ensure they get their fees.

"This case has done nothing but show lawyers at their worst," said Jason Luckasevic, a Pittsburgh attorney who filed the first concussion-related case against the NFL in 2011 and represents about 500 former players.

Said another attorney, who spoke to Outside the Lines only on the condition of anonymity: "It's a feeding frenzy right now. It's dirty out there, and I don't like it. I have to shower twice a day."

In 2011, Luckasevic and two other lawyers filed the first of what would become hundreds of lawsuits brought by thousands of former players and their families, alleging that the NFL had concealed the link between football and brain damage. A settlement was announced in 2013; however, initial concerns by the judge overseeing the settlement about its adequacy and a series of objections kept the case from being finalized until just a few months ago.

Recent interviews by Outside the Lines with lawyers and wives of former players, and a review of dozens of court records, texts and emails reveal behind-the-scenes clashes that

have ratcheted up concerns from families that the lawyers will be the ones mainly cashing in on player payouts:

- Two dozen wives of former players recently sent a plea to the judge overseeing the case, asking her to address concerns that legal fees will be cutting heavily into money that was supposed to go their families. They cited lawyers charging "exorbitant" retainer fees to players and their families despite the same lawyers being eligible to collect from a \$112.5 million fund set aside to pay attorneys who worked on the case. Attorneys also stand to collect an additional 5 percent surcharge for future work related to the case.
- Poaching of players and their families by competing attorneys has become so pervasive, with attorneys promising lower contingency fees and bigger payouts, that lawyer-on-lawyer battles have broken out, putting players in the middle of the disputes. A slew of motions have been filed by lawyers seeking to place liens on the players who left them so they can collect a percentage of their former clients' awards. Players and their families worry they will be left with little after they pay off the current and former lawyers.
- A virtual cottage industry of opportunist lawyers, doctors, predatory lenders and other professionals has cropped up. The lead counsel in the case has sought injunctions against at least two companies, asking the judge to punish them for using "false and misleading" tactics to try to gain business.

Christopher Seeger, the founding partner of Seeger Weiss in New York and the architect of the billion-dollar settlement between the players and the NFL, has extensive experience leading massive class-action lawsuits. He told *Outside the Lines* the amount of poaching of clients is unprecedented.

"I've seen it in the past, but not even close" to this, Seeger said. "I think it's mostly a function of the fact that it's former NFL players. Lawyers really gravitate toward them and like representing them, like being around them and saying they represent them. There's just something about this NFL case that attracts it."

At the core of the dispute is the \$112.5 million set aside for lawyers who played roles in negotiating the settlement. That money is being paid by the NFL. Apart from that, plaintiffs' attorneys have individual retainer fees ranging anywhere from 15 to 40 percent for work done on behalf of their clients, according to some plaintiffs and court filings; that cut is expected to come out of whatever monies the players or their families are awarded.

The \$1 billion NFL concussion settlement resulted from hundreds of lawsuits brought by thousands of former players and their families, alleging that the NFL had concealed the link between football and brain damage. AP Photo/Chuck Burton
In the case of about two dozen lawyers or law firms, attorneys stand to collect both from the \$112.5 million fund and from their individual clients. Seeger, who says he has only about two dozen clients, has said he will not collect on individual retainers. In 2013,

Outside the Lines reported that [he had tried to do so](#) from at least one client. Seeger said it had been a mistake. Within hours of the story being reported, the judge appointed a special master to evaluate "financial aspects" of the settlement.

The \$112.5 million lawyer fund and the 5 percent surcharge still require court approval.

Last week, Liz Nicholson Sullivan says she coordinated a phone call with about 40 wives of former NFL players who are eligible to receive payouts from the settlement. Sullivan's husband, Gerry, was an offensive lineman with the Browns from 1974 to '81. By 2005, doctors had determined Sullivan had a "total and permanent" disability related to chronic brain injury from playing football.

As with many of the former players, Sullivan, now unable to handle his affairs, turned the management of his legal case over to his wife. When Liz and the other women spoke on the phone, they all shared similar stories -- of being solicited by other lawyers and predatory lenders, of feeling like they were being overcharged, of concerns that attorneys would be getting rich off their cases while they continued to scramble to pay for care.

They were all well aware of the circumstances of Kevin Turner, a former running back who was a class representative in the case and died last year from ALS. Turner's estate is battling with Steven Marks of the firm Podhurst Orseck. As one of the lead attorneys in the case, Marks stands to collect from the \$112.5 million the NFL has committed to plaintiffs' lawyers; but according to court filings, Marks' separate retainer agreement with Turner also would entitle him to 40 percent of the \$5 million the estate is in line to receive. Marks stated in filings his firm only intended to take 25 percent. The New York Daily News first reported the dispute.

In a letter sent to Judge Anita Brody, dated March 20 and signed by Liz Nicholson Sullivan and dozens of other women, the wives referred to the Turner case and said they "felt compelled as a group of plaintiffs' wives to ensure that the Court is aware of the existence of thousands of similar fee disputes among Class plaintiffs and Class Counsel involved in this settlement."

The letter added, "For many of us, our husband's medical care is dependent upon these monetary awards and they cannot survive another delay. ... As wives and caregivers, we have struggled to keep the family unit intact on a shoestring budget, while managing the burden of their costly care. Our husbands need every penny they are entitled to receive out of this settlement. ... Many of our men are now either gone or completely 'lost' to us. We have chosen to stand by them because we realize they were victims."

Tia McNeill was among those who signed the letter. McNeill's husband, Fred, played 12 seasons with the Minnesota Vikings and died in 2015 after suffering for years from dementia. The McNeills are represented by Luckasevic, and while Tia says she has great respect for the efforts and time Luckasevic has put into the case, she's struggling with the idea that Luckasevic will get a cut of the \$112.5 million, while still taking 25 percent of their payout.

"I feel like we were represented and [taken] care of, and now there is contention with this person repping you," McNeill says. "This was his case. He filed this for his firm, so part of me feels bad for him -- but it doesn't feel [25] percent bad for him. I'm just being honest."

Luckasevic, who says he first started exploring a possible suit against the NFL back in 2006, said he understands the frustration but insists he stands to get very little from the \$112.5 million lawyer fund. A filing with the court suggests he could end up with about \$700,000, which he said is a pittance for the number of hours he has put into the case.

"I'll waive the common benefit money so I can get 25 percent," said Luckasevic, whose fury is mostly directed at Seeger and the leaders of the case. "What the hell, I have \$1.7 million of my firm's costs into this case, and I'm gonna get \$700,000?"

Charles Zimmerman says his firm, Zimmerman Reed LLP, represents about 350 to 400 players. Zimmerman stands to benefit significantly from the \$112.5 million fund, as well as through individual retainer fees, but he says that's not unusual or problematic in class-action cases.

"That's not double dipping," Zimmerman told Outside the Lines. "It happens in every case."

He said that in a different case he worked on, "the common benefit fund applied to people who did common benefit work, and the contingency was for individual contracts with clients. You can't get paid twice for the same work, you can get paid for each. They're very separate. You're getting paid to do work on an individual's medical case, submitting it for compensation and advising and directing the individual injury case through different channels it has to go through to get it paid. That happens in law, in every fund that you've ever seen developed in a mass tort case."

Luckasevic and other lawyers have complained that Seeger is effectively the puppet master over the \$112.5 million. Assuming the judge approves the plan, Seeger will oversee the distribution of the money. Luckasevic believes he should be compensated for the thousands of hours he spent researching and building toward filing in 2011.

"If he really believes that to be true," said Seeger, "he needs to file the papers and make that argument to the judge and ask her to award him whatever he thinks is fair." Seeger also suggested that Luckasevic has overstated his value to the case.

Luckasevic, several other lawyers and many of the wives interviewed are particularly angered by an additional 5 percent "hold back" that Seeger has requested to cover future legal work that could be done over the 65 years the deal is in play.

Kevin Turner, a former running back who was a class representative in the NFL concussion case, died last year from ALS. [Andy Lyons/Getty Images](#)

Court records show the 5 percent -- which could amount to as much as \$50 million -- would be drawn from the individual lawyers' retainer fees rather than from the players' awards; or, if a player is working without an attorney, it would come out of their share.

"Why would they need an extra 5 percent when they spent all that time negotiating for the \$112 million?" said Catherina Watters, a lawyer who represents several players in disability claims and is working pro bono in the concussion case for Steve Smith, a former NFL running back suffering from ALS. Watters, whose husband is former NFL running back Ricky Watters, helped draft the letter with Nicholson, and she says she told the wives their focus now should be less on any ire they feel toward the league and more on "what the lawyers are doing to our players. Why are they continuing to take?"

Several lawyers, including Luckasevic, filed objections to the 5 percent hold back, asking the judge either to dump it altogether or reduce it to as low as 1 percent.

"You want my \$700,000 [from the common fund], Chris, have it, choke on it," says Luckasevic. "Just don't take 5 percent of my hard work. You didn't put this case together, you didn't sign up guys that were truly injured. You didn't rep them for 5½ years. I did that work; don't go reaching into my pants."

Said Seeger: "We believe the set-aside is appropriate, as substantial future efforts will be necessary for the common benefit of the class over the 65-year life of the settlement."

Seeger has engendered considerable enmity from fellow attorneys throughout the case, and his request for his share of the \$112.5 million probably has done nothing to ease those feelings. He calculated his firm put in more than 21,000 hours over the past four years, amassing \$18,124,869.10 in fees alone. Seeger himself billed for 6,955 hours -- or the equivalent of 290 full days -- at a rate of \$985 an hour, for approximately \$6,851,561.50 in fees. The petition for fees asks the judge to assign a multiplier of 2.6 to the fees and expenses, which, if applied, would garner Seeger's firm more than \$51 million.

In addition to playing a lead role in the lawsuit against the NFL, Seeger and his firm, according to the firm's website, have had ongoing leadership roles over the past several years in dozens of class-action cases, including several involving pharmaceutical products.

Asked about his fees and the amount of money he stands to gain from the NFL case, Seeger said, "I can tell you 100 percent confidently that I worked exclusively on the NFL for two years. I lived this case, and I'm still kind of living it."

http://www.espn.com/espn/otl/story/_/id/19029607/billion-dollar-nfl-concussion-settlement-turns-nasty-lawyers-others-vie-pieces-payouts-players