

NFL Players Have Until August 7 To Register Concussion Claims



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I cover the intersection of sports and money. Opinions expressed by Forbes Contributors are their own.



Hines Ward sits on the bench after suffering a concussion during the game against the New England Patriots on November 14, 2010. (Photo by Jared Wickerham/Getty Images)

August 7, 2017 should have some notation on every former National Football League player's calendar. It is the final day for players to register for the [NFL concussion settlement program](#) in order to potentially receive benefits based

on head trauma experienced during their careers in the NFL that may have or could result in brain injuries.

Current NFL players and those who retired on or after July 7, 2014 are excluded from the registration process. All other former NFL players should, at a minimum, look into whether they find it advantageous to sign up to be included in the settlement class. After August 7, it could be exceedingly difficult to collect under the terms of the settlement, which became final and effective on January 7, 2017 and is [expected to cost](#) the NFL more than \$1 billion.

"The settlement is open for sixty-five years; however, if a player develops symptoms in twenty years, for instance, and doesn't register, he can't collect under the settlement unless he can show good cause to the court," explains lawyer [Adam Slater](#), who says that he has been retained by approximately two hundred former NFL players.

"My understanding is that there are approximately between 10,000 to 15,000 individuals not registered," adds Slater. "It would be a travesty for all these guys to go unregistered and not have a chance to recover."

A former NFL player can register by himself or register through counsel. The registration is not overly complicated; however, the neuropsychological tests used to determine the amount of compensation that a former NFL player will receive, if any, is not as simple to understand.

"There are two different paths that a player can take -- (1) BAP baseline assessment testing with private doctors approved by the NFL; or (2) MAF testing with private doctors also approved by the NFL," says Slater. "We have a system where we're going to give our players a preliminary assessment. Based on that assessment, they're going to the MAF program."

There is apparently a big distinction between the two types of assessment testing programs, according to lawyer [John Baldante](#), who concentrates his practice on brain and spinal cord injury cases.

"The big difference between the two programs is because the BAP program is funded directly by the NFL, there are certain fee restrictions imposed upon the doctors so that if you do a neuropsychological test through the BAP program, there's a very detailed fee schedule with a maximum fee," explains Baldante. "If you were to go to a neuropsychological under the independent MAF

program, you still have to have the same qualifications as a BAP doctor, but you're allowed to charge your customary hourly rate."

The NFL's assumption is that there will be many more players who opt for the BAP program, because the cost of testing is paid for by the NFL. Based on same, the NFL is requiring doctors to agree to a smaller fee schedule.

The MAF program is paid by players and the cost is largely being fronted by law firms representing those players.

"The cost of the MAF program varies based on the doctors and where they're situated in the country," says Baldante. "A doctor in San Francisco or New York tends to charge a higher hourly rate than a doctor in Atlanta or Tennessee for instance."

It is common sense that if lawyers are willing to front the money on costs, they envision an outcome that yields a profit. These lawyers are not taking on former NFL player clients out of the kindness of their hearts. On occasion, the pursuit of players has become so ruthless that the details have been exposed by those who claim to have been harmed.

Mark Fainaru-Wada of *ESPN* [reported](#) in March that "a virtual cottage industry of opportunist lawyers . . . has cropped up." The judge assigned to the grouping of NFL concussion cases and overseeing the settlement has been asked to punish certain attorneys for using "false and misleading" tactics in an effort to secure former NFL player clientele.

But some lawyers with real experience in extracting as much money as possible in these types of medical-related class action suits ending in settlement could be advantageous for former players who are not clear on what puts them in the best situation to recover as much money as possible.

"Part of what makes a good lawyer in these kinds of circumstances is knowledge about the medicine . . . the nuances involved in the medicine of these types of injuries, and how to protect your client best," says Baldante. "Don't underestimate the logistics necessary in coordinating all of this on a national scale."

Baldante also recognizes that there are many lawyers who have been salivating since the announcement of the approximately \$1 billion settlement and will go to vast lengths to secure clientele for a piece of the pie.

"We know there are some lawyers out there who are trying to give bargain basement rates to attract players," acknowledges Baldante. "There's a little bit of a danger to that, because for many of these players their interest will be served by undergoing expensive medical assessments and testing both with neurologists. Lawyers offering 'cut rates' have an economic disincentive to take care of these players and work up their injuries in the proper manner. Those players might simply be dumped into the BAP program, because it's economically cheaper for the lawyers to do that."

Thus, players are presented with important decisions to make in the months of June and July. First of all, do they register to become part of the class that will seek payments under the settlement? Second of all, do they choose to enroll on their own or with the assistance of an attorney who will assist in potentially providing sound advice with regard to medicals and cover many of the costs, but also take a commission on monies recovered?

"This is a unique situation in which there's a class action settlement where players have different paths to approach discovery," says [Martin Rubenstein](#), another lawyer working with former NFL players in recovering under the settlement. "We will seek a fee based upon and commensurate with the work we do to get the recovery. Certain players, once they have gone through the screening, we're going to recommend to them that they simply go through the BAP. It will be a lower fee than if we make a recommendation that they go through MAF testing, which will involve more work, time and expense."

Rubenstein says that a number of the players who have asked him to represent them were referred by other law firms. In those cases, he has accepted the players initially at the fee rate that the players had in place with those lawyers, which range from roughly 20% to 33% of recovery. That amount could be decreased, and Rubenstein says that he would never increase the fee.

Ultimately, players have some tough decisions to make and time is of the essence.

"Make sure you register. If not for you, then for your family," concludes Slater. "Even if you don't think you're impaired now, you may be in the future."

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