

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BALTIMORE DIVISION

JASON ALFORD, DANIEL LOPER, WILLIS
MCGAHEE, MICHAEL MCKENZIE, JAMIZE
OLAWALE, ALEX PARSONS, ERIC SMITH,
CHARLES SIMS, JOEY THOMAS, and LANCE
ZENO, Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

vs.

THE NFL PLAYER DISABILITY & SURVIVOR
BENEFIT PLAN; THE NFL PLAYER
DISABILITY & NEUROCOGNITIVE BENEFIT
PLAN; THE BERT BELL/PETE ROZELLE NFL
PLAYER RETIREMENT PLAN; THE
DISABILITY BOARD OF THE NFL PLAYER
DISABILITY & NEUROCOGNITIVE BENEFIT
PLAN; LARRY FERAZANI; JACOB FRANK;
BELINDA LERNER; SAM MCCULLUM;
ROBERT SMITH; HOBY BRENNER; and
ROGER GOODELL,

Defendants.

Case No. 1:23-cv-00358-JRR

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs respectfully move the Court to certify the following class ("Class"), defined as:

All participants in the Plan who filed one or more applications for one or more categories of disability benefits under the Plan between August 1, 1970 and [the date of class certification] and are members of at least one of the five Subclasses, defined as the T & P SUBCLASS, the ACTIVE SUBCLASS, the LOD SUBCLASS, the NC SUBCLASS, and the FIDUCIARY SUBCLASS.

"The Plan" includes the NFL Player Disability & Survivor Benefit Plan (formerly the NFL Player Disability, Neurocognitive & Death Benefit Plan, the NFL Player Disability & Neurocognitive Benefit Plan, the

NFL Player Supplemental Disability & Neurocognitive Benefit Plan, and the NFL Player Supplemental Disability Plan); the Bert Bell/Pete Rozelle NFL Player Retirement Plan; the Bert Bell NFL Player Retirement Plan; and the Pete Rozelle NFL Player Retirement Plan.

In addition, Plaintiffs move the Court to certify the following five Subclasses, defined as:

- (a) The T & P SUBCLASS: All members of the Class who filed one or more applications for Total & Permanent Disability benefits under the Plan; received an adverse determination as part of at least one such application(s) between August 9, 2019 and [the date of class certification]; and are not members of the ACTIVE SUBCLASS.
- (b) The ACTIVE SUBCLASS: All members of the Class who filed one or more applications for Total & Permanent Disability benefits under the Plan; received an adverse determination as part of at least one such application between August 9, 2019 and [the date of class certification]; and were within the timeframe to qualify for Active Football or Active Nonfootball Total & Permanent Disability benefits at the time that they applied.
- (c) The LOD SUBCLASS: All members of the Class who filed one or more applications for Line-of-Duty Disability Benefits under the Plan and received an adverse determination as part of at least one such application between August 9, 2019 and [the date of class certification].
- (d) The NC SUBCLASS: All members of the Class who filed an application for Neurocognitive Disability benefits under the Plan and received an adverse determination as part of at least one such application between August 9, 2019 and [the date of class certification].
- (e) The FIDUCIARY SUBCLASS: All members of the Class who filed an application for one or more categories of disability benefits under the Plan between August 1, 1970 and [the date of class certification].¹

Relatedly, Plaintiffs also respectfully move the Court for the appointment of (i) Plaintiffs Jason Alford, Willis McGahee, Michael McKenzie, Jamize Olawale, Alex Parsons, Charles Sims,

¹ These definitions are based on the information available to Plaintiffs as of the date of this filing. Plaintiffs reserve the right to refine these definitions as further information becomes available over the course of discovery.

Eric Smith, Joey Thomas, and Lance Zeno as Class Representatives and as Subclass Representatives of the Fiduciary Subclass; (ii) Plaintiffs McGahee, McKenzie, Olawale, and Smith as Subclass Representatives of the T&P Subclass; (iii) Plaintiff Sims as Subclass Representative of the Active Subclass; (iv) Plaintiff Olawale as Subclass Representative of the LOD Subclass; (v) Plaintiffs Alford, Smith, Thomas, and Zeno as Subclass Representatives of the NC Subclass; and (vi) pursuant to Federal Rule of Civil Procedure 23(g)(1), of Seeger Weiss LLP; Athlaw LLP; and Aylstock, Witkin, Kreis, & Overholtz, PLLC as Counsel for the Class and for the Subclasses; and of Migliaccio & Rathod LLP as Liaison Counsel for the Class and for the Subclasses.

The reasons supporting this motion are set forth in the accompanying memorandum of law. A proposed Order also accompanies this motion.

WHEREFORE, Plaintiffs respectfully request that the Court certify the above-defined Class and Subclasses and make the above-enumerated appointments.

Dated: September 3, 2024

Respectfully submitted,

MIGLIACCIO & RATHOD LLP

By: /s/ Jason S. Rathod
Jason S. Rathod
Nicholas A. Migliaccio
412 H Street, N.E.
Washington, DC 20002
Telephone: (202) 470-3520
jrathod@classlawdc.com
nmigliaccio@classlawdc.com

***Counsel for Plaintiffs and Liaison Counsel
for the Proposed Class and Subclasses***

Christopher A. Seeger (*admitted pro hac vice*)
Diogenes P. Kekatos (*admitted pro hac vice*)
Hillary R. Fidler (*admitted pro hac vice*)

SEEGER WEISS LLP

55 Challenger Road, 6th Floor
Ridgefield Park, NJ 07660
Telephone: (973) 639-9100
cseeger@seegerweiss.com
dkekatos@seegerweiss.com
hfidler@seegerweiss.com

Benjamin R. Barnett

SEEGER WEISS LLP

325 Chestnut St, Suite 917
Philadelphia, PA 19106
Telephone: (215) 553-7990
bbarnett@seegerweiss.com

Samuel L. Katz (*admitted pro hac vice*)
Julia M. Damron (*admitted pro hac vice*)

ATHLAW LLP

8383 Wilshire Blvd., Suite 800
Beverly Hills, CA 90211
Telephone: (818) 454-3652
samkatz@athlawllp.com
julia@athlawllp.com

Bryan F. Aylstock (*admitted pro hac vice*)
Justin G. Witkin (*admitted pro hac vice*)
Douglass A. Kreis (*admitted pro hac vice*)
D. Nicole Guntner (*admitted pro hac vice*)

AYLSTOCK, WITKIN, KREIS, & OVERHOLTZ, PLLC

17 E. Main Street, Suite 200
Pensacola, FL 32502
Telephone: (850) 202-1010
BAylstock@awkolaw.com
JWitkin@awkolaw.com
DKreis@awkolaw.com
NGuntner@awkolaw.com

***Counsel for Plaintiffs and for the
Proposed Class and Subclasses***

Robert K. Scott (*admitted pro hac vice*)
Gerry H. Goldsholle (*admitted pro hac vice*)
ADVOCATE LAW GROUP P.C.
2330 Marinship Way, Suite 260
Sausalito, CA 94965
Telephone: (949) 753-4950
bob@advocatelawgroup.com
gerry@advocatelawgroup.com

Additional Counsel for Plaintiffs