

WRITTEN STATEMENT OF
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HOUSE SUBCOMMITTEE ON COMMERCIAL AND
ADMINISTRATIVE LAW

“The National Football League’s System for Compensating
Retired Players: An Uneven Playing Field?”

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Madam Chairwoman, ranking member Cannon, and members of the Subcommittee, thank you for the opportunity to testify today. My name is Cy Smith, and I am a partner in the law firm of Zuckerman Spaeder LLP, where my practice emphasizes complex civil and criminal litigation. For the past twenty years, I have tried cases in state and federal courts around the country, and I have particular experience representing participants in pension plans which are governed by the federal pension statute, the Employee Retirement Income Security Act, or ERISA.

For the last several years, it's been my privilege to represent the family of Mike Webster (along with attorney Bob Fitzsimmons) in a lengthy battle with the pension plan sponsored by the National Football League and its union, the NFLPA, the Bert Bell-Pete Rozelle NFL Players Retirement Plan. Today, I would like to describe my experience, and discuss some changes that might help retired players get the benefit of their bargain with the League and their union – namely, fair disability pension benefits.

I.

MIKE WEBSTER'S

RIGHT TO A DISABILITY PENSION

Mike Webster was a Hall of Fame National Football League player who spent almost his entire career at center for the Pittsburgh Steelers. Because of the NFL-record number of games he played, the rules then in force, and the intensity with which he performed, Mike Webster received over the course of his career thousands of high-speed, high-impact hits to his head. By the time he retired in 1990, Mike Webster had – according to the NFL's own physician – “multiple head injuries” and “a dementing illness” that “result[ed] in complete disability in terms of being gainfully employed.” In

short, he was “punch drunk.” Before his death in 2002, he sought a fair disability pension from the NFL’s pension plan, which is designed to cover exactly these sorts of disabilities caused by the violent world of pro football. The NFL’s pension plan denied him a full payment, claiming that his disabilities – the result of almost two decades of conflict on the Steelers’ offensive line – were not the result of an “active” football injury, and that those disabilities did not begin until long after the end of Mr. Webster’s career. The NFL did so despite the overwhelming evidence (including evidence from the NFL’s own expert doctor) that Mr. Webster’s disabilities began early and were the direct and active result of Mr. Webster’s years of service as center -- one of the most exposed and defenseless positions on the football field.

Mike Webster was born on March 18, 1952 in Tomahawk, Wisconsin. He grew up on a 640-acre potato farm and – although he did not play football until his junior year in high school – received a scholarship to the University of Wisconsin. By all accounts, he was a bright, compassionate and proud man. He played professionally for the Pittsburgh Steelers for 15 seasons, from 1974 until 1988, the vast majority as center on the Steelers’ offensive line. He endured numerous shots to the head and multiple concussions. During one stretch, Mr. Webster (known as “Iron Mike” by fans and teammates alike) played six consecutive seasons without missing a single offensive down, and for 177 consecutive games. His 245 games were the most ever by a center, and the fifth most in NFL history. In his career, the Steelers’ offensive and defensive lines led the team to four Super Bowl wins in the 1970s. Mike Webster was elected Captain of the Steelers during three of their Super Bowl years and made All-Pro numerous times. At the end of his career, Mr. Webster played for two seasons with the

Kansas City Chiefs, retiring after the 1990 season. In 1997, Mike was inducted into the Pro Football Hall of Fame in Canton, Ohio, and in 2000 he was elected to the NFL's all-time team.

The center position is one of the most exposed and unprotected positions on the football field. Unlike every other player, the center must hold the ball to the ground until the snap. As a result, he is uniquely exposed to blows from defensive linemen. For example, the "head slap" (invented by Roosevelt Grier, but perfected by Deacon Jones of the (then-Los Angeles) Rams "Fearsome Foursome") was until 1977 part of a defensive linemen's standard moves. Using the head slap, defensive linemen ranging up to 6'8" and 300 pounds or more would begin their rush by slapping the center and other offensive linemen on the sides of their helmets to disorient them. Even after 1977 (when the head slap was outlawed, according to the NFL, precisely because of its risk to offensive linemen), players continued to use the technique. And, even without the head slap, NFL centers and other linemen remained exposed to a wide variety of blows to the head, both intentional and unintentional. One study has shown that during the course of a game, the average college football player (who is, of course, far smaller and slower than his NFL counterpart) is hit some fifty times with a force of 40 Gs, equivalent to being struck by a boxer. And at least once or twice a game, there is a catastrophic impact of 120 Gs – the same force as a car crash. The same study showed that among all football players, offensive linemen received the most hits to the head.

Mike Webster's days after football were dictated by the disabilities he suffered playing the game. He was unable to hold steady (or gainful) employment. He was homeless, often sleeping in his car. He was often reclusive. His marriage broke up,

and he lost money in a series of bad investments. In 1999, he pled guilty to forging prescriptions for Ritalin, which he used to treat the symptoms of his NFL brain injuries. Because Mike also had an intensely private personality, and because his pride prevented his admitting that he was facing these extraordinary difficulties, the fact and extent of his disabilities remained a secret to many for a number of years after his retirement from football.

Mike Webster tried several forms of work after his 1990 retirement, including serving as a commentator on a sports talk show. He failed at each one. For example, upon retiring from the Chiefs after the 1990 season, Mike auditioned for a TV announcer job with NBC. He was assigned two preseason games in the summer of 1991, neither of which was broadcast. In the end, he never worked a game for the network. As the NFL's own private investigator discovered, his "career at NBC . . . [was] over before it started."

He earned no more than \$3,500 in wages in 1991, and none in 1992 or 1993. Later, out of sympathy, the Kansas City Chiefs made him an assistant strength and conditioning coach, even though (as a result of the disabilities caused by his playing career) he was never capable of fulfilling the responsibilities of that job. Indeed, he lived for a period of time in the Chiefs' equipment room. (Such employment by NFL teams, under the NFL Plan's express rules, is not disqualifying for purposes of determining disability.)

In 1999, around the time of his Ritalin arrest, he was finally diagnosed with brain damage resulting from the long-term head trauma of his NFL career. His attorney, Bob Fitzsimmons of Warwood, West Virginia, filed an application on Mike's behalf with the

NFL Plan for “total and permanent disability” (“TPD”) benefits, under Articles 5.1(a) and 5.2 of the NFL Plan’s Plan Document. Article 5.2 states that a player will be deemed to be TPD if the Retirement Board finds that:

he has become totally disabled to the extent that he is substantially prevented from or substantially unable to engage in any occupation or employment for remuneration or profit . . . A Player will not be considered to be able to engage in any occupation or employment for profit . . . merely because such person is employed by the League or an Employer, manages personal or family investments, is employed by or associated with a charitable organization, or is employed out of benevolence.

Section 5.1(a) of the Plan provides for “Active Football” disability benefits, defined as a disability resulting “from League football activities, [which] arises while the Player is an Active Player, and causes the Player to be totally and permanently disabled ‘shortly after’ the disability first arises.” The Plan Document also provides for Football Degenerative benefits, under § 5.1(c), which are substantially less generous.

If a Player becomes TPD within six months after his disability first arises, § 5.1 of the Plan creates a conclusive presumption that the Player became TPD “shortly after” the disability arose. If the Player becomes TPD six to twelve months after the disability arises, then it is up to the NFL Plan’s Retirement Board to determine whether the “shortly after” standard is satisfied. And if the Player becomes TPD more than twelve months after the disability arises, then he is conclusively deemed not to have satisfied the “shortly after” requirement.

Under § 5.2 of the Plan Document, the Plan has the right to select a highly-qualified neutral physician to perform a medical examination of a player who is applying for a disability, for the purpose of determining whether the disability arose from NFL

play, and when it arose. Upon information and belief, pursuant to the Plan Document, the Plan maintains a national network of highly-qualified physicians to review each claim for disability benefits.

As part of his 1999 application for disability benefits, Bob Fitzsimmons also requested that the date of onset of Mr. Webster's disability be set at 1991 or earlier, with payment of benefits retroactive to that date. He supplied the Plan with Mr. Webster's affidavit stating that although he was on the payroll of the Kansas City Chiefs after 1990 as an "assistant coach," he was completely unable to fulfill the duties of that position. Simply stated, Mr. Webster was paid a salary because the Chiefs' general manager liked and respected him and his contributions as a player.

As part of the Plan's review of his claim, Mike was required to undergo a medical examination – at the Plan's expense – by Dr. Edward Westbrook, a board-certified neurologist in Cleveland chosen by the Plan. Dr. Westbrook's form reporting the examination found that Mike Webster's disability occurred "3/91 [March 1991] or before" – that is, within three months of his December 1990 retirement from pro football. Dr. Westbrook's accompanying written report stated that the disability occurred prior to 1990, and he provided a letter to the NFL stating that Mike Webster had suffered "multiple head injuries" and had "a dementing illness" that "result[ed] in a complete disability in terms of being gainfully employed."

By letter dated November 25, 1999, however, the Plan refused to grant Mr. Webster an Active Football disability pension, without explaining why it had ignored the finding of its own, hand-picked physician. Notably, the Plan had no contrary evidence suggesting that the disability occurred after 1990.

Mr. Webster's attorney immediately requested that the NFL Plan reconsider its finding. By letter dated May 8, 2000, the Plan again refused to award Active Football benefits, asserting that Mike had been "self-employed" from 1991 until 1994 – even though there was no evidence that he had actually done work or been capable of working after he left the Kansas City Chiefs in 1990. The Plan also shrugged off the evidence of its own expert, Dr. Westbrook, claiming that Dr. Westbrook's report merely stated that Mike's disability began before 1991, not that he was totally and permanently disabled before that date.

By letter dated July 5, 2000, the Plan's decision was appealed, including the refusal to award both (a) Active Football benefits, and (b) benefits retroactive to 1990, when Mr. Webster became totally and permanently disabled.

In support of his appeal, the Plan was given a three-page letter from a clinical psychologist, Fred Krieg, who provided an opinion to a reasonable degree of professional certainty that Mr. Webster was totally and permanently disabled as of March 1991.

In addition, in a letter to the Plan dated October 5, 2000, Dr. Westbrook (the Plan's hand-picked examining physician) supplied the following medical opinion:

It is clear that [Mr. Webster] had significant trouble playing football in 1990 and officially retired in 1991. It would appear on that basis that he was completely and totally disabled as of the date of his retirement and was certainly disabled when he stopped playing football sometime in 1990. There is nothing to [suggest] that he had a progressive neurological illness unrelated to repetitive trauma from football. His executive [mental] abilities are significantly damaged and had been at that time. If indeed he tried to do coaching or some type of menial task around the football league, it was not significant in terms of gainful employment. He has remained completely and totally disabled for any occupation

beginning in approximately . . . 1990 and will not be expected to improve.

Despite this explicit opinion from its own physician, the NFL Plan refused to reconsider its decision. Instead, the Plan requested a series of documents from Mr. Webster, as further evidence that he was incapable of work from 1990 forward. Mike's representatives responded to every request, gathering evidence from the Internal Revenue Service, the Social Security Administration, the Commonwealth of Pennsylvania, the Kansas City Chiefs and Pittsburgh Steelers teams, the Department of the Treasury, psychologists and other health care professionals, and individuals for whom Mr. Webster had attempted to work after his retirement, among others. The NFL even hired a private investigator to shadow Mr. Webster; the investigator found no evidence that Mike Webster had been capable of employment after he stopped playing for the Chiefs in 1990.

As part of the appeal, the Plan was given yet another opinion by a mental health specialist, Dr. Jonathan Himmelhoch of the University of Pittsburgh. Dr. Himmelhoch, having reviewed all of Mike's medical records, along with the NFL Plan Document and the Plan's initial May 8, 2000 benefit letter, reached the following conclusions "to a reasonable degree of medical certainty":

- (1) Michael L. Webster suffers a disability as a result of multiple head blows received while playing Center in the NFL which caused him to suffer from traumatic encephalopathy;
- (2) The multiple head blows to Michael L. Webster resulted from league football activities and arose while he was an active player in the NFL;

* * *

- (4) Mr. Webster's traumatic encephalopathy first arose or manifested itself between the end of the 1990 football season, i.e., November/December 1990, and March, 1991; [and]
- (5) Mr. Webster was totally and permanently disabled as of March, 1991, to the extent that he was substantially prevented from or substantially unable to engage in any occupation or employment for remuneration or profit . . .

While the NFL continued to review Mike's claim, he died on September 24, 2002. After an extraordinary delay of almost three years (from July 2000 until March 2003), the NFL Plan finally decided Mike's 2000 request for reconsideration by letter dated March 17, 2003, six months after his death. In its March 17, 2003 letter, the Plan once again refused to award Mr. Webster Active Football benefits. It established the effective date of those benefits as September 1, 1996.

When the Plan reached this decision, it had before it three reports by mental health professionals: a neurologist (Dr. Westbrook, chosen and retained by the Plan); a psychologist (Dr. Krieg); and a psychiatrist (Dr. Himmelhoch). The three experts agreed that Mr. Webster's disability began while he was playing football; resulted from multiple head injuries; and caused Mr. Webster to be totally and permanently disabled no later than March 1991. The Plan had no contrary medical evidence about the date of onset of Mr. Webster's unquestioned disability.

In addition, the Plan (having commissioned a private investigator's report) had access to Mr. Webster's "income tax filing records, medical history, court records and employment records." The Plan's investigator interviewed former teammates and colleagues at both the Steelers and the Chiefs, "as well as former business associates at a variety of failed business ventures pursued by Mr. Webster during the relevant

period.” According to the Plan’s own investigator, Mr. Webster supposedly attempted to work as a television broadcaster for two football games in 1991, and then, from 1992 until 1994-95, “Mr. Webster attempted to work at a variety of business ventures.” In the Plan’s own words, those attempts were “unsuccessful.”

One witness told the NFL’s private investigator that Mike Webster lived with her and her husband for three months beginning in 1994 because he “was tired of sleeping in his car.” The same witness “spent the majority of the time during the over one-hour telephone interview talking about Mr. Webster’s poor health,” beginning in 1993 when she met him. The witness described Mike’s “strange habits,” noted that he “looked worse and worse,” and stressed the fact that he experienced “many physical and mental problems.”

In short, the Plan’s investigation confirmed what Mike Webster had told it: after he left football, he was unable to work. Whatever he tried, failed. He was unable to obtain or hold a paying job.

Rather than rely upon actual employment by Mike after his 1990 retirement, the stated basis for the Plan’s 2003 decision was the observation by an oncologist treating Mike in 1996 that “Mr. Webster’s life ‘had really deteriorated recently’ and that he was living out of a car.” Not surprisingly, Mike’s cancer specialist offered no opinion about whether his brain injury had prevented him from working before 1996. And the Plan’s March 17, 2003 letter said nothing about the unanimous findings of all three mental health specialists, including the one chosen by the NFL Plan, who agreed that Mr. Webster had become totally and permanently disabled as of March 1991.

This time, because Mike had died while his appeal was pending, the Administrator of his Estate appealed, pointing out the omissions from the March 17 finding. In a letter dated July 25, 2003, the Plan finally addressed the findings of its physician, Dr. Westbrook, by disavowing its own expert. The Plan's letter stated: "The Retirement Board notes that Dr. Westbrook did not examine Mr. Webster until 1999, and therefore the Board found the opinions offered in Dr. Westbrook's October 5, 2000 letter regarding Mr. Webster's prior condition to be speculative and conclusory." The Plan did not explain, of course, why it had asked Dr. Westbrook in 1999, four years earlier, to provide an opinion about Mike Webster's mental status (his "prior condition") in 1991.

In 2004, we filed suit in federal court to get a fair disability pension for Mike's family. The standard for a court reviewing an a disability pension decision is very high – the plan participant has to show an "abuse of discretion." It's not enough to show that the NFL Plan was wrong, or that a judge would have decided differently. As a result, these cases are hard to win. But in April 2005, Judge William Quarles of the federal court in Baltimore found that the Plan had done just that – abused its discretion by ignoring the unanimous medical evidence. In a later November 7, 2005 opinion, he wrote that "[g]iven the overwhelming evidence supporting Webster's claim, the Plan's decision indicates culpable conduct, if not bad faith." That's strong language by any standard. As a result, the NFL Plan was required to pay Mr. Webster's attorneys' fees and costs in the trial court.

The Plan refused to settle and filed an appeal. But in December 2006, a unanimous three-judge panel of the U.S. Court of Appeals for the Fourth Circuit affirmed

Judge Quarles's ruling in a 35-page opinion. The appeals court held that the Plan "offered no relevant medical or employment evidence to contradict the unanimous medical opinion of examining experts" that Mr. Webster was entitled to full Active Football benefits. Again, that's strong language

The appeals court also found that it would require "a leap of faith" to rule for the Plan. And once again, the NFL Plan had to pay Mr. Webster's estate for attorneys' fees and costs incurred on their unsuccessful appeal. All told, the Plan paid several hundred thousand dollars for Mike Webster's attorneys' fees – money that could have gone for retirement benefits – not to mention the money the Plan spent on its own attorneys. Finally, the judicial system worked for Mike Webster's family – but at a great cost.

II.

MAKING THE NFL PLAN WORK FOR OTHER PLAYERS

I wish I could tell you that the court decisions in the Webster case taught the NFL Plan a lesson. Unfortunately, I cannot. Immediately after the appeals court ruled for Mike's estate, on December 14, 2006, Gene Upshaw, the president of the NFL players' union (who appoints the union's members to the Retirement Board) announced to the New York Times that "if the six-member board was presented with a similar situation with another retired player, it would follow the same course of action it took with Webster." More recently, Mr. Upshaw responded to criticism by a respected former player by threatening to "break his . . . damn neck," according to remarks published in the Philadelphia Daily News.

I also wish I could tell you that Mike Webster's case was an aberration, and that other players have been treated fairly by the Plan. Sadly, that is not the case either. I am sure that you will hear testimony today by and about other retired players and the way the Plan has handled their claims. Since 2005, Bob Fitzsimmons and I have personally reviewed dozens of other players' claims or case files, who sought disability pension benefits based on their football injuries. In too many of these cases, the players appear to have solid claims, which have been wrongly denied by the NFL Plan. The problem for many of these players is that the legal standard is so high – "abuse of discretion" – that they have little or no legal recourse when the Plan makes the wrong decision.

Still, in some cases, even this deferential standard of review will not protect the Plan. In a case that will be filed this week, just like Mike Webster's, the Plan denied active football benefits to a player whose real, disabling health problems trace directly to his on-the-field injuries. Just like in Mike Webster's case, the Plan claimed that the "effective date" of his disability should be set years after he stopped playing football. And just like Mike Webster's case, the unanimous medical evidence – including the findings by the Plan's own doctors – shows that this man's health problems go back to the day he was hurt playing pro football.

But obvious, even shocking, cases like this are likely to be the exception, not the rule. Much more common are cases where a clear majority of the medical evidence favors the retired player, but there is a shred of evidence that may be interpreted – if one has a mind to do it – against coverage. In such cases, the federal ERISA statute – as interpreted by the courts – will often favor the interpretation offered by the pension

plan. The courts are fond of saying that it is up to the pension plan to resolve conflicts in the medical evidence, and the NFL Plan has taken those rulings to heart.

My concern that Mike Webster's case was not exceptional, and that the NFL Plan has not turned over a new leaf, is heightened by several tactics that the NFL Plan has relied on in recent years when deciding disability claims. The first is the Plan's creation of a two-person Disability Initial Claims Committee to screen all disability pension claims. (The Plan itself is governed by a six-person Retirement Board.) Every disability claim must be reviewed by this two-person committee. All it takes is one member to rule against the retired player, and the claim will be denied. Then the player is forced to appeal the denial to the entire Retirement Board, which often involves a new medical examination. This adds substantial delay to the process, and increases the risk that the player's claim will be denied in the first place.

The second, related problem, is the Plan's use of multiple doctor reports in an effort to find – or create – conflicts in the medical evidence. In many cases, members of the Plan's Retirement Board or the Disability Initial Claims Committee will vote to deny a request for benefits because they claim to see a conflict in the medical evidence. (As explained above, the courts have been sympathetic to pension plans in many such cases.) Because of the supposedly conflicting medical evidence, the NFL Plan often requires a retired player to undergo multiple medical examinations.

Based on my experience, these examinations have two effects. The first, as I suggested above, is to add substantial delay to the process. The Retirement Board meets only four times a year, and often will not consider claims or evidence that are

submitted a month or so before the meeting. Thus, each new medical report can add three or even six months to the time involved.

The second effect can be even worse. The greater the number of medical examinations, the greater the chance that the Retirement Board will find some piece of evidence – even taken out of context – on which to base a denial of benefits. Recall that in Mike Webster's case, the Board relied on a report from Mike's oncologist to decide that he had not suffered from a brain injury.

The approach taken by the NFL Plan has even extended to relatively small items. Historically, for example, the Plan had required that physicians appointed by the Plan complete a "Physician's Report" form which asked the examining doctor to determine "When did present disability occur?" The point of this question was to determine the date to which disability benefits should be retroactive, so that the retired player can receive all the benefits to which he is entitled. More recently, the Plan has changed its form to delete this question. It's hard to understand why the Plan wouldn't want as much information as possible. The effect, if not the purpose, of this change was to permit the Plan's Retirement Board and DICC to claim uncertainty about the onset date of players' total and permanent disability, and thus to deny them benefits to which they were entitled.

I could go on with examples, but I believe the point is clear: both the procedures at the NFL Plan, and the people who design them and carry them out, are not serving the purposes for which the Plan was created, or the retired players who participate in the Plan. It's essential to remember, as I'm sure other witnesses will tell you today, that professional football is a violent game. Players have short careers. The whole point of

a disability pension for NFL players should be to recognize these facts and also to recognize that many players will need disability pensions and that they have to be substantial. A man crippled by pro football – even after a few years in the league – will often find it very difficult to take on other work.

I'd now like to discuss some of the alternatives that have been suggested to improve the system and make it fair for retired players. Last week, on the eve of these hearings, there was discussion by the union's president, Mr. Upshaw, about changing the standard under the Plan so that anyone found disabled by the Social Security Administration would also be deemed disabled under the NFL Plan. We should always be skeptical about "reform" proposals that are announced at the eleventh hour, and this suggestion requires the same scrutiny – particularly because the details of the change will inevitably be important, and we don't know any of them today. Indeed, the Social Security disability process has itself been criticized by knowledgeable observers as being inconsistent and even unfair

But even if this change made it easier to prove disability, it would still leave decisions about the effective date of the benefits in the hands of the Retirement Board. Those decisions have historically gone against the player, and for reasons that are hard to justify, as in Mike Webster's case. Also, I claim no expertise in Social Security law, but I'm told that employees are typically unable to claim disability benefits more than five years after they stop working. That won't be much help to many of the older retired players. And finally, there have been press reports that the NFL Plan sought to prevent the courts from applying key parts of this very Social Security standard to ERISA plans. At this point, skepticism is warranted.

There has also been some discussion about enhancing the role of arbitration under the NFL Plan to decide disputed disability claims. Currently, the Plan gives the Retirement Board (but not the retired player) the right to use arbitration to decide claims where the Board is deadlocked. I'm not aware of any evidence that this procedure has been used often, or is effective. For arbitration to work, the arbitrators must be fair, neutral, and seen as such by all the participants. Problems can arise when an arbitrator is used frequently by one side to the dispute, or makes his or her living deciding claims presented by one side or the other.

I can see situations in which arbitration might improve the process here. For example, when a retired player's claim is denied, he is often (but not always) required to appeal that decision within the NFL Plan's procedures. Currently, those appeals are heard by the Retirement Board. But what about a system where appeals are heard by neutral medical experts? And to make sure that these arbitrators are actually neutral, what about allowing the player and the Plan each to appoint one arbitrator, and permitting those individuals to pick a third? (To be effective, the Plan would have to pay the costs for the medical experts – but surely that would be less expensive than the attorneys' fees that the Plan pays today.) Such "party arbitrator" systems are often used to resolve commercial disputes, and this approach could work here.

Another problem is the extraordinary delays faced by players who apply for disability benefits. These delays – like the ones experienced by Mike Webster – can stretch to two, three or even four years. A valuable step would be to require the NFL Plan to decide all claims within six months. If the Plan didn't act in that time, the claim would be approved. This would create appropriate incentives to decide claims both

quickly and fairly. Another key change would be to require that the Retirement Board give deference to the views of the retired player's treating physician on both the disability and its effective date.

But long-lasting, effective reform will require more than changing the procedures at the NFL Plan. The fundamental problem here is the lack of commitment to injured retired players. The actions of the NFL Plan, as shown by Mike Webster's case, often seem designed to build barriers to fair treatment for NFL retirees. Until both the league and union decide that they want to spend the required money for benefits, and make sure that all injured retired players can live their lives out in dignity, it is hard to see a lasting solution. The courts have interpreted the federal pension statute to give substantial deference to pension plans in making benefit decisions because the courts assumed that this discretion would be exercised wisely and fairly. Mike Webster's case shows that this assumption was not correct in many instances. The real need here is for new or more enlightened leadership at the top, so that the NFL Plan may finally live up to the promises it has made to retired players.

Thank you for the opportunity to testify today. I would be pleased to answer any questions the members of the subcommittee may have.