

Junior Seau Family Says \$760M NFL Deal Stiffs Them

By **Sindhu Sundar**

Law360, New York (January 28, 2014, 7:26 PM ET) -- Family members of deceased NFL star Junior Seau on Friday criticized the \$760 million settlement that failed to win a Pennsylvania federal judge's preliminary approval, arguing it does not sufficiently compensate them on their wrongful death claims.

The family, which brought the suit roughly a year ago claiming that Seau's brain trauma from injuries on the field led him to commit suicide in 2012, argued Friday that the settlement unfairly lumps in his children's wrongful death claims with "derivative claims" that provide them with little recovery. Such wrongful death claims should be compensated separately and not simply as a cut of the amount an NFL player might have been entitled to, they said.

The settlement, as it was filed, entitles such derivative claimants to only up to 1 percent of any award going to the retired NFL player or his estate, according to their filing. This means that even such a 1 percent award would have to be divided among family members, they said. The family members involved in the current suit include Seau's children, Tyler, Sydney, Jake and Hunter, according to court documents.

"The random structure and paltry recovery afforded to such claimants strongly suggests that derivative claimant's independent causes of action were not valued in any meaningful way," Seau's family said in the filing Friday. "The class representatives, none of whom hold wrongful death claims, structured an agreement which does not provide separate representation for the wrongful death claims and does not separately value those claims."

U.S. District Judge Anita Brody refused to grant preliminary approval to the settlement earlier in January, saying she was concerned there wasn't enough money to properly compensate all class members.

She ordered lead plaintiffs' counsel — Christopher Seeger of Seeger Weiss LLP and Sol Weiss of Anapol Schwartz — to share with a special master the economic analyses they said they relied on in reaching the deal. Some plaintiffs attorneys have expressed concerns about the adequacy of the agreement since then.

Seau's family originally filed their suit in January 2013 in California state court, after which it was moved to federal court and then added to the NFL concussion multidistrict litigation, according to court documents.

They also argued Friday that the settlement would pause individual suits actions related to the MDL until all the appeals end, which they said could impose an unreasonable delay on plaintiffs who choose to opt out of the settlement.

“As such, the proposed stay, which purports to limit even the rights of class members who opt out of the settlement, could halt all litigation for years while appeals are pending,” the family said in Friday’s filing. “Such a delay may, and likely will, have the effect of discouraging class members from electing to exercise their opt out right, even if they feel the proposed settlement does not adequately address their claims.”

Seau’s family is represented by Steven Strauss, Dennis Crovella and Meghan L. Donohue of Cooley LLP.

The case is In re: National Football League Players’ Concussion Injury Litigation, case number 2:12-md-02323, in the U.S. District Court for the Eastern District of Pennsylvania.

--Additional reporting by Erin Coe and Greg Ryan. Editing by Rebecca Flanagan.