

From the NFL to Friday Night Lights...
Tackling Concussion Litigation

Jon Cross, Esquire

Marshall Dennehey Warner Coleman & Goggin
2000 Market Street, Suite 2300 | Philadelphia, PA 19103

P: (215) 575-2750 • E: jecross@mdwccg.com

What is a Concussion?

- A concussion is a type of traumatic brain injury.
- Concussions are caused by a mild bump or a blow to the head.
- Even a "ding" or "getting your bell rung" may be a concussion.
- The challenge with an immediate diagnosis is we cannot see a concussion.
- Signs and symptoms of concussion can show up right after the injury or may not appear to be noticed until days or weeks after the injury.

Signs and Symptoms of Concussion

Signs observed by a coach/trainer after a hit to the head:

- Appears to be dazed or stunned;
- Is confused about assignment or position;
- Forgets an instruction;
- Is unsure of game, score or opponent;
- Moves clumsily;
- Answers questions slowly;
- Loses consciousness (even briefly); and
- Shows mood, behavior or personality changes.

Source: Center For Disease Control.

Signs and Symptoms of Concussion

Symptoms noticed by the athlete may include:

- Headache or pressure in the head;
- Nausea or vomiting;
- Balance problems or dizziness;
- Double or blurry vision;
- Sensitivity to light;
- Sensitivity to noise;
- Feeling sluggish, hazy, foggy or groggy;
- Concentration or memory problems;
- Confusion;
- Just not feeling right or feeling down.

Source: Center For Disease Control.

Post Concussion Issues

Returning to play too soon after a concussion may result in:

- Increased risk of body injury;
- Prolonged post-concussion symptoms (perhaps greater than three weeks);
- Post-concussion symptoms (greater than six weeks);
- Severe brain injury or sudden death or due to second impact syndrome.

Post Concussion Issues

Long Term Affects of a Concussion/ Post-concussion syndrome symptoms:

- Headache;
- Fatigue;
- Sensitivity to noise or light;
- Changes in memory;
- Difficulty sleeping;
- Dizziness.

Essentially, the symptoms of post-concussion syndrome are the same as the symptoms of a concussion that last beyond the first couple of weeks following a head injury.

Source: Elizabeth Quinn, Sports Medicine Expert, May 21, 2014 (mild concussions and other head injuries can have serious long-term effects).

NFL Concussion Lawsuit Overview

- The NFL has agreed to provide at least **\$765 million** over 65 years to ex-players diagnosed with alzheimer's disease, dementia and other serious neurocognitive problems.

(On July 7, 2014, the Eastern District of Pennsylvania Court granted preliminary approval of this Settlement).



NFL Concussion Lawsuit Overview

- A. The retired NFL players sued, accusing the NFL of a failure to warn of the risks and hiding the severity of brain injuries.
- B. The proposed settlement provides for three benefits:
 1. Baseline medical exams for retired NFL players;
 2. Monetary awards for diagnoses of ALS (Lou Gehrig's disease), Alzheimer's Disease, Parkinson's Disease, Dementia and certain cases of chronic traumatic encephalopathy or CTE (a neuropathological finding) diagnosed after death; and
 3. Education programs and initiatives related to football safety.
- C. All valid claims for injury will be paid in full for 65 years.
- D. Retired players, their legal representatives and family members do not have to prove that the players' injuries were caused by playing NFL football to receive money from the settlement.

High Profile National Concussion Claims

- The family of Junior Seau sued the NFL claiming the hall of fame linebacker's suicide was the result of brain disease caused by violent hits he sustained while playing football. (January 2013).
- The mother of Jovan Belcher filed a wrongful-death lawsuit against the Kansas City Chiefs after he murdered his girlfriend and committed suicide. The complaint alleges the Chiefs subjected Belcher to repetitive head trauma; failed to warn of the short-term and long-term risks of concussions; failed to identify and remove him from competition after sustaining head trauma; failed to educate about concussions; failed to monitor or treat for neurological dysfunction; and failed to provide appropriate counseling. (December 2013).
- NCAA settles concussion lawsuit, creating \$70 million fund to diagnose head injuries. (July 2014).

High Profile National Concussion Claims

- Current and former soccer players have sued FIFA, claiming soccer's world governing body has failed to enact the policies and rules needed to protect players. (August 2014).



Uruguay's Alvaro Pereira was one of five documented cases of concussion at the World Cup in Brazil in 2014.

High Profile National Concussion Claims

- Christian et. al. vs. the NHL. The class-action of former players alleges the NHL had the knowledge and resources to better prevent head trauma, failed to properly warn players of the risks, and promoted violent play that led to their injuries. (October 20, 2014).



Bernie Nicholls - former LA Kings player-now a Plaintiff.

High Profile National Concussion Claims

- Baucham vs. USC and former Coach Lane Kiffin alleges negligence for forcing Baucham to continue to play while ill and failing to follow concussion guidelines, leaving Baucham with cardiopulmonary damage and brain injury. (September 2014).



Former USC cornerback Brian Baucham (30) during a game in 2009.

High Profile National Concussion Claims

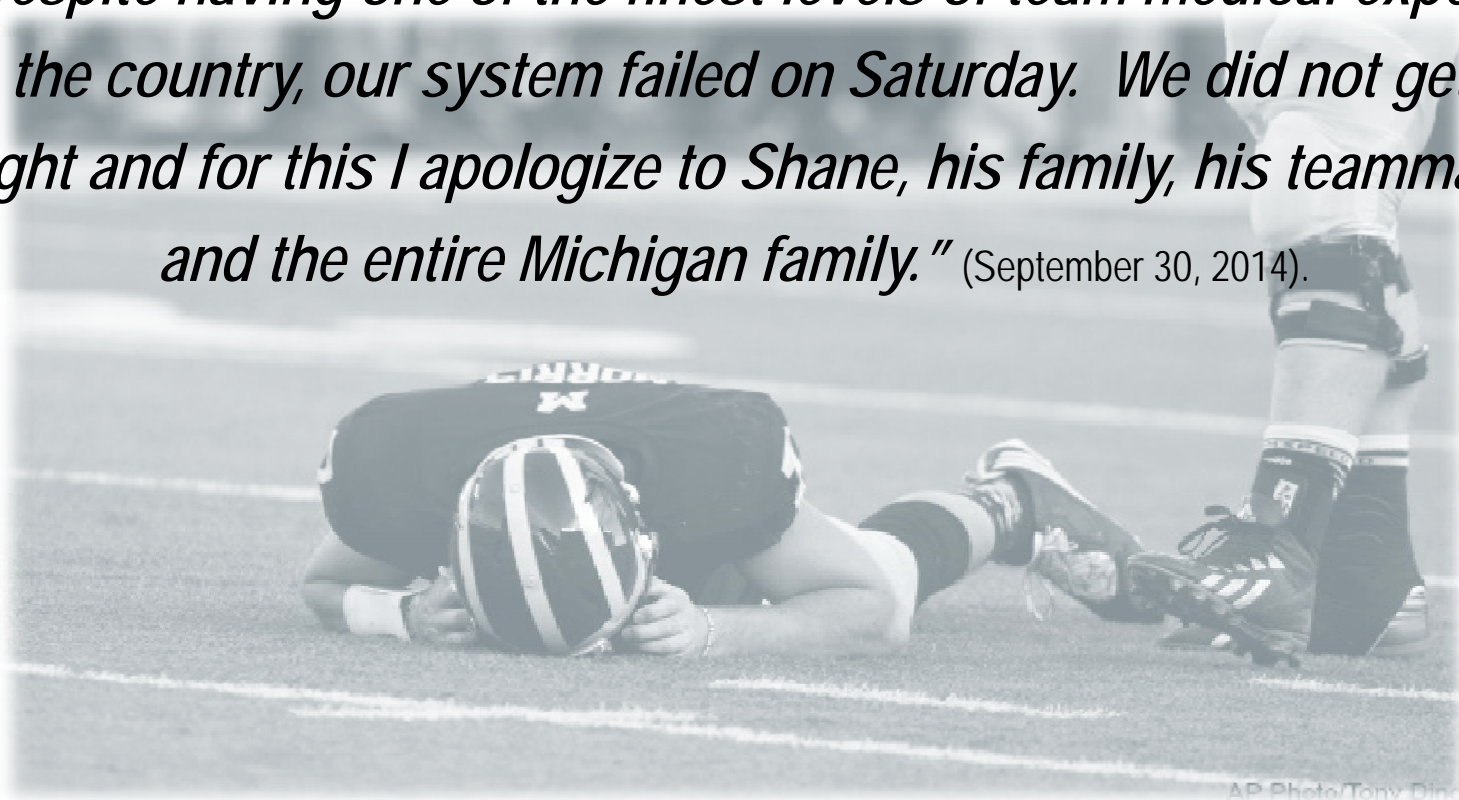
- Michigan controversy: quarterback remains in game after suffering a hit that caused a concussion. (Video September 27, 2014).



High Profile National Concussion Claims

Statement from University of Michigan President Mark Schlissel:

“Despite having one of the finest levels of team medical expertise in the country, our system failed on Saturday. We did not get this right and for this I apologize to Shane, his family, his teammates, and the entire Michigan family.” (September 30, 2014).



YOUTH SPORTS INJURY STATISTICS

- At least 2.4 million emergency department visits, hospitalizations, or deaths were related to a traumatic brain injury in 2009, which includes all causes, such as falls and assaults. (Source: Source: U.S. Centers for Disease Control and Prevention).
- Direct and indirect costs (such as lost wages and productivity) of traumatic brain injury totaled an estimated \$76.5 billion per year in the US. (Source S. Adams – Bloomberg News 2013).
- Organized sports account for some 3.5 million youth injuries each year. (Source: According to the Boston Children's Hospital).
- 1.24 million children were seen in Emergency Rooms for sports injuries in 2013 – averages 3,397 a day. (Source: Safe Kids Worldwide).

YOUTH SPORTS INJURY STATISTICS

2012 Emergency Room Data by Sport U19	Number of Injuries (2012)
Football	394,350
Basketball	389,610
Soccer	172,470
Baseball	119,810
Softball	58,210
Volleyball	43,190
Wrestling	40,750
Cheerleading	37,770
Gymnastics	28,300
Track & field	24,910

*Note – ice hockey has a high percentage of injuries/concussions per player, however, it is not listed due to the fact the amount of participants in the U.S. is smaller than other sports. (Source: Safe Kids Worldwide).

HOW MANY CONCUSSIONS OCCUR EACH YEAR IN YOUTH SPORTS?

1.6 – 3.8 MILLION

Source: Center For Disease Control

HITS to the HEAD YOUTH FOOTBALL PLAYER

1 Player
+1 Season

2,235 Hits to the Head

Source: Journal of Athletic Training 2009



SOCCER INJURIES DUE TO HEADERS

- At least 30% of concussions in soccer are caused by attempting to head the ball (cause is either weak necks of athletes under the age of 15 or jumping head-to-head into each other).

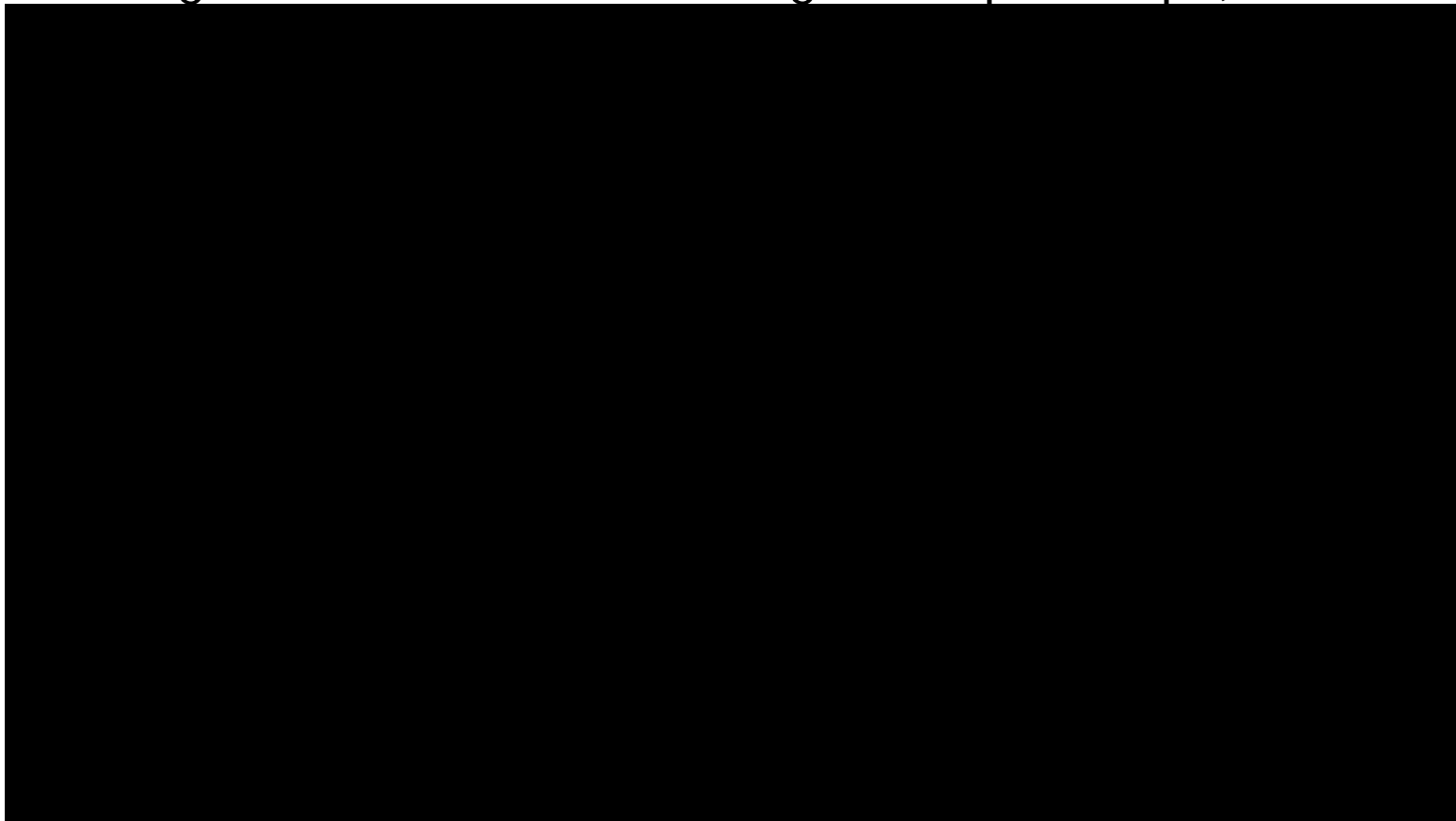
Source: Sports Legacy Institute



Germany's Christoph Kramer collided with another player and suffered a concussion during the first half of the 2014 World Cup final, yet continued playing for nearly 15 minutes after suffering the injury. He later said he could not remember anything from the opening half of the match.

More Use of Electronic Technology=Increased Claims Against Schools, Coaches and Tournament Organizers

- Illinois High School State Wrestling Championship (Video 2013).



Recent Youth Sports Concussion Litigation:

- *Mercier v. Greenwich Academy*, 2013 US Dist Lexis 103950 (Dist CT. 2013). (Female basketball injured while playing at GA. Player sued school for negligence for failing to have her examined after strike to head, failing to remove her from game as a result of concussion like symptoms, and refusing to keep her out of the game until received medical clearance).
- *Ridolfi v. Begano*, 2010 cv-58 (Dist. of Las Animas County, Colorado 2010). (Football player injured and coaches were found negligent for returning him to practice despite concussion symptoms).
- *Maddie Urban vs. Downingtown East High School* (2014). (Female soccer player injured her head. Coach made her play the rest of the game, she continued to head the ball and collided with additional players).

Mitigating Risk of Concussion....What's Ahead?

1. Improved helmet technology



Mitigating Risk of Concussion



Rawlings Pro Advisors Kevin Youkilis, Nick Markakis and Matt Kemp wearing the new Rawlings S100 Pro Comp batting helmet.

- Baseball - Rawlings S100 Pro Comp batting helmet provides protection for pitches up to 100 mph. Rawlings designed the helmet as part of the collective bargaining agreement between the players and owners signed in late 2011, covering the 2012 - 2016 seasons.

Mitigating Risk of Concussion

- Ice Hockey - The Cascade M11 helmet is a project spearheaded by Mark Messier with new technology to reduce the risk of concussion related injuries.




Mitigating Risk of Concussion

- Riddell Speedflex helmet (2014).
- Unique design is engineered to disperse energy and reduce the risk of trauma.

YOUR SAFETY IS OUR TOP PRIORITY

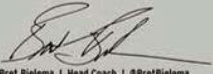
Concussions can occur in any sport or recreational activity. That is why all coaches, parents, and athletes need to learn concussion signs and symptoms and what to do if a concussion occurs. In addition to being informed on the signs of a possible injury, taking measures to provide athletes with the latest preventative technology available is the greatest instrument in maximizing the safety of our student-athletes.


Player safety is of the utmost importance to our football program at Arkansas. Therefore, we are honored to participate in the debut of the most innovative and advanced in helmet technology today: Riddell's Speedflex.




Riddell SPEEDFLEX

The Speedflex's unique shell design is engineered to disperse energy and reduce the risk of trauma, while Riddell's InSite Player Management Software alerts the sideline to significant, single, or multiple impacts that possess attributes that may result in a possible concussion.


Bret Bielema | Head Coach | @BretBielema

 Fred W. Smith Football Complex | PO Box 7777 | Fayetteville, AR 72702

Mitigating Risk of Concussion

2. Hit Sensors/Trackers (2014).

- Used to detect number of hits to the helmet.
- Relay information to a smartphone so the severity of an impact can be known immediately.
- Information is stored on a server for later reference and use if needed.

Mitigating Risk of Concussion

New and improved football helmet design and sensors (video).

Will New Football Helmet Designs Reduce the Risk of Concussions?



Mitigating Risk of Concussion

3. Increased awareness for coaches, parents and players.
4. More use of Immediate Post-Concussion Assessment and Cognitive Testing system (ImPACT).
 - ✦ Establish a player's baseline conditions at the start of a season.
 - ✦ Implemented if the player sustains a mild concussion.
 - ✦ ImPACT program is currently being used at high schools, colleges, the NFL, MLB and NHL.

Mitigating Risk of Concussion

5. Medical Clearance/ "Return to Play" protocols are enforced.

6. YOUTH SAFETY SPORTS ACT.
 - ✦ Effective in all States.

 - ✦ In 2009, the state of Washington passed the first concussion sports law, the Zackery Lystedt Law.

 - ✦ Now all 50 states and the District of Columbia have laws on concussions in sports for youth and/or high school athletes. (*See Get a Heads Up on Concussion in Sports Policies*, Centers for Disease Control and Prevention, <http://www.cdc.gov/concussion/policies.html>).

Mitigating Risk of Concussion

7. Key Sections of the Pennsylvania Safety in Youth Sports Act 24 P.S. § 5321:
- a) EDUCATIONAL MATERIALS
 - b) INFORMATIONAL MEETING
 - c) REMOVAL FROM PLAY
 - d) RETURN TO PLAY
 - e) TRAINING COURSE
 - f) PENALTIES
 - g) OTHER YOUTH ATHLETIC ACTIVITIES/SPONSORS
 - h) CONSTRUCTION
 - i) CIVIL LIABILITY – not expanded or reduced by the act.

Mitigating Concussion Risk

8. New rules, regulations and actions that may reduce the risk of concussion:

Sport	Rules/Actions
NFL	CBA – limits to "full hitting" practices.
NFL	donates \$45 million to USA Football Heads Up Tackling program to teach proper technique.
Football	penalty flag for leading with the helmet on tackles.
Football	penalty flag for touching the QB in the head.
Football	coaches are being asked to eliminate the unnecessary hard hitting and ramming of the helmets drills, modify certain drills and minimize certain drills where there is hitting on the head.
Baseball	no collisions runner/catcher – cannot block plate (MLB 2014).
USA Hockey	raised the age of the introduction to checking to 13.
Soccer	emerging policy in some youth leagues of no head balls.

Potential Legal Causes of Action in Concussion Litigation:

- Failure to provide proper instruction about safe techniques.
- Failure to warn of the inherent risks of the sport.
- Failure to explain the rules of the game.
- Failure to match players based on size, age, and experience.
- Failure to provide adequate supervision.
- Failure to supply the necessary and appropriate safety equipment.
- Failure to inspect the safety equipment.
- Failure to notice a concussion and remove player from game.
- Failure to administer proper post-injury care.
- Failure to adhere to proper return to play protocols.

Q&A

Thank you!

Jon Cross, Esquire

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