

- [Practice Group Partner Rankings](#)
- [Practice Groups of the Year](#)
- [Pro Bono Firms of the Year](#)
- [Rising Stars](#)
- [Trial Aces](#)
- [Site Menu](#)
- [Join the Law360 team](#)
- [Search legal jobs](#)
- [Learn more about Law360](#)
- [Read testimonials](#)
- [Contact Law360](#)
- [Sign up for our newsletters](#)
- [Site Map](#)
- [Help](#)



Make sure you don't miss any Law360 breaking news.

[Download our plug-in for Chrome to get customizable, real-time news alerts](#)

NFL Board Must Redo Ex-Cornerback's Benefits Case

Share us on: By [Adam Rhodes](#)

Law360 (March 13, 2018, 10:58 PM EDT) -- A California federal judge on Monday ordered an [NFL](#) retirement plan board to re-evaluate former NFL cornerback Charles Dimry's permanent disability benefits application after finding a plan board improperly defaulted to its appointed doctors when denying the player's bid for benefits.

U.S. District Judge James Donato ruled that the retirement board of the Bert Bell/Pete Rozelle NFL Player Retirement Plan abused its discretion when denying the former [San Diego Chargers](#) player's benefits application, remanding the case back to the board. In the ruling, Judge Donato also recommended that the board consider a [Social Security Administration](#) ruling — which came down after the board's decision denying Dimry benefits — that there were “no jobs in the national economy” that the ex-football player could perform.

“The problem is that the board denied benefits based upon an unreasonable bias in favor of plan-selected physicians,” the judge ruled. “Although the board noted ‘potentially conflicting medical evidence contained in the record,’ it did not resolve the conflicts by examining the evidence or delving into the record before it.”

Dimry, who had a 12-year career with the league, made his initial benefits application to the board in 2014. While his primary doctor concluded that he suffered from chronic neck pain, spinal disc herniation and knee strains and was unable to work, plan-appointed doctor Steven Meier found that he could perform light work and was not prevented from holding a job. His application was then denied in February 2015.

The former cornerback then internally appealed the decision and met with another-plan appointed doctor, James Chen, in September 2015. Chen found that he could do “desk or sedentary work” after finding evidence of degenerative disc disease and loss of “two motion segments” but no muscle weakness or significant knee problems. Dimry's appeal was denied in November 2015.

He sued the plan in [March 2016](#), just months before an SSA administrative law judge ruled in August 2016 that he had been disabled since October 2012. In his complaint, Dimry alleged the retirement board's decision denied him due process.

Judge Donato dismissed a breach of fiduciary duty claim from the suit in [June 2016](#), and in October 2016, the judge granted a motion by the retirement plan and the NFL Player Supplemental Disability Plan [to dismiss](#) an amended version of the claim.

Judge Donato's Monday ruling granted Dimry's motion for summary judgment regarding abuse of discretion in the denial of

his benefits application and denied the defendants' motion. The judge also declined to apply statutory penalties.

In his ruling, the judge held that \$188,683 paid to Meier by the plan "raises a fair inference of financial conflict. That, coupled with the plan's by-default adoption of its appointed physicians' opinions when making the determinations, amounted to an abuse of discretion, warranting summary judgment in Dimry's favor, Judge Donato ruled.

Dimry's attorney Terrence J. Coleman of [Pillsbury & Coleman LLP](#) told Law360 that he was very pleased with the ruling in Dimry's favor.

"We developed information and evidence that the NFL has a network of doctors that it trains and then handsomely pays to make disability determinations for their players," he said. "We're extremely satisfied that the court has found that the NFL's practice of automatically deferring to these doctors constitutes an abuse of discretion."

Coleman added that he hopes that the ruling will change how the NFL handles disability benefits applications and will "result in more meaningful disability determinations."

Representatives for the defendants could not be immediately reached for comment Tuesday.

Dimry is represented by Terrence J. Coleman and Michael Quirk of Pillsbury & Coleman LLP.

The plans are represented by Michael Junk of [Groom Law Group](#) and Sandra A. Edwards of [Farella Braun & Martell LLP](#).

The suit is Dimry v. Bert Bell/Pete Rozelle NFL Player Retirement Plan et al., case number [3:16-cv-01413](#), in the U.S. District Court for the Northern District of California.

--Additional reporting by Vin Gurrieri and Matthew Perlman. Editing by Alanna Weissman.

[View comments](#)

0 Comments

- [Add to Briefcase](#)
- [Printable Version](#)
- [Rights/Reprints](#)
- [Editorial Contacts](#)

Documents

- [Order](#)

Related

Sections

- [Benefits](#)
- [California](#)
- [Health](#)
- [Insurance](#)
- [Sports](#)

Case Information

Case Title

[Dimry v. The Bert Bell/Pete Rozelle NFL Player Retirement Plan et al](#)