

**NOTICE OF DISCONTINUANCE OF THE CANADIAN FOOTBALL LEAGUE CLASS ACTION**

**ARE YOU A FORMER PLAYER IN THE CFL? IF SO, YOUR RIGHTS COULD BE AFFECTED.  
READ BELOW TO LEARN MORE.**

**THE CFL CLASS ACTION HAS BEEN DISCONTINUED**

A class action lawsuit was commenced in Ontario by Mr. Banks against the Canadian Football League (“CFL”), its teams, former commissioner and others on behalf of former CFL players who suffered concussion-related injuries while playing in the league (“Former Players”).

Former CFL player Arland Bruce also filed a similar concussion-related lawsuit as an individual (not as a class action). After a hearing and appeals all the way to the Supreme Court of Canada, Mr. Bruce’s legal claims were directed to proceed by way of labour arbitration rather than through the courts.

The class action lawsuit has now been discontinued (withdrawn) against all of the defendants. This is because it is likely that claims relating to Former Players’ concussions are required to be resolved through labour arbitration rather than in the courts.

Arbitration is a private contractual dispute resolution process that occurs before a decision maker known as an arbitrator. In this case, the arbitration process is driven by the Collective Bargaining Agreements (“CBA’s”) established between the CFL Player’s Association (“CFLPA”) and the CFL defendants over time.

**YOU HAVE THE OPTION TO MAKE A CLAIM FOR CONCUSSION RELATED INJURY THROUGH AN ARBITRATION PROCESS**

The CFL Defendants (the league, its teams and former commissioner Mark Cohon) have agreed to a labour arbitration process whereby Former Players alleging a concussion related injury as of October 31, 2023 can seek to file a claim (known as a “Grievance” within the arbitration process). The arbitration process will be governed by the applicable CBA as follows:

- For claims that arise pre- May 2019 the 2014-2019 CBA will apply; and
- For claims that arise after May 2019, the subsequent CBA will apply.

The arbitration process provides, among other things, that:

- Former Players who were suffering from, or could reasonably be expected to have known that they were suffering from, a concussion-related injury as of October 31, 2023 may initiate a Grievance under the terms of the applicable CBA;
- The scope of the claims and relief available to Former Players under the 2014-2019 CBA incorporates a tort law structure. That structure includes the capacity for Grievances concerning a duty of care, negligence, negligent misrepresentation and equitable treatment by the CFL and the teams toward Former Players in relation to player safety, well-being and treatment of concussion-related injuries;
- Arbitration imposes no monetary limits to compensation that a Former Player can seek pursuant to the CBAs;
- For the period from January 1, 2017 to April 30, 2024 the CFL will not raise any timeliness argument and it agrees that no arbitrator has jurisdiction to consider any delay for that time period. The CBAs otherwise include a timeliness requirement that a Grievance must be commenced within one year of the time in which the basis for the claim was reasonably discoverable by the Former Player;
- Otherwise, the arbitrator shall determine all issues of timeliness and discoverability concerning a Grievance made by a Former Player. The claims of Former Players are subject to discoverability rules under the CBAs and at law, and in respect of the Former Player’s ability to discover the existence of their claim including factors concerning their personal mental or physical competence.

Former Players may also make arguments concerning tolling rights for the timeliness of their claims, if applicable, under the *Class Proceedings Act, 1992*.

There is no guarantee of success for any party in any legal proceeding including within an arbitration. Former Players and the CFL defendants retain all claims and defences that are available to them under the CBAs or at law.

To the knowledge of Mr. Banks' counsel and the CFL defendants, certain notices of arbitration for concussion related claims have been filed by Wishart Brain & Spine Law (contact details below) and by the CFLPA. Specifically:

1. A group grievance was filed by the CFLPA dated March 18, 2018, and is being scheduled for arbitration (the "Group Grievance"). The Group Grievance was filed separately and independently from the class action.
2. The CFLPA may represent any current or former player within the Group Grievance should any such player wish to be represented by the CFLPA.
3. Please contact the CFLPA at [admin@cflpa.com](mailto:admin@cflpa.com) to be added to emails and other communications from the CFLPA with updates about the Group Grievance and arbitration.
4. The CFLPA will also receive and consider requests for it to file individual grievances on behalf of individual members where it may be appropriate. Requests for the CFLPA to file individual grievances can be submitted by email to [admin@cflpa.com](mailto:admin@cflpa.com).

## THE ARBITRATION DEADLINE

Former Players known to have suffered a concussion-related injury caused while playing in the CFL prior to October 31, 2023 and wishing to file a Grievance to participate in the arbitration process **must file their Grievance(s) by April 30, 2024, which is 6 months from October 31, 2023.**

Former Players looking to file a Grievance may hire a lawyer of their choice to assist them or contact the CFLPA as indicated above.

## WHAT HAPPENS IF I DO NOT FILE A GRIEVANCE?

**If you know you suffered a concussion-related injury while playing in the CFL and do not file a Grievance by April 30, 2024, you will not be entitled to file a claim at a later date.**

## MORE INFORMATION

For more information about the discontinued class action please visit [www.foremancompany.com/CFL](http://www.foremancompany.com/CFL) or contact:

*Foreman & Company*: Toll free at 1-855-814-4575 ext. 107 or e-mail at

[classactions@foremancompany.com](mailto:classactions@foremancompany.com); or

*Camp Fiorante Matthews Mogerman<sup>LLP</sup>*: Toll free at 1-800-689-2322 or e-mail at [info@cfmlawyers.ca](mailto:info@cfmlawyers.ca).

**For assistance in filing a Grievance, please contact your own lawyer or the CFLPA.**

Robyn Wishart of *Wishart Brian & Spine Law* has also initiated Grievances for Former Players. Ms.

Wishart can be reached at: Toll free at 1-855-947-4278 or e-mail at [rlw@wishlaw.ca](mailto:rlw@wishlaw.ca).