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## Brain concussions, CTE link becomes clearer every day

In the 1980s (when TVs still had picture tubes and cell-phones were non-existent) the Partnership for a Drug-Free America launched a 30-second public service announcement in which a man held up an egg, saying: "This is your brain."

He then cracked open the egg, dropping the contents into a frying pan and stated: "This is your brain on drugs. Any questions?"

I vividly remember the poignant spot and its important message — the human brain is precious, so don't fry it.

Around that same time, professional sports leagues and equipment manufacturers were coming to grips with the reality that the human brain can be "fried" from repetitive head trauma, particularly when concussive blows are undetected or poorly managed.

The athletes did not know that a career in professional contact sports could result in permanent brain damage. But no public service announcement was aired to demonstrate these dangerous ramifications. Instead, the games' participants continued to grow bigger, faster and stronger and their hits became increasingly dangerous.

The leagues continued to glorify the big hits, without regard for the risk of future brain damage. As Keith McCants, the fourth pick in the 1990 NFL draft out of the University of Alabama recently said, "We were paid to hurt people; we were paid to give concussions."

Hollywood recently pulled back the curtain on the NFL's refusal to acknowledge the link between its entertainment product and the permanent and progressive neurodegenerative disease known as Chronic Traumatic Encephalopathy (CTE).

CTE, first discovered in an NFL player by Dr. Bennet Omalu (brilliantly portrayed by Will Smith in the film "Concussion")

is a progressive degenerative disease of the brain found in individuals with a history of repetitive head trauma.

The disease is rampant among former athletes. In those individuals, the repetitive traumas to the brain can trigger a build-up of an abnormal protein (called tau), which, over time, results in the progressive degeneration of brain tissue. CTE's hallmark manifestations of memory loss, confusion, impaired judgment, problems with impulse control, aggression, depression, suicidality and dementia have been seen in many professional athletes including former NFL players Mike Webster, Dave Duerson, Forrest Blue, and Junior Seau and former NHL players Bob Probert, Derek Boogaard and Steve Montador.

(Corboy & Demetrio represents the Duerson, Blue, Boogaard and Montador estates in several ongoing lawsuits.)

The families of these deceased athletes, and those athletes living with brain disease, have taken the leagues to task in recent years.

In federal courts in Philadelphia and Minnesota, the NFL and NHL are contending with lawsuits claiming that the NFL and NHL failed to warn players of serious risks inherent to concussive brain trauma and failed to minimize these risks to the players. See *In Re: National Hockey League Players' Concussion Injury Litigation*, 14-md-2551 (a multidistrict case involving Corboy & Demetrio clients as plaintiffs) and *In Re: National Football League Players' Concussion Injury Litigation*, 12-md-2323 (a case where Corboy & Demetrio serves in a leadership role on the Plaintiff's Executive Committee.)

The fairness of the NFL's settlement of claims against it (projected to cost the league approximately \$1 billion) is currently under review in the 3rd U.S. Circuit Court of Appeals. A decision is expected any day. The

### SPORTING JUDGMENT



BY WILLIAM  
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NHL case is in the midst of robust discovery.

Congress has taken notice, too. Congressional hearings were held in 2009 and 2014 on the issue of brain trauma in sports. On Monday, the House Energy and Commerce Committee held a round table discussion titled, "Broad Review on Concussions: Initial Round Table," regarding the state of knowledge concerning the causes, effects and treatments of concussions and head trauma.

The discussion featured input from experts representing the medical, military, athletic and research communities and focused on building a collaborative body of knowledge to help improve the diagnosis and treatments of concussions.

Of course, the risk of suffering long-term effects from head injuries is not confined to the professional athletes. Recently, a study published in the Canadian Medical Association Journal revealed that adults who have suffered a concussion are three times more likely to commit suicide years after their brain injury. See Michael Fralick, Deva Thiruchelvam, Homer C. Tien and Donald A. Redelmeier, "Risk of Suicide After a Concussion," *CMAJ* (Feb. 8, 2016).

If an average adult is three

times more likely to commit suicide after suffering a concussion, imagine what this means for a professional athlete who suffered numerous and repetitive head injuries throughout his career.

But participation in team sports is not all gloom and doom. The values instilled through participation in team sports are numerous and important. The key, then, is to make the games as safe as possible. Armed with knowledge that head trauma is inevitable, parents, coaches, referees, fans and organizers must continue to remain hyper-vigilant to the seriousness of head trauma while watching athletes participate in sports.

The spotlight on concussions and their long-term implications has resulted in sports leagues evolving to make sports safe for its participants.

Recently, the coaches at all eight Ivy League schools voted to eliminate full contact practices during the regular season. This new rule was instituted after Dartmouth, which stopped hitting in practice in 2010, saw little to no drop off in performance. Indeed, arguably, the team gained a competitive advantage, finishing third, second and tied for first in the past three seasons.

Further research into individual susceptibility to neurodegenerative disease from trauma is necessary. Progress toward in vivo diagnosis of CTE and, equally important, treatment for the disease is ongoing.

The sports world will be a better, safer place, but more change is needed. No more brains need to be "fried." At this point, we should all get the message.

*On Friday, Gibbs and Corboy & Demetrio P.C. partner Thomas A. Demetrio brought a lawsuit against sports equipment manufacturer Riddell on behalf of the family of former NFL player Paul Oliver, who, while suffering from CTE, shot himself in the head in front of his wife and two children.*