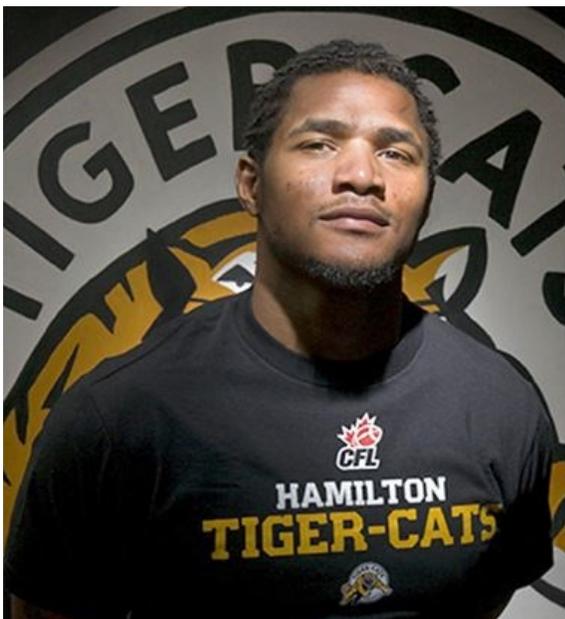


Collision Course: Nowhere to turn for players affected by concussions

By law, CFL players aren't eligible for workers' compensation benefits if they're hurt on the job

NEWS Sep 01, 2017 by [Steve Buist](#) Hamilton Spectator



Former Ticat Arland Bruce, left, is suing the CFL. The lawsuit raises concerns about the relationship between the Canadian Sports Concussion Project, the CFL and the CFL Alumni Association. Leo Ezerins, right, executive director of the CFL Alumni Association, is named in the Arland Bruce lawsuit for conflict of interest. He was a co-author of the papers published by the Canadian Sports Concussion Project.

Steve Buist describes what happens to the brain during a concussion.

This is Part 3 of Collision Course, a Spectator investigation on concussion and football. [See more series content.](#)

Last fall, Evelyn Williams was standing in the hallway of a Best Western hotel in Raleigh, N.C.

Sobbing, frantic and desperate, Williams was begging her son, Jonathan, to unlock the door to his room and let her in. She feared he was preparing to end his life. She had already been to a magistrate's office and obtained an emergency order to have her son involuntarily committed to a psychiatric facility.

Jonathan Williams, now 29, was once a star running back at East Carolina University in his hometown of Greenville, N.C.

He spent a short time with the Cincinnati Bengals of the NFL in 2011, played a game with Calgary in the CFL in 2013 and then signed with Ottawa in September 2014. Williams played four games with Ottawa and in just his second game that season, he was named the CFL's Offensive Player of the Week after rushing for 180 yards against Winnipeg.

Then midway through his fourth game in late October, Williams' right knee was shredded — his ACL, his MCL, any CL you could name, his mother says, had been ripped apart.

Williams returned to North Carolina, his football career finished. He was a lost soul and physically damaged.

"He said 'Mom, they just used me and threw me away and sent me back home broken up,'" Evelyn Williams said.

That's when her son discovered there was no safety net waiting to catch him on either side of the border.

By law, CFL players aren't eligible for workers' compensation benefits if they're hurt on the job. They also aren't entitled to long-term disability payments.

As an American player back home in the U.S., Williams wasn't eligible for Canadian health care and in a cruel twist, he was told he wasn't eligible for American health care and disability either because his injury happened outside the U.S.

His mom was helping pay for his medical care as best she could out of her own pocket, but that couldn't keep his mental health demons at bay.



Jonathan Williams (2) was a star running back for East Carolina University and played in the NFL and CFL. (Chris Seward, Raleigh News & Observer/McClatchy-Tribune)

Evelyn Williams now thinks her son is suffering the effects of concussions and repeated hits to the head from a football career that started when he was just 8 years old.

She said her son complains he now shakes a lot, "like Muhammad Ali," the late boxing legend who lived with Parkinson's disease for more than 30 years.

Her son's mood has also changed drastically, she said. He began to isolate himself, he no longer talks to his friends, and he stopped caring about his once-stylish appearance. Sometimes, she said, he would just wear the same pyjamas as clothes for days on end.

"As soon as Jonathan came back from Canada, he has not been the same person," she said. "He tells me he doesn't care about anything, he doesn't care about life."

As she grew more concerned, Evelyn Williams phoned a crisis hotline about her son. The man at the other end of line asked if there was a key event or anniversary coming up. She said it would soon be the two-year anniversary of his injury.

"He tells me he doesn't care about anything, he doesn't care about life."

— Evelyn Williams, mother of former CFL player, Jonathan Williams

The man then asked if he had gotten rid of any possessions recently. Yes, she said, Jonathan had thrown a bunch of his clothes and most of his football memorabilia in a garbage bin.

"He said, 'Ma'am, I want you to listen to me carefully,'" she recalled. "'Your son is probably planning a suicide.'"

That's how Evelyn ended up in a hotel hallway, pleading with her son to open the door.

"He said 'They don't care if you live or die. My life is over,'" she said. "When he said his life is over, I just really lost it."

She pulled out her phone on the spot and started looking for help online. She came across the name of Robyn Wishart, a Vancouver lawyer who has launched two lawsuits, including a class-action case, against the CFL on behalf of players who claim they have been hurt from the effects of concussions.

Evelyn had never heard of Wishart before but out of the blue, she sent the lawyer an email that read "If you can help, please help."

Within an hour, Wishart called. Evelyn Williams put her phone up against the door and Wishart began yelling out the names of other CFL players who were part of the class action lawsuit, hoping there would be some that Jonathan Williams would recognize.

Finally, he opened the door.

"I think that gave him a better feeling that he wasn't the only one dealing with this," Evelyn said.

Williams will soon be one of more than 200 players in the class-action suit. They allege the CFL's negligence caused them to suffer brain injuries and the league was also negligent by not warning them of or protecting them from the dangers of brain trauma. Those who have joined to date come from across Canada, nearly every U.S. state and as far away as England and Scotland.

"I've got guys living in the bush in the Kootenays," Wishart said. "I've got guys in jail in Florida. I've got guys living with their mothers. I've got guys living in rooming houses."

Former Toronto Argonaut Eric Allen, one of the lead plaintiffs in the Ontario class action lawsuit, died in the fall of 2015, just a few months after the suit was filed. At the time of his death, he was 66 and living with his mother, who was in her 80s.

"She was showering him — physically lifting him," Wishart said.



Robyn Wishart is a Vancouver lawyer who has launched a class-action case against the CFL on behalf of players who claim to have suffered as a result of successive concussions. (Mark van Manen, PNG)

In their statement of claim in the class action case, the players allege the league knew that playing football in the CFL gave players "a high likelihood of suffering from brain injury, including but not limited to CTE — a progressive neurodegenerative disease that is a long-term consequence of single or repetitive closed head injuries for which there is no treatment and no definitive pre-mortem diagnosis."

The players also allege the league has known about the harmful effects of multiple concussions for more than 60 years "and systematically failed to disclose and/or concealed these facts" from the players.

The allegations contained in the statement of claim have not been proven in court.

The CFL declined to comment on the class action lawsuit because the matter is still before the court.

It would be hard to find someone who doesn't believe that football is a dangerous profession. Yet when it comes to long-term health care and their rights, a clash of competing laws puts CFL players in a peculiar Catch-22 situation.

On one hand, members of a union in Canada — like CFL players — who are covered under a collective bargaining agreement aren't allowed to sue their employer in court. The law's position has been that unions are strong enough to protect their members, so the union and the employer should be left to fight it out over the ground rules for disputes.

On the other hand, while there is a collective bargaining agreement in place between the CFL and the CFL Players' Association, each player also negotiates a personal contract with his team for things like salary and bonuses. On top of that, there's the quirk of law that denies CFL players the right to workers' compensation and long-term disability benefits in every province with a CFL team.

"So no job security, no guaranteed contracts, no long-term disability, no workplace benefits and no employer negotiating the terms of your contract."

— **Robyn Wishart**, lawyer who launched a class-action case against the CFL

So CFL players injured on the job can't get the compensation normally available to injured workers, but they also can't take the league or their team to court. It also means teams aren't subject to workers' compensation regulations about workplace safety.

"What you've created is a hole people are falling into," said Wishart. "They've got no employer negotiating for their safety financially with long-term disability benefits and they've got no government organization making their job environment safe."

Yet employees of a CFL team who aren't players are covered by workers' compensation.

Here's how illogical the situation is for CFL players as the law currently stands:

A player is sprawled on the ground after blowing out a knee that could end his career in a sport filled with incredible danger on every play. The team's trainer runs out to tend to the player, trips and blows out his knee. The trainer is eligible for workers' compensation, retraining and even long-term disability benefits, if necessary. The player isn't entitled to any of that.

Former Ticats receiver Mike Morreale spent two years as president of the CFL Players' Association. He calls the workers' compensation rules "absurd."

"It's fundamentally wrong to not be able to take care of your employees," said Morreale. "They come out and risk just about everything to play a sport in front of fans that pay to watch you play."

"What's the downside to providing workers' compensation? The cost, obviously," Morreale said. "Someone just doesn't want to spend the money. But the upside would be tremendous because it would give players another lease on life. It's a harsh business."



Former Ticat receiver, Mike Morreale spent two years as president of the CFL Players' Association.(Barry Gray, The Hamilton Spectator)

"The body wasn't meant to play a game like football," adds retired Ticat hall of fame receiver Rocky DiPietro.

Workers' compensation coverage isn't mandatory for every sector in Ontario and some sectors, such as professional athletes, are not even eligible for coverage. Aside from pro athletes, Ontario's Workplace Safety and Insurance Board doesn't extend coverage to stunt performers, for example, or circus performers.

"The reason these people aren't covered is that the board simply does not want to accept the risk of covering them because they know how dangerous these professions are," said Brian Simo, a Hamilton personal injury lawyer who once worked as a WSIB case manager.

"I suspect they would put football players in the same category and say 'Look, this is such a dangerous activity and inherently dangerous that it's not something that's contemplated.'"

A written response by a spokesperson for the WSIB simply stated professional athletes are not eligible "due to exclusion from legislation and WSIB policy."

"This is consistent with other jurisdictions in Canada," stated WSIB spokesperson Christine Arnott.

The WSIB also indicated it is not aware of any communication from the CFL Players' Association inquiring about WSIB coverage.

The WSIB premiums paid by employers are based on the risk of claims being made and how much those claims could cost.

Logging, for example, has the most costly premiums for Ontario employers, at \$13.04 for every \$100 in insurable payroll. At the other end, premiums are 20 cents per \$100 of insurable earnings for some types of office workers.

Using the highest rate of logging as a rough guide, a CFL team in Ontario would pay \$652,000 a year in workers' compensation premiums for a player payroll of \$5 million.

It shouldn't be forgotten, Simo said, that aside from the incredible dangers of playing football, the average salary in the CFL is far less than other professional sports. The average NHL salary last season was nearly US\$3 million, more than US\$6 million in the NBA, and US\$4.4 million in baseball. The CFL's minimum salary last season was \$52,000 and the average, including bonuses, was \$86,000.

"Really, they're being paid a working wage in the province of Ontario," Simo said. "A lot of these guys who are playing at incredible risk are really the kind of people we consider workers in Ontario."

The highest-paid player in the CFL this season — believed to be Edmonton's Mike Reilly at about \$500,000, or US\$370,000 — earns significantly less than the US\$465,000 minimum for an NFL rookie who's never played a game.

But the WSIB caps insurable earnings at \$88,500 this year for eligible workers, Simo notes, and benefit payouts are 85 per cent of insurable earnings.

"So it's not that the board would be accepting these massive salaries that they're at risk of being exposed to," he added.

Oddly enough, aside from the much higher base salaries, players in the NFL are also entitled to workers' compensation benefits.

To make matters worse, Simo said, Canadian law isn't particularly friendly to athletes who suffer injuries.

"Often it will say how is it your employer's negligence that you were injured?" he said. "You were injured because the activity you were doing has a ton of inherent risks and that's just one of the risks you accept when you're voluntarily doing it."

"When you're in a football collision and you end up with a broken leg, you can't really sue the guy who tackled you," Simo said. "That was his job and you accepted that he would do that."

Along with the absence of workers' compensation and long-term disability benefits, CFL players also don't have guaranteed contracts. Coaches and managers do, however.

And unlike most other unionized environments, there are also no seniority rights for CFL players. If a player can no longer play "skilled football," according to the standard CFL contract, he can be released.

"So no job security, no guaranteed contracts, no long-term disability, no workplace benefits and no employer negotiating the terms of your contract," said Wishart. "How can you say that these players don't deserve the protection of the court?"

"These are players who deserve the right to go to court and these are players who need help."

"There's not one single player I represent that wants to sue the CFL," she added. "What they want is someone to help them. Help them understand what is wrong with them and help them with occupational therapy."

"But that's not the business of the CFL."

Last month, the Supreme Court of Canada was asked to settle once and for all the Catch-22 facing injured CFL players — they're not allowed to sue their employers for workplace-related injuries but they're also not eligible to receive workers' compensation or disability payments for their injuries.

The test case is a 2014 lawsuit filed by Robyn Wishart on behalf of one-time Tiger-Cats receiver Arland Bruce, now 39, who claims his career was derailed in 2013 as a result of the cumulative damage he suffered from multiple concussions over his career.

When she first met Bruce, said Wishart, "he was living in an unlicensed truck with a duffel bag."

Bruce now suffers from horrible headaches, she says, and until he began getting treatment recently, his brain injury affected his mood and, as Wishart describes it, "his ability to separate reality from his fears."

The statement of claim in Bruce's lawsuit against the CFL makes many of the same allegations contained in the Ontario class action lawsuit — that the CFL and its teams were negligent because they didn't protect players from the risk of brain injury, that they knew of the long-term harmful effects of multiple concussions and sub-concussions, and that they "actively concealed these facts" from Bruce.



Arland Bruce was a receiver for the Tiger-Cats. He is currently suing the CFL for negligence in relation to concussion and degenerative neurological disease. (Hamilton Spectator file photo)

But the Bruce lawsuit also goes much further in raising questions about the actions of the CFL.

The lawsuit points to contradictions in the CFL's stances.

On one hand, the suit alleges, the league claims to take a leadership role in the promotion of concussion awareness and prevention. Players can be disciplined for "illegal and dangerous" hits.

On the other hand, the lawsuit claims, the CFL website includes pictures and video "glorifying violent hits," including an annual Top 10 list, and the CFL website contains "numerous explicit examples of how the CFL markets and glorifies the violent nature of the CFL."

A CFL mission statement launched in 2008, according to the suit, is accompanied by a song that includes the lyrics: "This is a league of fast and crush where there is no safety in a sideline ... This is a league of black and blue."

The allegations in Bruce's statement of claim have not been proven in court.

The CFL declined to comment on the Bruce lawsuit because the matter is still before the court.

In a written statement to the Spectator, the CFL said the "health and safety of our players is a top priority for our league."

The league outlined a number of steps taken in recent years to improve safety, such as the elimination of some contact during practices and the introduction last year of injury spotters at games.

If the Supreme Court agrees to hear the appeal of Bruce's case and rules in his favour, it would open the door for injured CFL players to take the league and its teams to court.

Such a ruling would also have an impact on the class action lawsuit, which is being held in abeyance until the Bruce case is sorted out.

Even if the Supreme Court rejects Bruce's appeal, it likely means his case would head to arbitration with the league.

"It's either going to be an arbitration or a lawsuit," said Wishart. "There is going to be compensation for the players.

"When Arland went public with his struggles and we filed the lawsuit, it opened the door for other people to come forward and say 'Me too,'" Wishart added.

"I don't think Arland realized when he filed his lawsuit what it was going to mean to other players."

Evelyn Williams and her son, Jonathan, spent Canada Day in a Raleigh hotel.

She says she's "trying to get some things sorted out" so she can find a place for the two of them to live permanently.

A week earlier, Jonathan Williams was released from another stay in a psychiatric facility.

He says he's been diagnosed as bipolar with schizoaffective disorder. Despite what his mother thinks, he doesn't believe it has anything to do with football or concussions.

"Everything's running smoothly," Williams said. "I'm a calm, collected, cool guy."

It's been three years since he suffered the knee injury that wrecked his career and he's still in pain.

Williams had been trying to rehabilitate his knee with physical therapy, but then he re-tore his meniscus. He may need more surgery.

Despite the incredibly long odds he's facing, Williams still believes he can play again.

"Football ain't over for me if I can just get my knee situated," he said. "I'm going to get back on my feet."

"But I don't know where to go from here."

Besides, he said, it's pointless to talk about what he plans to do or what the future holds.

"I'm still sitting here with a knee injury from three years ago."