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Margalit Injury Lawyers to launch landmark case for former AFL players with concussion injuries

A Melbourne law firm says 30 former AFL and AFLW players are “ready and willing to go” in a landmark class action over the impact of concussion injuries.



Robyn Riley Exclusive

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The AFL is stepping up moves to provide long-term support for concussion victims as other high collision sports at the elite and grassroots level grapple with the growing problem. A long-time concussion campaigner is calling on betting agencies to use booming profits to fund a massive \$2 billion package to support ex-AFL...

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A landmark class action by former footballers suffering the effect of concussion injuries is being prepared against the AFL.

In an Australian first, Melbourne firm Margalit Injury Lawyers is bringing the action in the Supreme Court, saying: "It is time for the AFL to be held accountable."

Managing principal Michel Margalit believes severely injured ex-players with the brain disease chronic traumatic encephalopathy (CTE) and other related injuries could be awarded compensation of more than \$2m each, plus medical expenses.

CTE has been linked to repeated head injuries and blows to the head and slowly worsens, leading to dementia.





Smith won a historic \$1.4m concussion damages payout. Picture: Alex Coppel.

A personal injury specialist lawyer, Ms Margalit said that while separate legal actions against the AFL had been considered before, this is the first time an action representing injured former AFL players was being prepared.

She said 30 former AFL and AFLW players were “ready and willing to go” and that her firm was receiving calls daily from former players.

“We need to call for justice because for too long these people have felt they have had no avenues for redress and they have not been properly understood or heard,” Ms Margalit said. “It is based on the growing scientific evidence and also mounting public awareness. It is now a matter of when, not if.

“The AFL has known about this since 1995 when a medical report said action was needed.

“And to think they haven’t been able to sort themselves out and devise a compensation and prevention program is beyond comprehension.”

Women, she said, were instrumental in the class action; either as former players or partners of injured players.

“This culture against suing the AFL has been so wrapped up in being a tough bloke or a good bloke ... when these players have had the wrong thing done by them,” Ms Margalit said.

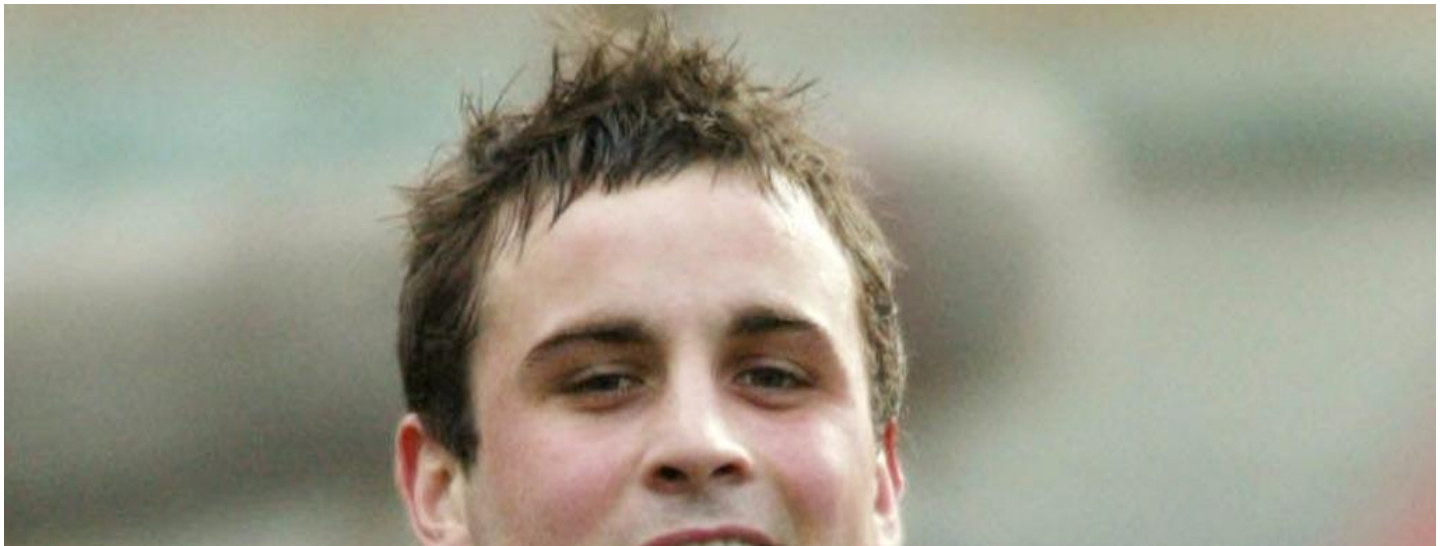
She said that although the AFLW was only seven years old, female players were involved because the AFL still had not taken appropriate measures.

High-profile cases of CTE include Danny Frawley, who was found to be suffering from the crippling neurological disorder at the time of his death in September 2019.

Graham “Polly” Farmer, who died in August 2019, was also confirmed to have had stage 3 CTE.

In July last year former Tigers defender [Ty Zantuck](#) won a legal extension of time to sue the Richmond Football Club for compensation over debilitating back injuries and a suspected degenerative brain disease.

Zantuck, who played 68 matches for Richmond in the early 2000s, says the club had “no adequate system” for responding to or managing concussion despite the relevant science and medical knowledge available at the time.





football injuries.

“Historically, playing football was seen as ... more of a leisure activity rather than a real job,” Ms Margalit said. “Any other employee in Victoria is entitled to benefits if an injury is sustained in employment.”

The firm’s submission also called for:

- Mandatory training sessions on concussion at all levels of the sport;
- Players to receive better medical treatment; and
- Better standards of medical record keeping by club and AFL doctors

“What concerns me is that there is a lot of self-blame, and a lot of players are unable to identify that this is not a personal failing; they are not a bad bloke or flawed human being. This is a work-related injury,” Ms Margalit said.

She said of the former AFL players who came forward that she had been: “blown away by how you can have these otherwise strapping, strong individuals and the moment you spend a minute speaking to them it is so clear how life-altering their injuries are”.

The AFL said in a statement on Sunday:

“The health and safety of players at all levels of the game is the AFL’s key priority and we take concussion and the protection of the brain health of all those playing our game extremely seriously.

“The AFL has made more than 30 changes to concussion protocols, tribunal guidelines and on-field rules over the past two decades to further protect the head and improve the response to head knocks in our game in accordance with current and evolving science.

“We continue to strengthen protocols and the education of clubs and players as to why we treat this issue so seriously and in 2021 we built on our conservative return to play protocol that focuses on individualised assessment and management, involving a brief period of relative rest, a period of recovery and a graded return to full contact by introducing a minimum recovery and rehabilitation period following a diagnosed concussion. This protocol is part of a mandatory 11-step, minimum 12-day post-concussion recovery and rehabilitation period for all levels of Australian Football.

“An AFL delegation attended the 6th International Consensus Conference on Concussion in Sport, held in Amsterdam in October last year and the international expert panel from the Conference is in the process of drafting a consensus statement based on concussion papers submitted from academics across the world which is expected to be delivered sometime this year.

“The AFL will continue to use the Consensus statement to inform further work into concussion management and, as we have previously said publicly, are also working closely with Gordon Legal to consider options for the introduction of an expanded financial assistance scheme for former AFL and AFLW players who suffered a serious injury with long-term consequences and financial need.”

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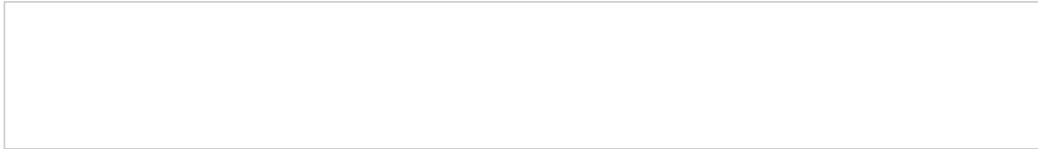
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