

MVP: Zuckerman Spaeder's Cyril Smith

By Emily Brill

Law360 (September 29, 2022, 2:02 PM EDT) -- [Zuckerman Spaeder LLP's Cyril Smith](#) helped pioneer litigation in the 2000s that linked football players' post-career disabilities to their repeated concussions on the field, and he hasn't slowed down since, with his recent work on behalf of National Football League retirees among the accomplishments that landed him a spot as one of Law360's 2022 Benefits MVPs.

A NOTABLE CASE HE'S WORKED ON:

Smith began representing NFL retirees when he took on a case against a league retirement plan on behalf of the late Pittsburgh Steeler Mike Webster, who had died of a heart attack at age 50 in 2002.

The case linked Webster's repeated head trauma over the course of his 17-year football career to his post-career disabilities, which included depression, dementia, acute pain and amnesia, and won a \$1.9 million award for his family in 2007.

"None of the conversations about concussions that we're having today would have happened without the Webster case," Smith said. "I'm proud of starting that conversation. You don't normally think of a pension plan as being the way to prove that playing pro football is dangerous to your health."

The crux of the case involved showing that Webster should have qualified for a disability pension from the NFL before his death. Smith said he and his co-counsel, Bob Fitzsimmons, nabbed a win for their client on the strength of the factual record.

"The record was completely one-sided — a neurologist and psychiatrist and psychologist had evaluated this guy, and they all agreed he was disabled by concussions," Smith said. "I thought it was going to be pretty straightforward, and it was."

HIS BIGGEST ACCOMPLISHMENT THIS PAST YEAR:

Since the Webster case, Smith has continued his work on behalf of retired football players. Over the past year, he clinched a win for two clients in a controversial dispute about the NFL's use of "race-norming" to determine payouts from a 2015 concussion case settlement.



According to the litigation, the NFL applied different sets of data based on race when processing former players' "cognitive function" test scores, making it harder for Black players to qualify for payouts.

The NFL said in June 2021 that it would walk back the practice. Smith was one of the attorneys who worked out a subsequent agreement with the league with the intention of making it easier for Black players to collect shares of the 2015 settlement.

"Being able to make a difference for thousands of Black retired players was really meaningful," Smith said.

HIS ADVICE TO YOUNGER ATTORNEYS:

With more than three decades of trial experience, Smith said his No. 1 piece of advice to aspiring litigators is to find opportunities to try cases early in their careers.

"If you're in litigation, I would say try and figure out a way to try cases, whether that means working for the state attorney's office or working in a firm where you can get that kind of experience," Smith said.

"From my perspective, that's an indispensable skill. You can't really evaluate a case and understand what's going to be important in the case unless you've had to question a witness."

Smith said he has very much enjoyed his work as a plaintiff-side litigator. One of the exciting things about being on the plaintiffs side is having the ability to choose cases that have a strong narrative, he said.

"You don't take all the cases you come across. You see if there's a compelling story, if someone's been done wrong and you can prove it," Smith said. "You're trying to tell a story that will entitle one person or 10 million people to relief. You get to shape the case, gather the evidence and present it at trial in a way that makes sense."

— *As told to Emily Brill.*

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