

February 03, 2022

[**What Are Brian Flores' Chances in Challenging the NFL? It Depends on Who Supports His Claims**](https://www.law.com/dailybusinessreview/2022/02/03/what-are-brian-flores-chances-in-challenging-the-nfl-it-depends-on-who-supports-his-claims/)

“If the class is not certified, presumably Flores would seek to proceed with the lawsuit as to his individual claims," said Miami attorney **Howie Waldman**, who is not involved in the litigation.

By [Jasmine Floyd](https://www.law.com/dailybusinessreview/author/profile/jasmine-floyd/)

Brian Flores, ex-head coach for the Miami Dolphins, is playing hard ball since he said in a proposed class action the New York Giants’ hiring of a white candidate over him reflects racial discrimination within the National Football League.

A person in a suit and tie

Description automatically generated with medium confidenceBut some attorneys believe Flores’ chances of success rest heavily on having others join the lawsuit.

“He will initially need to have more individuals—presumably other Black coaches or front-office executives who believe that they were denied promotional opportunities within the NFL because of their race—join the lawsuit,” said Miami attorney **Howie Waldman** of **Allen Norton & Blue**, who is not involved in the litigation.  “Additionally, he will need to show the court that the allegations made by him and the

Attorney Howie Waldman  
of Allen Norton & Blue in  
Winter Park

other individuals are appropriate for class certification. If Flores is successful on this, the lawsuit can proceed as a class action lawsuit. If the class is not certified, presumably Flores would seek to proceed with the lawsuit as to his individual claims.”  
  
For Flores, **Waldman** suggests a difficult road ahead. “In the lawsuit, although Flores includes statistical disparities regarding the number of Black coaches and general managers in the NFL, the allegations are rather minimal in terms of connecting the employment decisions made by the Dolphins, Broncos and Giants to Flores’ race,” **Waldman** said.   
  
“Flores alleges that the Miami Dolphins terminated his employment as the team’s head coach after he refused to ‘tank’ during the 2019 season, and instead over-performed; the Broncos subjected him to a sham interview in 2019 when team executives showed up late to the interview looking disheveled; and the Giants subjected him to a sham interview in 2022, as the team had already made the decision to hire someone else to be its head coach. In order to succeed in his case, Flores will need to show that these actions by the teams were because of his race.”

**Defense versus Offense**

Tully Rinckey senior counsel Martin Miranda, who is not involved in the case, said if he were in Flores’ shoes, he would focus on discovery.

I believe a lot of these claims will be heavily fact-driven. And the more information that is revealed during the process of the litigation … will help clarify whether or not he has merit to some of those claims, which the NFL is alleging he does not,” Miranda said. “At this early stage in the case without conducting any discovery, I think the allegations regarding the interview with the Giants seemed to be a fairly strong claim, because Brian is able to support those facts. His claims against the Broncos I believe will be harder to prove considering the fact that it happened a few years ago, and apparently there were other people in the room for the Broncos who are contradicting his claims regarding the interview.”  
  
As for the NFL, Miranda expects a deep investigation from the defense.

“I would try to obtain a full understanding of the facts as to why Mr. Flores was released from the Dolphins, and not hired after conducting interviews with the other teams given his credentials,” Miranda said. “I think they should be careful not to rush to judgment and do their due diligence before drawing any conclusions or taking a defense position regarding the allegations.”