

# MILLIONAIRES VERSUS BILLIONAIRES

**AFTER MONTHS OF** uncertainty, the National Football League (NFL)'s multi-millionaire players and billionaire owners signed a new, 10-year collective bargaining agreement (CBA) on August 4 this year.

Tom Brady et al. v. NFL, No. 11-1898 (8th Cir.), was the highly-publicised antitrust class action brought in March 2011 by quarterbacks Tom Brady, Drew Brees, Peyton Manning and others. Covington attorneys were involved for several years in preparing for an NFL lockout, related negotiations, and what became the Brady litigation. The lawsuit, filed as the NFL's CBA with the players' union expired, challenged the NFL member clubs' lockout of their player-employees.

The players won the first round, as the United States District Court for the District of Minnesota enjoined the lockout, finding that it constituted an unlawful boycott by the 32 NFL member teams that violated Section 1 of the Sherman Antitrust Act.

The United States Court of Appeals for the Eighth Circuit, however, first stayed and then reversed the injunction, holding that the Norris-LaGuardia Act, a Depression-era statute enacted to protect unions, deprived the federal courts of jurisdiction to enjoin a lockout by management.

Those rulings led to a favourable litigation settlement for the NFL; that settlement formed the core of the NFL CBA that went into effect in August 2011.



*“The outcome of this case ensured labour peace - the absence of strikes or lockouts - for the next 10 years. With this assured, the NFL and its business partners will now be able to invest in the business - in enhanced facilities, in improved technology, in long-term media*

*and sponsorship arrangements, and in international markets - with confidence that the NFL's extraordinary entertainment product will be available without interruption for the foreseeable future.”*

Gregg Levy, partner, Covington & Burling