

Sports Group Of The Year: Covington & Burling

By **Michele Gorman**

Law360, New York (February 5, 2018, 3:12 PM EST) -- Covington & Burling LLP in the past year played a central role in headline-making sports issues, including trying the first major sports case to reach the U.S. Tax Court in two decades that focused on how much an NHL team could deduct for meal expenses during away games, earning the firm a spot among Law360's 2017 Sports Practice Groups of the Year.

At least 60 lawyers contribute to the sports practice in Covington's offices around the world, and represent major U.S. and international sports organizations, as well as individual teams and owners.

Partner Ben Block said one of the most rewarding aspects of the sports group is the opportunity to work with repeat clients.

"But," he added, "every year and every day is a new, different and exciting challenge."

For example, the firm recently demonstrated in court how the Boston Bruins hockey team uses hotels as its business premises while players travel for games. The Internal Revenue Service had argued that the Bruins' owners could only deduct half the meal costs during away games. But the Tax Court in June decided that the owners can deduct the total costs of pre-game meals and snacks provided to its traveling employees at "away" city hotels from its taxes, ruling that staying on those premises is indispensable to the hockey team's preparation.

The decision garnered nationwide publicity for its potentially precedent-setting effect.

Jeremy Spector, a Covington partner who worked on behalf of the Bruins, called it not only a novel technical tax issue but also a novel case for the sports industry to be in the Tax Court, considering the number of people traveling to games and the number of such games per year for leagues with multiple teams.

"It was a relatively discrete issue for one team for not a lot of money in that particular case, although it had ramifications for a bunch of teams, in a bunch of leagues, for a lot of money, across the whole sports industry," Spector said. "This really was a bellwether case for the industry."



Partner Derek Ludwin said that the firm had another successful year defending the NFL, a longtime client, in its core business practices. One instance was the firm's victorious representation of the league's 32 teams in a high-profile putative class action brought by retired players, who claimed injuries associated with the allegedly improper administration of painkiller medication by team doctors and trainers. Covington said the alleged damages were valued at \$1.5 billion.

In a series of rulings issued between February and July, the players' claims were dismissed for failing to state a claim, being time-barred by the statute of limitations and as subject to workers' compensation exclusivity. An appeal is pending.

Covington again represented the NFL and its member clubs in an antitrust multidistrict class action challenge to its core TV broadcast distribution agreements, including the multibillion-dollar agreement with DirecTV to distribute the Sunday Ticket viewing package. Subscribers alleged the exclusive agreements unlawfully restrained the market for the broadcast of games.

Covington successfully moved to dismiss the consolidated complaint, obtaining a detailed decision in June that the plaintiffs had failed to state a claim for which relief could be granted. An appeal is pending.

In another case involving the NFL, Covington defeated a putative class action challenging e-ticketing practices used widely by the league and teams in other professional sports. The lawsuit, brought against the San Francisco 49ers, alleged that restrictions on printing paper copies of PDF tickets disadvantaged buyers and constituted an unfair and fraudulent trade practice.

A San Francisco Superior Court judge in July granted the motion to dismiss on all counts.

The partners underscored the sports practice as a growing interdisciplinary effort across multiple offices that adjusts to changes as the industry develops.

"It really is a practice that covers the waterfront, in terms of the different practice groups that we have in the firm, as well as the offices around the world," Spector said.

Yet, the practice is a focus for the firm, which the partners said sets Covington apart from its peers because its scope allows the attorneys to realize and understand all aspects of the industry.

"We're achieving our objective," Ludwin said, "which is to be a full-service resource to the sports industry on an ongoing basis."

--Additional reporting by Adam Rhodes. Editing by Emily Kokoll.