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## Ex-NFL Player Fights Arbitration With Former Agent

By **Carolina Bolado**

Law360, Miami (March 18, 2014, 6:46 PM ET) -- Ex-NFL player Terrell Owens told a Florida appeals court Tuesday that an arbitrator should not decide whether his claims against prominent agent Drew Rosenhaus for allegedly steering him toward an incompetent and unethical financial adviser are arbitrable.

Curtis Carlson of Carlson & Lewittes PA, who represents Owens, told a panel of Florida's Third District Court of Appeal that his client never agreed to be bound by the labor arbitration rules of the American Arbitration Association, the dispute resolution forum required under the National Football League Players Association contracts.

Carlson said Owens' contract with Rosenhaus, his brother and business partner Jason and their company Rosenhaus Sports Representation included a narrow arbitration provision that does not apply in this situation. According to Carlson, the NFLPA incorporated the AAA voluntary labor arbitration rules but not the labor arbitration rules, which are the only ones that allow an arbitrator to determine arbitrability.

"We've never agreed to be bound by the labor arbitration rules," Carlson said. "They make the argument because it was a mistake to use the voluntary rules."

Peter Homer of Homer Bonner Jacobs, who argued on behalf of Rosenhaus, disputed that the two sets of rules co-exist side by side and instead said that the rules had been amended over time to remove the word "voluntary" and to allow the arbitrator to determine arbitrability.

"The Supreme Court has said repeatedly that neither the legislature nor the courts can set up impediments to the Federal Arbitration Act," Homer said. "These interlocutory appeals do just that. We could've gone to arbitration many months ago."

The former Pro Bowl wide receiver is seeking upwards of \$6.5 million to make up for lost assets and profits he says he lost due to unsound investments and financial misappropriations made by disgraced Florida-based financial adviser Jeffrey Brett Rubin, whom he hired on the recommendation of Rosenhaus.

While Rubin was still handling Owens' money, the Financial Industry Regulatory Authority permanently banned him from working in the financial industry for making "unsuitable recommendations" to another NFL player to invest in illiquid, high-risk securities related to a now defunct Alabama casino, according Owens' complaint.

Owens says he was among 30 players who collectively lost about \$40 million when Rubin invested their money in the casino. FINRA also cited Rubin for failing to obtain required approval from his clients for the transactions, according to the complaint.

Owens, who played in the NFL from 1996 to 2012, was represented by the defendants from

2005 until he fired them in June 2012.

He alleges that Drew and Jason Rosenhaus had a reciprocal referral relationship with Rubin and his company, Pro Sports Financial Inc., and put their own financial interests ahead of Owens' when they recommended he hire Rubin to handle his finances. At one point, Rosenhaus' clients accounted for about two-thirds of Rubin's clients, according to the suit.

Owens' suit brings counts of breach of fiduciary duty, negligence and fraud against the defendants. He is seeking damages "consisting of either out-of-pocket losses or well-managed portfolio damages" and fees paid to Rubin, plus interest and legal costs.

Owens is represented by Curtis Carlson of Carlson & Lewittes PA.

Rosenhaus is represented by Peter Homer, Christopher J. King and Andrew Vitali III of Homer Bonner Jacobs.

The case is Owens v. Rosenhaus et al., case number 13-3069, in the Third District Court of Appeal of Florida.

--Additional reporting by Nathan Hale. Editing by Philip Shea.

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