Appeal Docket No:

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U.S. COURT OF APPEALS – EIGHTH CIRCUIT
APPELLANTS' FORM A
Appeal Information Form
To be filed with the Notice of Appeal

STYLE OF CASE:	COUNSEL: NAME, ADDRESS, AND TELEPHONE NUMBER
Tom Brady, *et al.*, Plaintiffs-Appellees	Jeffrey L. Kessler David G. Feher David L. Greenspan DEWEY & LEBOEUF LLP 1301 Avenue of the Americas New York, NY 10019 (212) 259-8000 James W. Quinn Bruce S. Meyer WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, NY 10153 (212) 310-8000 Barbara P. Berens Justi Rae Miller BERENS & MILLER, P.A. 3720 IDS Center 80 South Eighth Street Minneapolis, MN 55402 (612) 349-6171 Timothy R. Thornton BRIGGS & MORGAN, P.A. 2200 IDS Center 80 South Eighth Street Minneapolis, MN 55402 (612) 977-8550

vs.	Michael D. Hausfeld Hilary K. Scherrer HAUSFELD LLP 1700 K Street, NW Washington, DC 20006 (202) 540-7200 Michael P. Lehmann Jon T. King Arthur N. Bailey, Jr. HAUSFELD LLP 44 Montgomery Street San Francisco, CA 94111 (415) 633-1908 Mark J. Feinberg Michael E. Jacobs Shawn D. Stuckey ZELLE HOFMANN VOELBEL & MASON LLP 500 Washington Avenue South Suite 4000 Minneapolis, MN 55415 (612) 339-2020 Daniel S. Mason ZELLE HOFMANN VOELBEL & MASON LLP 44 Montgomery Street Suite 3400 San Francisco, CA 94111 (415) 633-0700 Samuel D. Heins Vince J. Esades HEINS MILLS & OLSON, P.L.C. 310 Clifton Avenue Minneapolis, MN 55403 (612) 338-4605

National Football League, *et al.*, Defendants-Appellants	Paul D. Clement BANCROFT PLLC 1919 M Street, NW Suite 470 Washington, DC 20036 (202) 234-0090 Gregg H. Levy Benjamin C. Block COVINGTON & BURLING LLP 1201 Pennsylvania Avenue, NW Washington, DC 20004-2401 (202) 662-5292 Daniel J. Connolly Aaron D. Van Oort FAEGRE & BENSON LLP 2200 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402-3901 (612) 766-7000 David Boies William A. Isaacson BOIES, SCHILLER & FLEXNER LLP 333 Main Street Armony, NY 10504 (914) 749-8200

LIST ISSUES ON APPEAL (For administrative purposes). You may indicate that this also serves as your statement of issues under FRAP 10(b)(3). ( ) YES (X) No.

(1) Jurisdiction – The Norris-LaGuardia Act, 29 U.S.C. §§ 101 *et seq*. withdraws jurisdiction from the federal courts to issue injunctions in cases involving or growing out of labor disputes. On March 12, 2011, the NFL clubs locked out their player-employees after the collective bargaining agreement expired and the players had walked out of a bargaining negotiation session. On April 25, 2011, the district court preliminary enjoined the work stoppage. Did the district court exceed its jurisdiction by issuing the injunction?

(2) Primary Jurisdiction – Plaintiffs predicate their antitrust claims on the ground that the National Football League Players Association ("NFLPA")'s purported disclaimer of interest in further representation of NFL players in collective bargaining as of 4:00pm on March 11, 2011, instantly ended the applicability of the nonstatutory labor exemption. The validity of the disclaimer is a necessary, but not sufficient, predicate to plaintiffs' claims. Determining whether a union has validly disclaimed interest is an issue within the exclusive jurisdiction of the National Labor Relations Board. The district court addressed the validity of the disclaimer in issuing the injunction. Did the district court err by failing to stay the motion for a preliminary injunction in deference to the primary jurisdiction of the NLRB, before which an unfair labor practice charge challenging the disclaimer is pending?

(3) Non-statutory Labor Exemption – The nonstatutory labor exemption prevents actions of multiemployer bargaining units (such as the NFL clubs) from being subjected to antitrust scrutiny unless such actions are "sufficiently distant in time and in circumstances" from the collective bargaining process, a test that should not be deemed satisfied without the "detailed views" of the NLRB. *Brown v. Pro-Football, Inc.*, 518 U.S. 231, 250 (1996). Did the district court err in finding that the lockout was sufficiently distant in time and in circumstances from the collective bargaining process, or in making that finding without any input from the NLRB?

FOR LEAD COUNSEL ONLY
I have discussed settlement possibilities on appeal with my client.

This appeal is not amenable to settlement. As an appeal taken under 28 U.S.C. § 1292(a)(1), it is excluded from the Court's prehearing conference program under Eighth Circuit Rule 33A(a).

Submitted by: s/ Paul D. Clement April 25, 2011
Signature of Lead Counsel Date