

Sports MVPs: Paul Weiss' Brad Karp & Ted Wells

By Zachary Zagger

Law360, New York (December 16, 2016, 2:02 PM EST) -- Paul Weiss Rifkind Wharton & Garrison LLP partners Brad Karp and Theodore Wells guided the NFL to one of the most highly publicized and scrutinized class action settlements in years, ending retired players' claims over cognitive impairments tied to repeated concussions and head injuries, and landing the duo among Law360's Sports MVPs.

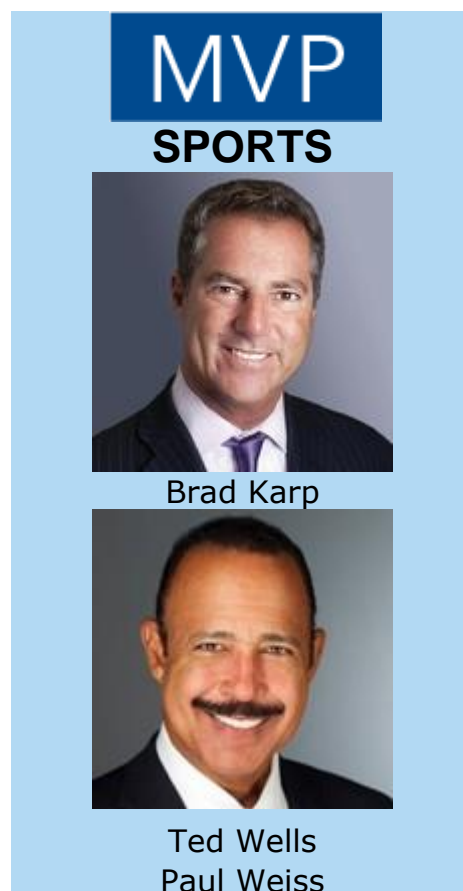
Karp was the lead attorney in the concussion case, guiding the football league to an innovative settlement that provides a bottomless fund to compensate retired players who suffer from some of the most-serious degenerative conditions connected to traumatic brain injuries, including dementia, Alzheimer's disease, amyotrophic lateral sclerosis and Parkinson's disease. The fund could end up paying out close to \$1 billion.

"We are proud of the settlement," Karp told Law360, speaking after the U.S. Supreme Court declined to hear further appeals to the deal on Dec. 12. "The negotiated resolution is in the best interests of professional football and in the best interests of the retired players. This is an example of a settlement where both sides secured substantial relief."

While the landmark deal had been approved by a federal district judge in April 2015, some of the retired players and their families continued to challenge its fairness, arguing the science behind head injuries and neurocognitive conditions was insufficiently considered and proved too little for those suffering from the headlining condition chronic traumatic encephalopathy, or CTE.

Karp continued as part of the multifirm legal team that representing the NFL through the appeals. In April 2016, a unanimous Third Circuit panel found the settlement to be fair and adequate for the retired players, a decision now left intact by the high court.

"We are very pleased that the settlement has now been finally approved," Karp said. "The league could



have decided to litigate these cases and contest the players' claims, and, frankly, it may well have prevailed in many of the cases had it done so. But litigation would have been complicated, protracted and expensive — and not without risk.”

Meanwhile, Wells and Karp stepped in to conduct an investigation for the NFL into allegations that New England Patriots quarterback Tom Brady used deflated footballs in a 2015 playoff game, a controversy known as Deflategate. Wells led a Paul Weiss team that produced the eponymous “Wells Report,” a 243-page document finding it “more probable than not” that Brady “was at least generally aware” of the scheme to deflate the footballs.

The NFL used the report as a basis for suspending Brady for four games, a punishment upheld by NFL Commissioner Roger Goodell in a league disciplinary appeal. The punishment led to a federal court lawsuit involving Brady and the NFL Players Association, placing the Wells Report under the microscope of attorneys, scientists, journalist and fans alike as the case exploded into one of the most highly publicized sports cases over the past two years.

“Ultimately, the appellate court found that Commissioner Goodell acted properly within the confines of the collective bargaining agreement in terms of his power to review the investigative report, issue findings and impose punishment,” Wells said, referring to a 2-1 Second Circuit panel decision in April 2016.

The Second Circuit later denied Brady’s petition to rehear the case, and Brady declined to pursue Supreme Court review, eventually serving his suspension this past season.

Karp and Wells were further instrumental in FIFA’s defense of concussion and head injury-related claims from a nationwide class of youth soccer players and their parents. That case was initially dismissed for lack of personal jurisdiction, only to be fully dismissed in November 2015. The plaintiffs appealed to the Ninth Circuit but dropped the challenge as the U.S. Soccer Federation agreed to impose limits on headers for youth players.

“We are very fortunate to have been called upon to handle some of the most-complicated sports disputes in recent years,” Karp said. “It has been a very satisfying and humbling experience.”

--Editing by Edrienne Su.