



For more information, contact:

Abbey Smith

PR Manager

Phone: (615) 296-1078

E-mail: abbey@cjadvertising.com

FOR IMMEDIATE RELEASE

ChasenBoscolo Overturns Precedent Limiting Rights of Professional Athletes

*Maryland Court of Special Appeals rules former
Washington Redskins punter is entitled to workers' compensation benefits*

GREENBELT, Md. (March 10, 2011)—Former Washington Redskins punter Thomas Tupa, who suffered a career-ending back injury while warming up for a preseason game in 2005, is eligible to receive workers' compensation under Maryland law, the state's court ruled Feb. 28, 2011. Attorneys Benjamin T. Boscolo and Gerry Herz of ChasenBoscolo Injury Lawyers represented Tupa in this landmark case. (No. 09-1839, *Pro Football Inc. v. Thomas Tupa*, Maryland Court of Special Appeals).

"For almost 30 years, the Court ruled injuries suffered by NFL players were not accidental injuries, stating professional football players were not entitled to receive workers' compensation benefits because they assumed the risk of such injuries," said Boscolo, who has been handling the firm's sports-related cases since 2000. "The Court's recent decision overturned this longstanding precedent as being contrary to the very purpose of the Maryland Workers' Compensation Act."

The decision contains three significant holdings benefiting and protecting professional athletes injured in Maryland:

1. The Court recognized injuries sustained by professional athletes are "accidental," entitling athletes to medical treatment and compensation under Maryland law. This finding overturns almost 30 years of precedent. In fact, this decision provides similar rights to all current and former Redskins and Baltimore Ravens as well as other professional athletes injured while training or competing in Maryland.

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Benjamin Boscolo

Shareholder
ChasenBoscolo

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The Court noted “what must be ‘accidental’ is the injury and not the activity giving rise to the injury.” If the injury is unexpected or unintended, it is an accident entitling the athlete to workers’ compensation benefits.

2. The Court held members of the Washington Redskins football team are regularly employed in Maryland and, therefore, the Maryland Workers’ Compensation Commission may exercise jurisdiction over such cases. The Redskins practice facility and business offices are located in Ashburn, Virginia, but the Washington Redskins are in fact registered as a Maryland corporation.

Although Redskins football players spend the majority of their employment in Virginia, the Court held since a player’s principal job is to play in games, the time spent in Virginia is simply preparation for the principal service of playing regular season games at FedEx Field in Maryland. Therefore, Tupa was considered regularly employed in Maryland because his presence in Maryland was “consistent and predictable” with two exhibition home games and eight regular season games per year. As a result of the Redskins’ substantial contacts with the State of Maryland, the Court ruled the Washington Redskins are subject to the Maryland Workers’ Compensation Act.

3. The Court explicitly held Maryland Code Ann. 9-104(a)(1) invalidated the forum selection clauses of the NFL contract that required the Redskins football players to bring their claims before the Virginia Workers’ Compensation Commission. The Court noted “the very purpose of Section 9-104 is to ensure that employers cannot contract out of coverage.” The provision of Tupa’s professional football contract requiring him to bring his workers’ compensation claim in Virginia contravened Maryland’s public policy, and was thus unenforceable. This is the first time a Maryland Court has explicitly held that workers and employers in Maryland cannot “contract away” the rights and responsibilities under the Workers’ Compensation Act.

ChasenBoscolo has a long-standing history of representing professional athletes. The firm has helped members of the Washington Redskins, Baltimore Ravens, Washington Nationals, Baltimore Orioles, Washington Capitals, Washington Wizards, Washington Mystics, D.C. United, to name a few. As a result of ChasenBoscolo’s work representing professional hockey player Jamie Huscroft, the District of Columbia Court of Appeals ruled in July 2010 that Huscroft was entitled to benefits under the District of Columbia’s law even though he played for the Washington Capital’s minor league team and was injured in another state.

Boscolo and Herz also co-wrote a chapter in a textbook on the law of professional sports. The textbook titled, “The Law of Professional and Amateur Sports,” focuses heavily on pro-athletes and workers’ compensation law.

About ChasenBoscolo Injury Lawyers

With more than 120 years of combined experience in personal injury law, ChasenBoscolo consists of nearly 20 personal injury lawyers and a growing staff of more than 60 professionals who are dedicated to helping every client get the money they deserve in Maryland, Virginia, and Washington, D.C. In addition to representing professional athletes, the firm concentrates on claims regarding auto accidents, death claims, workers’ compensation, Social Security Disability, defective products, pharmaceutical/drug recalls, to name a few. For more information, visit www.ChasenBoscolo.com.

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