

MOTION INFORMATION STATEMENT

Docket Number(s): 15-2801, 15-2805 Caption [use short title] _____

Motion for: Expedited Proceedings National Football League Management Council, et al.

_____ v. _____

Set forth below precise, complete statement of relief sought:
Entry of expedited briefing and argument schedule.

MOVING PARTY: NFL Management Council, NFL OPPOSING PARTY: NFL Players Association, Brady
 Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Daniel L. Nash OPPOSING ATTORNEY: Jeffrey L. Kessler
[name of attorney, with firm, address, phone number and e-mail]

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Court-Judge/Agency appealed from: SDNY - Berman

Please check appropriate boxes: **FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:**
Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain): _____
Has request for relief been made below? Yes No
Has this relief been previously sought in this Court? Yes No
Requested return date and explanation of emergency: _____

Opposing counsel's position on motion: Unopposed Opposed Don't Know
Does opposing counsel intend to file a response: Yes No Don't Know

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date: _____

Signature of Moving Attorney: /s/ Daniel L. Nash Date: Sept. 25, 2015 Service by: CM/ECF Other [Attach proof of service]

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

NATIONAL FOOTBALL LEAGUE
MANAGEMENT COUNCIL,

Plaintiff-Counter-Defendant-Appellant,

NATIONAL FOOTBALL LEAGUE,

Defendant-Appellant

vs.

NATIONAL FOOTBALL LEAGUE
PLAYERS ASSOCIATION,

Defendant-Counter-Claimant-Appellee,

and

TOM BRADY,

Appellee.

Nos. 15-2801, 15-2805

**CONSENT MOTION FOR
EXPEDITED PROCEEDINGS**

Appellants National Football League Management Council and National Football League (collectively, “NFLMC”) hereby move for entry of an expedited briefing and argument schedule in accordance with the dates proposed below. Appellees National Football League Players Association and Tom Brady (collectively, “NFLPA”) consent to the entry of the requested relief.

BACKGROUND

This is an appeal of a September 3, 2015 order and judgment of the U.S. District Court for the Southern District of New York, which vacated a labor arbitration award under Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185, and the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq.*

Pursuant to the parties' collective bargaining agreement ("CBA"), NFL Commissioner Roger Goodell suspended New England Patriots quarterback Tom Brady for the first four games of the 2015 NFL season for engaging in "conduct detrimental to the integrity of, and public confidence in, the game of professional football." The NFLPA appealed the suspension under the terms of the parties' CBA. On July 28, 2015, the Commissioner issued a final and binding written award ("Award") upholding Brady's suspension under Article 46 of the parties' CBA.

The NFLMC commenced an action to confirm the Award in the district court on July 28, 2015 under Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185(a). The following day, the NFLPA brought its own lawsuit in the U.S. District Court for the District of Minnesota seeking to vacate the Award. The Minnesota court immediately transferred the action to the Southern District of New York, which was assigned as "related" to the NFLMC's first-filed action.

The parties cross-moved to confirm and to vacate the Award before the district court, and the district court agreed to hear the matter and resolve the cross-motions expeditiously. The court thus heard expedited argument on the motions on August 12 and August 19, 2015. The district court also ordered the parties to attend settlement conferences on August 13, 18, 24, and 31.

On September 3, 2015, five weeks after the actions were commenced, the district court denied the NFLMC's motion to confirm and granted the NFLPA's motion to vacate the Award, thereby immediately nullifying Mr. Brady's four-game suspension. That same day, the NFLMC timely filed Notices of Appeal in both the original and transferred dockets. Those appeals were consolidated in this court.

Counsel for the NFLMC and NFLPA conferred and agreed to seek expedited briefing and argument on appeal as follows: Appellants' Opening Brief will be due on October 26, 2015; Appellees' Response Brief will be due on December 7, 2015; and Appellants' Reply Brief will be due on December 21, 2015. The parties further agreed to respectfully request oral argument during the January 2016 sitting, or as soon thereafter as this Court's schedule will permit.

ARGUMENT

Federal Rule of Appellate Procedure 2 provides that “[o]n its own or a party's motion, a court of appeals may—to expedite its decision or for other good cause—suspend any provision of these rules in a particular case and order

proceedings as it directs, except as otherwise provided in Rule 26(b).” The Rule’s Advisory Committee Notes state that “[t]he primary purpose of this rule is to make clear the power of the courts of appeals to expedite the determination of cases of pressing concern to the public or to the litigants by prescribing a time schedule other than that provided by the rules.” Fed. R. App. P. 2, Advisory Committee Notes. This Court has observed that it is “generous in granting motions to expedite,” *Iceland Inc. v. Eisinger (In re Iceland Inc.)*, 112 F.3d 504 (Table), 1997 WL 196438, at *1 (2d Cir. Apr. 23, 1997), and regularly expedites appeals for good cause under Rule 2. *See, e.g., Tummino v. Hamburg*, No. 13-1690, 2013 WL 2435370, *1 (2d Cir. June 5, 2013) (ordering that “pursuant to Federal Rule of Appellate Procedure 2, this appeal shall be heard on an expedited basis”); *United States v. Murdock*, 735 F.3d 106, 109 (2d Cir. 2013).

There is good cause to expedite the appeal and argument. This appeal presents important and recurring issues associated with administration of the parties’ CBA. Prompt resolution of those issues will enable the parties to address and resolve future proceedings more effectively and more expeditiously, and also ensure that the parties have the opportunity, in advance of the 2016 regular season, to know Mr. Brady’s status and to plan accordingly. In addition, as the publicity surrounding this case confirms, these are issues in which NFL fans, as well as the parties, have substantial interest.

Finally, no party will be prejudiced by expedited briefing and argument, as all parties consent to the entry of the requested relief.

Accordingly, the NFLMC respectfully requests that this Court expedite briefing and consideration of this matter by setting a schedule providing that:

1. Appellants' opening brief is due on October 26, 2015;
2. Appellees' responsive brief is due on December 7, 2015;
3. Appellants' reply brief is due on December 21, 2015; and
4. Oral argument in this matter is requested to be scheduled during the January 2016 sitting, or as soon thereafter as this Court's schedule will permit.

CONCLUSION

For the foregoing reasons, the NFLMC respectfully requests that the Court grant this consent motion, enter the expedited briefing schedule set forth above, and schedule oral argument promptly after briefing is complete.

Dated: September 25, 2015
New York, New York

By: /s/ Daniel L. Nash
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