

Darren Sharper's attorney not optimistic after appeal heard in lawsuit against Saints



Darren Sharper's attorney Frank Bruno is seeking to overturn an August 2013 decision by a workers compensation judge in an effort to win the former NFL safety supplemental employment benefits from the Saints. (Ken Daley, NOLA.com | The Times-Picayune)

By **Ken Daley, NOLA.com | The Times-Picayune**

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Darren Sharper's attorney did not sound optimistic Thursday that his attempt to overturn the decision of a Louisiana workers compensation judge and win a new trial over potential lost wages for the former NFL safety would prove immediately successful.

And, lawyer Frank Bruno admitted, the fact that his client **has been jailed in Los Angeles for 204 days and counting** awaiting trial on charges that he drugged and raped two women there probably doesn't make it the best time to ask a court to help award Sharper money.

"I think it's going to definitely hurt it," Bruno said of the case he argued before a three-judge panel from Louisiana's 4th Circuit Court of Appeal. "That's the intangible."

Sharper pleaded not guilty in California, **has been indicted in Arizona** and remains **under investigation in New Orleans** and Las Vegas because of accusations that he drugged and sexually assaulted at least eight women in four states. Those suspected crimes were never mentioned in his unrelated workers compensation appeal, yet still lingered Thursday like the

proverbial elephant in the wood- and marble-paneled courtroom of appellate judges Roland Belsome, Paul Bonin and Daniel Dysart.

"That's why the press ... I was hoping you wouldn't get wind of this until after it was over," Bruno said, "because we don't want any kind of undue pressure on these (judges) to do something."

Sharper seeks to overturn decisions by Judge Diane Lundeen of the Louisiana Office of Workers Compensation that denied the bulk of his supplemental benefits claim in August 2013 and refused his motion for a new trial four months later. The five-time Pro Bowl selection sued the Saints in December 2011 and testified in a June 2013 trial, seven months before his first arrest on rape accusations.

Sharper's initial suit sought more than \$95,000 from the Saints because of a November 2009 left knee injury that he says shortened his career. But under direct questioning from Bonin to put a total dollar amount on his damage claim, Bruno demurred Thursday. The lawyer said it would depend upon future rulings because Sharper "could be owed another year or two of compensation, possibly."

The Saints, represented by attorney **Christopher Kane**, largely prevailed in the first trial by convincing Lundeen they had fulfilled their contractual obligations by paying Sharper his full wages, even during his seven months of injury rehab in 2010 when he was on the team's PUP (physically unable to perform) list. The team also pointed out the retired player had waited more than a year longer than state law allows for a worker to file an accidental injury claim against an employer.

By law, the team argued, Sharper had 12 months to file a claim related to the November 2009 knee injury he sustained in a home game against Carolina. Sharper let 25 months elapse and played 18 more games for the Saints before filing a disability claim. Bruno continued to assert Thursday that Sharper has sustained "an anatomical loss" from playing for the Saints, but team medical documents produced at the first trial debunked Sharper's claim of another knee injury in his final NFL game, the Saints' playoff loss in Seattle on Jan. 8, 2011.

Kane said the trial judge got it right, despite her decision to award more than \$4,600 after finding the Saints had improperly failed to authorize Sharper's follow-up treatment with Dr. James Andrews. The renowned Birmingham sports orthopedist operated on Sharper's knee in March 2010, one month after the team's Super Bowl victory.

"We have Mr. Sharper wanting to be treated differently than any other employee in Louisiana," Kane argued Thursday. "He wants to be paid his full salary and be paid workers compensation at the same time. Where else does that happen?"

The appellate decision -- not likely to be handed down for several weeks -- could hinge on whether the panel agrees with Bruno's assertion that Lundeen misinterpreted elements of the standard player contract that has been collectively bargained between the NFL and NFL Players Association. It includes a provision that Bruno says improperly allows teams to receive workers

compensation reimbursement credit at rates different than they sometimes are required to pay, depending on when a player is injured on the league's contractual calendar.

Kane said the contractual language was legally bargained between the league and the players' union, and worded in a way to allow universal handling of compensation awards across the multiple jurisdictions of the 32-team NFL.

That the Saints **recently demonstrated an apparent distaste for injury claims** did not go unnoticed by the judges or attorneys. The hearing included mentions that, in May, Saints quarterback **Drew Brees and other players** went to Baton Rouge to encourage state lawmakers to kill **House Bill 1069**. That bill, sponsored by Reps. Chris Broadwater (R-Hammond) and Cameron Henry (R-Metairie) and backed by Saints and Pelicans owner Tom Benson, could have codified into state law reduced benefits to injured players in some circumstances. **It was withdrawn** by the bill's sponsors.

Outside the courtroom, Kane declined comment and Bruno appeared to sense the odds were not in his favor. He said he already planned to take the case to the state Supreme Court if his appellate effort fails.

"The problem is, even if I win, I've got to go back down to the same judge and she has to hear the rest of the case, which is to decide whether he gets any comp or not," Bruno said. "So, I have a long way to go. But you can't compare it to a regular case, because it's not a regular case."

How much Sharper even knows of it also is unclear. Bruno admitted he'd only met Sharper "a couple of times," and has only been able to speak with the former player's Los Angeles attorneys since he was jailed.

"I asked if I could talk to him and they said, 'No, it would be difficult for you to ask,'" Bruno said. "So, I go through his attorney."

And Bruno said the public notion that any victory in this case would only go toward Sharper's mounting legal fees elsewhere is incorrect.

"He can't get paid while he's in jail," Bruno said. "Statute says he can't get paid. But he has (two) dependent children that can get paid. It's not like this would be going to a guy in jail and paying for his legal bills, no. He can't get any money at all. It has to go to his kids, as it should."