

Winston & Strawn Gets Early Bird Rights for NBA Players

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Winston & Strawn lawyers prevailed on behalf of client National Basketball Players Association – the NBA players’ union – in a System Arbitration against the National Basketball Association (NBA). The Winston team secured a significant victory on behalf of NBA players Chauncey Billups, J.J. Hickson, Jeremy Lin, Steve Novak, and future similarly-situated players. The National Basketball Players Association initiated this arbitration on May 14, 2012, challenging as a violation of the parties’ Collective Bargaining Agreement the NBA’s assertion that it would not approve contracts of players claimed off of waivers who might wish to negotiate new contracts using the “Larry Bird” salary cap exceptions.

The System Arbitrator’s decision confirmed that veteran players who are waived by their former teams and then claimed off of waivers by new teams, retain their Bird rights. Players are otherwise entitled to Bird rights when they remain with their former teams for the requisite time period or change teams by means of a negotiated trade.

The significance of Bird rights lies in the fact that they enable teams to sign Bird players to appropriately valued contracts regardless of salary cap limitations, by means of the Bird exceptions to the NBA’s salary cap. The NBA’s contention that waived players were impliedly excluded by the language used in the Bird provisions was rejected by the System Arbitrator, who determined that the parties would have made such an exclusion clear and explicit in the Collective Bargaining Agreement.

The NBA appealed the System Arbitrator’s decision, which stayed implementation of the ruling. The NBA and the NBPA then settled the dispute on favorable terms to the players, with the parties agreeing that waived players are eligible for “Early Bird” rights under the CBA. As a result of the settlement, the New York Knicks re-signed Steve Novak, and Jeremy Lin was able to receive an offer as a restricted free agent with these rights, ultimately signing with the Houston Rockets.

The Winston & Strawn team was led by New York-based partners [Jeffrey Kessler](#) and [David Feher](#).

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