

Tampa Bay Bucs Take Ex-Kicker's \$20M Infection Suit Federal

By Y. Peter Kang

Law360, Los Angeles (July 8, 2015, 8:45 PM ET) -- The [Tampa Bay Buccaneers](#) removed to Florida federal court Tuesday a \$20 million suit brought by former placekicker Lawrence Tynes, who claims the National Football League team's negligence in keeping clean facilities led to his contracting a career-ending staph infection.

The team said federal jurisdiction applies because Tynes' claims are preempted by the Labor Management Relations Act, as it requires an interpretation of the collective bargaining agreement between the [NFL](#) and the players' union.

"Applying the LMRA, courts around the country have routinely held that similar state-law tort claims against the NFL that either arise under, or necessarily require interpretation of, the [NFL-NFLPA CBA](#) are preempted by the LMRA — and thus are properly subject to removal," the team said.

The removal notice said that Tynes has already acknowledged that his claims are covered by the CBA by filing a CBA grievance against the Buccaneers with the same claims.

An attorney for Tynes told Law360 on Wednesday they plan to make a bid to take the case back to state court.

"This predictable move is just the latest in the Bucs' efforts to dodge scrutiny of their responsibility for cutting short Mr. Tynes' successful football career," said Stephen F. Rosenthal of [Podhurst Orseck PA](#). "We will show, in a motion for remand, that the Bucs cannot hide from the facts of this case behind the CBA. The truth about the Bucs' training facility will eventually be exposed."

An attorney for the Buccaneers declined to comment.

A two-time Super Bowl winner with the New York Giants, Tynes claims in [his original, state court complaint](#) that he was with Buccaneers for only a month before contracting methicillin-resistant staphylococcus aureus, or MRSA, at the team's training facility.

Shortly after joining the team, Tynes had a “toenail procedure” that resulted in an open wound on his foot, according to the suit. While he was healing, he was sharing hot tubs with other team employees and players who were infected with MRSA, without prior warning from the team, the suit says. A month later, his toe wound was infected, and his NFL career was over, according to the complaint.

“As a direct and proximate result of defendants’ wrongful conduct, Mr. Tynes’ kicking foot has sustained permanent damage, and he remains unable to play professional football, despite interest from several teams in signing him,” the complaint states.

Tynes signed with the team as a free agent in July 2013, according to his suit, relying on the team’s representations that its facilities were top-notch. Once on the team, Tynes began his usual preseason regimen, which included the toenail procedure on his kicking foot.

The team encouraged Tynes to use its facilities, saying they were the best in the business and equipped to handle the toe procedure, according to the complaint. But all the while, the team was concealing individual incidents of MRSA infection at the facility, Tynes says.

The Buccaneers knew that MRSA had been a “major” problem in NFL locker rooms, but did not have procedures in place to prevent the spread of infection, the complaint states.

Special teams coach Dave Wannstedt, offensive linemen Davin Joseph and Carl Nicks, punter Michael Koenen, and head trainer Todd Toriscelli were all battling MRSA infections that summer and sharing the same hot tubs and other facilities, Tynes says.

Tynes contracted MRSA while rehabilitating his toe and had to undergo three surgeries, according to the suit. He’s still in pain and can no longer function as an NFL kicker, the complaint states.

He claims he would have played football for “another six or seven additional seasons,” earning as much as \$3 million a year, “given his championship experience and accuracy.” His suit seeks lost future wages and compensation for pain and suffering, and includes claims of negligence and negligent misrepresentation.

Tynes was set to earn \$840,000 in 2013, with a \$65,000 roster bonus if he made the team in September, according to a copy of his contract the Buccaneers filed with the court.

Tynes is represented by Stephen F. Rosenthal and Matthew P. Weinshall of Podhurst Orseck PA and Bradford R. Sohn of The Brad Sohn Law Firm PLLC.

The Buccaneers are represented by Aram P. Megerian and David C. Borucke of [Cole Scott & Kissane PA](#).

The case is Tynes v. Buccaneers Limited Partnership et al., case number [8:15-cv-01594](#), in the U.S. District Court for the Middle District of Florida.

--Additional reporting by Kat Greene. Editing by Edrienne Su.