2012

Poor Millionaires: A History of Free Agency in Major League Baseball and the National Football League

Cameron Conley
Claremont McKenna College

CLAREMONT MCKENNA COLLEGE

POOR MILLIONAIRES: A HISTORY OF FREE AGENCY IN MAJOR LEAGUE BASEBALL AND THE NATIONAL FOOTBALL LEAGUE

SUBMITTED TO

PROFESSOR NIKLAS FRYKMAN

AND

DEAN GREGORY HESS

BY

CAMERON CONLEY

FOR

SENIOR THESIS

SPRING 2012
APRIL 23, 2012

Table of Contents

Chapter 1 – Introduction

In 2011, both Major League Baseball (MLB) and the National Football League (NFL) saw the expiration of their collective bargaining agreements (CBAs) between the players' unions and owners. Without an agreement in place, the two leagues would have been unable to play the next season. The CBAs established basic contract provisions, pensions and other benefits for players, and, most importantly, granted players the right to move between teams at their own discretion and outlined the manner in which they could do so. This process of changing teams was known as free agency.

As the two most popular sports leagues in the United States, MLB and the NFL generated $6.1 billion and $9.3 billion in revenue, respectively, in 2010.[1] Countless children played the games in their home towns, hoping to one day play professionally and tens of millions of fans attended games each year. A long-term work stoppage could harm that popularity and in doing so could cause a significant reduction in revenue if it extended into the regular season and resulted in the loss of games.

While the 2011 negotiations both focused largely around issues like player safety and the fair sharing of the billions of dollars in revenue in each league, negotiations for earlier CBAs had been over very different issues. Free agency, or the freedom to choose

---

[1] Cork Gaines, "NFL Is Still King Among American Sport Fans," *Business Insider Sports Page,* 21 Oct. 2011, http://articles.businessinsider.com (accessed 17 Apr. 2012); Doris Burke, Brian Hendrickson, and Daniel Roberts, "The Gross Football Product" *Sports Illustrated*, 14 Mar. 2011, http://www.sportsillustrated.cnn.com/vault (accessed 17 Apr. 2012); Forbes.com, "MLB Team Values: The Business of Baseball," 22 Mar. 2011, http://www.forbes.com/lists/2011/33/baseball-valuations-11_land.html (accessed 17 Apr. 2012).

where they worked, was not always a part of professional sports. Previously, players had been bound to a single team for life and they had no way to move to another team if they felt that they were being unfairly treated. As this issue of fair treatment was slowly resolved, the players were able to shift their focus to profit sharing, safety, and other issues.

In an effort to fight the owners and their oppressive restrictions, the players in both leagues formed unions, the NFL Players Association (NFLPA) and the MLB Players Association (MLBPA). The unionization of wealthy groups of young men who were paid a great deal more than the average American seemed strange. Usually, unions represented the working class in difficult and under-paid jobs such as autoworkers or teachers. They protected their members from abuse by owners and management, usually in regards to compensation, work conditions, and rights regarding the industry in which they worked. Because of their specialized skills, professional athletes were generally well paid compared to typical Americans. They were also being paid to play a game and many people considered that to be a privilege. Yet they still faced similar issues to other labor unions. They wanted the right to work where they saw fit, to earn a fair wage with respect to the profitability of the industry, and to have rules and systems in place which would ensure their safety and well-being. They also wanted something that would seem common to most workers: the ability to leave an undesirable job and find similar employment elsewhere at a similar wage.

In order to maintain league stability, the CBAs are used by both sides to negotiate everything from the number of practices during a week to the different provisions which can be placed into a player’s contract. CBAs are a very normal part of labor negotiations, regardless of the industry. Whenever they expire, the labor representatives and owners meet to discuss the success and failures of the previous agreement and how to structure the next one. When those negotiations go well, they do not take much time. When there are difficulties, they can extend for some time. In extreme cases, they can result in lockouts or strikes, which may cost both sides money: owners through lost revenue and laborers through lost wages.

In CBA negotiations, owners are try to keep their costs down by keeping players' salaries down. They also strive to create fairness between all of the teams. The wealthiest owners might not want a fair system because they could simply purchase their success, but the majority of the owners want a system which provides each team with a chance for success. Part of that fairness between teams is restricting the movement of labor. This has been done in the NFL and MLB by creating player drafts, utilizing processes such as salary arbitration, and restrictions on free agency among others.

Laborers, in this case players, take almost the exact opposite stance. They want to maximize their own income, which comes mostly from their salary. However, when they have only one team that offers them a salary, they must take it or leave it no matter how much it is. Free agency gives them the ability to play for the team which offers them the best contract arrangement. By competing for the services of players, the owners drive the overall salary up and the cost of owning a team increases tremendously. Players also are less concerned with fair competition between teams because they want the teams that can spend the most to inject as much money as possible into the market.

The two leagues have both found financial success but by balancing the desires of the players and owners in very different ways. The NFL has morphed into a very egalitarian league where teams share revenue and are restricted in their spending. The NFL has a salary cap and floor which protect the owners from spending too much on players but also guarantee the players a minimum total salary. Baseball has no such limitations, and some players make nearly as much as entire teams in the league.

The salary cap and floor create parity within the NFL because the wealthiest teams cannot simply buy the best players with the most lucrative contracts. This parity is demonstrated by the fact that all but one of the league's 32 teams have made the playoffs in the past ten years and all but four have made it in the past five years. In baseball, six of the 30 teams have not reached the playoffs in a decade and two have not done so in over 25 years. The wealthiest teams in baseball are able outspend the poorer teams and therefore have the best players, form the best teams and win the most games. The poorer teams are forced to find success by using young players who have not yet proven that they are worth expensive contracts and older players who are past their prime.

November of 1892 was when the first player was paid to play football. William Heffelfinger received $500, or about $12,000 in today's money, to play in one game for the Allegheny Athletic Association (AAA) against the Pittsburgh Athletic Club (PAC). The very next year, the Pittsburgh Athletic Club signed the first player to a contract for multiple games. By 1896, an entire team of professional players was fielded by the AAA, and the next year the Latrobe Athletic Association played its entire season with professional players.[2]

By 1920, professional football faced several problems: the frequency of players moving from team to team in order to follow the highest bid for their playing services,

---

[2] NFL.com, "Chronology of Professional Football." *2011 NFL Record & Fact Book* (New York: Time Inc. Home Entertainment, 2011), 348, http://www.nfl.com/history, (accessed 2 Dec. 2011).

the subsequent rise in salaries due to bidding wars between teams and the use of college students in professional games. In order to combat these problems by creating consistency in the rules, ten teams from four states agreed to form the American Professional Football Association, which would eventually become the NFL. For the 1920 season, there was little organization among the teams in the APFA and little done to solve the problems for which it had been created. This changed for the 1921 season. Between the 1920 and 1921 seasons, the league wrote a league constitution which, among other things, limited the movement of players between teams.[3]

1935 marked the beginning of the college draft. Previously, college players could sign with any team that they chose. With the draft, the teams each drafted the rights to different players. The first game to be shown on television occurred on October 22, 1939 between the Brooklyn Dodgers and Philadelphia Eagles. In 1946, the NFL became more nationally relevant with the movement of the Cleveland Rams to Los Angeles.[4]

The 1960s saw a large increase in player salaries and improvements in player treatment. Two of the reasons were the establishment of a players' union in 1956, and the emergence of the American Football League (AFL) in 1959.[5] The AFL provided a competitor for the NFL which drove up the cost of both veteran and rookie players.[6] The AFL also competed with the NFL for the attention of fans by starting teams in cities which for the most part did not have a NFL presence and by offering a different, more

---

[3] *Ibid*, 348-9.
[4] *Ibid,* 350-52.
[5] Michael MacCambridge, *America's Game: The Epic Story of How Pro Football Captured a Nation* (New York: Anchor Books, 2005), 316.
[6] *Ibid.*

exciting style of play.[7] The NFLPA was established in 1956 and began to fight for players' rights. The NFLPA fought for an increase in salary to match the league's increase in revenue. Despite the growing success of the NFL, players were paid a pittance compared to professional players in other sports.[8]

In June of 1966 the AFL and NFL merged to form a 26 team league with plans to expand further in the near future. The merger eliminated many of the competitive advantages which the players had previously exploited for higher salaries. There was now but one draft, and therefore no competition among teams for new talent. The ability to leave a team in one league for a team in the other was eliminated as well.[9]

The NFL had rules which prevented the movement of players and with the merger, these rules would apply to all football players. The option clause and the Rozelle rule combined to make the movement of players between teams very difficult. Under these rules, teams had the ability to retain a player for an extra year beyond his contract for only 90 percent of his previous salary. Then if he wanted to sign with another team, that team was required to compensate his previous team. If the teams could not come to an agreement, then Pete Rozelle, the NFL Commissioner, would decide for the teams what was fair compensation. These restrictions stilted player movement among teams.[10]

In 1974, the players went on strike in an attempt to earn an increase in their salaries. Among their demands were the removal of the amateur draft, removal of the Rozelle rule and the option clause, and guaranteed salaries. Essentially the players

[7] *Ibid*, 120.
[8] *Ibid*, 316.
[9] *Ibid,* 216-228.
[10] *Ibid*, 293.

wanted the ability to choose where they would play: free agency. With this strike and what the players were fighting for, a new era in labor negotiations had begun.

While football was just emerging as a sport of national prominence, baseball had been established as the national pastime. The rules were originally invented in 1839 by Abner Doubleday and the first official game was played seven years later. 1869 marked the first time that a team of entirely paid players played a game, and eight years later, the first professional league, dubbed the National League, was formed. During the 1880s and 1890s, issues such as bribery and race first became issues within the league.[11]

Generally a baseball contract at this time was short lived, lasting between a single game and a full season. In 1879, the eight owners of the National League agreed with each other to choose five players off of each of their rosters which the other teams would be unable to sign. These five players would be "reserved" for the previous owner.[12] Thus the reserve system was born. By 1969, the number of reserved players would expand to 40. The only time that any of these players changed teams was when they were traded or purchased. The reserve system and its restriction on player's rights would remain a major part of the labor situation in baseball for nearly 100 years.

The American League was created in 1900 and by 1903 the two leagues had joined together to form Major League Baseball. The first World Series was played that year to determine a champion between the two leagues, although it would not be played the following year. In 1912, the players went on strike against the owners for the first time. Racism continued to mar the game. 1916 saw the first black player of the 20th

---

[11]Rob Neyer, "Two Distinct Periods of Gambling," *ESPN: the Magazine*, 7 Jan. 2004, http://www.espn.go.com, (accessed 20 Apr. 2012).
[12] Brad Snyder, *A Well-Paid Slave: Curt Flood's Fight for Free Agency in Professional Sports* (New York: Penguin, 2007), 2.

century, Jimmy Claxton, expelled from the league because of his race. No other black player would play in the Major Leagues until 1945.[13]

In the 1920s the first baseball game to be broadcast on the radio brought the game to more people than ever before. The league also tried to limit the ability of players to barnstorm – that is, travel across the country playing baseball during the offseason. In order to keep profits high, the owners wanted spectators to visit the home stadiums and pay for the tickets to the game. Barnstorming allowed spectators to see the game for free or to pay the players directly, rather than purchasing tickets from the owners. In 1922, Babe Ruth was suspended for ignoring an order from the commissioner of baseball to stop barnstorming in the offseason. By 1930, he had signed the largest baseball contract to date: $80,000 per year.

The 1940s saw the integration of baseball with Jackie Robinson in 1945 and Larry Dobby in 1948 breaking the color barriers in the National League and American League respectively. From the 1920s until the integration of MLB, black players had only been allowed to play in the Negro Leagues.[14] 1947 was the first year in which the World Series was televised as the popularity of the game continued to grow across the nation. Ten years later, the Major Leagues reached the west coast when the Brooklyn Dodgers and New York Giants moved to Los Angeles and San Francisco.

The examination of labor negotiations in professional sports has covered almost every issue involved in the Collective Bargaining Agreements. Free agency used to be one of the key issues to these negotiations, but has since become a commonly accepted

---

[13] William C. Rhoden, *Forty Million Dollar Slaves: The Rise, Fall, and Redemption of the Black Athlete* (New York: Three Rivers Press, 2006), 113.
[14] *Ibid,* 100.

part of sports. However, there are still issues at play in the current CBAs for the NFL and MLB which have an impact on the rights and restrictions of players who wish to change teams.

A Well –Paid Slave, by Brad Snyder, is the biography of Curt Flood, the first baseball player to sue Major League Baseball for the right to choose his own team and break the power of the reserve system. Snyder argues that, while Flood's suit ultimately lost in the Supreme Court, his efforts led to the abolition of the reserve system and the establishment of free agency in Major League Baseball. In the decades since Flood's decision to fight MLB, the rights of players have expanded dramatically.[15]

In 1997, Jeffrey S. Moorad argued against the owners and the reserve clause in "Major League Baseball's Labor Turmoil: The Failure of the Counter-Revolution." His main point was that the actions of owners throughout the history of MLB created distrust on the part of the players, especially with the creation of the reserve clause. Moorad explained how the owners were able to maintain the reserve system by obtaining exceptions to antitrust legislation. This poor treatment at the hands of the owners caused the players to create the Players Association in order to gain bargaining power.[16]

At the same time, Marc Chalpin offered a more owner-friendly view of the history of baseball in "It Ain't Over 'Til It's Over: The Century Long Conflict between the Owners and the Players in Major League Baseball." While he did not advocate a complete return to the reserve system, Chalpin said that player salaries were escalating too quickly, and that the power of the players had gotten out of hand. Owners could not

---

[15] Snyder, *A Well-Paid Slave*, 349.
[16] Jeffrey S. Moorad, "Major League Baseball's Labor Turmoil: The Failure of the Counter-Revolution," *Villanova Sports & Entertainment Law Journal*, vol. 4 (1997), 53-86, http://home.heinonline.org/ (accessed 10 Oct. 2011).

keep up with the rapidly rising salaries of not only exceptional players, but the average ones as well. Chalpin also agreed that distrust and hatred between owners and players contributed to difficult negotiations.[17]

In "Labor Issues in Professional Sports: Reflections on Baseball, Labor, and Antitrust Law" William B. Gould IV examines baseball free agency, salary arbitration and antitrust law. He focuses on the issue of a salary cap and whether baseball will soon be forced to adopt a model similar to those used in the NFL and National Basketball Association. Gould also argues that labor negotiations seem to be moving in a peaceful direction where management and players will be able to settle disputes without labor interruptions or major controversies.[18]

In 2002, Scott Backman outlined the history of NFL labor turmoil in "NFL Players Fight for Their Freedom: The History of Free Agency in the NFL." Players fought the NFL for the right to play for any team that they chose. Similarly to the early MLB owners, the NFL owners agreed to only sign certain players. Any player who left for another football league was subsequently blacklisted from the NFL. The NFL also had a draft rule which, similarly to the reserve clause in MLB, prevented NFL players from leaving one team for another on their own volition.[19]

Each of these articles outlines a slightly different aspect of the rise of free agency from labor negotiations in the NFL and MLB. They all fail to analyze the shift in

---

[17] Marc Chalpin, "It Ain't Over 'Til It's Over: The Century Long Conflict between the Owners and the Players in Major League Baseball," *Albany Law Review*, vol. 60 (1996), 205-238, http://home.heinonline.org/ (accessed 21 Sep. 2011).
[18] William B. Gould IV, "Labor Issues in Professional Sport: Reflections on Baseball, Labor, and Antitrust Law," *Stanford Law and Policy Review*, vol. 15.1 (2004), 61-97, http://home.heinonline.org/ (accessed 21 Sep. 2011).
[19] Scott E. Backman, "NFL Players Fight for Their Freedom: The History of Free Agency in the NFL," *Sports Lawyers Journal*, vol. 9 (2002), 1-55, http://home.heinonline.org/ (accessed 21 Sep. 2011).

motivation for the players unions from the 1970s to the modern day. This paper will outline the unions' shifts in focus from procuring free agency in the 1970s and 1980s to their modern goals of ensuring financial equality with the owners and guaranteeing pensions, safety standards and other rights for their members.

Chapters in this paper will alternate between baseball and football, outlining and comparing their respective struggles during each period of labor negotiations. Chapter two will focus on Curt Flood, his lawsuit against MLB, and how it led to a system of free agency in baseball. Chapter three will explain how the NFLPA achieved free agency around the same time as MLB players did, but then negotiated that right away. They did not earn it back until the early 1990s. Chapter four shows the tumultuous period after the free agency system replaced the reserve system in MLB and how the owners attempted to combat that change. Chapter five outlines the state of prosperity and labor peace which the NFL achieved in the 1990s and early 2000s before another major work stoppage in 2011.

Chapter 2 – Flood v Kuhn

Curt Flood was a twelve-year veteran outfielder for the St. Louis Cardinals of the National League when he was traded to the Philadelphia Phillies in 1969. Because he had been in St. Louis for so long, Flood did not wish to play for the new team and so he petitioned for the right to become a free agent.[1] In a letter to Bowie Kuhn, the Commissioner of Major League Baseball, he declared that he was "not a piece of property to be bought and sold irrespective of [his] wishes."[2] Free agency would have given him the right to take bids from any team that wanted him and choose the team for which he wanted to play. Commissioner Kuhn denied Flood's petition and instructed him to report to the Philadelphia organization. Rather than give in, Flood chose to put his playing career on hold and sue the Commissioner, the presidents of the two major leagues, and the 24 major league teams.[3]

Flood's motivation for suing Commissioner Kuhn and MLB was not a problem with going to Philadelphia or any "particular city but was the reserve clause, which afflicted all players equally no matter where they played."[4] Even if he managed to convince the Court to reverse its previous decisions and strike down the reserve system, Flood would not have received damages. His annual salary of $90,000 was based on player contracts which had been legal according to the Supreme Court for nearly half of a

---

[1] Bowie Kuhn, *Hardball: The Education of a Baseball Commissioner* (New York: Random House, 1987), 83.
[2] *Ibid.*
[3] *Flood v. Kuhn,* 407 U.S. 258 (1972).
[4] Curt Flood, "My Rebellion," *Sports Illustrated,* 1 February 1971, http://www.sportsillustrated.cnn.com/vault (accessed 17 Apr. 2012).

century. No court would find him in need of financial support. Additionally, the case would take several years to reach the Supreme Court and the baseball owners would not be likely to sign him to play during that time. Flood's loss in salary would approach $300,000. The owners would also have been unlikely to sign Flood as a manager or scout, both careers that he had been considering after his playing days were over. By pursuing this case, Flood was effectively ending his career in professional baseball in every capacity.[5]

Well aware of the sacrifices which he was undertaking, Flood's motivation was to benefit the other players as well as those yet to come into the league. Flood felt the owners treated the players like "used cars."[6] The reserve system was only one aspect of the poor treatment. Players were forced to play when sick or injured. If they did not do so, they were accused of faking injuries, or "jaking," in order to get more rest.[7] Jakers were portrayed negatively in the press and were seen as a bad influence on a team. Many players were traded because of reputations as troublemakers. These players were often playing through serious injuries and illnesses which teams refused to acknowledge or treat and could have led to worse health problems for the players.[8]

Poor treatment extended beyond just the players but also to who was allowed to be a player. Until Jackie Robinson's debut in 1946, black players had only been allowed to participate in the Negro Leagues, which were underfunded and unstable, but provided

---

[5] Brad Snyder, *A Well-Paid Slave: Curt Flood's Fight for Free Agency in Professional Sports* (New York: Penguin, 2007), 24-25.
[6] Flood, "My Rebellion."
[7] Curt Flood, *The Way It Is* (New York: Pocket Books, 1972), 66.
[8] *Ibid.*

black players a way to play professional ball.[9] When Flood, who was black, was breaking into professional baseball a decade after Robinson had broken the color barrier, MLB had become far more integrated. However, the fans in many towns, especially those in the South where spring training was held, were less willing to accept black baseball players. The Supreme Court's decision to integrate public schools and public buses had infuriated many people. Flood and other black players experienced the full extent of that hatred from fans during ballgames.[10]

It was to end these injustices that Flood brought suit against Commissioner Kuhn and Major League Baseball. The ensuing case, *Flood v. Kuhn,* reached the Supreme Court of the United States in 1972. Flood argued that the reserve clause in baseball represented a violation of US antitrust laws and civil rights statutes and a form of involuntary servitude which conflicted with the 13th Amendment.[11] The decision of the Court came down 5-3 in favor of Major League Baseball, preserving the status quo.

Contracts which were restrictive in precisely the manner which Justice Douglas described had become common practice in professional baseball. In fact, every contract that a player signed with a team included a clause which said that the team had the right to renew the contract for another year at as low as 80 percent of the previous year's salary.[12] Because the renewed contract contained the same provision for renewal, the club in effect owned the player for as long as it chose to keep him. The only way for a player to change teams was if his contract were sold or traded to another team. Even if the

---

[9] William C. Rhoden, *Forty Million Dollar Slaves: The Rise, Fall, and Redemption of the Black Athlete* (New York: Three Rivers Press, 2006), 102.
[10] Snyder *A Well-Paid Slave*, 44.
[11] *Ibid.*
[12] *Ibid,* 2.

player stopped playing baseball, the team could keep the contract in order to prevent him from joining another team at a later date. The only restriction on the reserve clause was the number of players which could be reserved. In 1879, when the system originated, the limit was set at five players. By 1969, the limit had reached 40.[13]

Challenges to the reserve clause did not begin with Curt Flood. In 1890, Congress enacted the Sherman Antitrust Act which made illegal any contract which inhibited interstate trade. In 1922, the court handed down the decision for *Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs*, which declared that baseball was not interstate commerce and therefore not protected by the Sherman Act.[14] Because each game was played within one state there was no interstate commerce occurring despite the fact that players crossed state lines in order to play. 1953 saw the next major case involving the monopoly status of baseball in *Toolson v. New York Yankees*. This case was combined with two other similar cases and presented to the Supreme Court. The plaintiffs argued that the expansion of television and radio broadcasts had clearly caused the sport to grow into a form of interstate commerce and therefore make it subject to the Sherman Act. The Court maintained its previous position and reaffirmed the decision from the *Federal Baseball* case, and even expanded the reasoning for baseball's monopoly.[15]

When Curt Flood decided to take the reserve clause back to court, he had to do more than just prove his own case. First he had to overcome the precedent from two major Supreme Court decisions and *stare decisis*, or the idea that the court was obligated

---

[13] *Ibid.*
[14] *Ibid*, 20.
[15] *Ibid*, 22-23.

to respect an established precedent. Then he could actually present his own argument for why the reserve clause was illegal.[16] One of the keys to separating himself from the previous cases was establishing the differences between himself and the previous plaintiffs.

In *Federal Baseball*, the party seeking to end the reserve clause was a team arguing that the reserve clause was preventing it from participating effectively in the league. In *Toolson,* the party was a minor-league player who had little influence in the game of baseball. The difference between these two parties and Curt Flood was that Flood was an established major-league player. He had won three World Series in St. Louis during a five year span and had received many personal awards as well. He was a team co-captain, three-time All-Star and seven-time winner of the Gold Glove award for the best defensive player at his position.[17] He was a prominent member of a fun and successful clubhouse.[18]

Flood was therefore attacking the reserve clause from a new angle. As a player, he had more individual rights than a team, which was the plaintiff in *Federal Baseball*. A team had more power to go find new players and work around the reserve clause, therefore the clause was less monopolistic. Players had less of that power. They were forced into the reserve system and had no way out. The difference between Flood and the players in *Toolson* was Flood's popularity. While this popularity may not have established more legal right inside of a courthouse, it did create more of a public spectacle which brought more attention to the issue. Part of the controversy surrounding

---

[16] *Ibid,* 23.
[17] *Ibid*, 1.
[18] Curt Flood, *The Way It Is*, 68.

the case was sparked by Flood's reaction to a question he received while appearing on *ABC's A Wild World of Sports*. When asked what was so hard about being traded when he was making $90,000 per year, Flood answered "A well-paid slave is nonetheless a slave."[19] Flood's concern was not that he was underpaid, but that he was being stripped of his humanity and treated like livestock.

Other athletes in other sports harbored similar feelings. Muhammad Ali declared in May of 1970 that he was done fighting because he saw it as a competition between two owners over whose slave could win the fight. The feeling that owners stripped the athletes of their humanity was not limited to just black athletes. In the same month that Ali made his comments, Chip Oliver and Dave Meggyesy, both white football players, retired from the NFL because of the "dehumanizing" effect that it had on players.[20]

The majority opinion was written by Justice Blackmun who declared that Major League Baseball was a business which engaged in interstate commerce which would normally mean that federal antitrust laws would apply. However, the reserve system enjoyed by the Major League owners was an exception which was unique to baseball. The uniqueness of the reserve clause had been preserved through multiple Supreme Court cases. Were the clause to be struck down, it would occur in Congress, not in the Court.[21] In his concurrence, Chief Justice Burger said that he had reservations as to the correctness of the cases used as precedence for this case. However, he agreed that the proper place for the issue to be decided was in Congress and not in the courts.[22]

---

[19] Curt Flood, Quoted in Brad Snyder, *A Well-Paid Slave*, 103-4.
[20] Snyder, *A Well-Paid Slave*, 103-5.
[21] *Flood v. Kuhn.*
[22] *Ibid,* (Burger concurring opinion).

In his dissent, Justice Douglas argued that the owners did not have the right to claim the players as equities, because those equities were in fact people who had rights. Justice Douglas referred to the players as victims in the sense of the Sherman Antitrust Act in order to establish that their rights were being violated by the owners. "A contract which forbids anyone to practice his calling is commonly called an unreasonable restraint of trade."[23] Justice Douglas also argued that the Court's decision in previous cases regarding the reserve clause was "a derelict in the stream of the law that we, its creator, should remove."[24]

The decision occurred during the unrest of the Civil Rights movement and at the same time as the Vietnam War. The nation was also facing high unemployment; in December of 1964, President Johnson said "the number one priority today is more jobs. That is our dominant domestic problem and we have to face it head-on."[25] While there were protests in the streets of the segregated South, soldiers dying in Vietnam, and everyday Americans were looking for work, Curt Flood wanted to turn down $100,000 to feel like he was not just a piece of property.[26]

Flood was a well-known player who had a positive reputation among baseball players. This reputation helped him gain the support of the Major League Baseball Players Association. That support gave his case a much greater financial backing than if Flood had chosen to proceed on his own. The resources of the Players Association did not

---

[23] *Ibid,* (Douglas dissenting opinion).
[24] *Ibid*.
[25] Lynden B. Johnson, Quoted in Melvyn Dubofsky and Foster Rhea Dulles, *Labor in America* (Wheeling, Ill: Harlan Davidson, 2004), 365.
[26] Flood, "My Rebellion."

just include money. The lawyers and other legal personnel employed by the Association would prove to be beneficial as well.[27]

The deck was stacked against the players in Flood's eyes through the use of media and public perception. Harry Caray was the play-by-play broadcaster on radio and television for the Cardinals while Flood played for them. Caray seemed to players to have great enthusiasm for the St. Louis organization and its successes as a whole, while being critical of any player's individual performance. As the voice of the team, Caray's descriptions of players had an impact on public opinion. That opinion was very important to players when they were negotiating their new contracts. Popular players were usually given significant pay raises, while other players could see their pay stagnate or even diminish.[28]

Flood claimed that players were well aware of the importance of the fans' affections in determining their salary, and of their own difficulty in negotiating with ownership. They also felt that the owners' powerful negotiating position was unfounded. They felt that because the fans came to see them play, they were the true generators of income. If there were no players, then there would be no way for the owners to sell tickets, food or merchandise. Therefore, in their own eyes, the players should have had more freedom and more ability to earn the money which they themselves were generating.[29]

To the players, a particularly bothersome aspect of the reserve clause was that it allowed the team to reduce their salary by as much as 20 percent each year. Generally,

---

[27] Snyder, *A Well-Paid Slave,* 24.
[28] *Ibid*, 73-74.
[29] *Ibid*, 109-110.

the players' salaries would increase slowly over time as the player developed and improved. However, if there was a drop-off in production, then the player could expect a substantial decrease in his salary for the next season. Teams could also use new players as leverage to force veterans to sign for less money. If a veteran wanted too much money, there was always a young prospect willing to take his place on the roster for a fraction of the cost. The reserve system depressed athlete salaries compared to other entertainment industries which used a more open market as a means of labor acquisition.[30]

The supporters of the reserve system offered three strong arguments for its continuation. First, they argued that players were well paid compared to typical Americans and could not complain about their situation. They pointed to the fact that the average salary of a baseball player in 1970 was $28,000 in a time when over 80 percent of American families were making less than $15,000 per year.[31] Second, they argued that the structure of the reserve system ensured equality and fairness between the teams. In an open market system, the wealthiest teams would all buy the best players and would then be able to win the most games each year. This would ruin the competitiveness of the game and be worse for the owners, players and fans.[32] A less competitive game would be less interesting and therefore draw less fan attention, leading to lower income for owners and lower salaries for players, they argued. Thirdly, the owners also argued that the reserve clause protected them from financial ruin. A free market system would allow

---

[30] *Ibid*, 110.
[31] *Ibid*, 111; US Census Bureau, *Household Income in 1970 and Selected Social and Economic Characteristics of Households,* 1, http://www2.census.gov (accessed 13 Feb. 2012).
[32] Flood, *The Way It Is,* 114.

salaries to escalate too rapidly for them to handle, causing them to go out of business and ending the entire league.[33]

Baseball owners had established and fought for the reserve clause because it was for the good of the game.[34] When the clause was first enacted, it was common practice for a player to leave one team in the middle of a season in order to seek a higher salary from another team. As teams began pilfering each others' rosters, the fans began to lose interest in both players and owners. Owners agreed to each reserve a set number of players whom the other teams would not be able to sign for the next season. Ford Frick, the Commissioner of MLB until 1965, argued that the plan worked and the rosters of the various teams stabilized without impeding the increases in salary which many players had feared.[35]

Frick further argued that the reserve clause had been in place for nearly a century, had seen the growth of the game into national prominence and had become the very backbone of the game.[36] While Major League Baseball had risen to tremendous success under the reserve clause, it needed tweaks throughout the years. Rules such as the draft and waiver rules protected players by spreading the talent of incoming players among all of the teams and preventing teams with particularly deep talent pools from holding talented players in the minor leagues when they were able to play at the highest level of competition.[37]

---

[33] Kuhn, *Hardball*, 113.
[34] William Leggett, "A Bird in Hand and a Burning Busch," *Sports Illustrated*, 23 Mar. 1970, http://www.sportsillustrated.cnn.com/vault (accessed 17 Apr. 2012).
[35] Ford Frick, *Games, Asterisks, and People* (New York: Crown Publishers, 1973), 14.
[36] *Ibid*, 185.
[37] *Ibid,* 186-7.

In 1967, the MLBPA and MLB established an agreement which structured contracts for players. Part of that agreement included the reserve clause in every contract. Kuhn argued that if they had wanted to remove the reserve clause, the players ought to have negotiated for it at that time. He also saw the attempt at litigation as "the union trying to take two bites of the apple."[38] He felt that Miller was unwilling to try to negotiate the clause away because doing so would likely have involved a players strike, and he doubted that the players would have been able to strike for long enough to enact major change. Kuhn saw Flood's lawsuit as a second tactic to enact that change, through litigation rather than negotiation.[39]

To the owners' first point, Flood had two rebuttals. He first pointed out that the best baseball players were paid at a substantially higher rate than typical players and this disparity distorted the average salary. He argued, based on numbers from the Players Association, that the majority of players were paid less than $20,000 per year, and nearly one in five were paid the league minimum of $10,000.[40] While an annual salary of $10,000 was still around the 60th percentile of household incomes for 1970, it made the average income of baseball players seem far less outlandish compared to the average person.[41]

His second counterpoint to the idea that ball-players were overpaid was to consider their income in comparison to the income of the industry as a whole and then view that in light of what other industries paid their workers. Flood cited the MLBPA in saying that the salary of all baseball players in 1969 totaled $20 million plus $5.5 million

---

[38] *Ibid.*
[39] *Ibid* .
[40] *Ibid*, 111.
[41] US Census Bureau, *Household Income in 1970,* 1.

paid into the players' benefit plan, but that the estimated income of baseball's revenue from all sources to be approximately $150 million.[42] When including the salary paid to minor-league players, Flood estimated that about 20 percent of baseball's income was paid to its players. To give perspective, Flood offered the rates of other industries. In manufacturing, about 24 percent of income was paid to workers with some companies, such as U.S. Steel, paying as high as 40 percent. Some entertainment industries paid their performers above 50 percent of the industry income. Additionally, in 1929 the players were paid 35 percent of the operating income, meaning that the players' share of the revenue had been declining over the 40 years prior to his case.[43]

Flood acted on behalf of all baseball players in his decision to reject his trade to Philadelphia and stand against the reserve system. He was trying to remove the limits that they had on their salaries as well as on the restrictions on their movement among teams. While he saw himself as fighting for the rights of the players, many saw him as a trouble-maker who was simply looking to increase the benefits of a wealthy group of people who were paid to play a game.[44]

Interestingly, Kuhn felt that Flood's case hurt the relationship between the players and owners enough that it weakened the negotiating power of the union with respect to the reserve clause. Some executives had been open to negotiating for some sort of free agency and while they were outnumbered by those who supported the reserve system, their number would likely have grown as newer and younger executives were brought

---

[42] Flood, *The Way It Is,* 111-12.
[43] *Ibid* – All figures cited by Flood in his autobiography.
[44] Snyder, *A Well-Paid Slave,* 105.

into the industry. [45] However, after the *Flood* case, the relationship between owners and players was even more strained and the owners were less willing to negotiate any form of free agency into the reserve system.[46]

After the decision was handed down in *Flood*, Kuhn saw change in the air. He did not claim the decision as a victory for baseball, but declared that collective bargaining would be the most effective way to negotiate change in the reserve system, whatever change that might be. It was unlikely that he saw the change happening in the manner in which it did.

At the beginning of the 1975 season nine players were competing without having signed contracts for the new season, meaning that they were playing on the renewal option of their 1974 contracts. While most of them ended up signing new contracts during that season, Andy Messersmith of the Los Angeles Dodgers completed the season under his 1974 contract. He was then entered in a free agency grievance by the Players Association.[47] The grievance would enter arbitration which would find in favor of Messersmith and the Players Association. The owners and players would have to begin a new labor negotiation which Bowie Kuhn declared as "the most important labor negotiation ever."[48] Out of that bargaining, free agency would emerge.

While *Flood v. Kuhn* may not have taken down the reserve clause on its own, it was a key factor in the eventual introduction of free agency to Major League Baseball. The language of the decision suggested that, while the Court would not strike it down on its own, the reserve clause was certainly assailable. This helped motivate the Players

---

[45] *Ibid.*
[46] *Ibid,* 90.
[47] *Ibid,* 155.
[48] *Ibid,* 161.

Association to keep searching for a means of striking down the reserve system and eventually did lead to its demise and the advent of free agency. Flood's actions were an important step on the path for the union leading from being seen as property to partners.

Chapter 3 – Scabs and Picket Lines

In 1975 the National Football League Players Association (NFLPA) was able to accomplish what Curt Flood and the MLBPA had been unable to do a few years earlier: gain the right to free agency through the courts. Prior to 1975, the Rozelle Rule had declared that any team which signed a player from another team was to compensate the other team with players, draft picks or money. This rule stifled player movement between teams. From 1963 to 1975, only four players signed as free agents with new teams.[1] In *Mackey v. NFL* (1976), the 8th Circuit ruled that the Rozelle Rule was an unreasonable restraint of trade and fell within what was prohibited by the Sherman Antitrust Act of 1890 because the rule deterred player movement within the league.[2]

After this decision, players could negotiate with new teams after playing out their contracts and did not need to be concerned with the problems of compensation between teams. Yet in 1977, the NFLPA bargained away this newly earned right in favor of a different method of determining compensation for free agent signings. The new Collective Bargaining Agreement gave players the ability to remove the option clause from their contract, but at the cost of a reduction in salary, and gave owners the ability to match any offer made to one of their players by another team. This system allowed a player to escape the option year, essentially the same as the reserve clause in a MLB

---

[1] Paul D. Staudohar, "The Football Strike of 1987: the Question of Free Agency," *Monthly Labor Review,* vol. 26 (1988), 26, http://home.heinonline.org/ (accessed 22 Feb. 2012).
[2] *Ibid*, 28; *Mackey v. NFL* 543 F.2d 606 (1976).

contract, but at the risk of a reduced salary. Under this new system only one player signed on to play with a new team. Players were willing to give up the right to free agency in 1977 in favor of an increased pension and other benefits which were better for all players as opposed to the elite and popular alone. The majority of the players felt that free agency was less beneficial to them compared to athletes in other sports and the NFLPA acted on behalf of that majority.[3]

While free agency would have given NFL players more freedom to move about the league as they pleased, it was projected to be less effective at increasing player salaries in football than in baseball for three reasons: First, signing one player, even a star, had less of an impact on the success of a NFL team than it did in other sports. Football is the only major sport in which players do not play both offense and defense. There is also a greater reliance upon the other players on a team in football than in other sports. [4] In baseball, if a player is capable of hitting a lot of home runs in a season, then he is likely to do so regardless of the quality of his team. In basketball, a player who can shoot the ball very well will still be able to shoot regardless of the abilities of his teammates. However, in football a quarterback cannot complete passes unless the offensive line protects him, the receivers run the play properly and catch the ball and the defense keeps the other team's offense off of the field. No matter the skills of one player, the game is ultimately won by the better team – more so than in other sports.

An additional confounding factor restricting player movement is the strategy and scheming involved in football. A player who was very successful for one team may have limited success for another simply because of how his abilities matched up with what the

---

[3] Staudohar, "The Football Strike of 1987," 29.
[4] *Ibid.*

coaches expected him to do. While in baseball, for the most part, a power-hitter is a power-hitter and a shortstop is a shortstop, in football there is a lot more variability in what each position may need. Because each team has a different scheme that has specific needs which may differ from other teams, there would logically be less overall demand for a player around the league because he may not fit into every scheme.

The NFLPA felt that the only players who would receive even a marginal benefit from free agency would have been the elite players at marquee positions like quarterback and wide receiver. While these super stars would garner more attention from the teams, the average players or those who played an unremarkable position, such as offensive line or kicker, would continue along with similar salaries.[5]

Second, NFL teams also were set to profit less from signing a better player because almost all games sold about 95 percent of their tickets, meaning that there was little room to increase revenue on game-day, regardless of their won-loss record.[6] While a baseball team might have seen a dramatic increase in attendance to watch a new player, NFL teams were already tremendously popular and there would be little evidence of the player's impact on ticket sales. The NFL also had far fewer games than Major League Baseball, meaning that there were far fewer opportunities for a new player to have whatever impact on attendance that he may have had. While baseball teams had close to 100 home games every year to sell tickets, NFL teams had less than 10.

The NFL further decreased the competition for elite players by engaging in revenue sharing. All NFL clubs earned approximately the same amount of money

---

[5] Ed Garvey, "Foreword to 'The Scope of the Labor Exemption in Professional Sports': A Perspective on Collective Bargaining in the NFL," *Duke Law Journal*, Vol. 1989, No. 2 (1989), 335-6.
[6] Staudohar, "The Football Strike of 1987," 29.

regardless of their on-field performance. This sharing of revenue included TV contracts and ticket revenue, the two largest forms of income for the league.[7] If a team stood to gain very little by signing a player from another team, there was little incentive to add that player's increased salary to the payroll. While MLB owners spent millions of dollars on free agents in the decade after their inception of free agency in 1976, the NFL owners were unlikely to engage as aggressively in the bidding for top talent.[8]

Finally, because of the physicality of the game, injuries were more prevalent in the NFL than in other sports and therefore the average playing career of a football player was shorter than that of a baseball or basketball player. This shorter duration afforded players fewer opportunities to take advantage of the already limited benefits of free agency. Star players who were destined to have long careers may have benefited from the ability to sell their talents to the highest bidder, but the average players who made up most of the league were more concerned with an improved pension plan.[9]

For these reasons, the NFLPA gave up the right to have free agency in 1977. In 1982, as they negotiated with the owners on a new CBA, they once again fought the idea of free agency and instead demanded a specific share of the NFL teams' total revenues, namely 55 percent, and then pay players based on a formula which ignored position and focused on years in the league and performances such as Pro Bowl appearances. The owners did not like the idea of the formula and instead favored negotiations with each

[7] Robert H. Boyle, "The 55 Percent Solution," *Sports Illustrated*, 1 Feb. 1982, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).
[8] Staudohar, "The Football Strike of 1987," 29.
[9] *Ibid*.

individual player.[10] The NFLPA argued that the revenue sharing among the owners offered no incentive for teams to pay better players more money. They thought that owners could actually save money by replacing expensive veteran players with less skilled but cheaper rookies and that there was actually an incentive for the owners to lose.[11] If owners cut or traded all expensive players and replaced them with cheap, less talented players, then they would likely not play as well because their team would be less talented. However, they would still make money because of the structure of the NFL's revenue sharing system which protected struggling teams.[12]

Ed Garvey, the executive director of the NFLPA, pointed out that the NFL had paid 67.7 percent of its revenue to player salaries in 1967 while the AFL had competed for the top players. In 1982, he claimed that the players' share had fallen to between 26 percent and 30 percent, although the owners claimed that it was 44 percent.[13] Additionally, pro football players were paid an average of $78,000 per year in 1980 when the average NBA salary was $186,000 and baseball players averaged $143,000.[14] Garvey argued that the only way for NFL players to get their fair share was to be guaranteed a share of the revenue which would then be divvied up among the players based on years in the league, as well as performance incentives.[15]

[10] Robert H. Boyle, "And Then the Clock Showed 00:00," *Sports Illustrated*, 27 Sep. 1982, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).
[11] Boyle, "The 55 Percent Solution."
[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*
[15] *Ibid.*

These figures were at a time when the average American household was making slightly more than $21,000 annually.[16] A recession in the early 1980s had caused a reduction of wages in union contracts by between seven and eight-and-a-half percent, and forced unions to concede on issues like two-tiered wage systems and reduction in vacation days, retirement and medical benefits. There was also concern among unions that the Civil Rights Act of 1964 had damaged the leverage of unions. When the Act guaranteed legal protection for women and minorities, it allowed gave them more leverage as individuals and they therefore were less dependent on unions for protection.[17]

Garvey wanted to create a wage scale which would pay each player the same base salary, regardless of position, based on the number of years in the league. Using the figures from 1980, Garvey projected an increase in salary of about $24,000 for first year players, $37,000 for third year players, and $52,000 for players in their fifth year.[18] The difference would continue to grow as players spent more time in the league. However, owners feared that paying each player the same wage would not create enough incentive for the players to create the most competitive, entertaining, and therefore, profitable product on the field. To remedy this, Garvey included performance bonuses in his plan. These bonuses ranged from a $1,750 for every game started and a proportional scale based on playing time to a $50,000 payday for making the Pro Bowl.[19] There would also be a large sum of money to be given to the players whose teams make the playoffs each year. Garvey argued that his plan would have paid any player on the Super Bowl-

---

[16] U.S. Census Bureau, "Money Income of Households, Families, and Persons in the United States: 1980," 2, http://www2.census.gov (accessed 22 Feb. 2012).
[17] Melvin Dubofsky and Foster Rhea Dulles, *Labor in America* (Wheeling, Ill: Harlan Davidson, Inc.), 396.
[18] *Ibid.*
[19] *Ibid*; Boyle, "And Then the Clock Showed 00:00."

champion San Francisco 49ers more than $195,000, in addition to their base salary in 1982.[20]

The owners rejected the Union's offer of a shared revenue system, not because they felt that 55 percent was too high, but because they did not wish to share a specific percentage of football revenue, be it 55 percent or five percent.[21] John Donlan, the executive director of the owners' Management Council, said "You really equate a percentage with control, and when you get a percentage of anything you want to change things. The owners are not going to let the Union run their business."[22] They also rejected the deal because they saw the salary scale as a minimum, not a standard. Donlan argued that there was nothing to prevent a player from holding out for more money.[23]

The wage scale was an issue for the owners for the precise reason that Garvey preferred it: the scale would raise the salaries of the average players while doing little to benefit the best players. He felt that the best players were already well compensated and would continue to be in a new system because they would reach many of the performance incentives within the proposed pay system. Donlan explained that "the wage scale destroys incentive. You end up overpaying people on your own team… It would increase the salaries of the marginal players, and it doesn't reward the guys who are genuine contributors."[24] Art Rooney told one of his employees "… It doesn't matter what you pay Lambert…Swann, Franco, Bradshaw, Webster, or Ham. You can never overpay the good athletes. Where you get in trouble in this business is when you pay the guys who can't

---

[20] Boyle, "The 55 percent Solution."
[21] *Ibid.*
[22] *Ibid.*
[23] Boyle, "And Then the Clock Showed 00:00."
[24] *Ibid.*

play."[25] The owners were clearly willing to give more money to the players who they felt deserved more; they were just unwilling to pay more money to the average players.

The NFLPA backed down from their demand of a 55 percent share of all revenue and instead asked for half of the television revenues over four years, a sum totaling $1.6 billion. They still wanted the system to be set up with a scale based on years in the league with incentives for Pro Bowl selections, player voting for top performers, and other individual and team-based bonuses. The owners were willing to accept this deal with only two changes: they wanted to pay the $1.6 billion total over five years instead of four, and they wanted to negotiate each individual player's salary with that player. If after 5 years some of the $1.6 billion remained, then the owners would give to the players what was left to divide amongst themselves. The players however, stuck to their guns. They wanted to have a wage scale and were willing to fight for it.[26]

The establishment of a new rival, the United States Football League, or USFL, was an additional concern for the owners. The new league was set to begin with several advantages. For one, it had a television agreement, and therefore guaranteed revenue, in place. David Dixon, the founder of the USFL, was also very careful with who he allowed to be owners. Each new franchise had to have the financial support and ability to sustain itself for three seasons before it was allowed into the league. The timing of the league was lucky as well because the labor struggles in the NFL provided for the potential poaching of the established league's players.[27]

---

[25] Rob Ruck, *Rooney: A Sporting Life* (Lincoln: University of Nebraska Press, 2010), 503.
[26] Boyle, "And Then the Clock Showed 00:00."
[27] John A. Fortunato, *Commissioner: The Legacy of Pete Rozelle* (Lanham: Taylor Trade Pub., 2006), 176.

Interestingly enough, the USFL did not wish to steal the best players from the NFL. Dixon and his new league hoped to develop superstars of their own. The cost of signing veteran players from the NFL was simply too high and too risky for the young league. They did, however, attempt to draft the same elite college prospects.[28] They also searched the NFL's ranks in order to fill their coaching staffs and in many ways that was just as offensive to the NFL owners as any attempts to steal players. Art Rooney, the owner of the Pittsburgh Steelers and one of the original NFL owners, was upset by the defection of coaches to the USFL and the conflicts of interest which often arose among the owners of the two leagues.[29]

On September 20th, the NFLPA went on strike after two weeks of regular-season play. It was the first time in the history of the league that there was a work stoppage during the season.[30] The players believed that it would take three weeks for the owners to feel the economic pinch enough to accept the Union demands. The strike would last for 57 days, ending in mid-November, and resulted in a very strange season. The agreement between the players and the owners was that the league would continue under very similar rules to the previous CBA for the next five years. Effectively, the players had gained very little. What they had gained, however, was the respect of the ownership for proving that they could sustain a strike as well as compromise on some basic issues over which they had struck. The players got their wage scale, severance pay and the right to reject any agents who they saw as unfit. However, they still commanded the lowest

---

[28] *Ibid,* 178.
[29] Ruck, *Rooney*, 509.
[30] *Ibid.*

average salaries in professional sports and did not get any central fund or a pay structure based on the revenues of the league.[31]

The owners were able to so effectively endure the strike because they had planned ahead and taken provisions against such an event. In their contract with the major television networks ABC, NBC and CBS, the NFL owners had included a clause that the networks would advance the league $30 million in the first two weeks of any strike. While the money would eventually have to be paid back, it was effectively and interest-free loan of slightly more than $1 million per team. This loan along with the fact that the owners did not have to pay the salaries of the players during the strike was enough to offset, at least temporarily, the owners' lost revenue.[32]

Financially, the owners had every advantage. The loan from the television networks was only part of their financial-security. Season-ticket owners had also paid for their tickets and the owners had not been required to pay that money back yet. On the other hand, the players did not have any financial parachute. By November, when the owners put an offer on the table, the teams began to vote for its acceptance almost immediately. While the NFLPA was able to negotiate some more minor benefits into the agreement, they were largely forced to agree to what the owners put in front of them. Their hopes for a better deal would have to be put off until 1987.[33]

In 1987, five years after a strike that lasted nearly two months, the players and owners were facing another major labor battle with the expiration of the latest CBA.

---

[31] Paul Zimmerman, "Scorecard. The Strike: The Winners. The Losers. And Who Did What to Whom" *Sports Illustrated*, 29 Nov. 1982, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).
[32] William Taaffe, "They Weren't Stricken by the Strike," *Sports Illustrated*, 4 Oct. 1982, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).
[33] Zimmerman, "Scorecard."

Many of the issues which were at issue previously remained – including free agency, pensions, severance pay. The television deal between the owners and the networks was also paying each owner $17 million per year and the players wanted their share of that money.[34] There was speculation that the players were less organized than they had been a half decade earlier and would therefore be less willing to strike. The fact that they had never won a major battle with the owners except through the courts was another concern for the players.[35] However, after only one player had been able to change teams in the past ten years, the players came to the negotiating table claiming that they were willing to sit out the entire 1987 season if the owners did not allow unrestricted free-agency. On September 22, 1987, the players once again struck.[36]

Once again, the owners were much better prepared than the players to endure the time in between paychecks. The Union had not learned its lesson from five years earlier and did not form a strike fund or seek a line of credit through which players would have been able to take out loans. The NFLPA was able to establish more credibility with local unions and garner more fan support against the owners, yet this did not help to alleviate the income which the players were missing by striking.[37] Fans' support for players was particularly weak in cities which lacked a strong union presence.[38] During the strike, the players lost about $15,000 per player per game; adding up to nearly $80 million in lost income altogether.[39]

---

[34] Staudohar, "The Football Strike of 1987," 26.
[35] *Ibid,* 28.
[36] Scott E. Backman, "NFL Players Fight for Their Freedom: The History of Free Agency in the NFL," *Sports Lawyers Journal*, vol. 9 (2002), 20, http://home.heinonline.org/ (accessed 21 Sep. 2011).
[37] Staudohar, "The Football Strike of 1987," 29.
[38] Jill Lieber, "A Test of Unity and Loyalty," *Sports Illustrated*, 5 Oct. 1987, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).
[39] Staudohar, "The Football Strike of 1987," 29.

Rather than simply wait out the players, as they had done in 1982, the owners tried a much more aggressive strategy: they hired replacement players. Every NFL season began with a training camp in which nearly 100 players would show up to try out for each team. This group of players would be whittled down to the final roster, which had a maximum number of players established by the league. Because the players' strike began early in the season, not long after training camp, every team had a list of young men who were willing to play during the strike. The team simply offered each of these players a small amount of money to stand by as potential replacements in case of a strike. When the strike came, the owners had a cheap way to maintain their revenue.[40]

The games played by replacement players, dubbed "scab ball" by the striking NFL players, drew fewer fans both to the games and through television viewership.[41] Television views started close to the same level as for regular football, but fell as the strike wore on. Ticket sales, however, started very poorly but rose from the first week of the strike to the later weeks. Even though there was less revenue from ticket sales and television, the owners actually made more money during the strike because of the tremendously lower prices commanded by the scab players. The average owner's profit increased by nearly $121,000 per game.[42]

The replacement games were not only an attempt by the owners to keep making money during the strike; they were a legal tactic as well. Tex Schramm, the president of the Dallas Cowboys said that the teams had "a contractual relationship with [their]

---

[40] *Ibid.*

[41] Paul Zimmerman, "When Push Came To Shove," *Sports Illustrated,* 5 Oct. 1987, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012); Staudohar, 29.

[42] Staudohar, "The Football Strike of 1987," 29.

players, and [they had] to be ready to honor it."[43] Not honoring that agreement may have voided the players' contracts. Without teams for which they could play, the players may have been able to argue that they were already free agents, precisely what the owners were trying to avoid during the negotiations in the first place.[44]

Further adding to the owners' advantage was the temptation which the scab games created among the players. A player who was keenly feeling the hardship of the lack of income need only cross the picket line to join the "scabs" and he could continue playing under his previous contract. Additionally, any player who had no issue with his present contract or who felt that the NFLPA was wrong could cross as well. Many players did. From average players to superstars, nearly 15 percent of the players crossed the picket lines.[45] On October 15, the players strike ended, only 24 days after it began.[46]

The players who crossed the lines weakened the bargaining position of the union as a whole and in many ways led to the rapid end of the strike. Without unity, the NFLPA crumbled. Those who did not cross were very upset with those who did. Atlanta Falcons' Linebacker Tim Green was the only regular player on the team who played in every scab game. When he was asked about his teammates returning to work, he said "I will be ostracized. A lot of guys have so much anger and frustration over the strike. Of course, they'll take it out on me."[47]

---

[43] Zimmerman, "When Push Came to Shove."
[44] *Ibid.*
[45] Rick Reilly, "Thirty Pieces of Silver," *Sports Illustrated,* 26 Oct. 1987, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).
[46] Backman, "NFL Players Fight for Their Freedom," 20.
[47] Jill Lieber, "I Will Be Ostracized," *Sports Illustrated,* 26 Oct. 1987, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).

Unlike in 1982, when the NFLPA had at least gained respect for maintaining a long-term strike, 1987 was a complete loss for the players.[48] The union had claimed that free agency was their biggest issue. Yet many players were unconcerned with free agency.[49] Regardless of the opinions held by many of the players regarding free agency, the owners completely rejected it – even after the players backed down from unlimited free agency to a system which began after a player had been in the league for four years. Owners felt that free agency would "destroy a system that [had] brought prosperity to the players and owners alike."[50] The players were no closer to attaining free agency than they had been a month earlier.[51]

In addition to free agency, the players had wanted guaranteed contracts for all players with two or more years in the league. The owners were willing to guarantee the contracts for only those players who had four years of experience. The players also wanted the NFL to create a pension fund for the players and contribute $25 million annually. Owners were willing to contribute half of that amount. The players were fighting for a scale of minimum salaries as well, ranging from $90,000 for a rookie to $320,000 for a player in his 13th year. The NFL was willing to set the minimums at $60,000 and $180,000 for those same levels of experience.[52]

The players achieved none of their goals during the strike. There was much speculation at the time that the players had been beaten so badly in the boardroom that even their on-field performance was suffering, and the players often admitted the same

[48] Staudohar, "The Football Strike of 1987," 31.
[49] *Ibid.*
[50] Zimmerman, "When Push Came to Shove."
[51] Backman, "NFL Players Fight for Their Freedom," 20.
[52] Staudohar, "The Football Strike of 1987," 27 – Table.

feeling. Rocky Klever, a player for the New York Jets, was asked about the strike taking away some emotion and he replied "Yeah, at least emotion toward liking football. That might be the reason why guys haven't played with emotion."[53]

Because of their failure to achieve free agency through negotiation, the NFLPA filed a lawsuit on the day that the strike ended. This lawsuit was the beginning of a series of lawsuits, *Powell v. NFL I, II, & III* as well as *McNeil v. NFL,* which would slowly chip away at the NFL and its labor antitrust exemptions. *Powell I & II* set the stage for a case to determine if the owners were violating antitrust laws. In *Powell III*, the Eighth Circuit offered no guidance for settling the dispute other than the means which the Union had already exhausted.[54]

After the *Powell* decisions, the owners offered two different free agency options to the Union. One was little more than a few minor reductions in the already existing restrictions on player movement. The other diminished player benefits but gave free agency to a limited number of free agents on each team that the team chose not to retain. The Union rejected both plans, with president of the NFLPA Gene Upshaw saying "[m]anagement's proposal A and proposal B are really proposal bad and proposal worse for the players."[55] However, the NFL began to use the second plan despite the objections of the Union.

The new free agency system did allow for more player movement between teams, with 229 players changing teams that offseason. However, most of those players were older, over-priced players, recovering from injuries, or only average in talent. The best

---

[53] Rick Reilly, "Season for No Reason," *Sports Illustrated*, 30 Nov. 1987, http://www.sportsillustrated.cnn.com/vault (accessed 22 Feb. 2012).
[54] Backman, "NFL Players Fight for Their Freedom," 21-26.
[55] *Ibid,* 27.

players were still locked to their teams with no means of moving about the league. Despite the limited quality of the players who were capable of moving, the average salaries did substantially increase. The players pointed to this as evidence that the system was still repressing the salaries of the best players.[56]

In an effort to protect itself from the nonstatutory labor exemption and gain the protection of antitrust laws, the NFLPA gave up all collective bargaining rights. By forming a union, the players negotiated as a group which gave them much more leverage in dealing with the league, but cost them rights, such as the ability to sue over labor issues.[57] On February 1, 1990, eight players filed a suit, *McNeil v. NFL*, arguing that the NFL's free agency plan restricted player movement and therefore prevented competitive negotiation of their new contracts. The jury found the NFL's plan to be too restrictive and forced the two sides back to the bargaining table. Because of the legal success, more players began to file suit against the NFL. In 1993, a new CBA was finalized and agreed upon which created a new mechanism for free agency, a league-wide salary cap and restricted rookie players. [58]

The labor disputes between the NFL and the NFLPA came at an interesting time in US history. The 1980s were in many ways a very difficult time in the United State. The first strike, in 1982, came very quickly after an economic recession which saw 7-8.5 percent reductions in real wages of other labor unions and during which the national unemployment rate reached 10.8 percent.[59] Yet the players were fighting for major increases in their already very high salaries. Along with the dropping wages, the early

---

[56] *Ibid,* 28-29.
[57] *Ibid,* 29.
[58] *Ibid,* 29-30, 39-43.
[59] Dubofsky and Foster Rhea Dulles, *Labor in America*, 378, 396.

'80s saw a dramatic drop in union membership as well with nearly 3 million workers leaving their respective unions. Yet the economic recovery in the mid 80's did not do anything to revive the number of union members.[60] It was interesting that the NFL players stayed with their union so strongly during the 1982 strike while the rest of the labor force was abandoning organized labor.

Furthering the bizarre disconnect between the football negotiations and the rest of the population was the fact that many of the major figures involved in the NFL-NFLPA disputes had also been major players in other labor negotiations. Jack Donlan, the executive director of the Management Council for the owners, worked in industrial relations for nearly a decade for National Airlines. While he was there, he worked on more than 40 contracts with eight unions and experienced four strikes, and was known as a tough negotiator.[61] Not surprisingly, Donlan did a good job of upholding the NFL owners' wishes during his time as executive director.

Ed Garvey, on the other hand, had spent little time involved in unions beyond the NFLPA.[62] He was seen as a selfish negotiator, more concerned with his personal reputation and accolades and therefore had limited support from the players. Ahmad Rashad, a Pro Bowl wide receiver and team captain for the Minnesota Vikings, said "like a lot of guys I'm pretty pro-union anyway; I'm just not very pro-Garvey."[63] Needless to say, he was not an overly popular figure among the NFLPA members after the 1982 strike. He did, however, have some members of his staff who had worked in other unions

---

[60] *Ibid,* 395.
[61] Boyle, "The 55 percent Solution."
[62] *Ibid.*
[63] Ahmad Rashad, "Journal of a Plagued Year," *Sports Illustrated*, 18 Oct. 1982, http://www.sportsillustrated.cnn.com/vault (accessed 17 Apr. 2012).

and experienced labor upheaval at a more grounded level. Chip Yablonski was an NFLPA labor counsel who had led reform of the United Mine Workers in 1969.[64]

While the rest of the country was fighting for their livelihood in many ways through economic downturns, the NFL players were doing the same for theirs. They felt that they were underpaid and engaged in any means necessary to obtain fair compensation. The 1980s were a time that was very difficult for labor unions and the NFLPA experienced those troubles as well. They were able to gain very little during the decade. However, by constantly struggling against the power of the NFL owners, they were eventually able to reach an agreement which gave them the freedom that they felt they deserved.

[64] Boyle, “And Then the Clock Showed 00:00.”

Chapter 4 – The World Series That Wasn't

After Curt Flood "sounded the alarm about players' lack of economic freedom" across all sports and the subsequent striking down of the Reserve Clause in 1975, Major League Baseball (MLB) and the Major League Baseball Players Association (MLBPA) had to negotiate a new system to determine how players would be able to move between teams.[1] Players felt that the recent decision had given them the right to move between team-based on their own accord, rather than just when they were told to do so. The owners wanted to maintain the old Reserve Clause, with some even demanding that the MLBPA forfeit the rights that they had just won, claiming that they had "a duty to do so" to protect the league and the game as a whole.[2]

What would eventually become a free agency system would grant the players the rights and liberties that they had been seeking since the inception of the reserve clause. Once free agency was established, the two sides would spend the next two decades fighting over exactly how to set up the limits and controls on that system. Players would also begin to fight for issues which were less based on infringement of their rights and more on the fairness of the economic structure of the game. Namely the fact that they were underpaid when considering the amount of money that baseball generated and how much actually made it back to them. Because they were no longer able to be moved and

---

[1] Brad Snyder, *A Well-Paid Slave: Curt Flood's Fight for Free Agency in Professional Sports* (New York: Penguin, 2007), 349.
[2] Douglas S. Looney, "O.K. What's the Pitch?" *Sports Illustrated*, 8 Mar. 1976, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).

sold like "pieces of property," the players were more partners with the owners than employees.[3] Both sides had incentive to see the growth and benefit of the entire league.

Prior to the 1976 season, the two sides spent many months in negotiation on that new system. During that time, the players were locked out by the owners. Spring training – the usual pre-season period spent evaluating talent and preparing for the upcoming season – was delayed by over two weeks.[4] The owners originally refused to go forward without some sort of agreement regarding free agency and the players who would soon have the freedom to move about the league.[5] However, the players successfully argued that the season should begin at the normal time because they were all under contract through the entire season and would not be free agents until after the season was completed.[6]

Players wanted only what was upheld in the Messersmith case, which was what had finally struck down the Reserve Clause. Namely, they wanted the ability to solicit offers from multiple teams after they had played out their contracts with their current team. They were not demanding that every player immediately become a free agent. The Union did not demand free agency for all players for two reasons: first, the owners would not have accepted that proposition, and second, because a smaller pool of free agents would create higher demand for those players and therefore they would receive higher salaries.[7] Owners were unwilling to completely give in to the Messersmith decision and

[3] Curt Flood, quoted in Snyder, *A Well-Paid Slave,* 94.
[4] Douglas S. Looney, "At Last, Spring is Sprung," *Sports Illustrated*, 29 Mar. 1976, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[5] Looney, "O.K. What's the Pitch?"
[6] Looney, "At Last, Spring is Sprung."
[7] Jeffrey S. Moorad, "Major League Baseball's Labor Turmoil: The Failure of the Counter-Revolution," *Villanova Sports & Entertainment Law Journal*, vol. 4 (1997), 66, http://home.heinonline.org/ (accessed 10 Oct. 2011).

wanted to compromise. They first submitted an offer to the players which would have allowed a veteran of nine Major League seasons to become a free agent when his contract expired. Considering that the average Major League career was only slightly above four years at the time, the players rejected this offer.[8]

Owners were largely concerned that the player's ability to move freely from team to team would destabilize team rosters, create excessive salary inflation (making it difficult for teams to cover their costs) and kill competition between all of the teams. To further compound these problems, fans would lose interest because they would grow tired of watching all of their favorite players sign with teams in larger markets for more money. If the fans lost interest then the entire league would lose money and could eventually shut down. Owners favored the Reserve Clause because, in their view, it was created in the best interest of the game.[9]

The MLBPA largely disregarded many of these concerns. They pointed to the fact the fans did not lose interest when their favorite players were traded, so they would not lose interest because a player left via free agency. They rejected the owners concerns about team profitability, claiming that few of them could claim to be poor to begin with. The notion that they would all sign with big teams for bigger contracts was also rejected. Many of the players liked where they were and would not want to shop their talents around. Most others would not be willing to take a big contract to go play behind a better player with an even bigger contract. Therefore the owners were not going to see all of their best players follow the money to wealthy teams, like New York or Los Angeles.[10]

---

[8] Looney, "O.K. What's the Pitch?"
[9] *Ibid.*
[10] *Ibid.*

Not all members of baseball's management were so dead-set against the removal of the Reserve Clause. Buzzy Bavasi, the president of the team in San Diego, said "I think without the reserve clause baseball will be fun again. If I need a shortstop, I'll decide who the best shortstop is and go after him."[11] Others agreed that the Reserve Clause was not necessary for the prosperity of the league to continue, with some even calling the it "morally and legally indefensible," as Bill Veeck, owner of the Chicago White Sox, had said in a 1941 letter to Judge Landis, the commissioner of baseball at the time.[12]

These owners argued that the Reserve Clause may have been worse than free agency for the bottom lines of the teams. They argued that the best players would certainly be paid much more through free agency, but that those players were worthy of much higher salaries. The above average players would likely receive a slight increase as well. However, the majority of players who were considered average at best would likely gain little or even lose ground on their salaries through free agency. Bavasi argued that "… a lot of $25,000 journeyman players are going to go out on the free market and find they are worth $23,000."[13] If the majority of players made less in the free agent market, that would have offset most or all of the cost of paying the top players more.

After a delay of seventeen days, the Players Association finally convinced the owners to allow the players into spring training. While there was no agreement between the two sides, each had made minor concessions and the owners realized, with the help of the Players Association, that there were no players who would be a free agent prior to the

---

[11] *Ibid.*
[12] *Ibid.*
[13] *Ibid.*

end of the season. So long as there were an agreement in place by October, there was no reason to delay the season, and further upset fans. Commissioner Kuhn instructed his owners to open their camps. Despite the delay in the opening of camps, the season was able to begin at the scheduled time.[14]

By the end of the 1976 season, the teams and players had come to an agreement. Their new system was most beneficial to veteran players because it did not create a completely open market among the teams for players. The new agreement did not grant complete free agency to any player without a contract. The reasoning for maintaining the ability of teams to temporarily reserve players was based on the cost of training a player and getting him from the amateur level through the minor leagues and to the Major League level, which some owners claimed was around $1.5 million per year.[15] Owners felt, and were able to convince the players, that the investment was worth some forced loyalty.

The new agreement only granted free agency to those players who had an expiring contract and six or more years of major league experience. However, any player with greater than two years of experience could have their contract submitted to arbitration. Generally, neither sided desired arbitration because it did not give either the players or the teams exactly what they wanted. Usually, players were given a higher salary than teams wanted to pay, but most contracts from arbitration were one-year deals when most players wanted long-term contracts. Any player with less than two years of experience was still subject to the renewal rights of their team.[16]

---

[14] Looney, "At Last, Spring is Sprung."
[15] Looney, "O.K. What's the Pitch?"
[16] Moorad, "Major League Baseball's Labor Turmoil," 66.

The new system had a wrinkle in it that prevented a completely open market for free agents. Players who had played out their contracts were placed into a draft pool in which each team indicated if they wanted to negotiate with a certain player. No more than twelve teams could try to sign one player. By having a draft in this fashion, many teams were prevented from signing players in whom they may have been interested. Once the draft was over, then there was complete open-market bidding for the players' services among those teams which had indicated their interest through the draft.[17]

Reggie Jackson was the biggest name to enter into the first free agency class. A talented player who could clearly help a team win games, he was also an engaging person who could help draw fans to the stadium. Jackson had played for two teams, Oakland and Baltimore, prior to his free agency and both had seen a tremendous shift in their attendance numbers after he left the Bay Area. In the midst of a very successful season in 1976, Jackson addressed his coming free agency by saying "I'll soon be an overpaid athlete. I'll probably get a million more than I should, but I didn't make the rules. I'm just taking advantage of them."[18]

Teams were willing to pay for the talents of a player like Jackson because of the increased revenue which he and others like him could generate. When he was traded from Oakland to Baltimore prior to the 1976 season, the attendance in Oakland dropped by over 300,000 people throughout the season, while Baltimore saw an increase of 67,000 after acquiring the star.[19] Jackson's talents on the baseball diamond were certainly part of

[17] Larry Keith, "Rudi As In Booty, Grich As In Rich," *Sports Illustrated*, 30 Aug. 1976, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[18] Ron Fimrite, "He's Free At Last," *Sports Illustrated*, 30 Aug. 1976, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[19] *Ibid.*

his ability to attract such crowds. He was among the league leaders in home runs and runs batted in, or RBIs. However, his personality off the playing field made him even more of a fan favorite.[20]

When the first group of players to reach free agency began to sign contracts with their new teams, it became quite apparent that the average salaries were going to explode. From the 1975 season to 1976, the average salary grew from $51,000 to $76,000 and nearly doubled that by 1980.[21] Just as the owners had feared, the increased spending was caused by their own willingness to pay large amounts for players whom they felt would generate even greater revenue.[22] Teams began spending more, not only on players' salaries, but on the acquisition of players from other teams as well. This phenomenon led to teams such as the Boston Red Sox spending $1 million each to purchase Joe Rudi and Rollie Fingers from the Oakland Athletics. The two players' agent, Jerry Kapstein, said that he would keep that price in mind when it came time for him to negotiate their next contracts.[23]

Commissioner Kuhn blocked Oakland's sale of these players and others because he felt that the Oakland owner was simply trying to liquidate his team. In his statement explaining the reasoning for his action, Kuhn said that "public confidence in the integrity of club operations and in baseball would be greatly undermined should such assignments not be restrained."[24] Kuhn saw the ability of the smaller market teams to simply dump all of their good players on the wealthier teams for cash as a disruption of competitive

---

[20] *Ibid.*
[21] Moorad, "Major League Baseball's Labor Turmoil," 66.
[22] *Ibid,* 67.
[23] Larry Keith, "He's Baseball's Not-so-secret Agent," *Sports Illustrated*, 28 Jun. 1976, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[24] Bowie Kuhn, *Hardball: The Education of a Baseball Commissioner* (New York: Random House, 1987), 178.

balance. Allowing these moves would have opened the door to purchasing success by wealthier clubs and aroused public suspicion wholly changing the way in which players were developed and acquired.[25]

In spite of Kuhn's decision, teams like Boston and New York were able to spend exorbitant amounts of money on acquisition of veteran players. The Yankees would sign Reggie Jackson to a contract worth $3 million over five years after he had made $20,000 as a rookie in 1969 and $40,000 the following year.[26] Oakland, the team for which Jackson had played in his early career, and other small market teams were not able to compete with the spending of their wealthier rivals. Oakland was seen as the biggest loser in the new free agent system. An organization that had won three World Series in four years during the early 1970s with star-studded rosters was stripped of many of its best players.[27] Baltimore was also a big loser during free agency, watching Reggie Jackson leave for the Yankees, Bobby Grich for the Angels, and Wayne Garland for the Indians. Those two franchises had won fifteen of sixteen possible division titles in the eight years prior to free agency. They were each projected to finish last in their divisions the first year after its inception. [28]

Teams with similar constraints on their ability to spend money on players were equally harmed by the new system. Bill Veeck, who had long opposed the Reserve System, was the owner of the Chicago White Sox in 1976. The team's financial struggles not only eliminated their ability to attract new players to the team through free agency,

---

[25] *Ibid.*
[26] *Ibid,* 168, 127.
[27] Robert W. Creamer, "Scorecard" *Sports Illustrated*, 13 Dec. 1976, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[28] Larry Keith, "After the Free-for-all Was Over," *Sports Illustrated*, 13 Dec. 1976, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).

they actually had difficulty retaining their own players. They also turned down several advantageous trades which would have improved the team, but increased the team salary.[29]

By 1980, the players and owners were once again negotiating a new Basic Agreement, and only agreed to one after nearly facing a midseason strike. They did, however, face a strike a year later which lasted 50 days and resulted in 719 missed games.[30] The new agreement did little to change the free agency system which had been established four years prior and essentially only created further escalation of players' salaries. From the 1980 season to 1985, the average salary went from just under $144,000 to just over $371,000, an increase of more than 150 percent.[31] As a result, in 1985 the owners attempted to negotiate for a salary cap as well as restrictions on the raises that arbitration could award to players. However, after another midseason strike for only two days, the owners only succeeded in increasing the minimum years of service for arbitration from two to three. Beyond that change, the original free agency system from 1976 remained in place. From that point on, the battle between ownership and the MLBPA centered less around free agency and whether or not it should remain in place, and more around the fight over the growing salaries.[32]

One of the reasons that the strike ended so quickly in 1985 seemed to be due to an agreement between the owners to limit the salaries of players through collusion rather than negotiation. When Detroit's Kirk Gibson, the 1984 MVP, entered free agency that

---

[29] Robert W. Creamer, "Scorecard" *Sports Illustrated,* 28 Mar. 1977, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[30] Moorad, "Major League Baseball's Labor Turmoil," 67.
[31] *Ibid.*
[32] *Ibid,* 67-8.

offseason, he was hoping to garner a contract worth $8 million over five years. Yet not a single team, except for Detroit, offered him a contract at all; and their offer was for three years and less than $4 million.[33] This lack of interest in Gibson's talents was strange considering the fact that only one year earlier, the Atlanta Braves had spent $42 million on new players' salaries in total. Gibson's own team also had players who were on the payroll through the 1992 season due to previous contracts. Yet now they refused to offer their best player any contract that was longer than three years.[34]

In fact, none of the free agents that year were offered more than three years. Gibson and other free agents were told that other teams would not talk to them until after the January deadline to resign with their own team had passed. Once that deadline passed, they would be unable to resign until after the season had started. Their current teams each offered them contracts worth much less than what they had expected to earn on the free market. Some such as Andre Dawson were forced to sign deals which were worth less than their previous contracts.[35] Because of the lack of offers from other teams and because of the fear of being unemployed if the deadline passed, no "big-name free agents" changed teams in the offseason between 1985 and 1986. The owners considered this very good news.[36]

After a decade of uncontrolled spending, the owners appeared to have all simultaneously decided to exercise restraint and stop paying the players at continuously growing levels. The players were suspicious and claimed collusion in a grievance against

---

[33] Steve Wulf, "Where Have All the Big Spenders Gone?" *Sports Illustrated,* 9 Dec. 1985, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[34] *Ibid.*
[35] Moorad, "Major League Baseball's Labor Turmoil," 69.
[36] Craig Neff, Robert Sullivan, "Scorecard" *Sports Illustrated*, 20 Jan. 1986, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).

the teams. After the owners continued to attempt to prevent the movement of players during the 1986 and 1987 off-seasons, the players filed further complaints against the behavior of the owners. The three cases became known as Collusion I, II, & III. The players were victorious in each of these suits against the owners, at least from the long term perspective. In the short term, the owners were able to change their tactics slightly after each decision and continue suppressing the player salaries. The average salary from 1986 ($412,520) actually decreased slightly by 1987 ($412,454). The next year, salaries only rose about six percent to $438,729.[37]

Owners, however, argued that they had finally come to their senses and realized that over-spending in free agency was not an effective way to build a winning team. In 1986, the Yankees and Braves had the highest player salaries in baseball and yet one was in the second-longest division title drought in baseball while the other finished dead-last in their division. Of the previous eight teams to win the World Series, none were major players in the free agent market. The owners realized that salaries had increased faster during the 1980s than they had during the initial five years of free agency from 1976 to 1980 and that each team's television revenue was projected to decrease significantly by 1989.[38]

The three Collusion decisions each declared that the owners had been "act[ing] in concert to eliminate the free agent market."[39] Damages were difficult to establish because of the varying degrees of speculation on the value of the depressed free agent and arbitration markets. The cases were finally settled for $280 million, which was distributed

---

[37] Moorad, "Major League Baseball's Labor Turmoil," 69.
[38] Peter Gammons, "Playing Hardball," *Sports Illustrated,* 12 Jan. 1987, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[39] Moorad, "Major League Baseball's Labor Turmoil," 70.

to players by the Players Associations.[40] Additionally, the arbitrator who decided the Collusion cases granted immediate free agency to seven players who had been particularly impacted by the unfair actions of the owners.[41] Kirk Gibson was the only one of these players who was still young enough to command a large market value, and he immediately signed a larger contract with the Los Angeles Dodgers.[42]

With the end of collusion, player salaries once again exploded prior to the 1990 season. Players who were not considered particularly good, let alone superstars, were being offered contracts worth in excess of $1 million annually. In February of 1989, Roger Clemens signed a contract worth $7.5 million over three years to become the highest paid player in baseball. By December of that year, he was the seventh highest paid. "When salaries got to one million dollars (in 1980), I said that was the top," says Toronto Blue Jay president Paul Beeston. "Then it hit two million. Now, who knows?"[43]

Unlike the 1980s, when player income exploded while the average American's income stagnated, the 1990s were prosperous for all. The median family income rose by 2.2 percent annually between 1995 and 2000; a dramatic increase over the average of 0.4 percent it had risen annually in the previous two decades. However, it was the wealthiest in society whose income grew the most. From 1995 until 1999, the wealthiest one percent of Americans saw their salary grow by 59 percent, as opposed to a nine percent increase

---

[40] *Ibid.*
[41] Craig Neff, "Scorecard," *Sports Illustrated*, 1 Feb. 1988, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[42] Peter Gammons, "Now the Divorce is Final," *Sports Illustrated*, 8 Feb.1988, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[43] Peter Gammons, "Rich Man's Game," *Sports Illustrated*, 11 Dec. 1989, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).

for the bottom half. The economy was booming in the late 1990s and this allowed for even more money to flow into MLB and into the pockets of the owners.[44]

Owners were able to afford the increasing salaries because the popularity of the game was causing a huge increase in the revenue that they were generating. Merchandising, media and television contracts as well as the growing demand for luxury boxes at games were all feeding nearly $20 million in revenue to each team per year. It had also become profitable to win in baseball. The Oakland A's lost $15.5 million in 1983 and 1984. Over the next few years they invested in elite coaches, better scouting and player development and more aggressive marketing strategies. Combined with the reduced salaries caused by collusion, by 1989 these moves led to Oakland not only reclaiming their position as one of the most successful teams on the field, they had also become one of the most profitable.[45]

This explosion of salaries counteracted the tactics used by the smaller market teams, such as Oakland, and diminished their opportunities for profitability. It was a common belief among the owners, especially those in large and wealthy markets, that any redistribution of profits to poorer clubs should come from the players first and the wealthy owners second. When the Basic Agreement of 1990 expired at the end of 1993, the owners were concerned with the well-being of the smaller owners and with their own profitability. However, both sides agreed not to use a work stoppage prior to the 1994 season, so that season began on time but without a Basic Agreement in place.[46]

---

[44] Melvyn Dubofsky and Foster Rhea Dulles, *Labor in America* (Wheeling, Ill: Harlan Davidson, 2004), 410.
[45] *Ibid.*
[46] Moorad, "Major League Baseball's Labor Turmoil," 75-76.

The owners' first offer to the players in June of 1994 proposed an equal share of revenue for the players and the owners, removal of the salary arbitration process, and the implementation of a salary cap, with some other provisions as well. One month later, the MLBPA countered with a reduction in arbitration to two years of service, an increase in minimum salaries and pension payments, as well as no salary cap. Following their counter proposal, the players set a strike deadline of August 12. When that day came the two sides had been unable to bridge the gap between their two positions.[47]

The main issue was the creation of a salary cap, which the owners said was mandatory, while the players said they would not allow.[48] Because there had been no progress, and because the players were upset that the owners failed to make a required $7.8 million payment to the players' pension fund, the players struck. In the next month, the two sides met sparingly and with little progress. On September 14 Bud Selig, the new Commissioner of Baseball, cancelled the rest of the 1994 season, including the World Series.[49]

The biggest issue facing the two sides in the winter after the cancelled season was the fact that for the first time, they were facing a black and white issue. Where previous issues in negotiation, such as free agency, compensation, and salary arbitration, had all offered the ability to meet in the middle with compromise, the salary cap was more dichotomous and neither side was willing to back down.[50]

---

[47] *Ibid,* 76-78.
[48] Tom Verducci, "In the Strike Zone," *Sports Illustrated,* 1 Aug. 1994, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[49] Moorad, "Major League Baseball's Labor Turmoil," 76-78.
[50] Verducci, "In the Strike Zone."

The two sides were unable to reach an agreement throughout the winter, even after President Bill Clinton and Congress got involved. They began spring training in 1995 with "replacement players" – largely consisting of minor league players and former major leaguers.[51] However, the two sides were forced to come together when, on March 31st, Judge Sonia Sotomayor issued a decree stating that the owners had not bargained in good faith and granted an immediate injunction against the owners. After this decision, the players agreed to return to work and the owners agreed not to lock them out. The start of the season was delayed until the end of April.[52]

In 1996 the MLBPA and owners agreed to a new CBA which created the first attempt at revenue sharing between all of the teams. By 2001, each of the thirty teams was taxed based on their net revenue. Three-quarters of this revenue was distributed to all teams equally while the remaining 25 percent was given to those teams which had below-average revenue.[53] This revenue sharing was completely new to baseball and changed the league from an entirely free market system where each team was effectively left to its own devices to remain financially stable into a joint network in which the worst teams were supported by the best teams.[54]

Interestingly, revenue sharing may have created a more imbalanced league in terms of the competitiveness of each team on the field. The teams which knew that they would not perform well in the upcoming season could trade or sell their most expensive players which would reduce costs, but also their performance and therefore their

---

[51] *Ibid,* 81.
[52] William B. Gould IV, "Labor Issues in Professional Sport: Reflections on Baseball, Labor, and Antitrust Law," *Stanford Law and Policy Review*, vol. 15.1 (2004), 76, http://home.heinonline.org/ (accessed 21 Sep. 2011.
[53] *Ibid*, 77.
[54] *Ibid.*

performance-based revenues. However, the revenue-sharing program would pay that team more than if they had held on to their best players. In order to counteract this competitive imbalance, a luxury tax was created. The luxury tax was imposed on the five teams with the highest payroll. They each paid 35 percent of the amount by which they exceeded the payroll of the sixth largest team.[55]

While it was not officially a salary cap, the luxury tax had a similar effect in that it reduced the spending of the wealthiest teams. Whereas a cap would have created a hard limit for all teams, the tax only punished the biggest spenders and still allowed for a faster growth in player salaries than a cap would have.[56] This system was different from the NFL's cap which set a hard limit on the amount that any team could spend on players and also created a minimum amount that teams had to spend.[57] No such minimum existed in MLB.

Without a salary cap or other means of enforcing competitive balance, the 2000s saw the continued expansion of the gap between the best teams and the worst. While some teams have not made the playoffs in a decade, or three, other teams are perennial powers. These powerful teams, most notably the New York Yankees and the Boston Red Sox, simply spend more on players than their competitors are capable of spending in order to attract the best players to their teams. While not every marquee free agent ends up in New York, Boston or another big market, it is generally remarkable when a smaller team signs such a player.

---

[55] *Ibid.*
[56] *Ibid.*
[57] Will be covered in Ch. 5.

The 2011-2012 offseason saw the signing of two of the best hitters in the game for extremely large contracts, and neither of them signed with the Yankees or Red Sox. Albert Pujols left St. Louis and the team for which he had set records with his consistent productivity in order to sign a ten-year $254 million deal with the Los Angeles Angels of Anaheim.[58] Pujols's career batting average at the time he signed was .316 and his only season in which he hit below .300 was in 2011 when he hit .299. He also had 445 home runs and at 32 years of age, was projected to have plenty of productivity left.[59]

The Angels organization was able to sign Pujols to this large contract because of a television deal which they signed just prior to reaching their agreement with him. That deal was worth over $50 million annually and actually allowed the Angels to sign the best pitching free agent as well in CJ Wilson for five years and $77.5 million. Prince Fielder also left his former team, the Milwaukee Brewers, to sign a nine year $214 million contract with the Detroit Tigers. Fielder, a career .282 hitter with 230 home runs in only six Major League seasons, was considered the second biggest free agent on the market.[60]

In the pursuit of these two players, teams knew that they would have to offer massive contracts if they wanted to sign Pujols, Fielder, or even Wilson. Yet some teams were unable to spend the kind of money necessary to attract a top level free agent. In 2012, there will be five teams which spend less than $50 million in total on their team

---

[58] Tom Verducci, "TV Repairs," *Sports Illustrated*, 19 Dec. 2011, http://www.sportsillustrated.cnn.com/vault (accessed 13 Mar. 2012).
[59] Major League Baseball, "Albert Pujols Stats Summary," *Angels Baseball,* http://losangeles.angels.mlb.com/index.jsp?c_id=ana (accessed 22 Mar. 2012).
[60] Major League Baseball, "Prince Fielder Stats Summary," *Tigers Baseball,* http://detroit.tigers.mlb.com/index.jsp?c_id=det (accessed 22 Mar. 2012).

salaries.[61] Yet at the same time, the Angels will spend approximately $40 million on just the contracts of their two newly acquired stars. This discrepancy was made possible by the lack of balance and revenue sharing in Major League Baseball.

This spending came in spite of the fact that the US was several years into a significant recession and the national unemployment rate hovered around 9%, as it had for over two years.[62] The success and popularity of baseball had reached a point where the MLBPA and owners were at least partially protected from the influence of the economy and relied on the popularity of the sport to generate ever increasing revenue. The players had successfully fought for their rights to free agency, and had then successfully fought for fair payment and equal partnership with the owners as well. They had done all of that by emphasizing the rights of each individual player to act on his own accord and by arguing with the owners for a completely open market.

[61] ESPN.com, "Pittsburgh Pirates Salary/Payroll Information," http://espn.go.com/ (accessed 22 Mar. 2012).
[62] Bureau of Labor Statistics Online, "Unemployment Rate Falls to 8.6 Percent in November, 2011", *Ted: The Editor's Desk,* http://www.bls.gov/opub/ted/2011/ted_20111205.htm (accessed 22 Mar. 2012).

Chapter 5 – The Season That Almost Wasn't

In 1987, Tex Schramm told NFLPA executive director, Gene Upshaw, with regard to free agency that "You're not going to get it! You're not going to get it in five years, you're not going to get it in ten years, you're not ever going to get it. Don't you see? You're the cattle, we're the ranchers!"[1] Schramm, the General Manager of the Dallas Cowboys, had been negotiating with Upshaw during the players' strike. And yet, by 1993 the players and owners had agreed to a new CBA which created a free agency system along with a salary cap for total player salaries. Both sides were not completely happy with the new deal because they had to give up something important to get something in return. However, it turned out to be beneficial for everyone involved.[2]

The new CBA granted complete freedom to move from team to team to any player who played out his contract and had more than four years of experience in the NFL. Any player who played out his contract with less than four years of experience would become a restricted free agent. Unlike Major League Baseball's arbitration system, which only allowed the player to negotiate with his own team, restricted free agents were free to negotiate with any team that they chose. If they signed an agreement with another team, their original team had the right to match that offer as long as they had tendered a qualifying offer at the beginning of the restricted-free agency period.[3] If the team chose

---

[1] Michael MacCambridge, *America's Game: The Epic Story of How Pro Football Captured a Nation* (New York: Anchor Books, 2005), 384.
[2] *Ibid,* 386.
[3] Scott E. Backman, "NFL Players Fight for Their Freedom: The History of Free Agency in the NFL," *Sports Lawyers Journal*, vol. 9 (2002), 46, http://home.heinonline.org/ (accessed 21 Sep. 2011).

not to match the offer, the new team would have to compensate the old team with a draft pick in the next amateur draft. The quality of the pick was determined by the quality of the player and the amount of money in his new contract.[4]

In order to achieve this level of freedom which they had never before enjoyed, the players were required to make concessions. The first was the salary cap, which limited the amount that each team could spend on its players and therefore the amount that the league as a whole could spend. The cap was structured through a revenue sharing system which limited the salaries of the entire league to 67 percent of the designated league gross revenue, which consisted of profits from ticket sales and television deals. After player salaries and benefits reached the 67 percent level, they would be incrementally forced down year by year to 62 percent. Teams were also required to spend a minimum of 58 percent of their designated revenues on player salaries and benefits each year every year that had a cap in place. That minimum level of spending on player salaries reflected the NFLPAs desire to benefit all of the players and reach a higher level of pay for all of them, not just the best players.[5]

Another limit on player movement was the "Franchise Player" tag, which allowed each team to restrict one of their players from becoming a free agent for one year.[6] Whenever a player was tagged as a franchise player, he was given a one-year contract worth the average of the five highest paid players at his position, or a 20 percent increase in his previous salary, whichever was greater. The franchise tag was meant to be a

[4] Anthony C. Krautmann, Peter von Allmen, and David Berri; "The Underpayment of Restricted Players in North American Sports Leagues," *International Journal of Sports Finance,* vol. 4 (2009), 75-93.
[5] Mitch Truelock, "Free Agency in the NFL: Evolution or Revolution" *SMU Law Review*, vol. 47 (1994), 1947.
[6] *Ibid,* 1946.

protection for those teams which felt that their best player was about to leave in free agency and that they may not be able to re-sign him. A similar tag, called the "transition tag," was available in the first, second, and final years of the CBA and allowed the team to retain a player for the average salary of the top ten at his position or 120 percent of his previous salary.[7]

Interestingly, the salary cap and other provisions of the new CBA were not applicable in every year of the agreement. The teams and players agreed to play the first year of the agreement without any cap at all. The reasoning was that it would allow for a significant increase in player salaries, enough to reach the 67 percent of the designated revenue mark, and therefore enact the salary cap and floor the following season.[8] This unrestricted year allowed the defending Super Bowl champion Dallas Cowboys to re-sign their star running back Emmitt Smith, who held out at the beginning of the season, as well as other top-free agents and make another Super Bowl run. The back-to-back champions labeled themselves "America's Team" and quickly became a polarizing team for the entire nation. Fans either liked their entertaining, and successful, style of play, or disliked the brash attitudes of the players and owner, Jerry Jones.[9]

The final year of the CBA was also set out as a cap-less year. This was meant to be used as motivation for the owners to reach an agreement with the players on a new CBA or an extension prior to that final year. Similarly, the players faced the extension of restricted free agency from four to six years in the event that the CBA reached its final year. Furthermore, the four teams which played for the Conference championships the

[7] *Ibid.*
[8] *Ibid.*
[9] MacCambridge, *America's Game*, 392.

previous year would not be allowed to enter the free agent market, except to replace a player who departed via free agency. Both sides were trying to create a system which would prevent further labor stoppages by preventing the CBA from even reaching its final year.[10]

Both the players and the owners were upset at what they were required to give up in order to reach an agreement. The owners had fought against the adoption of free agency for so long that Carmen Policy, president and CEO of the San Francisco 49ers, said "To accept free agency is worse than having to go through chemotherapy. Chemotherapy's supposed to cure cancer, whereas free agency's a form of cancer itself."[11] Some players were just as upset about the introduction of a salary cap. Michael Irvin, a star wide receiver for Dallas, viewed the cap as a limit on the salaries of star players more than regular players. He said "free agency with a cap is like no free agency."[12]

In spite of the fears from both sides, the new CBA oversaw one of the most successful decades in NFL history. The league brought in more money and saw more competitive balance than ever before and was able to expand by several franchises during the decade. During the first free agency period in 1993, nearly 120 players changed teams. Those players saw an average salary increase of 125 percent. The owners' worry that all of the players would immediately flock to the largest city and largest contract available turned out to be largely unfounded. Pro Bowl defensive end Pierce Holt turned

[10] Truelock, "Free Agency in the NFL," 1948.
[11] MacCambridge, *America's Game*, 386.
[12] *Ibid.*

down an offer from the New York Jets in order to take a smaller offer from the Atlanta Falcons, a team that had been the worst defensive team in the league the previous year.[13]

Strangely enough, the 1990s were not only a time in which players were able to change their locations; teams exercised their rights to move as well. The NFL consisted of 27 cities in 1993 and after the CBA was settled, the league announced that it would expand. Baltimore, which had lost the Colts franchise to Indianapolis in 1984, was considered a strong candidate to receive a franchise. However, the expansion franchises were awarded to Charlotte, North Carolina and Jacksonville, Florida. Baltimore and St. Louis, another city which had lost a franchise and felt that they deserved a new one, were both shocked and upset with the decisions and with what they said was patronizing treatment from the league.[14]

Following the awarding of two new franchises in the Southwest, teams began to move around the country. In April of 1995 the Los Angeles Rams, citing their poor-quality stadium and lack of popularity while playing in Anaheim, left for St. Louis to replace the Cardinal franchise which had moved to Arizona a decade before. In order to attract the Rams, St. Louis promised to build a new domed stadium, a high-end practice facility and grant 100 percent concession revenue to the franchise, among other perks. The state of California, and particularly the Los Angeles area could not compete with these offers because the recent streak of riots and earthquakes made the political climate unfavorable to spending money on a football franchise.[15]

---

[13] Truelock, "Free Agency in the NFL," 1948.
[14] MacCambridge, *America's Game*, 390-391.
[15] *Ibid*, 394-395.

With the Rams gone, the Raiders were left as the only franchise in Los Angeles. As the rap movement of the 1990s grew, Raider memorabilia became an acceptable sign of street toughness, but without the drawback of attracting police attention or inciting violence in the same way that open affiliation with a gang may have. However, the hip-hop community's consumption of Raider gear did not translate into ticket sales. This lack of attendance combined with an old and outdated stadium caused the Raiders to move their franchise back to Oakland in June of 1995. In a single offseason, the second largest TV market in the nation had lost both of its professional football teams.[16]

In reaction to the two moves out of Los Angeles, Cleveland Browns owner Art Modell said "We can't hopscotch franchises around the country. We have built this business on the trust of fans."[17] On November 3, 1995 news leaked that Modell had signed an agreement to move his franchise to Baltimore and become the Baltimore Ravens. The promise of a new franchise by 1999 did little to assuage the anger of the Cleveland fans. They showed up to the last home game as if it were their "brother's funeral."[18]

In 1997, the Houston Oilers left a solid fan base in Texas to move to the unproven cities of Memphis and then Nashville, Tennessee. There, they were renamed the Tennessee Titans. As angry as fans may have been whenever one of their favorite players left their team, they were even more upset when an entire team left town.[19] Cleveland's move to Baltimore was "particularly wrenching for Browns fans who had supported the

---

[16] *Ibid*, 395-396.
[17] *Ibid*, 396.
[18] *Ibid*, 398.
[19] *Ibid,* 399.

team for the past 50 years."[20] Six franchises had either been established or moved locations in only three years, a level of turnover and expansion that the league had not seen in decades.[21]

In spite of the franchise movement and subsequent chaos and fan unrest, the NFL continued to prosper in the 1990s. The new balance in the CBA allowed the league's smallest teams like the Green Bay Packers, located in a town of approximately 100,000 people, to remain competitive with teams in large cities like New York, Chicago, and Dallas. The Packers were able to attract marquee free agents away from other teams. Reggie White, an All-Pro defensive end from the Philadelphia Eagles, left to join the Packers and was a key part of their championship team in 1996.[22] Teams like the Packers were able to survive because the salary cap and other measures which restricted the cost of players and the revenue sharing which provided as much as 84 percent of their income.[23]

The ability of the players to move among teams on their own volition, combined with the use of a salary cap in fact helped to balance the competition in the league, rather than to ruin it as the owners had predicted. In the 19 Super Bowls that have come after the 1993 CBA, 12 different teams have won, the same number of teams that won during the 27 years prior to free agency. The number of repeat champions also fell from six prior to 1993 to two since then.[24] The league had become more balanced.

---

[20] Timothy W. Smith, "Calm in the Eye of the NFL Storm," *New York Times (1923-Current file);* Nov 17, 1995; Los Angeles Times, B17.
[21] MacCambridge, *America's Game*, 390.
[22] Truelock, "Free Agency in the NFL," 1948.
[23] MacCambridge, *America's Game*, 401.
[24] "Super Bowl Standings," *2011 NFL Record & Fact Book* (New York: Time Inc. Home Entertainment, 2011), 475-6, http://www.nfl.com/history, (accessed 4 Apr. 2012).

Gone were the days when a team would grow and play together for years and years in order to become as good as possible. The new system meant that every roster had significant turnover each year. This turnover meant that the success of a team was more fleeting than it had been in the past. A team that may have been average one year could win a Super Bowl the next. Likewise, a team which played in the Super Bowl one year may not make the playoffs the next year. In fact, from 1998 until 2007 seven of the teams that lost the Super Bowl did not make the playoffs the next year, or even win half of their games.[25] For coaches and teams, the ability to find the right players to add to their team became more important than the ability to teach players the correct set of skills.[26]

A testament to the success of the 1993 CBA was the fact that not only did the league grow at an unprecedented rate, but the owners and players were able to settle subsequent labor negotiations with little turmoil. The two sides agreed to simply continue the 1993 CBA through 2007, knowing that the success of the agreement was mutually beneficial. In 2007, another CBA was agreed upon without much controversy between the two sides. Commissioner Tagliabue, who was nearing retirement at the time, was suspected of pushing through the new CBA without allowing for much discussion in order to prevent another work stoppage from marring his legacy. Because the CBA was agreed to so quickly, little was changed from the previous agreement which had been established sixteen years prior.

In May of 2008, the owners voted unanimously to reduce the length of the CBA by two years. The reduction meant that the CBA would run through the 2010 season and

---

[25] *Ibid*; NFL.com, "Playoff Game Summaries," *2011 NFL Record & Fact Book* (New York: Time Inc. Home Entertainment, 2011), 475-6, http://www.nfl.com/history, (accessed 4 Apr. 2012).
[26] MacCambridge, *America's Game*, 433-434.

2011 NFL amateur draft.[27] This move showed the owners were unhappy with the CBA and wanted significant changes in the near future. The main issues were the league's $9.3 billion in revenue and how to split it with the players and how to slow the rapidly increasing rookie wages.[28]

The 2006 CBA gave the players approximately 60 percent of the revenue that the league generated.[29] Unhappy with their share of that revenue, the owners were threatening to lock the players out at the end of the now shortened CBA unless they reached an agreement which was more favorable to the owners. In addition to the massive revenue generated during the 2010 season, the league also broke multiple television viewership records, including the most watched broadcast in the history of US television at 111 million viewers for the Super Bowl.[30] Public opinion at the time thought that a work stoppage would be ill-advised because according to DeMaurice Smith, the executive director of the NFLPA "no one wants to kill the golden goose."[31] However, Smith had a note written by his predecessor from a 1991 union meeting which read "The owners will always take short-term loss for long-term gain," and Smith was always aware of that mentality when preparing his tactics.[32]

Owners were concerned that they were giving too much of the revenue to the players, especially the early draft picks who had not played in the league at all and

---

[27] "Chronology of Professional Football." *2011 NFL Record & Fact Book* (New York: Time Inc. Home Entertainment, 2011), 348, http://www.nfl.com/history, (accessed 2 Dec. 2011).
[28] Doris Burke, Brian Hendrickson, and Daniel Roberts, "The Gross Football Product" *Sports Illustrated*, 14 Mar. 2011, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).
[29] Peter King, "The Gathering Storm," *Sports Illustrated,* 18 Oct. 2010, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).
[30] Jim Trotter, "The Fighter," *Sports Illustrated*, 21 Feb. 2011, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).
[31] *Ibid.*
[32] *Ibid.*

therefore were unknown quantities. St. Louis Rams quarterback Sam Bradford, the first overall pick in the 2010 draft, signed a contract which gave him $78 million over six years before he ever stepped onto a NFL field.[33] In September of 2010 Tom Brady, a two time Super Bowl MVP, signed a four-year deal worth just over $75 million.[34] To solve this problem the two sides began to discuss the idea of a rookie wage scale which would cap the amount of money that could be spent on each pick in the draft. The estimated savings could be as high as $200 million per year.[35] The issue that would then arise was what to do with that money. The owners wanted to keep it while the players would have rather seen it go to veteran players or into the pension fund for the retired NFL players.[36]

The owners also wanted to take about $1 billion out of the pool that they shared with the players prior to dividing that pool. That money would go to the construction of new stadiums which were increasingly being built solely with private money. Players countered that workers were not asked to help finance the construction of factories, and they did not want to be first union to do so. In order to sway the players, the owners offered them a slightly larger proportion of the remaining revenue; essentially a bigger piece of a smaller pie. The players were unconvinced by this proposal, saying that they like the bigger pie just fine.[37]

The provisions which had been enacted to prevent the expiration of a CBA without a further agreement came into effect when the 2009 season ended and no deal had been struck. That meant that the 2010 season would be an uncapped year, which was

[33] Associated Press, "Bradford on Field with High Expectations," *ESPN.com*, 31 Jul. 2010, http://sports.espn.go.com/nfl/ (accessed 6 Apr. 2012).
[34] Mike Reiss, "Brady Receives $16million Signing Bonus," *ESPNBoston.com,* 14 Sep. 2010, http://espn.go.com/boston (accessed 6 Apr. 2012).
[35] King, "The Gathering Storm."
[36] *Ibid.*
[37] *Ibid.*

good news for the players and bad news for the owners who wanted to win, particularly those in small markets. However, there was a silver lining for the frugal owners: the salary floor was removed along with the salary cap, meaning that they were free to cut costs and try to save money for the potential work stoppage that was a year away.[38]

The lack of a new CBA at the end of the 2009 season also meant that the restricted free agency requirement was extended from four years to six years. Players who had set up their contracts to end so that they would have the right to unlimited free agency were once again forced to negotiate with teams knowing that their own team could retain their rights or demand compensation. All told, there were 76 starters and 130 backup players who were up for restricted free agency that would have been eligible for complete free agency with the four-year system in effect. Even the unrestricted free agents were going to face limited benefits from being on the market. The eight teams which had played for the longest into the playoffs the previous season were limited to a combined four free agents unless they lost one of their own to free agency. This limited the pool of teams looking for the talents of each free agent.[39]

Prior to the 2010 season, the owners attempted to dismantle a Supplemental Revenue Sharing (SRS) pool, which helped between eight and twelve of the league's smaller-revenue clubs. The owners claimed that the uncapped season in 2010 did not require the pool under the 2006 CBA. The NFLPA disagreed, saying that they had to agree to any decision which was a part of current CBA, and Special Master Stephen Burbank agreed. The players saw the move by the owners as an attempt to limit the

---

[38] Peter King, "On the Cheap," *Sports Illustrated*, 22 Feb. 2010, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).
[39] *Ibid.*

amount of money which would be spent in free agency by limiting the money available to the poorer teams. This attempt to limit free agency spending was viewed as a hostile tactic to break the players in the upcoming negotiations over a new CBA.[40]

Throughout 2010, the two sides met on occasion and discussed the coming expiration of the CBA, however little was actually accomplished. In February of that year, the new executive director of the NFLPA, DeMaurice Smith, was asked what the likelihood of a lockout during the 2011 season was on a scale of one to ten. His response was fourteen.[41] In late October, halfway through the season, the situation had not improved and Commissioner Goodell said he "would like to see more progress" regarding the negotiations.[42] In early December, Smith wrote a letter to the NFLPA regarding the ability to reach an agreement with the owners which said "That deadline has now passed."[43]

The deadline at which the existing CBA was set to expire was the end of the day on March 3, 2011. Prior to that deadline the two sides spent more time in court trying to gain leverage than they did in a room actually negotiating. One key decision was handed down on March 1 and said that the owners would not have access to the $4 billion in revenue from their television agreements.[44] This removed a significant piece of leverage which the owners had used in previous disputes. The players won the decision on the argument that the owners had structured the deal to provide themselves with protection in

---

[40] Chris Mortensen, "Ruling Bars Owners From Ending Pool," *ESPN.com,* 2 Feb. 2010, http://sports.espn.go.com/nfl/ (accessed 6 Apr. 2012).
[41] Ian Thomsen, "On the Road to Reckoning," *Sports Illustrated*, 15 Feb. 2010, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).
[42] Vinnie Iyer, "NFL Labor Timeline: 1987 to 2011," *Sporting News Online Edition*, http://aol.sportingnews.com/nfl/feed (accessed 6 Apr. 2012).
[43] *Ibid.*
[44] Associated Press, "Federal Judge Rules NFL Violated Deal," *ESPN.com,* 2 Mar. 2011, http://sports.espn.go.com/nfl (accessed 6 Apr. 2012).

case of a lockout, rather than making a good-faith effort to maximize the revenues which would be shared with players, a stipulation of the agreement between the two sides.[45]

On March 3, an agreement was reached to delay the expiration of the CBA for seven days. Yet the new deadline passed anyway without any agreement in place. As soon as the CBA expired, negotiations ended between the two sides, the owners locked the players out. In response, the NFLPA decertified. When the union decertified, the players were allowed to file antitrust lawsuits against the NFL, which they did immediately, with the goal of preventing the lockout via injunction.[46] The major lawsuit was filed with ten players listed as plaintiffs. The three biggest names among those plaintiffs were Super Bowl-winning quarterbacks Tom Brady, Peyton Manning, and Drew Brees. Another player worth noting in that case was Von Miller. Miller was significant because the team he had most recently played for was Texas A&M University – that is, he was a rookie who had yet to be drafted and yet he was willing to assist in suing the NFL owners.[47]

Because the already strained negotiations had broken off completely and the only end to the dispute was through the courts, it became clear that there would not be a quick solution. Speculation that the 2011 season would be partly or completely missed only escalated with the expiration of the deal. One of the most optimistic views came from Kevin Mawae, the president of the NFLPA, who said "We sit here at a time of uncertainty and say, 'When will football be played?' My answer to you as fans is I don't

---

[45] *Ibid*.
[46] Jim Trotter, "A Game in Flames," *Sports Illustrated,* 21 Mar. 2011, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).
[47] Andrew Lawrence, "Locked and Loaded," *Sports Illustrated,* 18 Apr. 2011, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).

know. My hope to you as the players' association president is that I believe that we will play in 2011 but under what system I do not know."[48]

As the lockout stretched on and little progress was made, the players and owners became more and more urgent in their attempts to reach an agreement. The spring had largely been spent in courtrooms arguing instead of boardrooms negotiating. In the early summer, at the behest of Robert Kraft who owned the New England Patriots, the two sides agreed to "get the lawyers out of the room" and sign a deal.[49] With both sides working toward finding a mutually beneficial agreement instead of defending their own interests and vilifying their opponents, they were able to reach an agreement in only a few weeks.[50]

In late July 2011, the two sides came together to agree to a decade-long agreement which included considerable changes to the way in which players and their teams interacted. Revenue sharing was resolved by removing the exemptions to the revenue pool which owners had previously reserved and reducing the share of the pool which went to the players. The players took a smaller piece of a bigger pie. Rookie wages were restricted by assigning each team a total amount that they could spend on their draft picks, based on their draft position. The $150 million that this was expected to save would be redirected into the contracts of veteran players. Additionally, the number and duration of practices were limited to prevent injuries and extend careers and contracts

---

[48] Associated Press, "Kevin Mawae Still Optimistic for '11 NFL" *ESPN.com* 10 May 2011, http://sports.espn.go.com (accessed 6 Apr. 2012).
[49] Peter King, "Kraftwork," *Sports Illustrated,* 6 Feb. 2012, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).
[50] Jim Trotter, "Game On," *Sports Illustrated*, 25 Jul. 2011, http://www.sportsillustrated.cnn.com/vault (accessed 6 Apr. 2012).

were restructured so that there was some level of protection for players in case they were injured.[51]

With this new deal, the most popular and profitable league in the US reached an agreement which appeared to assure labor peace for the next decade and did so without missing any regular season games. However, the state of the game had changed from the previous major work stoppage. Much like the MLBPA, the NFL players had shifted the negotiations from a fight for their financial liberty and the right of the current players to choose their teams to a fight over the equality of the partnership between the players and owners and the safety of those players. Yet the NFLPA had used very different tactics to do so. Rather than trying to create a completely free market like baseball with little restriction on who could sign players and how much they could spend, the NFL had a restricted system which gave more power to role players and did not fully strip teams of their ability to maintain their team. Part of the difference between the two leagues could be attributed to the style of the two sports and the impact that one player can have on a team. To say that the previous two decades had been good for the state of the game and for both sides of the CBA would be an understatement.

[51] *Ibid.*

Chapter 6 – Conclusion

In the late 19th and early 20th centuries, the owners of the NFL and MLB each created systems which would heavily restrict the movement of players between teams. In doing so, they turned the players into a form of property to be bought, sold, and traded. This system of restriction denied the players their rights as well as reducing their income. While players in both leagues would earn more money than the typical citizen of the day, they were still making a pittance compared to the income the owners received from the teams, and they still had no choice on where or for whom they worked.[1]

A century later, players in both leagues made millions of dollars per year. While still subject to being purchased, sold, and traded, they had fought for and earned the right to seek employment among the many teams in each league and in doing so had a voice in where they would play. Furthermore, they were able to begin to fight for benefits like pensions, injury guarantees in their contracts, and minimum salaries. That progress had come through repeated labor struggles over the previous 40 years. Those labor struggles were initially the players struggling against the oppression of the owners and their reserve systems.[2]

Established by the owners in order to "maintain the integrity of the game and maintain honesty among clubs and players," the restrictive reserve clauses in each league

[1] Michael MacCambridge, *America's Game: The Epic Story of How Pro Football Captured a Nation* (New York: Anchor Books, 2005); Bowie Kuhn, *Hardball: The Education of a Baseball Commissioner* (New York: Random House, 1987).
[2] *Ibid.*

would remain in place throughout the first half of the 20th century.[3] When professional baseball and football were gaining prominence, there was absolutely no restriction on player movement, creating a chaotic system with little stability. In order for the teams to maintain fan interest, they needed to field consistent teams and not be constantly worrying about their players jumping to another team. The reserve clause was established to create this stability; first in baseball and then in other sports as they modeled themselves after the most popular team sport of the day. Those leagues that could create stability were able to generate fan support, make money and therefore outlast their competition.[4]

The NFL and MLB's respective systems that restricted player movement would be torn down over time as the players formed unions and began to demand fairness from the owners. In the early part of the 20th century, players had sued both leagues unsuccessfully in attempts to establish free agency. Through the use of labor stoppages, negotiation, and further litigation the players in both leagues would eventually earn the right to play for the team that they wanted. Over the next two decades the two leagues fought with their players over how to protect the owners from the salaries which had grown considerably as a result of free agency. The two leagues adopted very different systems for handling the cost of players' salaries.[5]

Players had fought against the leagues and their oppressive reserve clauses even at the beginning of the 20th century. Yet it was not until 1969 when All-Star outfielder Curt

---

[3] Bowie Kuhn, *Hardball*, 86.
[4] William B. Gould IV, "Labor Issues in Professional Sport: Reflections on Baseball, Labor, and Antitrust Law," *Stanford Law and Policy Review*, vol. 15.1 (2004), 63. http://home.heinonline.org/ (accessed 21 Sep. 2011).
[5] Cambridge, *America's Game*; Kuhn, *Hardball.*

Flood of the St. Louis Cardinals refused a trade to Philadelphia and instead sued Major League Baseball, that the players were able to significantly challenge the restrictive system. Because of who he was, as a successful player on a successful team as well as a black player, and when he sued, at the height of the Civil Rights movement of the 1960s, Flood's suit against MLB made the most successful claim against the reserve clause to date.

Flood said that he was tired of feeling like a piece of property and that he, as a human being, had certain rights which the reserve clause violated.[6] Despite his lucrative salary, he claimed that he and other players were enslaved because they had no freedom to choose for themselves. While Flood was unsuccessful in his attempt to tear down the reserve clause, the decision of the Supreme Court made it clear that the clause was not infallible.[7] Within a few years, the reserve clause would be struck down and the two sides would create a free agency system through which many players immediately were able to change teams and receive higher salaries.

Unlike the MLBPA, the players' union in the NFL relied on the continuity of the players as a group more than the influence of one star to earn their own free agency. The players were first granted free agency after a strike in the mid-1970s. While they would forego that right during negotiations in order to receive better benefits from the owners. Their general mode of negotiation was to present a united front and stand together. They went on strike again in 1982 in an attempt to earn guaranteed salaries, resulting in a shortened season. By 1987, they again desired free agency and struck once more. That

---

[6] Bowie Kuhn, *Hardball*, 83.
[7] *Flood v. Kuhn,* 407 U.S. 258 (1972).

time, the owners employed replacement players in order to continue playing the games and break the union sooner than they had in 1982.

After their successful breaking of the strike in 1987, NFL owners felt that they would not be forced to allow free agency to the players. The players, having lost in their use of both negotiations and work stoppages, returned to the courts to continue the fight. In 1993, after victories in multiple court cases the players finally got a CBA that included free agency. As baseball players had eighteen years prior, football players would have the right to choose where they worked and the ability to leave a team if they felt it was necessary to do so.

The free agency system created in MLB was very beneficial to the players. It was a sign that the owners had to treat them as people rather than possessions and gave them power over their own future. Immediately after it was accepted, they saw tremendous increase in their salaries, but that was at the expense of the owners' profit margins. Because of the lack of restrictions on the free agent market, there was little to prevent the owners and their spending from spiraling out of control. Their attempts to limit this spending included collusion in the 1980s which resulted in litigation, damages paid to players, and further cementing of the free agency system. Following this failure, the owners began to try to control themselves through negotiations with the players, often advocating for a salary cap. Eventually this led to the cancelation of the second half of the 1994 season, including the World Series. The owners never were successful in creating a salary cap, but did establish a luxury tax which deterred teams from being among the five highest spenders in the league.[8]

Much like the players in MLB, football players received tremendous benefit from free agency. However, the owners would not agree to any free agency system which did not include more restrictions than MLB's system had. The most obvious was the creation of a salary cap which no team could exceed for any reason. In baseball, a team could spend as much as they liked so long as they had enough money to pay the salary and any accompanying tax. The NFL would not allow for such an unrestricted, and inherently unfair, system. Instead, they would place every team on equal footing in order to ensure balance. Teams in wealthy markets could not spend their way to success. Other restrictions included the franchise tag and similar provisions which protected teams from their best players leaving via free agency. In spite of these restrictions, NFL players were still able to move about the league; to attract offers from multiple teams and therefore make more money. The new CBA also guaranteed that the players would be given a minimum share of the revenue from the league.

After free agency was created in both leagues, the players began fighting for equal shares of the revenue, pensions, safety standards and other benefits. Both leagues saw an unprecedented growth in their revenues, even during difficult economic times, and popularity. With new CBAs in place and the continued popularity of both games, it is likely that the NFL, MLB, and both players unions will continue to have tremendous success for years to come.

---

[8] William B. Gould IV, "Labor Issues in Professional Sport: Reflections on Baseball, Labor, and Antitrust Law," *Stanford Law and Policy Review*, vol. 15.1 (2004), 76, http://home.heinonline.org/ (accessed 21 Sep. 2011.

Bibliography

Primary Sources

Bureau of Labor Statistics Online. "Unemployment Rate Falls to 8.6 Percent in November, 2011." *Ted: The Editor's Desk.* http://www.bls.gov/opub/ted/2011/ted_20111205.htm. Accessed 22 Mar. 2012.

ESPN.com. "Pittsburgh Pirates Salary/Payroll Information." http://espn.go.com. Accessed 22 Mar. 2012.

Flood v. Kuhn. 407 U.S. 258 (1972).

Flood, Curt. "My Rebellion." *Sports Illustrated.* 1 Feb. 1971. http://www.sportsillustrated.cnn.com/vault Accessed 17 Apr. 2012.

Flood, Curt. *The Way It Is*. New York: Pocket Books, 1972.

Forbes.com. "MLB Team Values: The Business of Baseball." 22 Mar. 2011. http://www.forbes.com/lists/2011/33/baseball-valuations-11_land.html. Accessed 17 Apr. 2012.

Frick, Ford. *Games, Asterisks, and People*. New York: Crown Publishers, 1973.

Garvey, Ed. "Foreword to 'The Scope of the Labor Exemption in Professional Sports': A Perspective on Collective Bargaining in the NFL." *Duke Law Journal*, vol. 1989, No. 2 (1989): 328-338.

Kuhn, Bowie. *Hardball: The Education of a Baseball Commissioner*. New York: Random House, 1987.

Mackey v. NFL. 543 F.2d 606 (1976).

Major League Baseball. "Albert Pujols Stats Summary." *Angels Baseball.* http://losangeles.angels.mlb.com/index.jsp?c_id=ana. Accessed 22 Mar. 2012.

Major League Baseball. "Prince Fielder Stats Summary." *Tigers Baseball.* http://detroit.tigers.mlb.com/index.jsp?c_id=det. Accessed 22 Mar. 2012.

NFL.com. “Chronology of Professional Football.” *2011 NFL Record & Fact Book.* New York: Time Inc. Home Entertainment, 2011. http://www.nfl.com/history. Accessed 2 Dec. 2011.

NFL.com. “Playoff Game Summaries.” *2011 NFL Record & Fact Book*. New York: Time Inc. Home Entertainment, 2011. http://www.nfl.com/history. Accessed 4 Apr. 2012.

NFL.com. “Super Bowl Standings.” *2011 NFL Record & Fact Book*. New York: Time Inc. Home Entertainment, 2011. http://www.nfl.com/history. Accessed 4 Apr. 2012.

Rashad, Ahmad. “Journal of a Plagued Year.” *Sports Illustrated*. 18 Oct. 1982. http://www.sportsillustrated.cnn.com/vault. Accessed 17 Apr. 2012.

US Census Bureau. *Household Income in 1970 and Selected Social and Economic Characteristics of Households.* http://www2.census.gov. Accessed 13 Feb. 2012.

U.S. Census Bureau. “Money Income of Households, Families, and Persons in the United States: 1980.” http://www2.census.gov. Accessed 22 Feb. 2012.

Secondary Sources

Associated Press. “Bradford on Field with High Expectations.” *ESPN.com*. 31 Jul. 2010. http://sports.espn.go.com/nfl. Accessed 6 Apr. 2012.

Associated Press. “Federal Judge Rules NFL Violated Deal.” *ESPN.com.* 2 Mar. 2011. http://sports.espn.go.com/nfl. Accessed 6 Apr. 2012.

Associated Press. “Kevin Mawae Still Optimistic for ’11 NFL.” *ESPN.com.* 10 May 2011. http://sports.espn.go.com. Accessed 6 Apr. 2012.

Backman, Scott E. “NFL Players Fight for Their Freedom: The History of Free Agency in the NFL.” *Sports Lawyers Journal*, vol. 9 (2002): 1-55. http://home.heinonline.org. Accessed 21 Sep. 2011.

Boyle, Robert H. “The 55 Percent Solution.” *Sports Illustrated*. 1 Feb. 1982. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Boyle, Robert H. “And Then the Clock Showed 00:00.” *Sports Illustrated.* 27 Sep. 1982. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Burke, Doris, Brian Hendrickson, and Daniel Roberts. "The Gross Football Product." *Sports Illustrated*. 14 Mar. 2011. http://www.sportsillustrated.cnn.com/vault. Accessed 17 Apr. 2012.

Chalpin, Marc. "It Ain't Over 'Til It's Over: The Century Long Conflict between the Owners and the Players in Major League Baseball." *Albany Law Review*, vol. 60 (1996): 205-238. http://home.heinonline.org. Accessed 21 Sep. 2011.

Creamer, Robert W. "Scorecard." *Sports Illustrated*. 13 Dec. 1976. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Creamer, Robert W. "Scorecard." *Sports Illustrated.* 28 Mar. 1977. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Dubofsky, Melvyn and Foster Rhea Dulles. *Labor in America.* Wheeling, Ill: Harlan Davidson, 2004.

Fimrite, Ron. "He's Free At Last." *Sports Illustrated*. 30 Aug. 1976. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Fortunato, John A. *Commissioner: The Legacy of Pete Rozelle.* Lanham: Taylor Trade Pub., 2006.

Gaines, Cork. "NFL Is Still King Among American Sport Fans." *Business Insider Sports Page.* 21 Oct. 2011. http://articles.businessinsider.com. Accessed 17 Apr. 2012.

Gammons, Peter. "Now the Divorce is Final." *Sports Illustrated*. 8 Feb.1988. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Gammons, Peter. "Playing Hardball." *Sports Illustrated.* 12 Jan. 1987. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Gammons, Peter. "Rich Man's Game." *Sports Illustrated*. 11 Dec. 1989. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Gould IV, William B. "Labor Issues in Professional Sport: Reflections on Baseball, Labor, and Antitrust Law." *Stanford Law and Policy Review*, vol. 15.1 (2004): 61-97. http://home.heinonline.org/ Accessed 21 Sep. 2011.

Iyer, Vinnie."NFL Labor Timeline: 1987 to 2011." *Sporting News Online Edition*. http://aol.sportingnews.com/nfl/feed. Accessed 6 Apr. 2012.

Keith, Larry. "After the Free-for-all Was Over." *Sports Illustrated.* 13 Dec. 1976. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Keith, Larry. "He's Baseball's Not-so-secret Agent." *Sports Illustrated*. 28 Jun. 1976. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Keith, Larry. "Rudi As In Booty, Grich As In Rich." *Sports Illustrated.* 30 Aug. 1976. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

King, Peter. "The Gathering Storm." *Sports Illustrated.* 18 Oct. 2010. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

King, Peter. "Kraftwork." *Sports Illustrated.* 6 Feb. 2012. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

King, Peter. "On the Cheap." *Sports Illustrated*. 22 Feb. 2010. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

Krautmann, Anthony C., Peter von Allmen, and David Berri. "The Underpayment of Restricted Players in North American Sports Leagues." *International Journal of Sports Finance,* vol. 4 (2009): 75-93.

Lawrence, Andrew. "Locked and Loaded." *Sports Illustrated.* 18 Apr. 2011. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

Leggett, William. "A Bird in Hand and a Burning Busch." *Sports Illustrated*. 23 Mar. 1970. http://www.sportsillustrated.cnn.com/vault. Accessed 17 Apr. 2012.

Lieber, Jill. "I Will Be Ostracized." *Sports Illustrated.* 26 Oct. 1987. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Lieber, Jill. "A Test of Unity and Loyalty." *Sports Illustrated*. 5 Oct. 1987. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Looney, Douglas S. "At Last, Spring is Sprung." *Sports Illustrated*. 29 Mar. 1976. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Looney, Douglas S. "O.K. What's the Pitch?" *Sports Illustrated*. 8 Mar. 1976. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

MacCambridge, Michael. *America's Game: The Epic Story of How Pro Football Captured a Nation.* New York: Anchor Books, 2005.

Moorad, Jeffrey S. "Major League Baseball's Labor Turmoil: The Failure of the Counter-Revolution." *Villanova Sports & Entertainment Law Journal*, vol. 4 (1997): 53-86. http://home.heinonline.org/ Accessed 10 Oct. 2011.

Mortensen, Chris. "Ruling Bars Owners From Ending Pool." *ESPN.com.* 2 Feb. 2010. http://sports.espn.go.com/nfl. Accessed 6 Apr. 2012.

Neff, Craig. "Scorecard." *Sports Illustrated*. 1 Feb. 1988. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Neff, Craig and Robert Sullivan. “Scorecard.” *Sports Illustrated*. 20 Jan. 1986. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Neyer, Rob. “Two Distinct Periods of Gambling.” *ESPN: the Magazine*. 7 Jan. 2004. http://www.espn.go.com. Accessed 20 Apr. 2012.

Reilly, Rick. “Season for No Reason.” *Sports Illustrated*. 30 Nov. 1987. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Reilly, Rick. “Thirty Pieces of Silver.” *Sports Illustrated.* 26 Oct. 1987. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Reiss, Mike. “Brady Receives $16million Signing Bonus.” *ESPNBoston.com.* 14 Sep. 2010. http://espn.go.com/boston. Accessed 6 Apr. 2012.

Rhoden, William C. *Forty Million Dollar Slaves: The Rise, Fall, and Redemption of the Black Athlete*. New York: Three Rivers Press, 2006.

Ruck, Rob. *Rooney: A Sporting Life*. Lincoln: University of Nebraska Press, 2010.

Smith, Timothy W. “Calm in the Eye of the NFL Storm.” *Los Angeles Times*, B17. 17 Nov. 1995. Accessed through *New York Times (1923-Current file)* on 15 Apr. 2012.

Snyder, Brad. *A Well-Paid Slave: Curt Flood’s Fight for Free Agency in Professional Sports*. New York: Penguin, 2007.

Staudohar, Paul D. “The Football Strike of 1987: the Question of Free Agency.” *Monthly Labor Review,* vol. 26 (1988): 26-31. http://home.heinonline.org. Accessed 22 Feb. 2012.

Taaffe, William. “They Weren’t Stricken by the Strike.” *Sports Illustrated*. 4 Oct. 1982. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Thomsen, Ian. “On the Road to Reckoning.” *Sports Illustrated.* 15 Feb. 2010. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

Trotter, Jim. “The Fighter.” *Sports Illustrated*. 21 Feb. 2011. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

Trotter, Jim. “A Game in Flames.” *Sports Illustrated.* 21 Mar. 2011. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

Trotter, Jim. “Game On.” *Sports Illustrated*. 25 Jul. 2011. http://www.sportsillustrated.cnn.com/vault. Accessed 6 Apr. 2012.

Truelock, Mitch. “Free Agency in the NFL: Evolution or Revolution.” *SMU Law Review*, vol. 47 (1994): 1947.

Verducci, Tom. “In the Strike Zone.” *Sports Illustrated.* 1 Aug. 1994. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Verducci, Tom. “TV Repairs.” *Sports Illustrated*. 19 Dec. 2011. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Wulf, Steve. “Where Have All the Big Spenders Gone?” *Sports Illustrated.* 9 Dec. 1985. http://www.sportsillustrated.cnn.com/vault. Accessed 13 Mar. 2012.

Zimmerman, Paul. “Scorecard. The Strike: The Winners. The Losers. And Who Did What to Whom.” *Sports Illustrated*. 29 Nov. 1982. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.

Zimmerman, Paul. “When Push Came To Shove.” *Sports Illustrated.* 5 Oct. 1987. http://www.sportsillustrated.cnn.com/vault. Accessed 22 Feb. 2012.