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Running Up the Score: How the Media Cover Labor-Management Conflict in Sports

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RUNNING UP THE SCORE: HOW THE MEDIA COVER LABOR-MANAGEMENT CONFLICT IN SPORTS

By

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ABSTRACT

Using a political economic perspective, this thesis examines how organized labor is covered in the corporate-owned media by analyzing coverage of the 2011 NBA lockout. Based on scholarly research by Schmidt (1993), Bruno (2008) and others, it is clear that media coverage of organized labor is declining in both quantity and quality. The little coverage that exists tends to focus on labor-management conflict, with the high-profile world of sport attracting greater media attention than other industries. This conflict-oriented coverage takes on several distinct characteristics, as identified by scholars Martin (2004), Parenti (1993) and Puette (1992). Among these trends are greater scrutiny of employee salaries rather than those of management, coverage that emphasizes management ‘offers’ rather than union givebacks, and the use of a third-party, ‘consumerist’ perspective that allows the media to appear objective while espousing management viewpoints. Newspaper articles and television transcripts concerning the NBA lockout were examined, including The New York Times, The Associated Press, The Wall Street Journal, ABC News, CBS News, and PBS. The thesis finds that lockout coverage in the media outlets analyzed was largely consistent with the literature, with some exceptions. In particular, the Times and the AP offered in-depth coverage of player concessions. In addition, publicly-owned PBS provided greater context and criticism of owner positions than any of the privately-owned media outlets.
CHAPTER ONE

INTRODUCTION

In 2011, two of the four major North American pro sports leagues, the National Football League (NFL) and National Basketball Association (NBA), experienced labor-management conflict. Team owners in both the NFL and NBA voted to lock out players after unsuccessful negotiations for new collective bargaining agreements. While the NFL lockout ended in time to preserve a full regular season, the NBA lockout resulted in the cancellation of nearly 20 percent of the regular season. Lockouts and strikes in major professional sports leagues are far from unprecedented. Major League Baseball (MLB) canceled the 1994 playoffs and portions of the 1995 regular season due to a player strike, the NBA lost nearly half of the 1998-99 regular season due to an owner-imposed lockout, and the entire 2004-05 National Hockey League (NHL) season was wiped out by a season-long lockout.

The issues at stake in regard to the labor negotiations go beyond the threat of games being lost. In a political landscape in which “[n]early half of the states are considering legislation to limit public employees' collective bargaining rights,” (Simon, 2011, ¶5), the public perception of organized labor gains importance.

Currently, public perception of labor is in the midst of an extended decline. A 2011 Gallup poll found that 52% of respondents approved of labor unions, tied with the previous year as the second-lowest percentage since Gallup began tracking labor union approval in 1936 (Jones, 2011, ¶1). Another Gallup poll in 2011 asked respondents to name what word or phrase came to mind when thinking of labor unions. While there were positive responses such as “good/great” and “needed/necessary,” other responses included “no longer needed/unnecessary,” “crooks/thieves,” “corrupt,” “greedy,” and even “evil” (Newport & Saad, 2011, ¶9). These negative evaluations are not a new phenomenon. According to a 1986 ABC News/Washington Post poll, 53% of respondents believed that “people who belong to unions’ do not work as hard as ‘nonunion people’” (Lipset & Schneider, 1987, p. 17). During the first four years of the Reagan era, the percentage of Opinion Research Corporation respondents who reported negative perceptions of labor leaders’ ethical and moral practices increased from 59% to 65%, while “similarly negative views of corporate executives” declined from 54% to 47% (p. 17). According
to Puette (1992), when high school students were asked to “describe their basic impressions of labor unions” in a 1989 survey, they made several negative evaluations:

- unions are always going on strike; unions are too powerful; unions are corrupt; unions are greedy and selfish; unions are ruining the country; union leaders (bosses) are overpaid;
- union dues are too high; unions are undemocratic and un-American; unions protect bad workers; and unions are no longer needed. (p. 5)

Of those surveyed, “83 percent … estimated a much higher annual average of strike activity than the 2 percent or less that occurs in an average year” (p. 6). This is a direct reflection of media coverage of labor disputes; as Schmidt (1993) wrote, the majority of already-limited labor related coverage focuses on strike activity, even though the number of strikes in a given year has declined. As a result, she found evidence of an increasingly negative view of labor unions (p. 160).

With professional athletes in the four major sports earning millions of dollars, sports labor unions can be viewed differently than traditional labor unions. In 1994, when Major League Baseball and the National Hockey League were both involved in work stoppages, Labor Policy Association general counsel Dan Yager called collective bargaining in sports “about as typical of labor relations in this country as the Bud Bowl is to real football. … You have two millionaires on both sides of the table. It’s like two mega-corporations talking to each other about mergers or splits or sales” (Chass, 1994a, ¶19-20). Months later, union financial specialist Gary Edwards referred to sports unions as “so unbelievably unique that they really aren’t unions at all. … They are more like an association of very wealthy people” (Freeman, 1995, ¶3).

In 1993, the leaders of the NFL Players Association (NFLPA), MLB Players Association (MLBPA) and NBPA each made at least double the salary of the presidents of the AFL-CIO, Air Line Pilots Association, United Mine Workers of America, United Auto Workers and Teamsters (Freeman, 1995, ¶22-23). Compared to the AFL-CIO, the three unions also had many fewer members, substantially higher average member salaries, and collected far less in union dues (Freeman, 1995).

The sheer amount of money involved in professional sports adds a complex layer to sports labor coverage. Professional sports can have a noticeable economic impact on cities in which teams are based. In some cases, individual players can significantly impact a local economy. In 2010, Cleveland businesses were estimated to lose $48 million due to LeBron
James’ departure from the Cavaliers, based on a projected decline in attendance from 20,500 fans per game to the pre-James level of 14,000 fans per game (Schoenberger & Murray, 2010, ¶¶12-13). Had he signed with Chicago or New York, his potential impact on those cities was estimated to result in gains of $500 million and $1 billion dollars, respectively (¶19). James already had a positive economic impact on Cleveland and the Cavaliers franchise during his seven-year tenure with the team. He generated hundreds of thousands of dollars in annual income and property tax revenue for Cleveland and surrounding areas (¶31-32), and during his time with the Cavaliers, the team’s franchise value increased from $258 million the year before his 2003 arrival (¶21) to $476 million in 2010 (¶22). Athlete salary and athlete impact are magnified.

Another difference between general labor and sports labor is the view of the athlete as commodity, as opposed to employee. In basketball, for example, the players are viewed less as employees of the owners and commissioner, and more as a product being sold for consumption via attendance, television viewing and jersey sales. The athlete both produces and embodies the product being sold, whereas the typical worker is separated from the product he or she creates. As mentioned above, the product of LeBron James resulted in more money for the city of Cleveland, and increased value for the Cavaliers franchise. Just by engaging in free agency and moving to another team, James created tangible financial harm for both the city and team.

When Schmidt (1993) conducted her study of media coverage of labor issues nearly 20 years ago, she found that studies focusing on “media coverage of labor unions [are] especially sparse” (p. 151). Within the past decade, Martin (2004) noted that “[e]mpirical research of labor coverage in the news is scarce” (p. 13). Of the “small number of existing studies” focused on the issue, “all seem to support Parenti’s and Puette’s lists of news generalizations and stereotypes” (p. 13). Bruno (2008) wrote that quantitative studies of the media were “difficult to find,” and “hard data on labor coverage in the media are even scarcer” (p. 386). If scholarly research devoted to media coverage of labor issues is scarce, research devoted to media coverage of labor in sports would seem to be especially so. A notable exception is Martin (2004)’s analysis of media coverage of the 1994 Major League Baseball strike. However, while other studies examined sports labor issues, they did not analyze media coverage.

This paper seeks to add to the existing literature, namely Martin (2004)’s examination of the 1994 baseball strike, in two ways. One, this paper examines media coverage of sports labor issues from a political economic approach, examining the ideologies put forth by the media and
the business interests that influence said ideologies. In addition, this paper advances the literature by virtue of covering a more recent labor issue. The 1994 baseball strike took place nearly 20 years ago, with work stoppages in the NHL and NBA taking place since. By covering sports labor issues in 2011, this paper should provide insight on whether anything has changed in media coverage over the past two decades.

Based on past coverage of labor-management negotiations both within and outside the world of sports, this thesis examines whether the media offer coverage from a consumerist perspective that focuses far more on player salaries than owner salaries, ignores the pertinent issues behind labor strife, and overall contributes to an increasingly negative image of the respective players unions. Contributing to this is the pro-business bias of the major media corporations who own most mainstream media outlets, and the major financial relationships between those corporations and the major pro sports leagues.

In order complete this analysis, several questions regarding media coverage of labor must first be examined. In particular, who are the sources being cited? Do the media rely on official sources, such as management and labor leaders, as opposed to employees? What ideologies are being perpetuated in coverage of labor disputes? Does private ownership affect the means by which media report on business and labor?

Chapter 2 examines the existing literature regarding media coverage of labor. Historical media coverage of labor issues both within and outside the world of sport will be examined, with a focus on the rise in media coverage of business activity, a concurrent decline in coverage of labor, and the effect of corporate-owned media on coverage of both. The various relationships between the major corporations and the major professional sports leagues are also examined.

Chapter 3 explains political economy of media as a theory and method and presents the methodology for this paper. In particular, the impact of history on political economy will be examined. According to Mosco (2009), political economy “has traditionally given priority to understanding social change and historical transformation” (Mosco, 2009, p. 26). History provides a context for contemporary issues and can signal whether an individual problem is isolated or instead attributable to institutional structures. As opposed to looking at the current NBA labor dispute in a vacuum, the historical perspective allows for the disputes to be viewed through the context of the systemic forces under which the leagues have operated. In the case of the NBA, the owners’ current claims of financial distress would be viewed alongside similar
claims made over the past five decades. In addition, the consciousness industry approach will be discussed to explain the means by which the media, influenced by corporate ownership, the advertising industry and government interests, perpetuates hegemonic dominant ideologies that are internalized and normalized by the general public despite running counter to their interests. Finally, an overview is given of the sources chosen for examination and the reasoning for their use, with a focus on the conflicts of interest spawned by the relationships between news outlets’ parent companies and the professional sports being covered.

Chapter 4 examines the history of labor relations in the NBA. The chapter provides a thorough look at nearly a half-century of labor clashes in the NBA, including near-strikes in 1964, 1967 and 1983, the six-year long court battle between the NBA and National Basketball Players Association (NBPA) which led to the beginning of NBA free agency, and the series of lockouts that have taken place over the past twenty years, including the three-sided 1995 lockout and 1998-99 work stoppage that cost the league more than a third of the season.

Chapter 5 will analyze media coverage of the NBA labor dispute using a critical analysis of television and newspapers. In particular, articles from The New York Times, The Wall Street Journal and The Associated Press, as well as news reports from television networks ABC, CBS and PBS will be examined. Reports will be examined to see if there are differences in coverage between two newspapers, between two private broadcasters, between newspapers and broadcasters, and between public and private broadcasters. The reports will then be analyzed to determine whether they share any of the similar themes identified by Martin (2004) and Puette (1992).

Finally, Chapter 6 will draw conclusions from the findings to determine whether any differences exist between outlets in regard to coverage of the sports labor issues, whether coverage is affected by corporate ownership, and whether the media outlets in question displayed a pro-business bias in their coverage.

The next chapter will provide an overview of historical trends in media coverage of organized labor. The chapter will examine the decline in the quantity and quality of media coverage of organized labor, whether the limited amount of labor coverage has served to reinforce negative perceptions of labor unions, and how the media uses a consumer-based perspective in order to implicitly endorse management during labor-management conflicts. In the course of this analysis, the chapter will analyze trends in sports labor coverage compared to
general labor coverage and address the financial entanglements between the major professional sports leagues and the five major media corporations.
CHAPTER TWO

HOW THE MEDIA COVER LABOR

Chapter two addresses the state of labor news in the United States, including the overall decline in labor news, the generally negative tenor of what little news remains, what impact this has on public perceptions of organized labor, and how negative perceptions have contributed to a decline in labor union membership. The chapter references several scholarly studies of media coverage of organized labor, including Martin (2004)’s examination of media coverage of the 1994 Major League Baseball strike, and concludes by examining the various financial ties between the corporate media and the major professional sports leagues.

How the Media Marginalizes Organized Labor

“The news media manifest a marked pro-business, anti-labor bias” Parenti (1993) stated outright in his analysis of labor coverage in the media. While such bias is “heavy-handed and deliberate” in some cases, it is more often the case that “labor is colored by more subtle forms of bias that, because they may not be deliberate, have even greater potential for misinforming and stereotyping” (Puette, 1992, p. 60). The danger for organized labor cannot be found in its loud detractors, but instead in the limited and supposedly objective news reports that privilege management positions, describe labor in negative terms, and stake out a middle ground that places the utmost importance on the continuation of business as usual.

Decline of labor news. Media coverage of organized labor has undergone an extended decline. McChesney (2004) noted that coverage of labor news had “plummeted” during the preceding decade (p. 87). Bruno (2008) wrote of the “contemporary near disappearance of the newspaper ‘labor beat’” (p. 385). In an analysis of New York Times articles from 1946 to 1985, Schmidt (1993) found that “the total number of articles about labor unions per year has declined steadily since 1946 and particularly since 1968” (p. 156). Park and Wright (2007) found that the number of newspapers employing labor reporters had declined precipitously since the 1940s. “During the 1940s, most medium-and-large circulation daily papers in the United States employed full-time labor beat reporters … by 2002, only a sole AP reporter followed [the Labor Department beat]” (Park & Wright, 2007, p. 70). As Oshagan and Martin noted, the “lack of news coverage of labor concerns and of workers has been a persistent issue” (p. 18).
Today, coverage of labor is miniscule. Bruno (2008) found “surprisingly little” news coverage of organized labor in the *Chicago Tribune* from 1991 to 2001 (p. 390), despite “the sheer volume of unionized economic, political, and community activity in the city of Chicago alone” (p. 391). A decreasing level of importance has been placed on issues regarding organized labor. “Labor is increasingly perceived by news editors as less significant in American life,” Oshagan and Martin (1999) noted, “and labor beats are systematically disappearing from major American newspapers” (p. 18). While labor may be perceived as less relevant, it is important to note that the decline in labor coverage took place “well in advance of the decline in union strength often cited to justify the change” (Bekken, 2005, p. 74). In place of labor news is ‘workplace coverage,’ which focuses primarily on “white-collar workers’ concerns than the concerns of mechanics, clerks and other manual laborers” (Park & Wright, 2007, pp. 70-71). These “workplace beats” appear in the “business section with a natural bias for business interests” (Oshagan & Martin, 1999, p. 18). “As a result,” Tasini (1990) argued, “the focus of these stories tends to soften or ignore corporate responsibility for the lack of health care, safe working conditions, or dignity on the job” (as cited in Park & Wright, 2007, p. 71). Such coverage also reinforces the neoliberal focus on personal responsibility rather than systemic inequalities, “[implying] that solutions for general economic conditions are the responsibility of individuals” (p. 71).

The disappearance of labor beats has had another consequence as well: coverage of labor is also more likely to appear in the business section (Oshagan & Martin, 1993, p. 24; Schmidt, 1993, p. 156). While management positions are already better represented in general news coverage of labor disputes, articles published in the business section include significantly more management sources and quotes than articles in the front section of the newspaper (Oshagan & Martin, 1999, p. 24). When relegated to the business section, media coverage of labor issues becomes even more skewed to the management side. Oshagan and Martin (1999) termed this a “doubly troubling” development, “since not only is the general coverage of labor decreasing, but what coverage remains is printed in the business section with a strong pro-business editorial and selection emphasis” (p. 24). The use of business reporters is not even the most worrisome trend for organized labor; Puette (1992) noted that some newspapers have assigned police beat reporters to labor news. “The association of labor unions with crime reporting is probably the
single most damaging form of bias affecting the labor movement,” he argued, taking note of the biases such reporters could bring to their coverage of labor news (p. 64).

The decline in quality and quantity of labor news is reflected in Schmidt (1993)’s findings. In her analysis of historical New York Times coverage of organized labor and its effect on public perception, Schmidt argued that media coverage of organized labor “focuses on the most dramatic events,” with “journalistic indifference to peaceful, uneventful dispute resolution” (p. 152). As a result, “the only secondhand information available to the public … characterizes unions as violent, socially unresponsive, elitist, nondemocratic, or ridden with crime (p. 152). It is not surprising, then, that public perceptions of organized labor have become increasingly negative. The push toward event-based coverage is in part attributable to the shift of labor news off the front page. In The New York Times, format changes resulted in fewer front page articles and thereby pushed most labor news into the business section (p. 156). With fewer front page opportunities, “front page placement of labor union stories became increasingly more meaningful” (pp. 158-159), and it became “possible and preferable for front page coverage of unions to concentrate on strikes for primary union news coverage” (p. 159). Similarly, Bruno (2008) noted that the Chicago Tribune’s “meager attention to workplace relations places added value on the substance of those stories that do get written” (Bruno, 2008, p. 391).

**Increased focus on conflict.** The disappearance of labor news had a threefold effect: labor union news was relegated to the business section, residual coverage on the front page skewed toward the biggest events, and the few stories written took on added importance. These trends have had deleterious effects on perceptions of organized labor. “Union leaders contend that their efforts to organize new workers, negotiate better agreements, and win strikes are handicapped by a lack of balanced news reporting” (Bruno, 2008, p. 386). Steuter (2001) argued that in the absence of “discussion of concrete and complex labour issues in the media, most lay readers are unable to fully understand labour events,” which can have a “significant impact on the population’s long-term attitudes toward both labour and management” (pp. 3-4). Such claims would seem to have support in the literature. As Schmidt (1993) noted, even though major conflicts such as strikes “have become increasingly rare” (p. 156), coverage of strike activity accounts for an increasing proportion of decreasing labor news. The result is that news coverage of organized labor has become “increasingly strike-centered” (p. 159). Puette (1992) similarly argued that even though only two percent of negotiations in any year resulted in strikes, “the
public perception of unions is dominated by images of the picketline and the strike” (p. 70). Such findings were reinforced by Bruno (2008), whose analysis found that the Chicago Tribune “prioritized conflict as a subject over other content types,” with strikes, lockouts and other disputes making up nearly 40% of the paper’s labor coverage between 1991 and 2001 (p. 393). This has had a major impact on public perception of organized labor. As Steuter (2001) noted, “the person who depends on newspapers and electronic media is likely to get the sense that ‘unions are on strike all the time’” (p. 4). According to Schmidt (1993), “the type and amount of coverage union events receive provide the foundation for judgments about the merits of union activities” (p. 153). After conducting an analysis of Gallup Poll articles from 1947-1985 – virtually the same period from which she analyzed New York Times articles – Schmidt found that “disapproval of labor unions increased as the percentage of strike-related coverage increased over time” (p. 160). In addition, the “misconcepton makes it harder for unions to organize new workers, who are easily convinced by employers’ arguments that unionization will inevitably lead to a financially disastrous strike” (Puette, 1992, p. 70).

The focus on strikes is only one symptom of an overall trend. Puette (1992) argued that the media tend to give prominent coverage to negative labor news over positive news. “The principle appears to be that news that is bad for labor is big news; when the news is good, it is not news at all or is hardly worth mentioning” (p. 69). He took note of how the media cover charitable work by business and labor, noting that “[b]usiness donations are extolled; labor’s are ignored or given short shrift” (p. 68).

Increase in business news. Whereas labor news has declined, business news has experienced “tremendous growth” in recent decades (Carroll & McCombs, 2003, p. 36). Park and Wright (2007) examined the extent of the widening gap between business and labor reporting. Between 1980 and 2000, The New York Times experienced a 700% increase in business reporting, the Associated Press had a 200% increase, and The Washington Post saw its business-related headlines almost double (pp. 66-67). Overall, the number of business headlines outnumbered labor headlines 3:1 in 1980; that swelled to 11:1 in 2000. Shortly after a 1989 United Mine Workers strike went uncovered by the major networks, Tasini (1990) found that just “2 percent of airtime [on the three major nightly news broadcasts] was given to such labor-oriented issues as minimum wage, child health care, and workplace safety and health. Business and economic reporting, on the other hand, received more than twice as much airtime as labor...
issues” (as cited in Park & Wright, 2007, p. 72). As Godfried (1997) argued, the media had at best ignored unions, and at worst “aided and abetted in the promulgation of the antilabor environment” (p. 274).

**Bias in Objective Reporting**

Negative coverage of labor unions can also be attributed to one of the lasting legacies of the rise of professional journalism: the overarching goal of objectivity. As Oshagan and Martin (1999) explained:

The outcome of objective news writing is a separation of fact from value or emotion, a reduction (or inflation) of events into a story with two ‘sides’ only, a loss of history through an emphasis on ‘events,’ and the use of quotes as pure data without any reporter interpretation. … The convention of objectivity, by dismissing or marginalizing class conflict and related issues, and by concentrating on ‘events’ (e.g. strikes) rather than ‘processes’ in coverage, eventually undermines the class-based activism that is essential to unionism.” (p. 30).

Croteau and Hoynes (2006) similarly note that the media have a “tendency to highlight dramatic problems with little context,” and often cover “spectacular events, not enduring issues” (p. 218, emphasis in original). Schmidt (1993) addressed the push toward event-based news coverage, noting that interest groups “must be involved in an event worth reporting” in order to “obtain media coverage” (p. 152). Unfortunately for labor unions, as mentioned earlier, such events usually do not reflect well on their cause.

The convention of objectivity also results in false equivalencies that can give the mainstream media ideological cover. As Martin (2004) noted, under the “ritualistic style of objectivity, offering two competing points of view makes the article balanced, fair, and objective.” As a result, media coverage tends to give “each quote equal weight regardless of what might be evident to the journalist” (p. 76). In coverage of organized labor, such objective coverage allows the media to pursue a dramatic labor vs. management frame without having to actually examine any of the relevant issues. In the myriad cases in which management attempts to obtain concessions from labor in the pursuit of greater profits, objectivity can give equal weight to the management position that labor costs are the primary cause of unprofitability and the countervailing labor position, all without actually delineating which has merit. This can result
in, as Martin said in describing an example of ‘objectivity’ in *The New York Times*,¹ imposing “journalistic balance on an inherently unbalanced situation” (p. 85). While this would seem to indicate that union positions are at least given the same legitimacy as those of management, other factors – such as the third-party consumerist perspective and the overall dominant ideology, both of which will be later examined in-depth – tip the scales in favor of business interests.

**Source selection and framing.** As an objective entity, the news media would be loath to outwardly advocate for business interests. Instead, the interests of business are advanced through subtler means. During the 1993 conflict between General Motors and the United Auto Workers union, in which the former sought to close an assembly plant, newspaper reports mentioned GM far more often than the UAW in headlines and lead paragraphs (Oshagan & Martin, 1999, p. 22). In addition, the various positions of management, the government and experts – three groups that have historically been aligned (p. 22) – received a combined 184 mentions, compared to just 58 for the UAW. In general, Oshagan and Martin (1999) found that “management representatives” were used as sources “more often and in more prominent positions, such as in the headlines or leads” (p. 22). Newspaper leads typically “structure stories and encapsulate main points,” and for readers who “skim stories by reading only headlines or leads, there is a clear possibility of management’s position dominating the debate” (p. 28). As Doob (1948) noted, many individuals “read only the headlines and, therefore, their entire impression of a story is derived from this not necessarily adequate source” (as cited in Puette, 1992, p. 65). Even if labor is allowed a voice in such articles, management is positioned in a manner that is favorable.

In the 1962-63 strike and lockout between the International Typographical Union and New York newspaper publishers, newsweeklies *Time* and *Newsweek* “carried an almost equal number of quotes from publishers and union leaders or their representatives … implying the magazines’ neutral treatment of each side.” However, quotes from union leader Bertram Powers were used “within a broader frame that calls his motivations into question” (Tracy, 2006, p. 546). Interestingly, during the 1995-96 Irving oil refinery strike, the union was the ‘defining source’ in news reports – “the lead person quoted” – more often than management (Steuter, 2001, p. 13). The “union had more opportunities to put forward their version of events to the journalists and the readership” (p. 14). This was, as perceived by Steuter (2001), strategic on the part of

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¹ In the example in question, *The New York Times* reported on General Motors trimming a million dollar pension plan for 100 retired executives during the aftermath of the company shutting down a plant in Michigan, putting thousands of workers out of jobs (Martin, 2004, p. 85).
management, who owned much of the media in New Brunswick. Management’s relative silence “was interpreted through the media as a pending threat,” with the media “[filling] the silence by highlighting past incidents of other labour disputes in which the Irvings successfully threatened workers with retaliation” (p. 15).

Word choice also tended to tip the scales toward management. Steuter (2001) noted that the use of the term ‘labor dispute,’ as opposed to ‘management dispute,’ “suggests that the workers have taken the initiative” (p. 4). More importantly in regard to sports labor disputes, “[j]ob action is almost universally referred to as a ‘strike’ even if it is, in fact, a ‘lockout’” (p. 4). Parenti (1993) noted the same when analyzing coverage of the 1977-78 coal strike: “News media kept describing the lockout as a ‘strike’ throughout the work stoppage, leaving the impression that it was the miners who were picking a fight with the owners when the reverse was true” (p. 88). The media “routinely refer to strikers ‘refusing’ or ‘rejecting’ company ‘offers,’” even “when the ‘offer’ in question is a roll back from the previous contract” (Steuter, 2001, p. 8). In an analysis of coverage of an oil refinery strike in Canada, words that were used in relation to the strikers included “harass,” “threats,” and “fracas,” essentially “portraying the strikers as causing disturbances and harassing the public” (p. 8). During the 1977-78 coal miners’ strike, The New York Times and Newsweek described the strikers as “a breed apart,” “clannish,” “inbred,” and “hell-raising,” “violent,” and “promiscuous” – the latter three from one sentence alone (Parenti, 1993, p. 88). Even story length tended to tip the scales toward management. In the Chicago Tribune, articles about labor disputes included almost twice as many words as articles about labor agreements (Bruno, 2008, p. 399).

Tracy (2006) suggests that through the process of framing, the media set aside certain individual scapegoats for a given problem and look to others “for restoration of the status quo” (p. 546). Focusing on just one problematic individual creates a “can’t-see-the-forest-for-the trees’ information bias that makes it difficult to see the big (institutional) picture that lies beyond the many actors crowding center stage” (Bennett, 2005, p. 40; Tracy, 2006, p. 546). This was the case in the ITU labor conflict, as the previously mentioned Powers became synonymous with the strike, viewed as egotistical, power hungry, and seeking personal aggrandizement (p. 547). The “sheer focus on [Powers] personalizes the coverage, while eclipsing any consideration of the union’s collective action, motivations, or objectives” (p. 548). As such, “Powers came to symbolize labour’s irrational, if not criminal, stance” (p. 547). The publishers’ side, and their
“hostile” bargainer Amory Bradford, “could just as easily have been depicted as headstrong and self-serving” (p. 550). Instead, the publishers were presented in a “vastly more positive light” (p. 549). *Time Magazine* contrasted Powers, whose “formal education ended with the second year of high school,” with Bradford – a “product of the Ivy League” (“Two Men,” 1963, p. 42; as cited in Tracy, 2006, p. 549). The demonization of labor officials, and the lack of such treatment regarding management, contributed to a dynamic best summed up by a heading in Parenti (1993)’s book *Inventing Reality* – “Nice Bosses, Crazy Strikers” (p. 87). Though labor was generally subject to more scrutiny than management, the reasons for their actions were generally ignored. The cumulative effect, as Parenti (1993) found in coverage of the 1989 United Mine Workers strike in Pittston, is that strikes are painted as “mindless contest[s] of wills, pitting the stubborn, shrill, and rather foolish strikers against patient, soft-spoken managers who only wanted to resume production” and management’s assorted allies (p. 91).

In the 1993 GM conflict, Oshagan and Martin (1999) found that GM was far more likely be framed positively than negatively in news reports, while the UAW’s positive and negative frames were more evenly split (p. 25). Of the articles coded, the vast majority cited “GM’s poor finances and efforts to reduce costs” as the primary reasons for the plant shutdown (p. 25). GM was framed as “a progressive corporation, which is, at worst, somewhat greedy,” two attributes that “may well represent the free-market ideal for big business” (p. 29). By contrast, the UAW retained the common strike-frame of being “disruptive, demanding, and violent,” despite the fact that the conflict centered on a plant shutdown rather than a strike (p. 28).

Negative characterizations of labor were also prevalent in the *Chicago Tribune* during the ten-year period Bruno (2008) studied. More than half (57%) of the labor stories written in the *Tribune* were negative, while more than one third were positive (36%) (p. 391). Even though the story leads indicated a more balanced approach, 63% of the *Tribune* articles “framed the subject in a negative light, as opposed to 28 percent in a positive way” (p. 392). *Tribune* editorials were even less balanced, as all but one of the 20 editorials and opinion pieces coded were “strongly critical (i.e., negative) of union behavior” (p. 393). Much in the same way ITU leader Powers was viewed as responsible for the 1962-63 ITU strike, articles in the *Chicago Tribune* portrayed unions as “having significant responsibility for the events under consideration” (p. 401). Unions were viewed as being responsible for negative conditions more often (58%) than they were for positive conditions (42%), and those positive conditions usually concerned success in the legal
arena (p. 402). Overall, such findings appear to reinforce Puette (1992)’s argument that “the
treatment of labor in the press, and in local newspapers in particular, has been and continues to
be negative. The image of labor unions projected in the press, as in the other media, is one of
corruption, greed, self-interest, and power” (p. 60).

Consumer-based coverage. Oshagan and Martin (1999) suggest that the media’s bias
toward management can be attributed to conflicts of interest and the aforementioned problem of
objectivity (p. 29). A perhaps better explanation is that the goals of management have been
subsumed into America’s common sense. During the Cold War, the government and fledgling
television joined forces as a result of their mutual interests – swaying public opinion for the
former, gaining inexpensive programming for the latter (Kumar, 2005, p. 135). The product of
this union was the creation of a “Cold War ideology,” in which the United States’ way of life
was defined as “one of democracy and freedom guaranteed by a free market” (p. 135). This way
of life was under siege by the nation’s communist enemies (p. 135), and as such, consumption
and profit became sources of pride and identity. Decades later, “the pro-free market nationalist
frame of reference comes to be taken for granted in the news, while the interests of workers
come to be subordinated to those of capital on an international and national scale” (p. 135).

The linkage of capitalist ideology to American identity “enables the corporate media, and
television in particular, to take the side of the owners without appearing overtly biased” (Kumar,
United Postal Service (UPS) strike. Questions of how the strike would affect the economy and
the average American were answered from the perspective of the consumer, not the worker (pp.
136-137). News media coverage focused on the fact that “business as usual” would be disrupted
(p. 136), creating a “shared inconvenience” for the consumers and management (p. 137).
Similarly, Martin (2004) argued that the news media espoused a “‘common ground’ narrative
between labor and management positions by reporting on labor relations from a consumer
perspective” (p. 4). Puette (1992) found that “the press tends to concentrate reporting on the
strike’s intrusion on the reader’s comfort or convenience, often characterizing the public as the
innocent victim … Culpability for this rude interruption is generally ascribed only to the union,
even in the case of lockouts” (p. 70). The common ground found in the consumerist perspective
contains an implicit pro-business bias, as the pertinent issues of labor negotiations are glossed
over in favor of coverage that focuses mainly on the inconvenience caused to the consumer. The media tell their audience to be concerned as a consumer, but not as a citizen (p. 51).

The consumerist “stance submerges issues of political activity and class relations, privileges commodities over the workers who produce them, and implicitly supports capital over the workers whose actions threaten to (or do) disrupt the ordinary flow of commerce” (Bekken, 2005, p. 73). Brenner, Day and Ness (2009) noted that “coverage of labor and strikes” is framed “around the narrow interests of the consumer (concerns about the price and availability of goods and services) and not the broader interests of the citizens (which can involve issues of class equality and economic democracy),” allowing for a supposed neutrality that contains a pro-business bias (p. 46). This issue is not only pertinent in regard to labor; as Croteau and Hoynes (2006) wrote, “the news media generally address people as consumers and spectators, not active citizens.” The news media do “little to foster a commitment to civic participation” (p. 220). McChesney (2008) makes a similar point when discussing neoliberalism: “Instead of citizens, it produces consumers. Instead of communities, it produces shopping malls. The net result is an atomized society of disengaged individuals who feel demoralized and socially powerless” (p. 286).

The consumerist perspective separates the worker from the rest of U.S. consumers, who are framed as sharing the same goals as management. After quoting a news article from the 1997 UPS strike that described the 1947 Taft-Hartley act as a necessary restraint on labor that “many” Americans supported (p. 139), Kumar (2005) noted that workers had been constructed “as a distinct and unique oppositional category,” with the majority of the population sharing “an interest as consumers with the owners of coal mines, railroads, and car companies in preventing ‘runaway labor’ from achieving its aims” (p. 139). During the first few weeks of the 1962-63 strike and lockout between the International Typographical Union and New York newspaper publishers, “the public was cast as the principal victim” of the strike (Tracy, 2006, p. 552). A *U.S. News* article included images of New York’s “news-starved millions” buying “out-of-town papers” (“What Newspaper,” 1962, p. 59; Tracy, 2006, p. 552). *Newsweek* wrote of subway passengers, who in the absence of newspapers to read, were confronted by the faces of other physically unattractive passengers (“The News Gap,” 1962, p. 46; Tracy, 2006, p. 553).

The consumerist perspective is not just limited to the supposed ‘third party’ in labor negotiations. During the 1962-63 ITU strike and the 1997 UPS strike, members of the union.
were viewed as irrationally putting themselves in financial danger. According to Kumar (2005),
the media reported stories on workers’ hardship, which could “either be used to demonstrate the
resolve and fortitude of workers in the struggle or prove the ‘irrationality’ of strikes” (p. 140).
Due to the consumer-focused perspective and “the absence of labor history in mainstream
discourse,” coverage of worker hardship tended to gloss over the idea that the union was willing
to sacrifice for the greater good (p. 141). Instead, the primary focus was on the suffering of all
parties involved, thereby making the argument “that strikes benefit no one, not even the workers”
(p. 141). During the 1995-96 Irving oil refinery strike in Canada, newspapers in New Brunswick
– many of which were owned by the same company that owned the oil refinery – struck a “tone
of defeatism” when discussing the strike (Steuter, 2001, p. 9). “The papers portray the strikers as
foolish in their attempts to go up against the might and power of the Irving empire” (p. 9). In
1962, Newsweek spoke of the plight of the displaced workers, small businesses and millions of
readers caused by the ITU strike (Tracy, 2006, p. 549). In the UPS strike as well, coverage
focused on the impact on small business owners, who represented the “exemplar of hard work
and diligence,” or “the means by which the individual entrepreneur can aspire to the doorstep of
the bourgeois” (Kumar, 2005, p. 142). The storyline of labor strife causing created collateral
hardship for small business owners has been quite prevalent in coverage of sports labor disputes
as well.

In the ITU strike, the consumerist frame “persisted by conflating and anthropomorphizing
the economy and the public to the point where they essentially appeared as one ‘victim’” (Tracy,
2006, p. 553). Articles frequently took note of staggering losses – millions of underserved
customers, millions in lost advertising and circulation revenues, hundreds of news vendors going
out of business (p. 553-554). Those losses were later found to be overstated (pp. 554-555).
Experts interviewed by the news media during the 1997 UPS strike suggested that the strike
would potentially have a “ripple effect” on other businesses, thereby hurting both corporations
and workers (Kumar, 2005, p. 136-137). In that sense, the experts suggested that the “health of
the economy [was] based on the health of business,” despite the fact that the success of business
throughout the 1990s had no real impact on most Americans (p. 137). For example, in the
Canada oil refinery strike, “what was good for the company was invariably assumed to be good
for New Brunswickers” (Steuter, 2001, p. 10).
Kumar (2005) also identifies a social aspect to the nationalist-oriented coverage of labor disputes. Corporations were viewed as a unique family, in which management served as “the parental actor” and the workers their children (p. 145). By contrast, there was no family metaphor for the union itself, despite solidarity among organized and unorganized workers (p. 145). The worker-as-child metaphor was reflected in media coverage of UPS worker Tom Tuttle, who was loyal to both labor and management, and came off “like a child caught in a dispute between his parents (UPS and the union leadership)” (p. 146). Beyond the corporate family existed the “national family,” in which “business, consumers, workers, and the state” were to coexist in a “harmonious relationship” (p. 147). “When ‘normal’ relations between the first three are disrupted,” Kumar argued, “state intervention is presented as the logical outcome and is shown to be in the interests of all Americans” (p. 147).

**Trends in Media Coverage of Labor**

It is clear that there are certain trends typically found in mass media coverage of labor disputes. Two scholars have consolidated these trends into distinct lists: Martin (2004) and Parenti (1993). Martin identifies five frames that “dominated” media coverage of labor negotiations in the 1990s: 1) the consumer, acting individually, is king; 2) the process of production, including worker conditions, is “none of the public’s business”; 3) wealthy CEOs are self-made, hard-working heroes; 4) workers are compensated fairly based on the work and effort they put in; and 5) collective efforts by “workers, communities, and even consumers” are damaging to the consumer economy (pp. 9-10). Parenti (1986), meanwhile, identifies “seven generalizations about the way the news media portray labor” (as cited in Puette, 1992, p. 10). Among them, the portrayal of labor-management disputes as senseless, avoidable, and union-caused, reports of management ‘offers’ that omit or downplay givebacks, no coverage of management salaries, more discussion of the impact of work stoppages than on the causes, and little coverage of union solidarity (p. 10).

These trends are not just limited to news media coverage. Labor also fares poorly in scripted entertainment fare, with unions portrayed as violent or corrupt, engaged in strike activity, or outdated and foolish (Puette, 1992, pp. 48-53). Even in an episode of the 1990s children’s television series *Rugrats*, a construction worker asked whether it was time for his “mid-morning, pre-lunch break,” explaining that it was a “union thing” (Maples, 1997, n.p.).
Coverage of sports labor. When labor disputes involve professional sports leagues, media coverage takes on some differing qualities, although many of the trends identified by Martin and Parenti remain evident. In his analysis of Chicago Tribune coverage of organized labor, Bruno (2008) found that professional sports generated the second-largest percentage of labor articles of any industry between 1991 and 2001 (Bruno, 2008, p. 396), but that the coverage was more negative than that of other industries. “While no industry’s labor organization fared well, 79 percent of labor-sports stories generated a negative tone,” and “union athletes fared considerably worse in the Tribune’s portrayal than union members working in less glamorous occupational fields” (p. 396). Bruno attributed the difference in coverage in part to the Tribune Company’s various sports related interests, which included ownership of the Chicago Cubs MLB franchise (p. 396). The tenor of sports labor coverage had implications for organized labor as a whole. With sports coverage increasing at the expense of general news coverage (Bruno, 2008, p. 397), “the Sports section serves as the principal vehicle for educating the public about organized labor and industrial relations” (p. 397). Professional athletes were “particularly unrepresentative examples of how unionism works for the vast majority of men and women” (p. 398).

Martin (2004) chronicled media coverage of the 1994-95 Major League Baseball strike, which wiped out the entire 1994 MLB postseason and portions of the 1995 regular season. Coverage of the strike was framed almost entirely from a consumerist perspective, with the media quick to express solidarity with and sympathy for the disaffected fans being denied their right to entertainment by the ‘billionaire owners’ and ‘millionaire players’ (p. 132). Martin identified four phases of consumerist sentiment during the 1994-95 strike: mistreatment of fans by players and owners; alternatives for mistreated fans; the perception that replacement players were a faulty product; and opportunities for fans to get back at players and owners (p. 132).

The first phase was characterized by the perception that fans were being mistreated by greedy players and owners. Both owner and player salaries were overstated; as Martin noted, the ‘billionaire’ owners were more like multimillionaires, and more than half of the ‘millionaire’ players made less than one million per season. The millionaires vs. billionaires frame “made the strike seem ridiculous from the onset, since it is unthinkable – in the commonsense view of news – that such wealthy players and owners could have any legitimate grievances” (p. 130). In essence, both sides were viewed as equally out of touch, though, importantly, the players “often
bore the brunt of public criticism” (p. 130). For instance, player salaries were held to more scrutiny, as articles kept track of both the money they lost per day and their earnings for completing a given on-field action (e.g., the amount of money earned per home run). The focus on player salary was evident in sports labor coverage before the 1994 strike. As Parenti (1993) noted, though the press “makes a point of reporting the relatively high salaries of star players, it usually says nothing about the enormous profits accumulated by the team owners” (p. 89). Parenti continued:

Nothing is said about the hundreds of millions of dollars in TV rights the owners pocket – of which the players see not a penny. The press says nothing about the stresses and injuries sustained by players and the relatively short durations of their careers. News reports leave the public wondering why athletes who are so well paid (compared to many other jobs) would be so greedy as to go on strike and deprive fans of their diversion. (p. 89)

As is typical to media coverage of labor disputes (Parenti, 1993, p. 87), there was little analysis of the causes for the strike. Players were perceived as wanting more money, even though that was not the issue; the MLB players association voted to strike so owners would not be able to unilaterally institute a salary cap (Martin, 2004, p. 135).

The players’ labor was devalued as well. Fans believed that they could “do what MLB players do, and for a lot less” (Martin, 2004, p. 137). Moreover, there was the perception in the media that Major League Baseball was a game, not a business, even though such an idea contradicted over a century of evidence to the contrary (p. 138). This devaluation of player labor and trivialization of the business aspect of baseball was evident in the second phase, in which the media outlined alternatives for aggrieved fans.

In the immediate aftermath of the strike, several media outlets pointed to Minor League Baseball and Little League, among others, as alternatives. Media outlets romanticized the lack of money involved, viewing the athletes as playing for the love of the game, even though many had the ultimate goal of eventually playing in the money-ridden majors. As Martin (2004) observed, “the opportunity for commercial endorsements is why most minor leaguers tolerate the minor leagues’ system of poor wages” (p. 143).

The effect of the consumer-oriented perspective was most evident in phases three and four. Fans and the media criticized the use of replacement players due to the poor on-field
quality of said players, not because it was a “despicable management strategy” with the goal of “[breaking] the players union” (p. 149). As is expected with consumer-focused media coverage, concerns over the quality of the product took precedence over “[c]ivic issues such as standards of fairness in labor-management disputes” (p. 149).

Finally, the fourth phase centered on the retribution fans exacted from Major League Baseball when the sport returned from hiatus. Attendance declined for games during the first two months of the season, and Opening Day in Detroit was the site of some ugly fan behavior. Martin (2004) deemed this the “venting model of public discourse” (p. 153), the result of media coverage that “suggests that the best way to handle management conflict is not to fix the essential problem but to assuage the consumers who are inconvenienced by it” (p. 152). The story of the strike essentially became that of billionaires and millionaires impeding on consumers’ right to view baseball games. The real issues underlying the work stoppage were glossed over, viewed as immaterial conflicts between equally despicable sides.

Based on findings by Schmidt (1993), Kumar (2005), Martin (2004) and others, one can expect coverage of the 2011 NBA labor negotiations to take on these qualities: coverage will focus primarily on the consumer, instead of the issues underlying any impasse; both players and owners will be viewed as making exorbitant amounts of money, but players will receive significantly more scrutiny; player labor will be denigrated, and the business aspect of the league will be trivialized; and finally, there will be more focus on offers made by management to labor than to management demands. Underlying this is the pro-business bias of the major corporations who own most U.S. media, many of whom have direct financial relationships with the leagues they cover.

Financial Relationships

Part of the reason for negative coverage of labor issues stems from the fact that the media themselves are big business. In fact, “[m]any of the most highly regarded news media companies in the United States have a long record of their own antilabor activities” (Martin, 2004, p. 47). As Park and Wright (2007) argued:

Because media corporations are billion-dollar transnational corporations with direct stakes in financial news, business news and interests become ubiquitous and are rarely challenged. Free-market ideologies, limited government regulation, more privatization, and desires for tax decreases become common stories in media content. Labor issues,
media ownership, accountability, and questions of public interest are often sidelined” (p. 77)

As the nature of news organizations has changed, so too has the makeup of those reporting the news. Bruno (2008) cited the “changing demographics” of news reporters as having influenced labor reporting. “Increasingly, reporters come from and live within a middle-class, well-educated social milieu” (p. 387). Bruno cited New York Daily News columnist Juan Gonzalez, who in the late 1990s spoke of a “class divide between those who produce news and information and those who receive it” (Bruno, 2008, p. 387; Gonzalez, 2007, ¶3). The divide creates a “class bias toward most Americans, whether they are of conservative or center or liberal: if they're working class and they're poor, they're considered less important in the society (Bruno, 2008, p. 387; Gonzalez, 2007, ¶3). According to Parenti (1993), “[m]ost newspeople lack contact with working-class people, have a low opinion of labor unions, and know very little about people outside their own social class” (p. 44). “The news media,” Oshagan and Martin (1999) noted, “have generally ignored working people, their work, safety, health, needs and worries” (p. 18).

The impact of big business on the media cannot be understated. Today, only five corporations own the majority of media outlets in the United States. Those companies are Disney (includes ABC News and ESPN), News Corporation (Fox News, Fox Sports), Comcast (NBC News, NBC Sports Group), CBS Corporation/Viacom (CBS News, CBS Sports), and Time Warner (CNN, Turner Sports). There is an inherent conflict between reporting the truth and protecting one’s business interests, and news reporting has become subject to the concerns of advertisers, politicians, and in the world of sports, the leagues. “Specific examples of biased news coverage have lent credence to the view that corporate owners are not averse to breaching the firewall that ostensibly separates owners’ business interests from news content” (Gilens & Hertzman, 2000, p. 370).

Historically, the mass media have had a very close relationship with professional sports leagues. McChesney (2008) characterized the relationship between sports and the mass media as “symbiotic” (p. 213). The media acted almost as a promoter during the early days of American sport, helping to counteract the popular view of athletics as “vulgar and disreputable” (p. 215) by becoming “increasingly assertive by mid-[19th century] concerning the health benefits of athletics to urban dwellers” (p. 216). The symbiotic relationship had “crystallized” by the end of the 19th century. Baseball writers, some of whom served as advisors to owners, even
acknowledged their close relationship with management: “All sides now recognize that their interests are identical. The reporters have found in the game a thing of beauty and a source of actual employment. The game has found in the reporters its best ally and most powerful supporter” (p. 218). As media became increasingly concentrated and corporate, sports provided suitably escapist, cheap and non-controversial content (McChesney, 2008).

By the 1960s, television networks had begun to pay multi-million dollar rights fees for sports programming, and the symbiotic relationship between the business of media and the business of sports continued. McChesney (2008) noted that the existence and survival of the now-defunct American Football League were dependent on television deals with ABC and later, NBC. The AFL “survived strictly on the basis of its ABC contract” in its early years, and a later “astronomical” deal with NBC allowed it to attract NFL talent and eventually merge with the league (p. 227). The AFL in essence served as a forebear of things to come. “By the 1970s,” McChesney argued, “it had become axiomatic that successful management of professional sports leagues and franchises is based on the capacity to best exploit rights payments” (p. 230). This state of affairs gives the corporate media – and its profit motives – powerful influence over sports.

Today, the media provide sports leagues with more money than ever before in terms of rights fees. As of 2011, the NFL has agreed to a $1.9 billion/year deal with Disney’s ESPN, in addition to deals with CBS Corporation’s CBS ($620M/year), News Corporation’s FOX ($720M/year) and Comcast’s NBC ($603M/year) (Horn, 2011, ¶1-3). The NBA is in the third year of an eight-year extension with Disney’s ESPN/ABC and Time Warner’s Turner Sports worth a combined $930 million per year (“Nets’ Ball,” 2011, ¶16). Major League Baseball is in the fifth year of a seven-year deal with News Corporation’s FOX ($256M/year) and Time Warner’s Turner Sports ($145M/year), in addition to a separate deal with Disney’s ESPN ($296M/year) (“ESPN, MLB,” 2007, ¶11). Individual NBA and Major League Baseball teams also have relationships with Comcast, News Corporation and Time Warner, by virtue of deals with the regional sports networks (RSNs) such as Comcast SportsNet and Fox Sports Net. For example, the NBA’s Los Angeles Lakers agreed in 2011 to a 20-year deal with a yet-unnamed Time Warner Cable RSN worth upwards of $80 million according to one report (Kasler, 2011, ¶19), while the MLB’s Texas Rangers agreed to a 20-year deal with News Corp’s Fox Sports Net worth between $75-80 million annually (Horn, 2010, ¶5).
These lucrative deals create business relationships in which the goals of the leagues and the corporate media are aligned. As Fortunato (2000) explained, “[t]hrough the signing of a broadcast rights contract … the NBA guarantees game coverage and becomes an economic and promotional partner with its broadcast networks” (p. 492, emphasis added). This has been especially apparent during the league’s various lockouts. NBA players did not receive paychecks while locked out by league owners in 1998 and 1999, but the league was still paid rights fees by its television partners (Wise, 1998jj, ¶3). Those rights fees are not insignificant; current NBA Deputy Commissioner Adam Silver said in 2000 that the league’s “the largest revenue source is network television money” (Fortunato, 2000, p. 492). Essentially, the NBA’s massive television deals have served to underwrite the owner-imposed work stoppages. In addition, the NBA’s relationships with General Electric (NBC), Time Warner (TNT and TBS) and News Corporation (Fox Sports Net) severely limited the players’ options for televising exhibition games during the 1998-99 lockout (Broussard, 1998c, ¶11-14).

Corporations also have relationships with the various leagues through direct ownership. Comcast, majority owner of NBC Universal, owns part of the NBA’s Philadelphia 76ers, the NHL’s Philadelphia Flyers, and the teams’ stadium, the Wells Fargo Center (“Who Owns,” 2011). The Tribune Company owned the MLB’s Chicago Cubs during the time Bruno (2008) conducted his analysis of Chicago Tribune coverage of labor. By virtue of owning the Cubs, the Tribune had an “employment relationship with the unionized sports workers it covers” (p. 396). Several other major corporations have at least partially owned professional sports teams, including News Corporation (MLB’s Los Angeles Dodgers), Disney (NHL’s Mighty Ducks of Anaheim and MLB’s Anaheim Angels), and Time Warner (MLB’s Atlanta Braves, NBA’s Atlanta Hawks, NHL’s Atlanta Thrashers) (“Who Owns What,” 2011). Sports franchises, however, have not been successful enterprises for the biggest corporate giants, as News Corp., Disney and Time Warner have each sold their teams in the past ten years (Rosner, 2010, ¶4).

The various financial entanglements between the corporate-owned media and professional sports leagues and teams have created clear conflicts of interest. If the media and the owners are economic and promotional partners, it stands to reason that media coverage of a conflict between owners and players will be necessarily skewed in favor of the former. Even in the absence of a direct relationship, the major leagues and the major media corporations share the same overall goals. This was ably noted at the end of the 1998-99 NBA lockout, when The New
Robert Lipsyte sardonically summarized the ‘spin’ of the various parties involved in the dispute. When it came to the owners, he said:

By dragging the players back on court without ceding to their major demands, the N.B.A. stuffed the greed genie back in the bottle and capped it, giving inspiration to all the beleaguered conglomerates struggling with ungrateful workers. Most media outlets, owned by conglomerates and staffed by ingrates, support this spin. (Lipsyte, 1999, ¶7)

Having examined the current manner in which the news media covers organized labor, the next chapter analyzes the various causes underlying these trends. In particular, the next chapter discusses the ideologies underlying the current economic system, how those ideologies have become embedded in the nation’s sense of self, and how that has contributed to an increasingly concentrated, corporatized media. The chapter also addresses how the interests of corporate media owners and advertisers influence news content.
CHAPTER THREE

OVERVIEW OF POLITICAL ECONOMY

This chapter analyzes the underlying ideologies and structural constraints that led to the overall trends in media coverage of labor, business, and sport outlined previously. Using the theoretical framework of political economy, this chapter will examine the dominant neoliberal ideology and its influence on the structure of the media, including the concentration of media ownership, the increased power of advertisers, and the implications for editorial content.

An Overview of Political Economy of Media

Political economy critically examines the ideology of the ruling class, the means by which that ideology is perpetuated to the citizenry, and how the naturalized and objectivized dominant ideology contributes to the ruling class’ monopolization of power, wealth and knowledge. To use one of the definitions provided by Mosco (2009), political economy is “the study of the social relations, particularly the power relations, that mutually constitute the production, distribution, and consumption of resources” (p. 24, emphasis in original). The questions raised by political economy focus on what kind of resources are available to citizens, who has the economic and social capital to control those resources, and who has the ability to influence the individuals who control those resources. According to Steuter (2001), a “political economy perspective emphasizes the need to examine the ownership of the press, the economic influence on the press by its for-profit nature, as well as direct and indirect influences by advertisers and/or government” (p. 2).

Mosco (2009) identifies four central ideas that together make up “the cornerstone of political economy” – history, social totality, moral philosophy and praxis (p. 26). Political economy tends to place the overall economic structure into a historical context whereby short and long-term patterns can be identified. Such contextualization contrasts with neoclassical (mainstream neoliberal) economics, which generally ignores history. The difference between these two views of history can be understood as the difference between viewing our economic system as a continually reproduced and negotiated construction, and viewing said system as a natural, immutable and objective fact.

Political economy also seeks to understand the social totality, locating the connections between the political and the economic, and the relationship both have with the “wider arena of
socio-cultural institutions and practices” (Mosco, 2009, p. 29). As Wasko (2004) described it, the social totality explores “the relationship among commodities, institutions, social relations, and hegemony” (p. 222). For example, the political economist may explore the manner in which the institution of mass media contributes, through advertising, to the commoditization of all aspects of human life, how that commoditization contributes to hegemonic ideas of consumption as fundamental to the American way of life, and what kind of implications the acceptance of neoliberal hegemony has on society. For mainstream economics, the concept of the social totality refers to the assumption that the dominant paradigm “can and ought to be applied to all forms of social behavior” (Mosco, 2009, p. 29). In other words, the logic of the market should dominate every corner of society.

Through moral philosophy, political economy puts forth normative ideas of how life ought to be. Wasko (2004) argued that the moral component is the “distinguishing characteristic of political economy” (p. 27). The moral philosophy characteristic of political economy allows for value judgments to be made about the status quo. Gandy (1992) noted that “much of the effort of political economists is directed toward a critique of the mainstream orthodoxy” (p. 23). With mainstream neoliberal economics having become deeply rooted in American identity through the process of hegemony, political economy tends to be critical of the perceived infallibility of the free market. As Gandy (1992) stated, “When competition and profit maximization are presented as rational, a critical response seeks to demonstrate that the products of such pursuits are something other than optimal” (pp. 23-24). By contrast, mainstream economics privileges a value-free objectivity, in which “[m]oral comment would hold little or no explicit place in the economist’s explanation or assessment” (Mosco, 2009, p. 33). However, mainstream economics still “slips a moral vision through the back door” through “assumptions and choices of ideas, concepts and variables” (p. 33).

Finally, praxis suggests the creation of alternatives and solutions to the problems identified by political economic theory. “Knowledge requires more than a process of honing and purifying conceptual thought,” Mosco (2009) argued: “Rather it grows out of the mutual constitution of conception and execution” (p. 35). Political economic scholarship does not just outline the problem of the dominant neoliberal order, but offers alternatives and solutions, such as the creation of a revitalized public sphere to counteract privately-owned corporate media.
McChesney (2000) identified two dimensions of political economic scholarship. Political economy examines both “how the media and communications systems and content reinforce, challenge or influence existing class and social relations;” and “how ownership, support mechanisms (e.g. advertising) and government policies influence media behavior and content” (p. 110). These two strains of political economic theory can be described as the consciousness industry and culture industry, respectively.

The consciousness and culture industries. Jhally (1989) raised the question of how the “minority but dominant” capitalist class has been able to “maintain power over the vast majority of the population” (p. 67). The answer to this question is the focus on the consciousness industry approach. According to Nealon and Irr (2002), the “basic premise of the consciousness industry approach is that gaining the consent of the dominated is essential to the ruling class” (p. 89). The major corporations who own media outlets “exert their influence over the basic ideological premises upon which cultural and intellectual works are based” (p. 90). This process of gaining consent is also referred to as hegemony, or the process by which:

a dominant class, which controls the critically important economic and political institutions of a society, also has principal access to the fundamental ideological institutions – education, mass media, religion, cultural practices. The dominant class uses its access to promote and reproduce the norms and values that tend to reinforce its structural advantage. (Sage, 1990, p. 17)

The strength of hegemony lies in its implicit nature. As Parenti (1993) argued, “Power is always more secure when cooptive, covert, and manipulative than when nakedly brutish. The support elicited through the control of minds is more durable than the support extracted at the point of a bayonet” (p. 24).

Citizens are not merely hypnotized into accepting the hegemonic message of the ruling class. They must perceive the dominant ideology to be in their own self-interest, even if that is not truly the case. To achieve this, hegemony “works primarily by inserting the subordinate class into the key institutions and structures which support the power and social authority of the dominant order” (Hall & Jefferson, 2006, p. 29). According to Herman (1992), the corporate media’s job will be to make the goals of the dominant, ruling class appear palatable to all citizens and to marginalize any alternatives (p. 23). McChesney (2008) similarly argued that the “corporate news media, the PR industry, the academic ideologues, and the intellectual culture
writ large play the central role of providing the ‘necessary illusions’ to make this unpalatable situation appear rational, benevolent, and necessary” (p. 289). Hegemony works to naturalize the way of life that benefits the ruling class. As Beal (1995) noted, the dominant group “creates limits on the range of what is perceived to be acceptable or even possible,” forcing subordinate groups to “actively choose from the dominant group’s agenda” (p. 253).

In sport, the goals of hegemony are advanced partly through the influence of the corporate media, which has economic relationships with the major professional leagues, collegiate sports, and even children’s events such as the Little League World Series. That said, sport in and of itself “is considered to be an important site upon which dominant ideology is constructed and maintained” (Sage, 1990, p. 26). Youth sport tends to reproduce the goals of the capitalist workplace, and physical activities as basic as running have been encroached upon by corporate interests (pp. 26-27). Through sport, the citizen-turned-consumer is essentially transformed into a cog in the capitalist machine, internalizing the practices of work and consumption.

The ruling class is not a singular block of like-minded entities. As Sage (1990) writes, “there is never a single unified ruling class, but instead there are coalitions of powerful groups pursuing an enduring foundation for legitimate authority” (p. 20). Regarding the media, there are three different groups whose divergent motives interlock to create the dominant ideology: corporations, advertisers and the government.

**Neoliberalism and the corporate media.** To explain today’s media system, one must first explain the dominant neoliberal logic. Originating in the late 1970s and early 1980s, neoliberalism “proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade” (Harvey, 2005, p. 2). In other words, the government should stay out of private business and the free market should prevail over all. The only role of government is to protect the free market (p. 2), which has come to be viewed as synonymous with democracy (Giroux, 2005, p. 9). Neoliberalism “seeks to bring all human action into the domain of the market” (Harvey, 2005, p. 3, emphasis added). It is “[w]edded to the belief that the market should be the organizing principle for all political, social, and economic decisions” (Giroux, 2005, p. 2).
Myriad sectors of society have been incorporated into the market system. According to Fisher (2009), “evidence of neoliberalism can be found in policies surrounding welfare, health care, education, and social security” (p. 14). Universities have been transformed from “centers for the construction and exchange of knowledge” to “highly marketable global ‘brands’” (Newman, 2007, p. 326). In the healthcare industry, the neoliberalist push has turned patients into consumers and the body into a commodity (Fisher, 2009, p. 15). Concomitant with the neoliberal push is the decline of the social welfare state. According to Giroux (2005), neoliberalism is “designed to obliterate public concerns and liquidate the welfare state” (p. 13). Neoliberal policies are in part “manifested in state cutbacks in social goods through the privatization of those functions” (Fisher, 2009, p. 14). Other “subtle examples” of the effect of neoliberalism include the “decline in unions and the antiunion rulings of the National Labor Relations Board” (p. 14).

Neoliberalism has not been foisted upon the public against its will. Through the process of hegemony, the neoliberal perspective has been presented as a logical and appealing economic system, one that benefits all citizens. McChesney (2004) outlined the “elegant” case for the market model: “Markets are voluntarist mechanisms in which people interact freely, and they invariably lead to the most efficient deployment of resources and maximum human happiness” (p. 176). Fisher (2009) argued that “political spin reframes neoliberal policies to claim that this form of governance is in the best interests of the citizenry … what is good for industry must be good for America” (p. 14). Under neoliberalism, profit-making becomes “the essence of democracy,” and citizenship is defined as “an energized plunge into consumerism” (Giroux, 2005, p. 8). Capitalism becomes “our national religion,” with consumption its “ritual sacrament” (Bettig & Hall, 2003, p. 80). The public becomes defined, “for the purposes of policymaking, as a vigorous marketplace,” and the public interest is equated “with an unregulated marketplace” (Aufderheide, 1999, p. 6). Any form of government regulation “will only interfere with the ability of the market to regulate media and therefore interfere with the people’s will” (McChesney, 2004, p. 176). Croteau and Hoynes (2006) summarized the logic of what they called the “market model” (p. 17):

The market model suggests that society’s needs can best be met through a relatively unregulated process of exchange based on the dynamics of supply and demand. … It argues that as long as competitive conditions exist, businesses pursuing profits will meet
people’s needs. … It is consumers in the marketplace, not government regulators, who will ultimately force companies to behave in a way that best serves the public. (p. 17, emphasis added)

The neoliberal paradigm holds that the market “could accomplish seamlessly and without coercion what the government could do only clumsily and inefficiently” (McChesney, 2004, p. 49). Government interference has come to be understood as domination, while domination by the market is understood as freedom (Jhally, 1989, p. 81).

Based on the preceding literature, one should expect the media to be privatized and unencumbered by government regulation except for that which serves as a bulwark to protect the free market. In addition, the media should be expected to have abandoned any social welfare requirements. Finally, the media system should be competitive and responsive to consumers. In analyzing the media system, however, only two of those three apply.

The United States’ media system is a profit-oriented capitalist enterprise largely “made up of commercial, profit-seeking businesses” (Croteau & Hoynes, 2006, p. 16) and “dominated by a small number of very large vertically integrated corporations” (McChesney, 2004, p. 21). The logic of neoliberalism, which through hegemony has become the logic of American democracy, dictates that this is not necessarily a problem. The media are just another product to be consumed – television being merely a “toaster with pictures,” to quote Reagan-era FCC chair Mark Fowler (Croteau & Hoynes, 2006, p. 27). As such, the values of the market model, efficiency, responsiveness, flexibility and innovation (p. 18), are not merely appropriate, but present the best way to provide consumers with the entertainment product.

The neoliberal market model is certainly not without flaws. The market is not concerned with inequality, morality, or social and democratic needs (Croteau & Hoynes, 2006, p. 24-25). Under the market model, individuals who were born into wealth have greater access to resources, including the mass media, which allow them to maintain said wealth. Basic human needs, including education and healthcare, become conditional on having the money to afford them. Products can be sold that at best do not benefit the public, and at worst contribute to society’s decline (pp. 24-25). The market is concerned only with the perpetuation of profit, and not with maintaining a healthy society. The “requirements of political democracy” tend to take a backseat to the “exigencies of the market” (McChesney, 2004, p. 23). Or, as Bettig and Hall (2003) noted,
the “goals of amassing great profits and informing ordinary citizens are distinctly at odds with one another” (p. 89).

**History of government involvement in the media.** Certainly, these flaws are salient when discussing aforementioned necessities such as education and healthcare. The media, however, are often viewed as an entertainment machine, existing solely to provide distraction from the monotony of everyday life. If the media have become a site of entertainment instead of information, that is because the logic of the market has prevailed so thoroughly over the past several decades. Today, it is “taken for granted that broadcasting … is overwhelmingly a commercial medium and that broadcast owners have wide latitude to use the public spectrum to maximize corporate profits” (Huntemann, 1999, p. 393). However, in the early stages of American history, the media were viewed as a crucial element in a working democracy. McChesney (2004) cites three constitutional protections that helped shape the media during the nation’s first century – the establishment of copyright (p. 25), the First Amendment establishing freedom of the press (p. 26), and the creation of post office subsidies (p. 33). All three protections served to facilitate the dissemination of information to the public.

In particular, the freedom of the press clause of the First Amendment did not exist to protect the rights of media owners to do as they pleased (McChesney, 2004, p. 28-29). If it had, there would have been no need to also include the freedom of speech clause (p. 27). Instead, “the freedom of the press clause appears more directly concerned with a functioning democracy,” particularly to ensure that no political party could outlaw opposition press (p. 28). The freedom of the press clause was more of a protection for the public than for the press, meant to ensure that citizens would have access to a wide and diverse array of information. In *Associated Press v. United States* (1945), a case that originated when the United States accused the Associated Press of violating the Sherman Antitrust Act, Supreme Court Justice Hugo Black summarized the intention of the First Amendment and the government’s role in the media:

> It would be strange indeed, however, if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom. The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the
welfare of the public, that a free press is a condition of a free society. *Surely a command that the government itself shall not impede the free flow of ideas does not afford non-governmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom.* (Associated Press v. United States, 1945, p. 20, emphasis added; McChesney, 2004, p. 31)

Freedom of the press was not defined as freedom from any government intervention, as in the neoliberal perspective. The clause existed to protect the free flow of ideas not just from overreach by the government, but from overreach by private enterprise. The government’s role was not merely viewed as protective; in the 19th century, former presidents Thomas Jefferson and James Madison held the perspective that the free press would have to be “the result of explicit government policies and subsidies that would create it” (McChesney, 2004, p. 30). Government postal service subsidies aided in the creation of a bustling newspaper press throughout the 19th century (p. 32). Clearly, this view of the freedom of the press clause differs from the general view that the government should simply stay out of the media’s business, both figuratively and literally. Jhally (1989) noted the conflict between the two differing perspectives on the role of government in free speech. “[T]he courts have never been able to agree whether the First Amendment merely prevents Congress from restricting free expression or whether it implies that Congress should take legislative action to widen and protect free expression” (p. 66). While McChesney (2004) interprets the freedom of the press clause as putting the onus on the government to ensure citizens have access to a diversity of viewpoints, Croteau and Hoynes (2006) seem to suggest that the First Amendment is meant to ensure that the government cannot prevent the media from achieving the same goal (p. 31).

The government still plays a major role in today’s media. Though it is “often forgotten” (Huntemann, 1999, p. 393), the public owns the valuable broadcast frequencies that the government doles out to commercial broadcasters at no charge (McChesney, 2004, pp. 38, 41). The monopoly broadcast licenses require that recipients operate in the public interest, thereby making it clear that considerations other than profit alone would take precedence (p. 42). In addition, the Federal Communications Commission has in the past placed regulations on commercial broadcasters, such as the Fairness Doctrine and ownership restrictions, but those have been significantly relaxed or eliminated over the past three decades as the neoliberal movement has taken hold (p. 50). Under the “new corporate-friendly philosophy,” the lessening
of government restrictions is meant to pave the way for the market to “decide who survives and who dies” (Huntemann, 1999, p. 395).

The ethos of neoliberal ‘deregulation’ was ostensibly to get the government out of business. However, today’s corporate media still benefit from the government policies of the social welfare era, such as government-granted broadcast licenses and copyright protection (McChesney, 2004, p. 19). In addition, ‘deregulation’ is not necessarily an accurate description of what has taken place over the past few decades. In the wake of the 1996 Telecommunications Act, the media were not deregulated, but merely regulated differently. As McChesney (2004) noted, “[t]here is every bit as much regulation by the government as before, only now it is more explicitly directed to serve large corporate interests” (p. 20).

**Concentration of media ownership.** It has so far been established that the neoliberal perspective has taken precedence in U.S. society, and that the government continues to play a major role in creation of media policy, though that role today tends to benefit business as opposed to the general public. The question now becomes how these factors have manifested in today’s media system.

Though it would seem incongruous with the market model, today’s media are woefully uncompetitive. As Croteau and Hoynes (2006) argued, the idea of a competitive, market-based economy falls apart if a “single supplier or small group of suppliers” is able to “artificially influence market dynamics” (p. 17). Certainly that has been the case in the mass media, where the “increasingly lax regulatory environment” has been “absolutely essential for the rapid expansion of media conglomerates” (Croteau & Hoynes, pp. 76, 90). The media were “one of the business world’s most active sectors when it came to multimillion-dollar mergers and acquisitions” during the 1980s, as the “number of corporations dominating all media” was sliced in half (Parenti, 1993, p. 26-27). Media growth and concentration only accelerated after the passage of the Telecommunications Act of 1996. In the radio industry, the number of companies operating independently declined from 75 in 1995 – the year before the act was passed – to just three in 2000 (Croteau & Hoynes, 2006, p. 92). Once the dust mostly settled from the ‘deregulatory’ neoliberal movement of the 1980s and 1990s, the number of corporations owning most of American media had dwindled from fifty in 1983 to five by 2003 (Bagdikian, 2004, p. 27; Croteau & Hoynes, 2006, pp. 108-109). McChesney (2004) argued that uncompetitive
markets undermine the theoretical basis of the neoliberal model, as such markets “cannot be entirely responsive to the audience or offer the most efficient use of resources” (p. 176).

The uncompetitive nature of the U.S. media system cannot be attributed to mere consolidation alone. After all, even if there are select few media corporations, one should expect them to compete against one another. In a competitive market, each of the dominant media corporations would “experiment to create its own unique product … offering different kinds of programs that reflect the widely different tastes, backgrounds, and activities of the American population” (Bagdikian, 2004, p. 6). However, the ‘Big Five’ media conglomerates do not “compete outright,” instead engaging in “mutual aid” and “constricted competition” (p. 6). The major media corporations have interlocking boards of directors, in which “the same board member sits on the board of more than one corporation” (p. 9), and have well over one hundred joint ventures (p. 9). For example, the website Hulu.com is a joint venture of Disney, News Corporation and Comcast (Szalai, 2010, ¶2), making business partners out of the corporations that own three of the four major broadcast networks and myriad cable channels – including rival 24-hour news networks Fox News Channel and MSNBC. Though the major media companies still compete “in some areas,” they have “simultaneously developed an extraordinary level of collaboration and cooperation” (Croteau & Hoynes, 2006, p. 141). If one were to evaluate the major media companies on the basis of resource dependency theory – which equates corporate control over resources with control over a company that needs said resources (p. 141) – it would be possible to argue that instead of five separate corporate entities, the U.S. media system is made up of one all-encompassing corporation. For example, if Comcast controls the carriage distribution of Disney’s ESPN cable networks, the former has a measure of control over the latter. Perhaps in that scenario, Disney’s ABC News may be hesitant to report on misconduct by General Electric, which owns a 49% stake in Comcast’s NBC Universal. This has serious implications for media content.

**Business interests and media content.** If the five major corporations are more partners than competitors, it may not be surprising that the content they produce is generally similar. Croteau and Hoynes (2006) suggested the U.S. media system “too often tilts in the direction of a homogenized monopoly,” in which the media giants produce “remarkably similar” (p. 159) and “highly duplicative” (Bagdikian, 2004, p. 6) content. The news media in particular have been described as offering “remarkably homogenized fare” (Parenti, 1993, p. 30). Such
homogenization is not necessarily the result of creative bankruptcy, but instead can be attributed to the logic of the market model. If markets are supposed to be efficient, it stands to reason that taking major creative risks would be inadvisable. Instead, the goal is to “[imitate] previous successes to minimize risk associated with new products and to take advantage of known and profitable trends” (Croteau & Hoynes, 2006, p. 159). In the film industry, the march toward efficiency has translated to an abundance of sequels and remakes, an increased focus on the use of stars, premises that can sell merchandise, and films that include enough unambiguous content – e.g., violence and sexual content – to sell across language and cultural barriers (Bettig & Hall, 2003, pp. 55-59). Any new Hollywood product must be based on something that has already been established and can translate to any viewer, meaning that unique, potentially complex content is unlikely to be made. The same holds true in television, where “[e]ntertainment programming has mostly gravitated toward a handful of commercially successful genres with formulaic characters and plots” (McChesney, 2004, p. 193). Programs that have already proven to be successful will be replicated, and on the rare occasion when new programming rises to the fore, it will quickly be imitated (pp. 193-194).

In the news media, efficiency has had an even more troubling impact. As Croteau and Hoynes (2006) noted, “[c]ommercial news organizations would like to produce credible news coverage at the lowest possible cost” (p. 170). Over the past several years, they have set about achieving that goal, sacrificing news reporting for additional profits. “News budgets have been subject to significant cuts” (McChesney, 2004, p. 79), and shrinking news budgets have led to “many newspapers [losing] some of their best journalists” (Bagdikian, 2004, p. 106). One of the biggest success stories of the past decade, Fox News Channel, “cut costs to the bone by replacing expensive conventional journalism with celebrity pontificators” (p. 79). Beyond the loss of good journalists, the push for profits also affects what kind of story is being reported. “Searching out stories that aren’t advertised or announced requires time, effort, and crucially, money,” Bettig and Hall (2003) wrote. “Relying on a Golden Rolodex to cover the courthouse, police station, city hall, or Wall Street ensures stories on a predictable timetable and at low costs” (p. 87). It is cheaper to rely on official sources, so much so that it has become increasingly likely “that press releases will be used word-for-word, in part if not in whole” (Reeds & Colbourne, 2000, p. 25; McChesney, 2004, p. 81). “For instance,” Parenti (1993) wrote, “PR Newswire, a wire service specializing in business press releases, distributes 150 stories daily” to major broadcasters and
newsrooms (p. 30). In business journalism, which has been on the rise in recent decades, reporters either dealt with “press releases from the publicity departments of corporations” or were permitted “to enter the inner sanctum of ‘the man himself,’ the head of the company, about whom the reporter would write a story” (Bagdikian, 2004, p. 107). Investigative journalism is “on the endangered species list,” as it requires more money and more experienced journalists. “For media companies, it is considerably more lucrative to have inexperienced journalists fill the news hole with easy stories regurgitating proclamations of the powerful” (McChesney, 2004, p. 81). Parenti (1993) summarized the market logic of news coverage:

News is produced by staff reporters who demand salaries and benefits and who often try to unionize. Sometimes they attempt to write about things that are troublesome to large financial interests and big advertisers. In contrast, ‘soft’ features attract advertisers and offend no one. They can be bought inexpensively from a syndicate, and they demand no salaries, benefits or unions. (p. 31)

The result is “news that is limited in its range of ideas, favoring those entities that have the resources to aid journalists in their work” (Croteau & Hoynes, 2006, p. 170). With money as a consideration, it becomes that much easier for news divisions to succumb to influence from inside and out.

Influence from within. If one’s primary concern as a corporate entity is the pursuit of profit in the most efficient possible way, it stands to reason that anything that could undercut that goal will be avoided at all costs. “Those who manage [corporate] institutions tend to interpret events in the outside world in terms of whether they aid or hinder the company’s pursuit of profits,” Croteau and Hoynes (2006) noted. “There is nothing necessarily conspiratorial about any of this. It is the logic of the market system” (p. 177).

Hence, the corporations that run the media can gloss over or even ignore important information that has real implications for citizens. CBS scrapped an interview with a tobacco executive critical of the industry in 1995, owing in part to concern over a potential lawsuit and the fact that the network’s principal owner was also a “major stockholder in another tobacco company” (Croteau & Hoynes, 2006, p. 180). News Corporation once demanded various changes to a local affiliate story about the use of synthetic growth hormone rBGH in milk, also owing to fear of a lawsuit (p. 182). During the run-up to the passage of the 1996 Telecommunications Act, there was “remarkably little coverage of the proposed legislation” by
the media, which “lobbied heavily for passage” (p. 184). Whether these stories were important to the viewers was immaterial. It was better for the corporations’ bottom line to make sure these issues never saw the light of day.

In particular, the lack of coverage of the 1996 Telecommunications Act was indicative of an ongoing trend within the media to keep corporate activities largely in the shadows. “A centuries-old hole in news media treatment is reporting on internal finances of the media themselves” (Bagdikian, 2004, p. 107). As Croteau and Hoynes (2006) argued, it does not make sense to expect that corporations will report news that is directly harmful to their parent companies or their interests (p. 185). To expect ABC to adequately cover Disney, or for NBC to investigate General Electric, is to expect corporations to act counter to market logic. “No program or magazine,” Gans (2004) argued, “will carry uncomplimentary news about itself or about its firm, except to publicize the firm’s defense” (p. 257). Perhaps the solution is to have non-corporate entities providing news coverage, but considering the barriers-to-entry for independent operators and the vulnerability of government-funded news organizations, that seems unlikely. In the absence of any alternative, the only news available to citizens who rely on the commercial media for information is that which has been filtered down to remove any trace of information that can harm corporate profits. As horizontally and vertically integrated giants, the major media corporations’ business interests are “so broad and far reaching” that there are “very few economic or legislative initiatives that do not affect some part of a media conglomerate” (Croteau & Hoynes, 2006, p. 185). The list of important information being shielded from public view ranges from “FCC actions that benefit the media industry” (p. 184) to news about lax security and pedophilia at Walt Disney World (p. 185). Furthermore, the tendency of the media to omit news that might jeopardize their ability to maximize profit also makes them “sympathetic to similar profit maximization by whatever means among corporations in general” (Bagdikian, 2004, p. 103).

The opposite also holds true, as news divisions have engaged in active promotion of their parent company’s ventures. McChesney (2004) gave the examples of ABC News promoting Disney’s *Pearl Harbor* film, CBS News airing reports on CBS’ *Survivor* reality series, and NBC News offering significantly more coverage of the Winter Olympics, to which NBC owned television rights, than competitors CBS and ABC (p. 85).
Though the neoliberal order requires that the market take precedence over any subjective concerns, it should be pointed out that financial entanglements are not the only influence on news content. The personal politics of media owners can also have an effect. “Dominant media owners have highly conservative politics and choose their talk show hosts accordingly” (Bagdikian, 2004, p. 15), and they have not necessarily been subtle in their aims. Despite the fact that corporations generally try to maintain a veneer of objectivity, there are owners such as Rupert Murdoch, who made no bones about his influence on News Corporation’s reporting. According to Parenti (1993), Murdoch was once asked to what extent he, considered a political conservative, exerted influence on the editorial posture of his newspapers (p. 33). His response was characteristically blunt: “Considerably. The buck stops on my desk. My editors have input, but I make the final decisions” (p. 33).

Often, the desires of media owners do not even have to be communicated. “Journalists want to keep their jobs. Editors know what the company’s interests are. Little or nothing needs to be said about what is or is not acceptable in reporting” (Croteau & Hoynes, 2006, p. 179). As Parenti (1993) noted, daily censorship “is made unnecessary by anticipatory self-censorship” (p. 38). Such self-censorship is “difficult to document” but “commonplace,” with over one third of journalists surveyed in one study admitting they would ignore stories that “might hurt the financial interests of a news organization,” and at least half admitting that they avoided important stories that were dull or complex (p. 179). Referring to the same studies, Bettig and Hall (2003) concluded that they “reveal the institutionalization of self-censorship” (p. 30).

**Influence of advertising.** Far greater and more pervasive than the influence of corporate self-interest is the influence of advertising. The five major media corporations are not just accountable to themselves or each other. They are also accountable to the advertisers with which they do business. Advertising “provides around one-third of all media revenues” (McChesney, 2004, p. 22), and the financial relationship between advertisers and the major corporations has had a severe impact on media content.

The corporate media operate in what Croteau and Hoynes (2006) termed a dual product market. On the surface, it is apparent that corporations sell their product to consumers. However, less obvious is the fact that corporations are also selling those consumers to advertisers. “In essence, then, the media content is often a kind of bait, intended to lure the audiences that are the valuable commodities for sale” (p. 28). These two markets sometimes conflict. The consumers
may enjoy the programs being offered by the media, but the advertiser may not be satisfied with
the type of consumers those programs are attracting (p. 29). As a result, the consumer is not
being served by the market model. Rather than citizens exerting their influence through their
buying power, advertisers determine which firms live and which ones die. Or, as McChesney
(2004) noted, “the needs of the audience have to be filtered through the much more important
needs of the advertiser” (p. 144).

As such, making sure that the advertisers are happy is a very important job – the most
important for many media companies (McChesney, 2004, pp. 143-144). Advertising has grown
exponentially in recent years, with the advent of product placement, virtual advertising, and
long-form content specifically created to promote brands (pp. 146-147). With that growth, there
has been a corresponding increase in advertisers’ clout, such that they now have “considerable
muscle to push corporate media firms in new ways to present commercial messages” (p. 148).
Bettig and Hall (2003) argued that the “overarching purpose of advertising as an institution is to
promote capitalism itself” (p. 79), essentially making the industry an exercise in hegemony. Case
in point, Bagdikian (2004) argued that “advertisers have successfully demanded” that certain
hegemonic ideas be expressed “not in the ads but in the ostensibly ‘independent’ news reporting,
editorial content, or entertainment programs of newspapers, magazines, radio, and television”
(pp. 235-236, emphasis in original). These ideas range from the virtue of businessmen to the
infallibility of the American way of life (p. 236). Bettig and Hall (2003) described how
advertising works to advance hegemonic ideas, such as “popular myths of classlessness or
positive images of upward mobility” (p. 81). Citing poll data that indicates popular belief in
America as an egalitarian meritocracy instead of a nation dominated by corporate interests, the
scholars argue that most Americans have “come to associate the ideal of freedom with free
enterprise, free markets, and free trade. Advertisers have sold them on the idea” (p. 80). Through
advertising, citizens as consumers are made to ascribe to a worldview that measures “success,
happiness, and even love” by “one’s ability and inclination to consume” (p. 80). Advertising
fundamentally “addresses us about how we can become happy,” with the answers “all oriented to
the marketplace, through the purchase of goods or services” (Jhally, 2003, p. 251). “Over and
way of experiencing social reality that is compatible with the needs of a mass-production, mass-
consumption, capitalist society” (p. 71). Content that conflicts with the hegemonic notion of reality is unappealing to advertisers.

It seems clear that advertisers exert significant financial influence on media corporations, and that one of the primary purposes of advertising is to sell to the nation the popular hegemonic ideas regarding the ruggedly individualistic, egalitarian meritocracy called American capitalism. The question then becomes, what are the methods by which advertisers exert pressure on the media, and how does that manifest itself in media content?

Advertisers wield a “unique economic club” over the news media through their ability to withdraw – or threaten to withdraw – their advertising (Soley, 1997, ¶25). The threat is usually enough, but there are myriad cases in which advertisers have essentially placed economic sanctions on corporations because of content of which they did not approve. According to Croteau and Hoynes (2006), advertisers have “sought to suppress media content or punish media companies for already published material” (p. 187). There are two primary reasons why such action is necessary.

**The chilling effect on negative reporting.** When the news division of a major corporation dares to criticize an advertiser or the industry in which said advertiser operates, it risks losing ad revenue. As Parenti (1993) noted, advertisers “are not hesitant to exert pressure” (p. 35). According to Bettig and Hall (2003), there have been “many documented cases, and surely many more undocumented ones, of advertisers canceling or threatening to cancel their accounts because of critical reporting” (p. 95). In the 1940s, piano manufacturers pulled their ads from *Esquire* after the magazine “declared that the guitar is a better accompaniment to singing than a piano” (Bagdikian, 2004, p. 244). In the film industry, Twentieth Century Fox pulled film advertising from *The Hollywood Reporter* “in retaliation for negative comments about the studio’s movie *Fight Club*” (Bettig & Hall, 2003, p. 48), and Paramount Pictures threatened to pull ads from *Daily Variety* over a “scathing critique of its movie *Patriot Games*” (p. 49). Though a half-century apart, the *Esquire* and *Variety* cases ended the same way – the magazine apologized. Steinem (1990), who was one of the founding editors of *Ms.* magazine, detailed how reporting on the possible dangers of hair dyes resulted in the loss of advertising from Clairol:

In the *Ms.* Gazette, we do a brief report on a congressional hearing into chemicals used in hair dyes that are absorbed through the skin and may be carcinogenic. Newspapers report this too, but Clairol, a BristolMyers subsidiary that makes dozens of products – a few of
which have just begun to advertise in Ms. – is outraged. … We offer to publish a letter from Clairol telling its side of the story. In an excess of solicitousness, we even put this letter in the Gazette, not in Letters to the Editors where it belongs. Nonetheless – and in spite of surveys that show Ms. readers are active women who use more of almost everything Clairol makes than do the readers of any other women’s magazine – Ms. gets almost none of these ads for the rest of its natural life. (p. 172)

Sometimes, the negative content need not even be published. In 1990, General Motors – “infamous for withholding advertising dollars as punishment for unfavorable coverage” – pulled ads from Automobile for three months after the magazine’s editor criticized the company’s plant-closings at a black-tie gala (Bettig & Hall, 2003, p. 95).

The tobacco industry has been especially aggressive in pressuring the news media. A 1992 New England Journal of Medicine study found that “magazines that relied heavily on cigarette advertising were fare less likely than others to write about the dangers of smoking” (Bettig & Hall, 2003, p. 97). For example, Time magazine “deleted all references to the hazards of smoking” in a health-related issue that coincidentally included seven pages of tobacco ads (p. 98). Magazines such as Reader’s Digest and Mother Jones lost lucrative tobacco advertising after reporting on the link between tobacco use and cancer (Bagdikian, 2004, p. 254). One of the real dangers for the news media is that the companies with which they do advertising are also horizontally integrated conglomerates. RJR Nabisco and Philip Morris, for example, are “both tobacco companies and major food and beverage producers” (Croteau & Hoynes, 2006, p. 180). As a result, if Time Warner’s CNN criticizes the tobacco industry, corporate sibling Cartoon Network could perhaps risk losing advertising for products such as Nabisco’s Teddy Grahams or Chips Ahoy! snacks.

As with internal pressures on news content, advertisers’ expectations are well known by editors and reporters. Journalists can lose their jobs if advertisers are sufficiently displeased with their reporting. In 1996, a Los Angeles CBS affiliate fired a consumer reporter “after automobile advertisers repeatedly complained to management about his stories on car safety” (Soley, 1997, ¶4). In the early 1980s, UPI reporter Edward Roby was subject to a “concerted attack” from oil companies after reporting on Mobil’s tax rate, which was the same as that of an individual making less than $20,000 per year (Bagdikian, 2004, pp. 172-175). Roby was told to refrain from reporting on Mobil and to do no more “in-depth stories on oil and taxes,” and he soon after left
the company (p. 175). Such incidents are duly noted by members of the media. According to Croteau and Hoynes (2006), one survey “found that about 30% of journalists and news executives believed self-censorship sometimes or often occurred because of concern about advertisers” (p. 188).

Journalists are not the only group stifled. In 2005, *Sports Illustrated* backed out of an agreement to run an editorial by National Council of Women’s Organizations chair Martha Burk discussing Augusta National golf club’s male-only membership policy. While the magazine’s editor blamed objectionable comments – specifically a reference likening the golf club to the Ku Klux Klan – for the decision, the *Chicago Sun-Times* noted that Burk’s piece mentioned “several big corporations by name” (Slezak, 2005, as cited in Rivers, 2008, p. 69). While the *Sports Illustrated* editor vehemently denied protecting advertisers (“SI-Lence,” 2005, ¶1), rival publication *The Sporting News* offered to run the piece with the stipulation that Burke “remove the names of the corporate sponsors” (Rivers, 2008, p. 69). According to a PR representative for *The Sporting News*, it was “the magazine’s policy in op-eds that we do not permit people to disparage the company’s corporate sponsors” (“SI-Lence,” 2005, ¶1).

The effect on news content is not surprising. According to Bagdikian (2004), news “that might damage an advertiser generally must pass a higher threshold of drama and documentation than other kinds of news” (p. 246). Such news is then ignored, minimized, or reported in a fashion that allows the advertiser to state its case. Bagdikian explains in the context of the tobacco industry:

> The print and broadcast media might make page 1 drama of a junior researcher’s paper about a rare disease. But if it involves the 300,000 annual deaths from tobacco-related illness, the media either do not report it or they report it as a controversial item subject to rebuttal by the tobacco industry (p. 252).

In place of critical reporting on advertisers, some news organizations become advertisers in their own right, using the credibility afforded the news media to promote companies’ financial interests. In 1999, *The Los Angeles Times* “devoted its entire Sunday magazine” to the opening of the new Staples Center, without readers or even its own journalists being made aware that the newspaper had “secretly agreed with the Staples Center to split the advertising profits from that project” (Croteau & Hoynes, 1999, p. 173). A local television affiliate in Chicago once produced advertisements for a local hospital that simulated a real news broadcast (p. 176). Most blatant of
all are the cases in which news organizations have implicitly or explicitly agreed to provide presumably positive news coverage in exchange for financial considerations, such as a 2002 incident where a *New York Post* editor informed “publicists that buying an ad might buy coverage” (McChesney, 2004, p. 84).

**Constructing a new reality.** There is another, more “ubiquitous and insidious” impetus for advertisers to withdraw their ads (Bettig & Hall, 2003, p. 95). For decades, advertisers have sought to avoid association with any controversial issues. Advertising giant Procter & Gamble had a host of programming requirements in the 1960s, including bans on material “dealing with sex perversion, miscegenation, and rape” and “scenes of excessive passion and suggestive dialogue” (Spigel & Curtin, 1997, p. 166). More startling was the company’s mandate regarding notions of good and evil depicted on screen:

Men in uniform shall not be cast as heavy villains or portrayed as engaging in any criminal activity. … There will be no material on any of our programs which could in any way further the concept of business as cold, ruthless, and lacking all sentiment or spiritual motivation. … Ministers, priests and similar representatives of positive social forces shall not be cast as villains or represented as committing a crime or be placed in any unsympathetic antisocial role. (Bagdikian, 2004, p. 238-239)

These extremely restrictive policies “were applied both to entertainment programs in which Procter & Gamble commercials appeared and to news and public affairs documentaries” (p. 239).

More recently, Chrysler Corporation required to be notified ahead of time if content included “sexual, political, social issues or any editorial that might be construed as provocative or offensive” (Croteau & Hoynes, 2006, p. 187). Any corporation doing business with Chrysler – “at the time the nation’s fourth largest advertiser” (p. 187) – might have thought twice about running controversial programming. *Esquire Magazine*, for example, “cancelled publication of a short story ... that contained explicit gay material” due to concerns that Chrysler would pull its advertising” (Stewart, 1998, p. 157). Those concerns were not unfounded; the company pulled advertising from the episode of ABC’s *Ellen* in which the title character announced she was gay (p. 157). Chrysler was not a lone wolf. In 1997, the golf manufacturer Titleist pulled $1.5 million in advertising from *Sports Illustrated* after the magazine published an article that “detailed the lesbian party scene” at an LPGA golf tournament (Hays, 1997, ¶1-2). “What will get the axe
next?” *Fairness & Accuracy in Reporting* asked at the time, “Perhaps a positive profile of Ralph Nader, or an expose about Chrysler’s lobbying efforts against safety and environmental legislation?” (Soley, 1997, ¶35). More recently, the retail outlet Lowe’s pulled advertising from the TLC cable channel series *All-American Muslim*. The show, a reality series portraying the lives of five Muslim families in the U.S., had attracted too much controversy for their liking (“Lowe’s Pulls,” 2011, ¶3).

Steinem (1990) detailed the many conditions advertisers had for content in *Ms*. magazine. S.C. Johnson & Son demanded that its ads not be placed “opposite extremely controversial features or material antithetical to the nature/copy of the advertised product.” Maidenform insisted that any “editorial adjacencies reflect the same positive tone” as the company’s advertisements. “The editorial must not be negative in content … e.g. editorial relating to illness, disillusionment, large size fashion, etc.” Procter and Gamble reared its head once more, mandating that its products not be placed “in any issue that included any material gun control, abortion, the occult, cults, or the disparagement of religion” (p. 177, emphasis in original).

The overall thrust for advertisers is that viewers be in the proper frame of mind to accept advertising. “[A]ny scene that contributes negatively to public morale is not acceptable,” Procter & Gamble mandated in the 1960s (Bagdikian, 2004, p. 238). The implications for media content are clear. “Corporate demands on television programs underlie what many consider the most grievous weaknesses of American television – superficiality, materialism, blandness, and escapism” (p. 241). For entertainment programming, sponsors’ need for light, conflict-free programming “was widely viewed as one nail in the coffin of naturalistic live drama in network prime time” (Spigel & Curtin, 1997, p. 166). “Delete the scream and any gurgles,” one sponsor requested to ABC in regard to a murder scene, “There’s a commercial coming up” (p. 167). For news organizations, sponsors’ need for a sanitized unreality conducive to consumption has led to deleterious effects. Steinem (1990) noted that, editors of women’s magazines tended to keep “articles on less-than-cheerful subjects (for instance, domestic violence) … short and unillustrated. The point is to be ‘upbeat’” (p. 177). As cited by Bettig and Hall (2003), Carter (1991) reported that “advertisers have been extremely reluctant to buy commercial time on the special network news programs” about the first Gulf War (Carter, 1991, ¶1). Despite “high ratings,” war specials on CBS “had sold only about 20 percent of their commercial time, making them economically unfeasible for the network” (¶6). “Commercials need to be seen in the right
environment,” an ad executive said. “A war is just not an upbeat environment” (¶18). The result would be less coverage of the war in primetime, and even less coverage on CBS News programs 60 Minutes and the CBS Evening News, which had also dealt with “the reluctance of advertisers” (¶11). These decisions reflect the power advertisers have to shape not just news content, but the perception of reality itself.

For advertisers, the best viewer is one that is passive, satisfied, or in good humor. The realities of war, murder or domestic violence are not conducive to accepting consumerist messages. “[C]omedy, adventure and escapism provide the best atmosphere for selling,” the president of Bell & Howell once told the FCC disapprovingly (Bagdikian, 2004, p. 241). A “good environment” for advertising (p. 240) takes precedence over an informed and empowered citizenry.

Some of the often decried aspects of the U.S. media system then become clear. Acting in unison, the five major corporations offer strikingly similar content. Before this content reaches the average viewer or reader, it is filtered through the needs of the parent company and its related interests and the advertiser and its related interests. The advertiser in particular has specific needs that call for light, escapist programming and a virtual ban on anything that might spark unpleasant thoughts. As such, it would make sense that television programming today is not substantive. The need for a “buying mood” has resulted in “more fluff, more raunch, and more self-proclaimed garbage” (Croteau & Hoynes, 2006, p. 164). All within limits, of course: programs like When Animals Attack were eventually driven off the air because advertisers “did not want to be associated with their increasingly raunchy or gruesome content” (p. 165). It is not necessarily the case that the viewer only wants to be entertained. Instead, the system demands that the viewer only be entertained. Any real news can threaten the economic status of the corporate media, either because the company itself will lose business, or because an advertiser will lose business. Croteau and Hoynes (2006) stressed “the importance of media that are sometimes silly and just plain fun,” but the corporate media are not providing such content because it is necessary. Instead of giving the public what it wants, “media are usually giving advertisers what they want and responding to the interests of demographically desirable audiences” (p. 158, emphasis in original).

**The impact on consumer choice.** Because of the implicit and explicit relationships among media firms and, advertisers and the government, the consumer loses his or her ability to
affect any change in the market. In the ideal market model, if a consumer is unhappy with a
given corporation, he or she can seek service from another corporation. It is through this logic
that the market supposedly works; corporations are held in check by the knowledge that they will
lose their customers if they do not provide adequate service. In the media, however, the five
largest providers share the same interests and provide largely the same products across a diverse
array of platforms. In other words, an individual dissatisfied with the programming on NBC
cannot merely decide to boycott parent company Comcast. Doing so would mean also boycotting
dramas on USA Network, golf tournaments on The Golf Channel, movies from Universal, even
live sporting events involving the Flyers and 76ers. It would also be a fruitless endeavor, as the
programs on NBC are unlikely to be substantially different compared to the programming on
CBS, FOX or ABC, as all networks are merely responding to the needs of their advertisers and
their own corporate bosses. If the consumer has no real alternatives other than similar companies
with which a corporation already does business, then the corporation has no real incentive to
improve its product.

There are major implications for the media corporations’ influence over the basic
ideologies underlying U.S. culture. Media outlets will provide content – ranging from news to
entertainment – that normalizes and standardizes the various cultural and economic practices that
allow them to maintain their monopoly on power, wealth and knowledge. Their business
interests become embedded within what is eventually regarded as common sense. As Croteau
and Hoynes (2006) warn, “At this rate, it will not be long before the everything-for-sale
approach epitomized by commercial media becomes so commonplace that we no longer even
take note of it” (p. 208). The question that arises in regard to coverage of labor issues then
becomes, to what extent have business interests contributed to negative media coverage of
organized labor?

Bruno (2008) noted that labor issues in sport tended to make up a significant proportion
of labor coverage in the Chicago Tribune between 1991 and 2001. The Tribune had dedicated an
increasing level of staff and resources to sports coverage, at the expense of general news, in
order to keep up with the Chicago Sun-Times (p. 396), and sports coverage had become
“relatively more important in attracting advertisers and readers” (p. 397). As a result, Bruno
argued that “the Sports section” had come to serve “as the principal vehicle for educating the
public about organized labor and industrial relations” (p. 397). Though the research has not been
done to extrapolate Bruno’s findings to media coverage nationwide, it seems clear that sport –
with multi-billion dollar television contracts, often millions of fans watching each game, and
employees who are household names – offers the highest-profile lens through which to view
media coverage of labor issues.

Methodology

This paper will analyze media coverage of the five-month NBA lockout using a political
economic framework. The media outlets analyzed will be newspapers *The Wall Street Journal*
and *The New York Times*, wire service *The Associated Press*, privately owned television network
news divisions ABC News and CBS News, and publicly owned PBS. These outlets were chosen
specifically to determine whether there is a difference between news coverage of labor in
publicly-owned and privately-owned outlets, whether there is a difference between newspapers
and over-the-air broadcast network licensees, and whether there is a difference between outlets
whose parent companies have a relationship with the NBA and those that do not. Previous
literature indicates that newspapers and television networks have provided differing coverage of
sports labor conflicts. Discussing media coverage of the 1994 Major League Baseball strike,
Martin (2004) noted that with few exceptions, “network television news used general assignment
reporters to cover the baseball strike,” with said reporters following the “traditions of objective-
style reporting” (pp. 130-131). Conversely, newspapers “typically used full-time sports reporters
and columnists to cover the baseball strike,” and as such were not bound to norms of objectivity
(p. 131). To use Martin’s terminology, the difference between television and newspaper
reporting of the 1994 strike was that reporters for the former acted as “surrogate eyewitnesses,”
while reporters for the latter acted as “surrogate fans” (p. 131).

**Newspapers.** As of September 30, 2011, *The Wall Street Journal* had the highest
circulation of any newspaper in the United States, with an average circulation of 2.1 million
(Hsu, 2011, ¶4). In 2007, parent company Dow Jones was acquired by News Corporation.
Today, *The Wall Street Journal* is part of the global News Corporation empire, which includes
the various Fox networks. Through the Fox Sports Net regional sports networks, News
Corporation has a financial relationship with several NBA teams.

*The New York Times* has the third-highest circulation in the United States, at 1.1 million.
*The New York Times* Company owns a 7.3 percent stake in Fenway Sports Group, owner of the
Boston Red Sox and the NESN regional sports network, and partner of LeBron James’ LRMR
Marketing & Branding company (Healy, 2011, ¶4). Originally, the company owned a 17 percent stake in Fenway Sports Group, but sold more than half of its share in 2011 “for a sizable profit” (¶1). The New York Times Company does not have a current relationship with any NBA team.

The Associated Press is a wire service owned by 1,400 daily newspapers as of 2012 (“Frequently asked”). A national news story published by the AP is made available to each of those clients, meaning a single AP article can appear in more than a thousand different newspapers nationwide. The result, according to Birrell and McDonald (2000), is the “homogenization of information dissemination among the mainstream media” (pp. 271-272). Such homogenization is not merely manifested by having the same stories appear in thousands of newspapers. The AP was instrumental in the rise of ‘objectivity’ according to McChesney (2004). In order to avoid offending its myriad clients, the AP “encouraged a journalism that was seemingly nonpartisan” (p. 35). Having developed in collaboration with private monopoly Western Union – and enjoying the benefits of that relationship – the AP “invariably presented a voice that took the side of business interests” (p. 36).

Television networks. ABC News, the news division of the American Broadcasting Company, is home to the second-most viewed morning and evening news programs. During the 2010-11 television season, ABC’s Good Morning America averaged 4.68 million viewers, and World News with Diane Sawyer averaged 7.81 million, both behind the comparable programs on NBC (Ariens, 2011a, ¶4; Ariens, 2011b, ¶5). ABC is owned by The Walt Disney Company, and owns an 80 percent stake in ESPN (“ESPN, Inc.,” n.d., ¶1). As of 2011, ESPN was in the midst of an eight-year television deal with the NBA worth $485 million per season (Deveney, 2011, ¶2). NBA regular season and playoff games air on both ESPN and ABC, and ABC has televised the NBA Finals every year dating back to 2003. As part of the aforementioned television deal, ESPN and fellow national rights-holder TNT paid the NBA rights fees during the 2011 lockout (¶2).

CBS News, the news division of the Columbia Broadcasting Company, airs the third-place morning and evening news programs. During the 2010-11 television season, CBS’ The Early Show averaged 2.60 million viewers, and the CBS Evening News with Katie Couric, and later Scott Pelley, averaged 5.87 million (Ariens, 2011a, ¶4; Ariens, 2011b, ¶5). CBS is owned by CBS Corporation, which shares joint ownership of The CW broadcast network with Time Warner (Flint, 2011a, ¶5). Time Warner’s Turner Sports pays a $445 million annual rights fee to
the NBA as part of its television deal with the league (Deveney, 2011, ¶2). On a national level, CBS Corporation does not have any relationship with the NBA. However, CBS owned-and-operated Dallas-Ft. Worth affiliate KTXA televeises Dallas Mavericks games, and Los Angeles affiliate KCAL will televise Los Angeles Lakers games through the 2011-12 season (Flint, 2011b, ¶4).

**PBS and public broadcasting.** PBS, or the Public Broadcasting Service, is a public broadcast network which “depends on congressional appropriations” for funding (Bagdikian, 2004, p. 260). As such, even though “the traditional sources of control in commercial broadcasting – owners and advertisers – are absent” (McChesney, 2004, p. 245), PBS is still subject to many of the same restraints on content as the commercial outlets. As the recipient of government funding, public broadcasting tends to come under fire from political conservatives, whose beliefs tend to align with the neoliberal agenda. McChesney (2004) argued that political conservatives “use what little money Congress provides as leverage continually to badger public broadcasters to stay within the same ideological range found on commercial networks” (p. 245). As a result, the public broadcasters tend to “[bend] over backwards to appease the Right and appear ‘balanced’” (p. 246). Even so, public broadcasting has come under threat from Republicans on several occasions over the years; Richard Nixon vetoed the public broadcasting budget in 1972 (p. 245), Newt Gingrich “announced his plan to ‘zero out’ public broadcasting due to its alleged liberal bias” in 1994 (p. 245), and the Republican-led House of Representatives voted to rescind funding for PBS and National Public Radio in 2011 (Khan, 2011, ¶1). With funding at the mercy of ideologically opposed conservatives, public broadcasting has had to rely on corporate money. According to Croteau and Hoynes (2006), “public broadcasting increasingly has turned to corporate underwriters and viewer donations to survive” (p. 246). Much like the commercial networks, public broadcasting has faced constraints from this corporate influence. In just one example, “Mobil Oil, a major sponsor of public broadcasting, urged [PBS] to suppress the showing of a film that would upset its oil partner, Saudi Arabia” (Bagdikian, 2004, p. 169). Due to these corporate constraints, public broadcasting has “[begun] to resemble commercial media” (Croteau & Hoynes, 2006, p. 246).

Based on the literature presented in Chapter Two, primarily the findings of Martin (2004), Parenti (1993), and Puette (1992), this thesis will use a political economic approach to examine whether news media coverage of the 2011 NBA lockout was skewed in favor of
management over labor. In particular, though both sides of the dispute will be viewed as unreasonable, the players will have their grievances overlooked and their salaries subjected to scrutiny. The lockout will be covered from a consumerist perspective that focuses primarily on the consumers’ inability to consume the NBA product. The five media outlets examined will be expected to especially favor management, and the two outlets whose parent companies have relationships with the NBA will be expected to exhibit stronger bias toward management. To examine these claims, the thesis will analyze news reports on the NBA lockout from each of the selected outlets for sourcing, word choice, and what ideological frames are being perpetuated. The ideological component will be measured against Martin (2004)’s four phases of media coverage of the Major League Baseball strike and Puette (1992)’s summation of Parenti (1986)’s seven generalizations of media coverage of labor. Martin (2004) found that the media largely covered the MLB strike from a consumer-oriented perspective (p. 128). Citing Parenti (1986), Puette (1992) noted the tendency in the news media to portray labor unions as “irrational, greedy and self-destructive” while generally overlooking management’s demands, salaries and governmental allies (p. 10). Kumar (2005) and Tracy (2006) described how labor unions were viewed as disrupting business as usual during the 1997 UPS and 1962-63 ITU strike, respectively, essentially merging the public’s need to consume, management’s need to conduct business, and the state of the overall economy (Kumar, 2005, p. 137-138; Tracy, 2006, p. 553).

Newspaper articles and television transcripts will be obtained using the Lexis-Nexis Academic Universe and ProQuest databases. To obtain news reports about the NBA lockout, six specific keywords will be used: labor, collective bargaining, National Basketball Association, lockout, strike, and union(s). Articles will be obtained during the period beginning June 26, 2011, and ending December 1, 2011, encompassing the five days before the start of the NBA lockout, the entire five-month conflict itself, and then the five days after the NBA and the NBPA announced a tentative agreement on a new deal.

To understand media coverage of sports labor issues, it is not sufficient to examine the media alone. Having examined the various influences on media content – including the perpetuation of the established neoliberal ideology, the continued use of government aid by major media corporations, the personal preferences of media owners, and the financial interests of advertisers – it is now necessary to analyze the nature of sports labor disputes in the NBA. The next chapter documents over a half-century of labor in the NBA.
CHAPTER FOUR

HISTORY OF LABOR IN THE NBA

To understand coverage of the current NBA labor dispute, one must first examine the history of labor in the NBA. This chapter includes a detailed analysis of more than fifty years of labor negotiations between the NBA and the NBA Players Association, including major disputes in the 1970s, 1995 and 1998-99.

Labor-Management Conflict in the Early Years of the NBA

The first victory. The NBPA formed in 1954, just seven years after the National Basketball Association itself began. Prior to the formation of the players union, NBA players had “no pension plan, no per diem, no minimum wage, no health benefits and the average player salary was $8,000” (“About the,” ¶3). The union’s “first victory” came in 1964, when NBA players threatened to boycott the first nationally televised All-Star Game (¶3). The players sought a pension plan, but the owners had been “dragging their feet for many years” (Daley, 1964, ¶5). As union head Heinsohn recalled decades later, “We went down and talked to the commissioner at about 5 o’clock and told him that because they hadn’t met with us, we were not going to play unless they met our demands” (Bresnahan, 2011, ¶13). The game was delayed and the owners “caved” (Keteyian, Araton & Dardis, 1997, p. 67). The near-boycott, as reviewed years later, had “snapped the league out of its three-year lethargy and won for the players the most rudimentary of retirement benefits” (Wolff, 1985, ¶3).

The pension plan again became an issue in 1967. Primarily dissatisfied with “club owners’ refusal to put forward what the players regarded as a realistic pension plan” (McGowen, 1967, ¶3), players threatened to strike the 1967 NBA Playoffs (¶1). Several days later, the owners in turn threatened to cancel the playoffs if the players did not give assurances that they would “comply with their contracts … and participate in the playoffs” (Koppett, 1967, ¶1).

The 1967 dispute included an unprecedented action by the players association. In addition to the potential playoff boycott, players also threatened to “take steps to form a union by filing for certification with the National Labor Relations Board” (McGowen, 1967, ¶1), a move described by The New York Times as “the first such step in pro sports in the United States” (“League Playoffs,” 1967, ¶9). The postseason was eventually saved after the Players
Association received “an agreement in writing that assured them the players’ pension proposals would be met” (“NBA and,” 1967, ¶2).

The reserve clause and the Robertson suit. The next standoff between the NBA and the NBPA came in 1970, when players filed an antitrust suit against the NBA and ABA to challenge both a proposed merger between the rival leagues and the reserve clause system (Koppett, 1970, ¶1). The reserve clause bound players to teams beyond the expiration of their contracts (Koppett, 1972, ¶4), allowing teams to avoid competitive bidding on players. Team owners had openly asserted that such bidding would “bring them to the point of economic disaster” (¶9). Under the reserve clause system, the rival ABA was the only alternative for a player bound to an NBA team. If the leagues merged, the players’ only option for any semblance of free agency would be eliminated. The reserve clause was not the only limitation on player movement. Even when a player was released from his contract, his ability to sign with other teams was limited by the compensation clause – a deterrent to acquiring free agents that required compensation be paid to the player’s former team.

The reserve clause was abandoned when the league and players settled the lawsuit in 1976 (Koppett, 1976, ¶1). As part of the settlement, the players agreed to a temporary form of compensation that would last through 1981. Teams would still get compensation for lost players, but the amount awarded would be determined Commissioner Larry O’Brien – with the union able to challenge O’Brien’s rulings in court (Goldaper, 1979c, ¶8-10). After 1981, the system would be replaced with the right of first refusal, a form of restricted free agency in which teams would not be compensated if they failed to meet their player’s best offer (Goldaper, 1980a, ¶6).

The compensation clause resulted in several legal scuffles during the late 1970s. After the New York Knicks signed Seattle Supersonics player Marvin Webster in 1978, Commissioner O’Brien “made his harshest compensation award” in a ruling that “was estimated to have cost the Knicks more than $1 million” (Goldaper, 1979a, ¶16). The NBPA appealed, finding the award to be “an effort to limit the movement of free agents by requiring inordinately large compensation” (Goldaper, 1979b, ¶7). The NBPA also challenged a compensation award given to the Portland Trail Blazers for losing Bill Walton to the San Diego Clippers (“Walton Case,” 1979, ¶1). An arbitrator later overturned the Webster award and amended the Walton award (Goldaper, 1980b, ¶1), finding in each case that the compensation was “significantly excessive” (¶3).
**Pleading poverty and the salary cap.** Once the right of first refusal began in 1981, the league began sounding the alarm of financial distress. *The New York Times* reported that the “huge salary offers made to free agents under the new right of first refusal, coupled with a shocking report of increasing losses,” had “stirred fear” among owners (Goldaper, 1981, ¶1). As is typical when discussing NBA finances, player salaries were viewed as the main culprit. Eighteen of the 23 NBA teams were said to have either “lost money or broke even” (Johnson, 1982, ¶16), and player salaries were estimated by a “league source” to make up three-quarters of the league’s gross revenue (¶25). Trail Blazers owner Larry Weinberg said in 1982 that he believed “a number of franchises” had lost “tremendous amounts of money,” and the league could no longer “afford to operate in the same fashion anymore” (Goldaper, 1982, ¶26).

Corresponding with these claims of financial distress was the expiration of the collective bargaining agreement. As negotiations began in the summer of 1982, NBA chief negotiator, executive vice president, and future commissioner David Stern spoke of a “wide gulf between the NBA and the players on all issues” (Goldaper, 1982, ¶15). It was not difficult to see why. The league sought a host of concessions ranging from the massive – the elimination of guaranteed contracts and of the players’ pension, health insurance and life insurance – to the merely ridiculous – demanding 75 percent of the players’ shoe endorsement income and requiring that players travel in coach instead of first class (¶5-10). NBPA general counsel Fleischer said the owners were trying to “take away all the benefits the players have accumulated in 15 years” (¶21) and doubted the seriousness of their supposed plight: “I don’t believe there are teams about to fold. I have said there are about 10 teams not making money, but I never said they’re in trouble” (Berkow, 1983, ¶16).

Some in the media were not exactly buying it either. *The New York Times’* Ira Berkow said the owners could not “contain themselves from giving away huge chunks of money,” and were “pleading with the players to help them stop” (Berkow, 1983, ¶2). Another *Times* article noted that the league “has been crying poverty for a long time” (“Players Examine,” 1983, ¶1).

In early 1982, reports surfaced that the league had “proposed a formula that would tie salary costs to a team’s revenues” (“NBA Weighs,” 1982, ¶1). The proposed formula, which became the salary cap, quickly became the “largest issue in negotiations” (Goldaper, 1983a, ¶8). Each team would have a maximum payroll limit, and any team exceeding the limit would not be able to sign free agents (Goldaper, 1983c, ¶12, 16). In return, the players would “share in league
receipts,” earning “40 percent of gross revenues up to $250 million, and 30 percent of revenues above $250 million” (¶11).

NBPA leaders did not object to the proposed salary cap (Berkow, 1983, ¶6), but instead sought to have the system delayed until after the expiration of the Robertson settlement in 1987 (¶7). In addition, the union sought a larger percentage of gross revenue than the league was proposing (Goldaper, 1983c, ¶13). The idea of a salary cap was considered by The New York Times’ Ira Berkow “a strange thing for a union to accept” (¶19) and “anathema to the free-enterprise system” (¶20). The owners, he said, were “capable of getting out of their own muddy mess – if, in fact, it is a mess – by themselves” (¶20), as they were “multimillionaires, having made their money in businesses unrelated to basketball” (¶22). This was neither the first nor the last time that the players would be forced to make economic sacrifices for the good of the business – or more specifically, the owners. The trend of one-sided sacrifice was also evident outside of the NBA. Between 1989 and 1998, U.S. employees worked greater hours and suffered reductions in healthcare and pension benefits (Martin, 2004, p. 23). The reward for their sacrifice was a mere 0.4% increase in median household wealth over that period – compared to a 62.7% increase in median CEO wage from 1989-99 (p. 24).

In February, the players set a deadline of April 1 for a new deal, after which they would take “all the necessary action,” including going on strike (Goldaper, 1983a, ¶1-3). Within a week of the deadline, the players relented on their desire to delay the salary cap to 1987, so long as the owners instituted a minimum payroll (“Union Alters,” 1983, ¶1). Fleisher explained that if the “minimum and maximum salary were high enough, at least 18 teams would be forced to spend a considerable amount more for salaries than they are presently doing, and there would no longer be any need for the Robertson settlement” (¶9).

The sides reached a four-year collective bargaining agreement on March 31. Under the new deal, the league instituted the salary cap and the payroll minimum and guaranteed the players 53 percent of gross revenues (Goldaper, 1983d, ¶1-2). The agreement was called “one of the most innovative in any area of labor-management relations” in The New York Times (Raskin, 1983, ¶5) and deemed a “landmark labor agreement in professional sports” by Commissioner O’Brien (Goldaper, 1983d, ¶5). The introduction of the salary cap would permanently change the face of sports labor negotiations.
The salary cap revolt. It did not take long before the new salary cap began to prove problematic for the players. Fleisher believed the cap and the right of first refusal had combined to dissuade teams from bidding on free agents “on the theory that their former teams will match and might raise each other’s payrolls,” (Goldaper, 1984, ¶14). Unsigned player Maurice Lucas echoed that thought, arguing that the system “is not working,” as players “either have to be firm and wait it out or sign for whatever they give you. I’d like to sign for my market value” (¶16).

Teams also began finding ways to get around the cap. In 1986, the Knicks were found to have engaged in a “stark case of intentional circumvention” (“Knick Offer,” 1986, ¶3) in their pursuit of free agent Albert King. It would not be the first or the last time that the league’s effort to constrain player movement and salary would be reinforced through the courts.

The players sought to have the salary cap eliminated altogether during negotiations for a new CBA in 1987, as well as the right of first refusal and the NBA Draft (Johnson, 1987a, ¶3). The cap was viewed as an “artificial restraint” (Goldaper, 1987a, ¶13) that was no longer needed. “We only agreed to the cap if there was freedom of movement amongst our players once their contracts expired,” Fleisher told The New York Times (¶14). The right of first refusal was also problematic according to Fleisher, as the owner collusion had inhibited the players’ freedom of movement in the free agent market (Goldaper, 1987c, ¶10). In addition, the salary cap made the right of first refusal redundant, as owners already had protection from losing their star players to richer teams (¶14). The players’ demands were “expected to get a resounding no from the owners,” several of whom were “on the record as saying they would take a strike rather than surrender on the three major issues” (Goldaper, 1987a, ¶8).

The owners had their own demands during the ’87 negotiations. Citing “rising player salaries,” the league sought to reduce the players’ percentage of revenue (Johnson, 1987a, ¶2). The renewed concern over player salaries would seem to call into question whether the four-year old salary cap, regarded as essential to the NBA’s financial health, had actually been effective.

After little progress in CBA negotiations (Goldaper, 1987b, ¶3), the sides came to an agreement on a moratorium that would last through October 1 (“Signing Delay,” 1987, ¶1). The NBA would be allowed to hold the 1987 draft, but banned signings of any kind until a new CBA was reached. In addition, neither side would be “permitted to start litigation against the other” (¶3-4). Though the signing moratorium was supposed to help negotiations “proceed on an
accelerated basis” (“Signing Delay,” 1987, ¶4), the two sides held just two unproductive meetings between early June and mid-September (“NBA Talks,” 1987, ¶1).

With the expiration of the signing moratorium on October 1, speculation surrounded what the players would do next, with concern they would strike at some point during the season or pursue an antitrust suit (Goldaper, 1987d, ¶5-7). The players pursued the latter, with nine players filing “a class-action antitrust suit, on behalf of all the players, against the NBA and its 23 franchises” (Goldaper, 1987e, ¶2). The suit charged that the cap, draft, and right of first refusal were restrictive and “not protected by the nonstatutory exemption” because the CBA had expired (Bridgeman v. National Basketball Ass’n, 1987, p. 964). The owners argued that the restrictions should stay in place “during the entire interim period between expiration of the old agreement and signing of the new accord, irrespective of any bargaining impasse” (Stern, 1987, ¶14).

In December, Judge Dickinson R. Debevoise “split the difference, but to the league’s distinct advantage” (Stern, 1987, ¶15). He dismissed the players’ contention that the nonstatutory labor exemption expires the moment the CBA expires, but also rebuffed the owners’ claim that the exemption applies indefinitely after the expiration of a CBA, so long as no additional changes to the existing agreement are made. In his decision, Judge Debevoise noted that “a time will come after expiration of the agreement when the practices that were included in the agreement can no longer be said to exist as an extension of the agreement,” after which the exemption would no longer apply. “The relevant question,” he concluded, “is when that moment occurs” (Bridgeman v. National Basketball Ass’n, 1987, p. 966). As summarized by The New York Times’ Todd Stern:

[T]he free agency restrictions of the expired agreement remain in effect (and thus exempt from legal attack) as long as management reasonably believes that the restrictions will be included in the new agreement. More surprising, whether management does have such a reasonable belief won’t be decided until trial and will be up to the jury (¶15).

Partially in response to the ruling, NBPA player representatives voted unanimously in February 1988 “to recommend to the membership that it decertify the union” (Goldaper, 1988a, ¶4). The belief was that the nonstatutory labor exemption would not apply if there was no union with which the league could have a collective bargaining relationship (¶6). The move was dismissed as a “stratagem to increase their collective bargaining position” by Commissioner Stern (¶13). The decertification threat worked, however, according to former player Len Elmore.
“[Fleisher] had four hundred names on a decertification petition to Stern, and suddenly Stern was saying he intended to strike a deal” (Keteyian, Araton & Dardis, 1997, p. 72). Indeed, over the course of the next two decades, decertifying the union would come to be the only means by which the players could challenge the owners in collective bargaining.

In April, the league and the NBPA came to an “unexpected agreement on a new six-year contract” (Thomas Jr., 1988, ¶1), with both sides agreeing to “discontinue their litigation once a final pact has been ratified” (¶6). Under the new CBA, the cap, draft, and right of first refusal all remained in effect, though the latter would be eliminated at the end of a player’s second NBA contract (¶3-5). Though the union “appeared to achieve far less than its original demands,” outgoing counsel Fleisher “said he was more than satisfied” due to new limitations on the right-of-first-refusal (¶9-10). “For the first time in history, players will be free to choose the teams they want to play for after a certain period of time,” he explained (¶10).

The early days of NBA labor-management negotiations, particularly the 1983 negotiations, set a trend that would mark labor relations in the NBA for the next three decades. The league would bemoan widespread financial losses and the players would be expected to sacrifice in order to mitigate said losses. Recall that hegemony is effective when citizens perceive the interests of the ruling class to be in their own self-interest. In the NBA, what was good for business was viewed as good for the league as a whole, and hence, the employees. Having adopted that mindset, the players agreed to the salary cap in order to keep the failing league afloat. In reality, however, what was good for the business was great for the owners – and the start of three decades of rollbacks for the players. In effect, the players’ sacrifices were used against them to line the owners’ pockets, as evidenced by the difficulty the players had in having the cap removed.

As mentioned before, this trend was not limited to the NBA. Employee sacrifices, as well as strikes and lockouts, have been primarily discussed in relation to their impact on the overall economy. What is good for the economy is supposed to be good for everyone. However, the elite, ruling class has done none of the sacrificing, and yet reaped all the rewards.

**Union Infighting and the First Lockout**

The first hints of what was to come. The next few months would bring several changes to the NBA and the NBPA. In October 1988, Fleisher stepped down from his position as NBPA general counsel. Fleisher, who had also served as a player agent since 1967 (Wolff, 1985, ¶2),
had faced “mounting pressure for him to quit” (Keteyian, Araton & Dardis, 1997, p. 69). Though he did not collect agent fees, Fleisher’s “dual role was perceived by anti-agent players such as Isiah Thomas, Magic Johnson, and Buck Williams as a severe conflict of interest” (p. 69).

Notably, Thomas and Williams served as the next two NBPA presidents, with the latter presiding during the 1995 NBA lockout – when a group of agents and the players they represented attempted to decertify the union. Fleisher’s job was “split into two new positions: an executive director and a general counsel” (Goldaper, 1988b, ¶4).

NBPA executive director Charles Grantham filled the executive director position, but not without controversy. Grantham had been the preferred candidate of Thomas, who was becoming union president, but not of the committee assembled to name a replacement. The committee, made up of “onetime Fleisher clients and loyalists” Junior Bridgeman, Paul Silas, and Bob Lanier, was not pleased by the decision (Keteyian, Araton & Dardis, 1997, p. 70). “[N]ow that the Fleisher faction was excised,” Keteyian, Araton and Dardis (1997) would later recall, “player agents who always had a window to the Players’ Association through Fleisher would be shut out” (p. 71). The position of general counsel was filled by former NBA deputy commissioner Simon Gourdine (Goldaper, 1990, ¶1). This was a notable shift for the union. The agents would come to be viewed as a threat to the players over the next two decades, not just by commissioner Stern, but by former union leaders Thomas (Araton, 2011d, ¶19) and Oscar Robertson (Robertson, 1998a, ¶11). It should be pointed out that whatever their motivations, the agents’ interests corresponded with those of the players. It behooved the agents for the players to be able to operate in an unrestricted free market. By contrast, the owners’ interests were diametrically opposed to the players.

For the union to excise the agents and add a former league executive as general counsel signaled an effort toward a more cooperative relationship with the league. During the 2011 NBA lockout, Thomas referred to his time in the league thusly: “Back then, the players and the owners had a common good, and that was to make the game better … as a union, we made sure it was between us and the owners and that we kept the agents out of the process” (Araton, 2011d, ¶19). Like most partnerships between management and labor, however, the ‘common good’ was lining management pockets at the expense of labor wages.

**More cap conflict**. The first few years of the 1990s included some salary cap related conflict. In 1992, the players won a $100 million settlement after accusing the league of lowering
player salaries by using accounting practices that violated the CBA (Keteyian, Araton & Dardis, 1997, p. 73; “NBA Challenged,” 1991, ¶1). The following year, the league appealed to the courts over what it believed were attempts to circumvent the salary cap (“NBA Cap,” 1993, ¶2). At issue was free agent Chris Dudley’s deal with the Portland Trail Blazers, which paid him a first-year salary of less-than-half of what his former team, the Nets, had offered him (“Dudley’s Blazer,” 1993, ¶5), but contained an opt-out clause that would allow him to become a free agent the next year (¶4). Because the NBA allowed teams to “exceed the salary cap in resigning their own free agents,” the Trail Blazers would then be able to offer Dudley “far more than the cap allowed them to offer him this year” (¶4). The NBA viewed the arrangement as an attempt to circumvent the salary cap, but an arbitrator ruled in favor of Dudley, and the league lost on appeal (¶17).

That same summer, reports indicated the union was again “pushing for the elimination of the salary cap” (Brown, 1993, ¶2). Grantham believed the cap was no longer needed, a similar argument to the one made by the Fleisher in the 1987-88 CBA negotiations (Brown, 1992, ¶21). When the salary cap was first instituted, Grantham noted, “[t]he image of the league … was drug-infested, with four teams about to go out of business. The teams opened the books. We opted to save jobs, to save the clubs, but not forever” (Vescey, 1993a, ¶13). Or, as The New York Times put it, the “players were cooperative with the league in dire times, but that era has clearly passed” (Berkow, 1994a, ¶10).

Former NBA guard Danny Manning served as an example of why the players were dissatisfied with the salary cap. When he was a free agent in 1994, “salary-cap restrictions prevented many teams from offering him anywhere near the $3.2 million” he earned the previous season with the Clippers and Hawks (Brown, 1994, ¶14). He eventually signed a one-year, $1 million contract with the Suns (¶14).

With the NBPA again going after the cap, teams’ aforementioned exploitation of loopholes would have major implications for the league as a whole. As The New York Times’ Murray Chass asked in September 1994, how could the league defend the system “when the very people it is meant to protect try to skirt it?” (Chass, 1994b, ¶18).

If the salary cap was in danger in the NBA, the concept had grown popular among owners in the other major sports. The NFL and NFLPA agreed to institute a salary cap in their 1993 CBA (Eskenazi, 1993, ¶2). Major League Baseball suffered through a damaging strike in
1994 due its attempt to introduce a salary cap system (Anderson, 1994, ¶4), and the National Hockey League – led by commissioner and former NBA general counsel Gary Bettman – lost games due to owners’ attempt to institute a system that was viewed by players as “a salary cap in disguise” (Lapointe, 1994, ¶5).

**Avoiding a lockout in 1994.** In addition to the abolition of the salary cap, the NBPA also sought the discontinuation of the NBA Draft and the right of first refusal (Sandomir, 1994a, ¶6). As paraphrased by *The New York Times*, NBPA executive director Grantham explained that the union had agreed to those terms in 1983 and 1988 “as economic necessities,” but by 1990, “We decided the cap and the draft restricted movement of players, and they had to be ended” (¶15). The owners had their own demands – even if those were not as well publicized – including rollbacks and a harder cap (Araton, 1994, ¶17). The ‘harder’ cap would essentially remove the loopholes teams had been using by eliminating, among other things, the opt-out contract used by Dudley and others (Chass, 1994c, ¶24).

As in 1987-88, there was disagreement over whether the provisions of the current collective bargaining agreement would continue once it expired. On June 17, the NBA sought a declaratory judgment that the nonstatutory labor exemption would continue to apply even after the existing CBA expired, and that the contested provisions of the CBA would not violate antitrust law even if the exemption did not apply (*National Basketball Ass’n v. Williams*, 1994, p. 686; Sandomir, 1994a, ¶5).

Federal Judge Kevin Duffy ruled in favor of the league, finding not only that the nonstatutory labor exemption would apply for as long as a collective bargaining relationship existed, but also that the that the salary cap, draft and right of first refusal did not violate antitrust law even without the exemption (*National Basketball Ass’n v. Williams*, 1994, p. 1,078). The ruling was a “major setback” for the players (Sandomir, 1994b, ¶1). In his decision, Duffy explained that the players retained alternatives:

Certainly, they can attempt to bargain these provisions away—including exerting economic pressure by means of a strike. Or, the Players may request decertification of the NBPA as a collective bargaining agent. I do not mean by this ruling to encourage the Players to decertify their union so that they may bring an antitrust claim. But, decertification is certainly an option the Players have. (*National Basketball Ass’n v. Williams, 1994, p. 1,078*)
In response to the ruling, Grantham said in September 1994 that “a labor union should not have to go out of business in order to be protected by the antitrust laws” (Anderson, 1994, ¶13). The same month, the union appealed Duffy’s ruling.

As the NBA and NBPA waited for the results of the appeal, speculation began that the league would impose a lockout players in the fall (Brown, 1994, ¶5; Araton, 1994, ¶15). In October, however, the NBA not only declined to set a lockout date, but announced that the 1994-95 season would begin as scheduled (Sandomir, 1994c, ¶1). The move defied the expectations of union leader Grantham (¶6). In announcing the move, Commissioner Stern noted the positive state of the league. “I’m not here saying the owners are doing poorly. We’d like a deal before the season. But there are no ultimatums here. There’s no gauntlet being thrown down” (¶11). Stern also said owners would consider increasing players’ percentage of revenue (¶23). Part of the reason for Stern’s optimism, or “percolating confidence” (¶15), was a “belief that the players will lose their Federal Court challenge” (¶15).

In late October, NBA players Howard Eisley and David Wood sued the league, charging that salary cap had been reduced “artificially” (Sandomir, 1994d, ¶1). The two players, who each signed for the league minimum in the offseason (¶5), argued that the league had pocketed money that had been freed up by the cancelation of a pre-pension benefit plan, instead of adding that money to the players’ share of revenue (Chass, 1994c, ¶13). Of course, this was not the first time players accused the league of artificially reducing the cap; as mentioned before, the union made similar allegations earlier in the decade and won a $100 million settlement.

Despite assurances that they would not lock out the players, the NBA told the union that it would impose a lockout of players by October 31 in the absence of a new deal (Chass, 1994c, ¶7). With the NBA seeming likely to join Major League Baseball and the NHL in having concurrent work stoppages, the league and players came to an agreement on a no-strike, no-lockout pledge (¶2) that would preserve the 1994-95 season.

While Stern and Grantham “were hailed as pragmatic sportsmen,” the no strike-no lockout pact “was more about union acquiescence,” as Keteyian, Araton and Dardis (1997) would later recall (p. 65). The pledge was conditioned on some key concessions by the players, including a “stay of legal action” against the league through the playoffs, including the Eisley-Wood lawsuit and the NBPA appeal of Judge Duffy’s ruling (Chass, 1994d, ¶16). In addition to the postponement of legal action against the league, the arrangement also included a season-long
moratorium on renegotiated contracts and contract extensions. The moratorium “was a huge key” to the deal, according to an unnamed NBA official, as it put a temporary end to the loopholes teams had been using to circumvent the cap (Chass, 1994d, ¶15).

Granik later dismissed the idea that Stern would have used the threat of a lockout as a bluff in negotiations (Chass, 1994d, ¶8). A “high-ranking club executive” told The New York Times that the owners had decided to lock the players out in the absence of an agreement, that it was in “no way” a bluff, and that some owners were “disappointed that we didn’t go through with a lockout” (¶12). The comments point to an apparent eagerness among NBA owners to extract leverage by shutting down the league. Dating back to the previously mentioned comments by the Supersonics’ Sam Schulman and continuing into the present day, their perception has existed on the management side that the players would crumble quickly without their paychecks.

With the no-strike, no-lockout accord in effect, the year 1995 began fairly quietly. In January 1995, an appeals court upheld the Duffy ruling that the salary cap, NBA Draft and right of first refusal did not violate antitrust laws in the absence of a collective bargaining agreement (National Basketball Ass’n v. Williams, 1995, p. 693). The ruling continued a trend within the court system of collective bargaining being used as a weapon against unions.

Essentially, any provision to which the union and management agreed would remain in place – and free from antitrust scrutiny – until the sides abolished it through negotiation. Considering that NBA owners last made substantive concessions during the Robertson antitrust settlement, the idea that the players would be able to negotiate anything in their favor was unrealistic. Beyond bargaining, the only other option (as a union) was to go on strike or to withstand a lockout, both options that would result in greater risk for the players than the owners. The owners were involved in other industries – in some cases, rival sports leagues – while the players had more limited options and fewer years with which to ply their trade. Overall, obtaining concessions through negotiation was a far easier prospect for the owners. It is no wonder they viewed collective bargaining, and not the courts, as the proper route by which to obtain a deal.

After the union lost on appeal, the next major occurrence did not take place until April, when the first inklings of discord within the NBPA began to show.
Secrecy in the union. Grantham abruptly resigned in April 1995 amid reports that the executive board of the union “either ousted [him] or allowed him to step down under pressure” (Wise, 1995a, ¶5). Grantham’s “[failure] to move along negotiations for a new collective bargaining agreement” was cited as the primary reason for his ouster (Wise, 1995a, ¶5). He was described by one anonymous source as “just too hard line” (¶13). Along with Grantham, lawyers Jeffrey Kessler and Jim Quinn were also dismissed (Araton, 1996, ¶7).

Members of the NBA players association were frustrated by the lack of information surrounding Grantham’s resignation (Chass, 1995a, ¶1). After four days, the “irreconcilable differences” that prompted the move still had not been explained to the members of the union (¶3). Marc Fleisher, a player agent and son of late NBPA general counsel Larry Fleisher, said a number of the players he represented expressed concerns over the way the resignation was handled, and the “apparent attempt by the union leadership to sweep the whole matter under the table” (¶4).

Grantham was replaced as executive director by NBPA general counsel and former NBA deputy commissioner Gourdine (Chass, 1995a, ¶9). Fleisher would later recall that Gourdine had been “put in by Buck [Williams], and it was sort of confirmed after the fact” (Keteyian, Araton & Dardis, 1997, p. 75). Players, according to Fleisher, generally had no idea who Gourdine was (p. 75). On its face, the replacement of Grantham – who, as previously noted, was described as “hard line” (Wise, 1995b, ¶9) – with a former deputy commissioner pointed to a substantial change in direction for the union. Taken together with the ouster of firebrand lawyer Kessler, the moves seemed to indicate that the NBPA would be less combative and friendlier to management in negotiations. The apparent secrecy surrounding the transformation of the union likely contributed to the mistrust of union leadership several agents and players later expressed.

In June, all NBA teams were notified that a lockout was likely if a new CBA was not agreed to by the end of the NBA Finals (Brown, 1995a, ¶2). The NBA and NBPA resumed negotiations (¶1), with the players continuing to seek alterations to the salary cap and right of first refusal. In particular, the players sought to have the cap either eliminated or increased substantially (¶10). The owners, meanwhile, sought the previously mentioned hard salary cap (¶10). After just a few days of negotiations, Commissioner Stern announced that “substantial progress” had been made (Friend, 1995, ¶2). The league and the players were said to be “shockingly close” to a deal (¶1), with the NBA scheduling a “special Board of Governors
meeting” for the next week (¶2). In addition, player representatives for each team were scheduled to meet to “vote on a new agreement” (Chass, 1995b, ¶6).

Stern’s optimistic outlook was not shared by several agents and players, “who said they had been kept uninformed on the negotiations” (Chass, 1995b, ¶1). The union’s agent advisory committee took aim at Gourdine, accusing him of refusing to give details on both the negotiations and the possible agreement (¶2). The agents said they had been informed by an owner “that Stern told Gourdine to withhold all information so that agents couldn’t become involved and create a roadblock to easy ratification” (¶8).

The few details the agents had been able to glean about the new agreement included a “fattened” revenue pool that would now include licensing revenue (Chass, 1995b, ¶19), the addition of a rookie wage scale that would “redistribute money from younger players to veterans” (¶9), and a hard salary cap that would eliminate “previously existing exceptions” (¶20). As part of the hard cap, the league would institute a luxury tax for teams that exceed the salary cap to sign their own free agents (¶10). The New York Times’ Harvey Araton called the proposed provisions “precedent-setting givebacks as the league gets bigger than ever” (Araton, 1995a, ¶10). Stern and the owners were “on the verge of accomplishing what baseball and hockey had failed to do despite damaging and lengthy shutdowns” (Keteyian, Araton & Dardis, 1997, p. 66). Neither the agents nor the players they represented had “ever heard, until now, of a luxury tax being discussed” (Chass, 1995b, ¶10).

Less than a week after Stern announced significant progress in the negotiations, a “steady stream of players” – including Ewing, Michael Jordan, Scottie Pippen and Reggie Miller – signed decertification notices declaring they no longer wanted to be represented by the union (Chass, 1995c, ¶2). The grievance of the players and their agents remained the same, that Gourdine was not keeping them properly informed (¶3). If enough players signed the notices, the union could petition the N.L.R.B. for a vote on whether to decertify the union (Chass, 1995d, ¶13).

Gourdine dismissed charges that he was withholding information from the players, saying he held routine conference calls with player representatives to keep them updated (Chass, 1995c, ¶18). “I think everyone has been fully informed except perhaps the agents,” he told The New York Times (¶5). However, an anonymous agent said that a number of player representatives were “completely in the dark about what is transpiring” (¶19). Gourdine also denied that he was
under direction from Stern to keep information from the players (¶28). The perception was understandable, however, considering the seemingly unprecedented lack of information the union leadership had provided to its members. As The New York Times’ Chass noted, “[b]y keeping the details secret, the NBA union is acting contrary to the practices of the other sports unions” (Chass, 1995b, ¶16). NBPA president Williams disagreed with the idea that the union was keeping the players unduly uninformed. “How much communication do you think there was when Larry Fleisher ran this union? … When Larry Fleisher made a deal with the NBA, that was it. There was no communication” (Keteyian, Araton & Dardis, 1997, p. 75). Williams suggested that race may have had to do with some of the lack of faith players displayed in the union. Grantham was the NBPA’s first African American leader and Gourdine was the second (p. 75). Even so, the goals of Stern and the owners matched those of Gourdine and the union leadership all too often during the 1995 negotiations, and toward the end of the conflict, there were indications that union strategy had been formulated at least partly in conjunction with Stern (Chass, 1995w, ¶9).

On June 20, several agents and players said they were informed that the NBA and NBPA had reached an agreement on a new CBA, though both Stern and Gourdine denied that was the case (Chass, 1995d, ¶1). Gourdine described the portrayal of a done deal “another attempt at misinformation” and “pretty devious” (¶10). Less than six hours after Gourdine made his statement, the NBA and NBPA announced an agreement on a new, six-year collective bargaining agreement (Chass, 1995e, ¶5). The new collective bargaining agreement would have included the luxury tax, contract length restrictions, and a rookie salary scale (Chass, 1995e, ¶18). Despite some shorter-term provisions that seemed to benefit the players on paper – including an increase in the salary cap and the players’ percentage of league revenue (¶18) – the general perception was months later that Gourdine had been “baited by NBA Commissioner David Stern into an atrocious deal” (Araton, 1995c, ¶8).

Previously rescheduled meetings between the NBA Board of Governors and the NBPA player representatives would serve as ratification meetings. Notably, the NBPA needed only 21 of the 27 player representatives to vote yes on the new CBA for it to be approved, whereas previously the union had “ratified agreements … by vote of the entire membership” (Chass, 1995f, ¶30).
An insurrection kills the deal. The day after the deal was announced, former union lawyer Jeffrey Kessler, representing the players who filed decertification notices against the NBPA, “said he would file supporting signature sheets from more than 100 players” – a number that would reach the 30 percent threshold required for the NLRB to allow a decertification election (Chass, 1995e, ¶3). If the union decertified, “any agreement that has been reached would be nullified” (¶3). In addition, Kessler believed, the NBA would not be able to proceed with a lockout if the union was decertified (¶26). In response, Commissioner Stern made a harsh and dismissive statement targeting both Kessler and Fleisher:

A disgruntled lawyer, whose firm was terminated by the Players Association, filed the NLRB petition and Marc Fleisher, the self-proclaimed spokesman for the group, represents very few NBA players and seems interested only in ousting the union leadership that replaced his father.” (¶13)

Entering the scheduled June 23 ratification vote, player agents accused the union of “handpicking” certain player representatives and “omitting some who were duly elected, under union rules, by their teammates” (Chass, 1995f, ¶13). According to Kessler, there were unconfirmed accounts of “the union telling certain player reps not to show up” and of players who believed they were player representatives being told that they were not (¶14). The clear implication, though it was not stated specifically, was that the union wanted to exclude players who would oppose the deal. Gourdine denied those accusations (¶16), and an unnamed league official pondered how players who filed for decertification could still be union player representatives (¶17).

The NBA’s owners unanimously ratified the new collective bargaining agreement (Chass, 1995g, ¶2), but the player representatives “voted to table ratification” (¶3) in a move that amounted to rejecting the agreement (¶3). Player representatives took particular issue with the luxury tax (¶24). The CBA that had been agreed to earlier in the week was now being described by Gourdine as a “proposal” (Chass, 1995h, ¶7), even though he referred to it as an “agreement” in a memo sent to players after the deal was first announced (¶6).

On June 28, seven NBA players filed an anti-trust suit against the NBA, “[challenging] the NBA’s salary cap, draft and free agent system” (Chass, 1995i, ¶1). The lawsuit, which included Jordan and Ewing as plaintiffs (¶1), came months after an appeals court ruled that players could not challenge the NBA on antitrust grounds so long as they had a collective
bargaining relationship with the league. Kessler argued the collective bargaining relationship had already ended because over half of the players in the league sought to decertify from the union. Essentially, the judge assigned the case, David Doty, would have to find that the “union no longer represents the players because more than half have said it doesn’t” (¶10).

Kessler made a similar argument in filing an unfair labor practice charge against the league for holding a bargaining session with the union. If the union no longer had authority to represent the players, any negotiations between the two sides would constitute an unfair labor practice (Chass, 1995j, ¶11).

The lockout begins. On July 1, less than two weeks after initially announcing an agreement on a new CBA, NBA owners announced that they would impose a lockout of players for the first time in league history (Chass, 1995k, ¶1). Gourdine blamed the lockout not on the owners, but on the agents’ “recent power play,” which he said “may have caused the owners to react more harshly that they otherwise would have” (¶8). Essentially, the NBA and NBPA were closer in agreement than the NBPA was with the majority of NBA players (Chass, 1995l, ¶12).

The lockout did not stop the flurry of legal action by the decertifying players. Kessler sought a preliminary injunction to stop the lockout (Mallozzi, 1995, ¶2), nine additional plaintiffs joined the antitrust suit against the league (¶3), and Kessler charged that the league had breached player contracts “by failing to make early payments to some players under terms of their 1996 contracts” (¶5). Again, the league responded by questioning whether Kessler knew what he was doing. “The volume of paper filed by [Kessler] is not going to improve the quality of his legal advice,” Granik said (¶9).

Meanwhile, Gourdine continued to face accusations that he had not properly represented the NBA’s players. Union financial consultant and Grantham-hire Charles Bennett resigned July 24, accusing Gourdine of using misleading information about NBA profits that led to the NBPA making “considerable concessions” to the league (Chass & Araton, 1995, ¶3). Amidst the discord, talks between the NBA and NBPA continued, with the union seeking to prevent the addition of the luxury tax that had been agreed to in the failed CBA (Chass, 1995m, ¶6). Though a deal was not imminent, the union planned to change the way it conducted ratification proceedings by holding regional meetings with all players having the opportunity to vote (¶13).

On July 26, the NLRB announced that it would allow NBA players who were on rosters during the 1994-95 season to vote on whether to decertify the union (Chass, 1995n, ¶2). The vote
would take place on August 30 and September 7 (Chass, 1995p, ¶7), and serve as an informal deadline for the NBA and NBPA to reach a deal (Chass, 1995n, ¶5). Kessler and Quinn had aided the NFL Players Association in decertifying in 1988, a fact that Gourdine made note of in a July 12 memo to players. In the memo, Gourdine “tried to assert that Quinn and Kessler … had saddled the NFL players with a bad deal via decertification,” but was rebuked less than two weeks later by NFLPA executive director Gene Upshaw (Keteyian, Araton & Dardis, 1997, p. 72). Gourdine was not the only one trying to influence player sentiment. Keteyian, Araton & Dardis (1997) described Commissioner Stern as “frantically … trying to scare people out of the decertification camp,” personally contacting stars such as David Robinson and Reggie Miller, as well as lower-level players who were “contacted and told they could lose their jobs” (p. 77).

After a meeting that included members of the NBPA and players seeking decertification, the union announced an August 8 deadline for a new deal with the owners (Chass, 1995o, ¶7). If the deadline passed, the union would file a disclaimer of interest (¶8), effectively dissolving and rendering a decertification vote unnecessary (Chass, 1995p, ¶3). The announcement implied that the decertification camp “endorsed the negotiating deadline” (Chass, 1995o, ¶12), a suggestion that those players denied (¶14). The day after the announced deadline, talks between the NBA and NBPA broke off. Stern and Granik made a point of expressing pessimism, with Stern saying the league was “resigned to the fact that there won’t be a season” (Araton, 1995b, ¶10).

The NBA’s next move was to file an unfair labor practice charge with the NLRB against Kessler, fourteen agents, including Fleisher, and sixteen players, including Jordan and Ewing (Chass, 1995p, ¶4). Among the charges the league filed against the group was that Kessler had misled players with false promises (¶20), that players had been ‘defrauded’ into signing decertification sheets, and that documents had been forged to make it appear as if more players sought decertification than in reality (¶5).

Despite the negativity surrounding talks in the previous days, the NBA and NBPA again agreed to a new, six-year collective bargaining agreement, just ten minutes before the NBPA’s August 8 deadline (Chass, 1995q, ¶1). However, the league and the union had not exactly been negotiating down to the wire. “Several of the players later admitted that there were no actual negotiations going on that night … A modified NBA offer had already been made by Stern earlier that day” (Keteyian, Araton & Dardis, 1997, p. 78). Prior to agreeing to the deal, the union met with twenty-five players, none of whom were part of the group seeking decertification.
According to Keteyian, Araton and Dardis (1997), the players “for the most part, were either union board members or highly respected, certified NBA good guys” (p. 78). After meeting with those players, Gourdine received the “go-ahead to bargain one last time with NBA officials” (Chass, 1995q, ¶6). Kessler was not pleased by the deal, saying it had been negotiated by a “tiny majority of players negotiating without a mandate” (¶9). He also suggested that the union may have selected players for the meeting who were most “afraid” of losing an entire season and that certain player representatives had “deliberately” not been invited (¶27).

The new deal was supposed to be voted on by the entire NBPA, instead of just player representatives (Chass, 1995q, ¶22). However, as The New York Times later noted, union leader Gourdine “pulled back his promise and said go vote on decertification” (Chass, 1995y, ¶19). The ratification vote and the scheduled NLRB decertification vote would be a “referendum” on each other (Chass, 1995q, ¶4). As described by Gourdine, “players voting no for decertification will be voting yes for this contract” (¶5).

As part of the NBA-NBPA deal, the “league dropped some demands it had made at the last bargaining session,” (Chass, 1995q, ¶10), including a reduction in minimum payroll (¶11). The owners’ benefits from the deal would include “a tightening of exceptions to the [salary] cap” and a new rookie pay scale (¶20). They would also reserve the right to either reopen the CBA or adjust the salary cap downward after three seasons “if the collective payroll exceeds the players’ percentage of the league’s basketball related income” (Chass, 1995r, ¶27-28). Stern and Granik put forth the idea that the owners were agreeing to a riskier deal in order to resolve the stalemate (Chass, 1995q, ¶13; Chass, 1995r, ¶1). Stern dismissed the idea that concessions were made due to concerns over decertification, implicitly criticizing Kessler by taking note of the “poor quality of advice that’s been given” (Chass, 1995q, ¶15). A union lawyer cited by The New York Times said that the league was facing “significant legal risk” from the players’ litigation (Chass, 1995r, ¶10), arguing that Stern had decided to “sweeten the deal a little bit” (¶11).

As for the players, the CBA would include new exceptions that would make it easier for teams to sign new free agents, replace injured players, and resign players (Chass, 1995q, ¶19). NBPA vice president Smith said the new CBA was “the deal we want” (Rhoden, 1995a, ¶2), but conceded that it did not “matter what we come up with,” as the decertification camp would “probably reject it” (¶8). Whether organic or the product of a divide-and-conquer strategy by the owners, there was a real split between the star players and the so-called middle class. NBA
player Keith Askins contrasted his support of the deal with that of star players Ewing and Jordan: “I don’t know what Patrick or Michael want out of the deal, but for me, being one of the blue collar, middle class workers in this league, I think it’s a good deal” (Chass, 1995r, ¶17). Player agent Fleisher said that the Grantham and Gourdine regimes had focused on the everyday player instead of the stars, even though the stars were the only players with the leverage to stand up to the owners (Keteyian, Araton & Dardis, 1997, p. 67).

The decertification camp continued to criticize the new deal. The plaintiffs in the antitrust suit against the league said the owners had “fooled the union leadership again” (“NBA Dissidents,” 1995a, ¶1). Kessler deemed provisions of the deal “cap-tightening devices, not anti-circumvention devices” (Chass, 1995s, ¶12), including a prohibition on teams from renegotiating a contract downward in order to create more room under the cap (¶13), a maximum contract length of seven years, and a “20 percent limit placed on salaries in contracts that are extended” (Chass, 1995t, ¶4-7). While Kessler referred to the provisions as “real bombshells” (Chass, 1995s, ¶8), the union termed them “an assortment of less significant proposed terms that we do not believe will play a critical role in your evaluation of the overall proposed agreement” (¶10).

The day before the first day of the decertification vote, NBA player Mitch Richmond filed an unfair labor practice charge against the NBA alleging that Commissioner Stern was attempting to “coerce players into voting against decertification” by threatening to cancel the season (Chass, 1995u, ¶12). Granik defended the league in a statement, saying that it was “simply a fact” that “the only way to assure that the 1995-96 season will begin on time is a yes vote in tomorrow’s election” (¶14).

During the first two days of voting, a common theme emerged. The players who disclosed their votes supported the union, but did not necessarily support the new CBA (Chass, 1995v, ¶9). Tying the votes together was allegedly a strategic move by the union, according to Mitch Richmond lawyer David Odom, who filed the previously mentioned unfair labor practice charge against the NBA (¶1). Citing unnamed members of the NBPA executive committee, Odom alleged that in the August 8 negotiating session that led to the second CBA, the sides agreed to tie the decertification and ratification votes (Chass, 1995w, ¶2). An unnamed source told The New York Times that players who attended the meeting said the idea came from Stern himself. Stern was “confident” that the players would “not vote to decertify and risk losing their fat-cat paychecks” (Chass, 1995y, ¶10), so tying the decertification and ratification votes

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together was viewed as “the best way to gain approval for the agreement” (Chass, 1995w, ¶9). Once the votes were linked, Stern “set about making sure all of the players knew” that a vote for decertification would endanger their livelihood (Chass, 1995y, ¶12). The league denied the allegation (Chass, 1995w, ¶10). After the vote was completed, Tellem argued that players would have voted to both reject the deal and to decertify the union had the issues been voted on separately (Brown, 1995b, ¶3).

When the results were tallied, the union won by 92 votes (Chass, 1995x, ¶3). There was “doubt” that the dissenting players would mount an objection to the election (¶2), which would have to be filed within a week. Players like Richmond, who had not petitioned the NLRB for decertification, would be unable to file an objection (¶15). Kessler “stressed” that any objection would have to be the players’ decision, not his (¶13), though he argued that the league had intimidated and coerced the players by threatening to cancel the season (¶10; ¶18). *The New York Times* cited labor lawyers who believed that the “allegations of coercion … would present a strong case for the NLRB to order a do-over of the election” (¶16).

NBA player representatives voted to approve the six-year labor agreement on September 12 (Brown, 1995c, ¶2). The new deal included many of the previously detailed provisions (“Let’s Give,” 1995), including an increase in the salary cap that Kessler had earlier deemed misleading (¶3), a maximum contract length of seven years and maximum salary increase of 20 percent for contract extensions (¶10), and a reduced NBA Draft (¶7). Players would receive 48 percent of ‘Basketball Related Income’ (¶2), and the owners held the right to terminate the agreement after three years if the players share exceeded 51.8 percent (¶6). NBA owners approved the deal on September 15, paving the way for an end to the lockout on September 18 (“Owners Approve,” 1995, ¶1). The day after the lockout was lifted, the decertification camps decided not to challenge the results of the vote (“NBA Dissidents,” 1995b, ¶2).

Though the players agreed to the new collective bargaining agreement, the final version was still being drafted (Helyar, 1996, ¶8), and the agreement had not been signed (Croke, 1998, p. 182). The unsigned agreement would not be a “binding contract until it is signed” (p. 183). Complicating matters was a shift in the union’s makeup. Though the NBPA defeated decertification, “the dissidents widely won in another forum: elections for teams’ player reps” (Helyar, 1996, ¶5). Once dissidents, the group of players and agents who pushed for decertification would wrest control of the union in 1996.
Union president Buck Williams gave Gourdine a new, two-year contract in January of 1996 (“NBA Roundup,” 1996, ¶18; Helyar, 1996, ¶5), but player representatives – led by Ewing – overturned the move, forcing a vote on Gourdine’s future (Araton, 1996, ¶3). When given the chance to vote, player representatives unanimously chose to oust Gourdine from his position (¶1). Gourdine’s departure coincided with the union rehiring the “aggressive Weil, Gotshal & Manges law firm” (Helyar, 1996, ¶8), which included lawyers Jim Quinn and Kessler, both of whom represented the decertification camp in 1995 (Araton, 1996, ¶7). Kessler’s return to the union was a “mystery to the players, even staunch labor loyalists,” The Los Angeles Times reported in April (Heisler, 1996, ¶29).

In March 1996, with the 1995 CBA still unsigned, the NBA filed a Federal lawsuit against players and several agents – including Fleisher, Tellem, and David Falk – and also filed an unfair labor practice charge against the union with the NLRB (Player Agents,” 1996, ¶3). NBA deputy commissioner Granik described the agents as having “succeeded in hijacking the union” (¶1). Later in the year, he accused the agents of “attempting to do what they couldn’t do last year, which is to kill the deal” (“Lockout Possible,” 1996, ¶3). “Instead of doing it from the outside,” Granik said, “they have managed to gain control of the union” (¶3).

By June, the players and the league had “not settled many aspects of the new agreement” (“Lockout Possible,” 1996, ¶2). For the players, the issues centered on “some of the language” of the 1995 contract “regarding group licensing, salary cap issues, the pension fund and a payroll tax” (Brown, 1996a, ¶13). The owners’ grievance was essentially that the new guard in the NBPA was undoing what had been agreed to the previous year. Commissioner Stern said in June that Kessler had “reneged on fundamental understandings that we reached on virtually every subject” with Gourdine the previous year (Asher, 1996a, ¶5).

As the month of June came toward an end, Stern threatened to ban free agent player signings if the agreement was not signed by July 1 (Asher, 1996b, ¶3). Such a move would “stop short of a lockout” (¶6), though Stern had “hinted strongly … about imposing a lockout” (¶5). Despite the threats, the NBA and NBPA made continued progress toward an agreement. Both sides made gains during negotiations in the final week of June, with the players obtaining over $80 million “in pensions, benefits, additional licensing revenue and profit-sharing from the league’s television deal with TNT and NBC” (Asher, 1996c, ¶13) and the owners reserving the
right to “recoup as much as $21 million if licensing revenues reach certain levels through the remainder of the contract” (¶13).

On June 28, the NBA and NBPA reached an agreement in principle on a new collective bargaining agreement (Brown, 1996b, ¶1). Negotiations on the final details of the agreement continued through July 9, with the league even imposing a brief lockout after a breakdown in talks (Brown, 1996e, ¶3). Finally, more than two years after the previous collective bargaining agreement expired on July 1, 1994, the NBA and NBPA officially signed the new, six-year agreement on July 11, 1996 (Asher, 1996d, ¶3).

Five days later, NBPA player representatives would unanimously select Billy Hunter as the union’s next executive director (“Hunter Gets,” 1996, ¶2), replacing interim director Alex English.

The 1994-96 conflict marked a turning point in NBA collective bargaining negotiations, and not merely because the league shut down for the first time. Stern and the owners exerted an unusual level of influence on the union, as the league and the NBPA often appeared to be acting in conjunction with one another. Most troubling was Stern’s role in the combination of the decertification and ratification vote, a move that clearly impacted the final results. Taken together with Stern and Granik’s repeated denigration of the lawyers and agents behind the dissident group, the owners made clear that they did not have much respect for the players in the post-Larry Fleisher era. Quinn said as much: “[Stern] has no respect for Gourdine. He had him basically doing his bidding, fighting the rest of the membership” (Keteyian, Araton & Dardis, 1997, p. 80). The trends set during the negotiations – meddling in union affairs, using the threatened cancellation of games to extort a deal, and attempting to sow discord between middle-class and superstar players – would continue into the next two decades.

**Prelude to the 1998-99 Lockout**

**Scapegoating player salaries.** After several high-profile free agents received large contracts during the summer of 1996 (Fatsis, 1996, ¶1), player salaries became a highly salient issue in the NBA. In May 1997, Stern hinted at reopening the year-old collective bargaining agreement, broaching a hypothetical situation in which the owners, after having paid the players, would be forced to raise ticket prices due to a lack of money. “I must say that after 30 years in this business, there’s something wrong with that picture” (Adande, 1997, ¶4).
The suggestion that the players’ salaries would cause an increase in ticket prices – a not-particularly-subtle attempt to garner support from the fans – was not a new phenomenon in American business. As Martin (2004) noted, the relationship of organized labor to the overall economy is often described using the Phillips curve – a theory that in part suggests that higher wages for employees can lead to inflation. “In news stories using this frame,” Martin wrote, “an increase in wages for workers is said to put inflationary pressure on the economy.” Media coverage assumes that companies must “pass along the wage increases in the form of higher prices for consumer goods and services” (p. 64) – essentially the fear Stern was stoking with his hypothetical. The Phillips curve, it should be noted, was unreliable (p. 65).

By midsummer 1997, The Wall Street Journal wrote of player dissatisfaction with the salary cap system. The harder cap imposed by the NBA in the 1995 CBA negotiations “led to teams spending the bulk of their money on one or two stars, leaving second-tier yet valuable veterans scrounging” (Fatsis, 1997a, ¶14). The result, according to The New York Times, was an “erosion of the middle-class player” (Wise, 1997a, ¶10). In addition, loopholes remained that “allowed wealthier teams … to continue to outspend their competitors” (Fatsis, 1997a, ¶5). During the upcoming 1997-98 season, payroll spending was “projected to surpass 51.8% of revenue … triggering a provision in the labor agreement allowing the league to reopen the deal” (¶18).

The rookie wage scale also became an issue. When first instituted in ‘95, the scale was viewed as a solution that “encouraged young players to enrich their games before their bank accounts” (Wise, 1997a, ¶6), a “remedy for restricting movement and limiting salaries of unproven players” (¶7). However, when free agent Kevin Garnett rejected a six-year, $103 million deal from the Timberwolves during his first go-round in free agency, the restriction was viewed as “little more than a Band-Aid” (¶7). Madison Square Garden president Dave Checketts implicitly spoke of unreasonable player greed. “The bottom line as it relates to real people is there is not a stage or scenario you can fathom where a young kid turns down $100 million” (¶9).

Most notably, as related to the possibility of new CBA negotiations, NBA deputy commissioner

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2 Martin (2004) cited a specific example of the Phillips frame being used in The New York Times: “[Federal Reserve chairman Alan Greenspan]’s immediate concern is that as the labor market grows tighter, employers will need to increase wages and benefits to attract and keep workers. Business would then need to pass these costs along in the form of higher prices for its goods and services” (p. 66, emphasis in original).
Granik said the league was “not operating very prudently as a business if a $17 million annual salary is not seen as adequate for one of our top players” (¶22).

In the midst of the controversy surrounding player contracts, the league faced another possible case of salary cap circumvention, again involving Chris Dudley. Dudley opted out of a three-year, $13 million contract with the Trail Blazers and signed a one-year extension with the team worth $1.135 million (Wise, 1997b, ¶7). He was then traded to the Knicks, who obtained his ‘Bird rights’ (¶4). The Larry Bird exception allowed players who stayed on the same team for at least three years to “sign any kind of deal with their current team regardless of the salary cap” (¶4). Without the exception, the Knicks would only have been able to offer Dudley a 20 percent raise after the season (“Arbitrator Approves,” 1997, ¶6). The league, The New York Times reported, was “concerned about players spurning major dollars for paltry, one-year deals that often lead to a long-term contract with a team now over the salary cap” (Wise, 1997c, ¶5). The NBA rejected the deal, but that was overturned in arbitration (Wise, 1997b, ¶3). The league then lost on appeal (Roberts, 1997a, ¶2).

**Battle lines drawn as player image declines.** By the start of the 1997-98 season, the NBA and NBPA were “heading for an ugly battle” over the CBA (Fatsis, 1997b, ¶3). The league claimed that player salaries and benefits were rising at a higher rate than total revenue, resulting in more than a third of the league’s teams losing money (¶9). Notably, the league would resurrect this argument fourteen years later. Meanwhile, the players were dissatisfied with the 1995 deal because it “depressed the pay of midlevel veterans” (¶5).

Noneconomic issues also pushed the league and its players further apart. The league suspended Isaiah Rider and Allen Iverson for off-court transgressions (Wise, 1997d, ¶1), both of which involved marijuana – a drug that was not included in the league drug policy (¶9). In late October, The New York Times’ Selena Roberts wrote an article accusing the NBA of rampant marijuana and alcohol use (Roberts, 1997b, ¶1). In the wake of the column, Commissioner Stern “criticized the players association for its refusal to address the league’s concern over marijuana use,” prompting Hunter to “[fire] off a scathing statement” in response (Wise, 1997e, ¶16).

In December, Golden State Warriors guard Latrell Sprewell assaulted team coach P.J. Carlesimo at a December 1 practice and was suspended ten games without pay by the team (Wise, 1997f, ¶1). Citing a “code-of-conduct clause,” the Warriors then terminated the remaining portion of Sprewell’s contract, worth over $20 million (Wise, 1997g, ¶2). After the Warriors
took action, the NBA added its own penalty – a one calendar year suspension through December of 1998 (Bucher, 1997, ¶1).

Hunter called the punishment “excessive and unreasonable” (Wise, 1997h, ¶6), noting that the union “previously stated that we would not contest a 10-game suspension even though it would cost Latrell $1 million in salary” (¶6). On December 5, the NBPA “filed formal grievances” on behalf of Sprewell (“Grievances Filed,” 1997, ¶1). The league argued that it did not have to “accept or condone behavior that would not be tolerated in any other segment of society” (Bucher, 1997, ¶2). The Sprewell controversy escalated the growing rift between the NBA’s owners and players. “If the fallout from Sprewell’s attack … has accomplished anything, it has further polarized a league headed for turbulent times,” (Wise, 1997i, ¶3).

The Sprewell hearings were viewed as having a potentially “dramatic effect” on the league’s potential labor negotiations (Wise, 1998a, ¶10). If the NBA lost the arbitration, “Stern’s absolute authority to rule on disciplinary incidents would be perceived to have eroded” (¶10). If the NBA won, Hunter maintained that other teams would use the code-of-conduct clause to dump underachieving players (Heath, 1998, ¶3): “If this becomes a precedent, it means basically that no one has a guaranteed contract because everybody becomes vulnerable” (¶4).

During the 1998 NBA All-Star Weekend, twenty NBPA player representatives met to “rally around Sprewell” and discuss issues that would “likely be sticking points” in CBA negotiations (Wise, 1998b, ¶18). Among the topics was the issue of marijuana, a discussion which Hunter said “took longer than most of the others” (¶20). Hunter expressed concern that the league would “use marijuana as another vehicle to constrain and control players” (¶20), and that penalties for marijuana use in the NBA would be stronger than comparable penalties for members of the general public (¶21).

In March, the Sprewell controversy was resolved when arbitrator John Feerick ruled in favor of Sprewell and the NBPA. Sprewell’s suspension would conclude in July, instead of December, and his contract with the Warriors would be reinstated (Wise, 1998e, ¶1-2). The ruling produced a “general feeling of victory” for the NBPA (Roberts, 1998a, ¶3). Former union president Williams said the ruling showed that Stern “can’t play judge and jury” (¶2) – though the commissioner would do so again after the Pacers-Pistons brawl six years later. Though clearly embittered by the ruling, Stern said it was “pretty huge” that the arbitrator had upheld the suspension through the remainder of the season (¶12). “If you read the language,” Deputy
Commissioner Granik noted, “he was going a long way toward affirming the commissioner’s powers” (Wise, 1998f, ¶5).

The problem of the empowered player. Despite the restrictions on player movement put into place by the owners over the previous two decades, NBA agents and players were still perceived as “dictating [NBA] economics” (Wise, 1998c, ¶1). In one “disturbing” example (¶1), Raptors player Damon Stoudamire was traded to the Portland Trail Blazers after it became clear the team would not be able to afford him in free agency (Wise, 1998d, ¶4). Stoudamire was drafted by the Raptors in 1995 and was becoming a free agent after serving his required three years with the team (¶4). The Raptors originally intended to trade him to the Orlando Magic and the Sacramento Kings, but Stoudamire indicated that he would not sign a long-term deal with either team (Wise, 1998c, ¶4-5).

The Stoudamire case was viewed as an example of agents and players gone amok (Wise, 1998c, ¶1). Stoudamire, however, was only taking advantage of his already limited freedom. Instead of coming into the NBA as a free agent, he was selected by the Raptors in the NBA Draft – an event the players association railed against for years. He was then required to stay with the team for a limited salary over the first three years of his career. His freedom in free agency was viewed as his taking advantage of his team and hurting their chances to succeed – not just by possibly leaving in the offseason, but by articulating his personal preference to not sign a long-term deal with a team for which he did not want to play. Somehow the basic freedom of choosing where one wants to work when free of contractual obligations was viewed as exacting undue control over the fortunes of a franchise. The common sense surrounding issues of salary painted players more as commodities for the teams than as employees searching for the best deal and the best working environment. The artificial restrictions put in place, from the NBA Draft to the salary cap to the rookie wage scale, were not viewed as such.

When players Rony Seikaly, Doug West and Kenny Anderson refused to report to their new teams after trades, Utah Jazz owner Larry Miller suggested that “maybe things are out of control,” and the owners would need to wrest control of the league back from the players during a potential lockout (Bucher, 1998a, ¶8). Again, management expressed frustration with player freedom, which negatively affected teams’ ability to compete both on-and-off the court. The events of 1996-98 would prove to have a major impact on the 1998-99 CBA negotiations and more specifically, the way the media reported on the conflict. Throughout the 1998-99
negotiations, members of the media expressed disdain for NBA players due to the perception of exorbitant salaries and out-of-control behavior. The Kevin Garnett contract and Latrell Sprewell controversy would factor into the negotiations and create an image of the players as greedy, selfish, criminal and far too powerful – not too far off the image ascribed to labor unions in general. Recall what Parenti (1993) asserted about media coverage of labor unions: “The image of labor unions projected in the press, as in the other media, is one of corruption, greed, self-interest, and power” (p. 60). While the owners did not necessarily receive support, the players were widely denounced during the first labor-management conflict in NBA history to result in the cancellation of games.

The 1998-99 NBA Lockout

Pleading poverty – again. On March 23, the NBA fired the first salvo in the league’s most damaging labor-management conflict, voting 27-2 to reopen the 1995 collective bargaining agreement (Wise, 1998g, ¶2). The CBA would now expire on June 30, with a lockout expected if a new deal was not reached (¶4). The issues in the negotiations had been brewing over the previous two years – the league’s drug policy, the rookie wage scale, and a possible limit on player contracts.

The league, as it had done before, engaged in a campaign to emphasize its financial plight. Granik asserted that half of the league’s teams would fail to turn a profit during the 1997-98 season (Wise, 1998g, ¶15). In late June, Stern said that several teams would “do better not operating than operating,” adding that the players simply did not “seem to understand” (Wise, 1998l, ¶14). The financial system, Granik said, was “just plain bad” (¶16). Notably, the owners’ dissatisfaction with the CBA was viewed as a “measure of vindication” for the embattled 1995 union leadership of Gourdine and Williams (Wise, 1998o, ¶1).

The league had some help from the media. In The New York Times, writer Mike Wise wrote that the owners wanted to “merely divvy up the profits more fairly and have some sort of cost-effective agreement in which more than half of the 29 teams are not losing money” (Wise, 1998i, ¶17, emphasis added) – not only accepting the owners’ claims of widespread losses as fact, but portraying their goals as pure and reasonable.

The union doubted the owners’ warnings of financial strife. While Stern projected that 14 teams would lose money during the 1998-99 season, Hunter estimated that “no more than four” would suffer that fate (Asher, 1998a, ¶14). The new television deal, union chief negotiator
Kessler said, was the motivating factor for the owners. “What’s really driving this is that [the owners would] like to keep more of the TV deal than they kept under the old deal” (¶16).

The owners sought to institute a hard salary cap, remove the Bird exception, and prevent players from taking up over 30 percent of a team’s salary cap space (Wise, 1998k, ¶9), as well as increase the number of years before rookies could become unrestricted free agents (Will, 1998, ¶4). In addition to the economic proposals, Stern was also interested in “updating code-of-conduct clauses” (Wise, 1998h, ¶17) and instituting a “more stringent drug agreement” (¶18). The players, meanwhile, sought to keep the Bird extension (Wise, 1998i, ¶17) and, just as in the early 1980s, viewed the owners’ efforts as an attempt to take back what they had earned (Wise, 1998k, ¶11).

**Lead-up to the lockout.** Negotiations began quietly on April 1, with both sides agreeing to a news blackout (“Labor Talks,” 1998, ¶1). The three months between the start of negotiations and the start of the lockout were marked by additional public relations hits for the players. Members of the union began contemplating a boycott of the 1998 World Championships, with Hunter terming USA Basketball the “alter ego of the NBA” (Wise, 1998j, ¶10). The boycott talk gave Stern the opportunity to brand the players as unpatriotic, telling reporters that if “individual players decide to trash their country, that’s going to be their decision” (¶2).

Meanwhile, the tide was turning against the players in the media. Dating back to the spate of negative legal issues the league endured in late 1997, members of the media had not been subtle about their distaste for the new generation of players. There had been “too many police reports and paternity suits, too many $100 million contracts and too few legitimate money players,” wrote *The New York Times*’ Harvey Araton (Araton, 1998a, ¶9). Araton in particular was a consistent and notable detractor in 1998. After the lockout began, he wrote that while the owners were “as always, are exaggerating their misery,” it was “much easier to not root for the players” (Araton, 1998b, ¶11). Colleague Mike Wise disdainfully referred to “young knuckleheads” in the league and lamented the “old sages saying goodbye” (Wise, 1998z, ¶1). “It’s a good time to loathe this game,” he concluded (¶2).

On June 30, the NBA announced that it would lock out the players at midnight (Asher, 1998a, ¶1), marking the third NBA lockout in four years. On the night the lockout was announced, NBPA president Ewing articulated his frustration over the players having to sacrifice in order to, in effect, protect the owners from their own decisions:
The owners talk about wanting cost certainty. Well, they have cost certainty. They're the ones with the checkbooks. If they feel that Patrick Ewing or Michael Jordan or whoever is not worth what they're paying them, then they have the right to say, 'No, this is all we can pay you.' (Wise, 1998m, ¶2-3)

The 1998 lockout differed from the 1995 conflict in one major way: the players were unified, or at least, they said as much in public. Ewing said that “at no time during his 13-year career has the union exhibited such solidarity” (¶18).

**Legal wrangling in the early days of the lockout.** On July 1, the first day of the lockout, the NBPA “filed an arbitration proceeding” maintaining that the league was required to make payments to over 200 players who had guaranteed contracts during the 1998-99 season, despite the lockout (Wise, 1998n, ¶1-2). The proceeding would become one of the most crucial of the lockout. Eleven of those players were scheduled to receive payments that month (¶3). The league responded by filing suit against the players union in conjunction with its 29 owners, asking the court to “deny the request for arbitration because the collective bargaining agreement expired” and to “declare that the lockout legally permits teams not to pay their players until a new labor agreement can be reached” (Wise, 1998p, ¶4). Keep in mind that was ten years after the 1988 ruling that provisions of a collective bargaining agreement remain in place in the absence of a new deal – a ruling that the NBA, at the time, viewed as a victory.

In late July, the NBPA filed an unfair labor practice charge with the NLRB, alleging that the NBA skirted NLRB requirements by banning player signings “without having bargained to an impasse” (“Grievance Filed,” 1998, ¶2). The players sought to have the NLRB recommend that an injunction be filed in Federal court to end the lockout (¶1-2). The NLRB had done the same during the 1994-95 Major League Baseball strike. While the NBPA was likely looking for the same outcome, “circumstances in the two disputes were different” (Chass, 1998c, ¶10). In the MLB strike, owners had unilaterally imposed a salary cap (“Former MLB,” 2009, ¶12), a change that the board ruled would need to be negotiated with the players (Chass, 1998c, ¶10). The NBA had “[suspended] the period in which free agents can be signed,” but made no changes to the way players could be signed (¶11). The union denied that the legal proceedings would inhibit negotiations (Roberts, 1998b, ¶3).

The sides held their first bargaining session of the lockout on August 6. While the first two hours of the meeting were “mostly friendly and productive” (Bucher, 1998b, ¶1), the talks
fell apart after a lunch break. Early in the meeting, Phoenix Suns owner Jerry Colangelo said the
drug policy, rookie issues, and the salary cap would each need to be addressed” (Chass, 1998a,
¶10-11). Addressing his concerns, the union returned from a lunch break with a proposal that
would tie player raises to increases in league revenue, impose a right of first refusal at the end of
three-year rookie contracts, and add marijuana to the drug-testing list (¶12). The owners were not
pleased, and left the meeting “stunned and insulted” (¶4). The owners’ grievance was that the
players’ proposal did not differ sufficiently from their initial proposal (Bucher, 1998b, ¶2), and
that it could increase the players’ percentage of revenue (Chass, 1998a, ¶12).

With negotiations stalled, the legal fight between the NBPA and NBA became the focus.
The NBPA dropped their NLRB complaint (Chass, 1998c, ¶2), citing an inability to “get action
quickly enough” (¶2). Kessler wrote off the NLRB proceeding as being a “long shot” that was
not “that important” (¶4). Though the players tried to downplay the importance of the NLRB
proceeding, “it was apparent that the board’s New York office had concluded there was no merit,
at least not now, in the union’s charge” (¶2). The NBA’s Granik said he was “glad it’s now
confirmed that we have a perfectly lawful lockout” (¶7).

In the other legal proceeding of the lockout, arbitrator Feerick set a hearing for August 24
to determine whether players would be paid during the lockout (Chass, 1998b, ¶6). If the owners
won, the players would face added pressure to end the conflict (¶8). Keep in mind this was at a
time when the number of players making the minimum NBA salary of less than $300,000 had
reached unprecedented levels (Rhoden, 1998a, ¶12). With more players making the minimum,
there were more players who would be theoretically desperate to resume receiving paychecks.

The hearing began in late August, and several more days of hearings were added
(“Arbitration Hearings,” 1998, ¶3). The additional days would potentially push a final decision
into October, “which could eat up a huge chunk of time” in negotiations (¶4). A deal, the Hunter
said in early September, would have to be reached by October 1 to keep the season intact (Wise,
1998q, ¶6). “Do I have any hope? Not at this point,” Hunter said (¶8).

The union argued that NBA owners “should have protected themselves” by inserting
language in player contracts mandating that players with guaranteed contracts would not be paid
in the event of a lockout (“Arbitration Hearings,” 1998, ¶11). While the NBA “[contended] that
employees never get paid during lockouts” (¶10), there was precedent. In Major League
Baseball, owners inserted lockout language into guaranteed contracts years prior to the 1990
MLB lockout, according to MLBPA general counsel Orza (¶12). More importantly, at least one NBA player had such language in his contract – Olden Polynice of the Sacramento Kings (¶7).

The NBA’s rebuttal was bolstered by a figure from the union’s past – former NBPA executive director and NBA deputy commissioner Simon Gourdine. Gourdine, one of just two witnesses called by the NBA during the first five days of testimony, testified that under the 1995 CBA, “it was understood that players with guaranteed contracts would not be paid in the event of a lockout” (Broussard, 1998a, ¶4).

The Feerick decision was still pending by mid-September. Feerick would have 30 days – until October 19 (Wise, 1998r, ¶6) – to rule on the case once post-hearing briefs were filed, meaning the delays were further reducing the amount of time left for negotiations (“Deadline Extended,” 1998, ¶2). The league canceled an exhibition game in the interim, marking the first time ever a game had been lost due to labor-management conflict (“NBA Cancels,” 1998, ¶1). The lengthy arbitration hearing was a major factor in the lack of negotiations. Hunter said the NBPA would “very much like to sit down at the table,” but the owners were “inclined to wait” for a decision (Wise, 1998r, ¶7-8).

Proposals and cancellations. With negotiations stalled, the Feerick decision still pending, and the days ticking away, the NBA announced on September 24 that training camps would be postponed and the first week of the preseason would be canceled (“NBA Training,” 1998, ¶1). The next day, in a move viewed as progress or grandstanding, the owners put forth a new proposal (Wise, 1998s, ¶1). While an anonymous NBPA official called the proposal “nothing new” (Asher, 1998b, ¶3), Hunter later said it raised “dozens of new issues, many of which are extremely sensitive” (Asher, 1998d, ¶5).

In particular, the league sought to subject players to two random drug tests each season, indefinitely suspend any player with three or more marijuana offenses, ensure that the commissioner could terminate a player contract, and financially penalize players who failed to report to teams to which they had been traded (Asher, 1998d, ¶7-9). On the economic front, the league proposed extending the rookie wage scale to five years, with a right of first refusal for the sixth season (¶11). The league also proposed to either institute a hard salary cap with no exceptions (¶13) or keep all exceptions, but require that players on any team that exceeded the cap give up a portion of their salaries (¶14). The owners also sought to “eliminate provisions that allow players to opt out of contracts” (¶15). It is not surprising that Hunter later called the
proposal “ludicrous” (Wise, 1998u, ¶1), and Ewing said the players would have to be “stupid and ignorant” to accept it (Wise, 1998v, ¶9).

At the end of September, the sides agreed to resume talks on October 8, the first full negotiating session since August (Asher, 1998c, ¶1). Though he set the meeting in motion, Hunter did not express high hopes (¶6). Adding to the pessimism, the owners criticized the union for not agreeing to meet sooner. Granik said he was “bowled over to hear that we can't meet for almost nine days while Rome is burning” (Wise, 1998t, ¶3). “You’ll have to ask him who lit the match,” Hunter responded (¶5). Expectations entering the meeting, given the overall climate, were not high (“Players and,” 1998, ¶2). While the meeting itself did not include the fireworks of earlier in the summer, it also did not produce much progress. “[N]othing very good happened but nothing very bad happened either,” Granik said in a news conference (“David Stern,” 1998a, ¶37). “Well, nobody walked out, so in that case it was a lot better,” added Ewing (Wise, 1998w, ¶11). After the meeting, Granik said the union planned to present a counterproposal at an October 13 session (Bucher, 1998c, ¶2), and the league would wait until after that point to consider canceling regular season games (Wise, 1998w, ¶3).

The October 13 meeting, both sides agreed, was the most “substantive” since the lockout began on July 1 (Wise, 1998x, ¶8), though that was no big feat considering that only two meetings had taken place since. The players proposed a fifty percent luxury tax on salary above $18 million that would only affect “a few players” (¶10) and a “salary cap credit” that would call for the league to reduce the salary cap if more than 63 percent of revenues went to paying player salary (¶13). The proposal kept the rookie wage scale at three years, not the five years the league sought, but added a right of first refusal for teams whose rookies entered free agency in their fourth season (¶14). In return, the players sought an increased minimum salary and a new exception that would allow teams above the cap to “sign one free agent per year for the average salary” (¶16).

Granik expressed surprise that the players proposed a luxury tax, as “it seemed to be so maligned” during the 1995 negotiations (“David Stern,” 1998b, ¶3). However, even though the owners pushed for the luxury tax just three years earlier, Granik said he was “not at all confident that a tax will provide the needed relief for the owners,” as the league’s “economic situation has gotten dramatically worse since 1995” (¶3).
After the meeting, the NBA announced the cancellation of the first two weeks of the 1998-99 season (Wise, 1998x, ¶3). It was the first time in the history of the NBA that regular season games were lost due to a work stoppage. Stern said he was “sad and disappointed” and that the cancellations were the product of a “collective failure” (¶7). In a news conference announcing the cancellation of games, Stern was asked how the supposed “labor peace” of the 1980s had devolved into the current situation (“David Stern,” 1998b, ¶13). Stern cited the 1995 negotiations, saying the original deal reached in June of that year would have been better for the owners than the final agreement (¶15). Former NBPA president Williams agreed, telling The New York Times in November that it had become “obvious” that the 1995 deal “was an excellent one for the players” (Araton, 1998c, ¶3).

On October 16, the NBA delivered their response to the players’ October 13 counterproposal (Wise, 1998y, ¶1). The owners proposed their own version of the luxury tax, which would affect significantly more players than the union’s proposal (¶1), and also included a provision that would trigger a hard cap if player salaries exceeded a set percentage of league revenue (¶9). On both sides, a hard cap was viewed as “inevitable” under the owners’ proposal (Asher, 1998e, ¶12).

On October 19, nearly two full months after hearings began, arbitrator Feerick was finally rendered a decision, ruling against the NBPA (Wise, 1998aa, ¶1). The decision “represented an important victory for the owners” (¶1), but as with the failed NLRB charge, union leadership again downplayed the impact. Kessler likened the arbitration to missing a half-court shot at the buzzer in a tied game (¶6).

**Players weigh their options.** With no agreement in sight and no salaries forthcoming, talk resumed of potential exhibition games involving NBA players. Hunter said the players planned to put on fundraising games in the wake of the Feerick decision (Wise, 1998bb, ¶9). An overall sense of unity emanated from the players’ side, exemplified by an October 23 meeting of 240 NBA players – the largest such gathering in the history of the union (Wise, 1998cc, ¶2).

Described as “more pep rally than open discussion” (Wise, 1998dd, ¶13), the meeting energized and almost emboldened the players’ side. All 240 players voted “unanimously” to not accept a hard cap in CBA talks (¶15). “I’ve never seen the resolve or dedication to the cause like today,” former NBPA president Williams said, “This is phenomenal” (Wise, 1998cc, ¶4). San Antonio Spurs player David Robinson said the meeting did nothing “but solidify my support of
our negotiating team” (Bucher, 1998d, ¶6), while free agent Darvin Ham said he had gotten “totally behind” the union after they explained the owners’ proposals (¶12). Though the players were more divided by income than ever before, they had found what Williams termed “a common enemy” in the owners (Wise, 1998ee, ¶7). Player agent Mark Bartlestein said the owners had “brought all the players together” (¶14).

The union was not quite as united as portrayed, however. Other figures on the union side, including the Utah Jazz backcourt of John Stockton and Jeff Hornacek, suggested “the players do whatever was necessary to strike a deal and get back to work” (Bucher, 1998d, ¶10). Stockton, in particular, was “drowned out by more militant players” when he suggested the players “discuss accepting a lesser percentage of revenue from the owners” (Wise, 1998dd, ¶15).

On October 26, The New York Times published an article that would remain infamous years later. Columnist Mike Wise profiled Celtics guard Kenny Anderson, who during the lockout spoke of having to get rid of one of the eight cars registered to him and his wife (Wise, 1998ff, ¶3-4). Without his paycheck, Anderson said he would have to start “getting tight” (¶7). His comments would become emblematic of the stereotypical tone-deaf athlete, to the point that thirteen years later, the NBPA would distribute a handbook to players advising them to “be sensitive about interviews or other media displays of a luxurious lifestyle” (Beck, 2011, ¶7). Months after the article, Wise astutely noted – though far too late for the purposes of changing the general narrative – that reporters were not following the owners around and reporting on their yachts the way they reported on Kenny Anderson’s cars (Wise, 1998vv, ¶12).³ The trend in reporting was not surprising; it is typical of media coverage of labor-management conflict, especially in the world of sport, to give more attention to employee salary and perceived greed than that of management (Martin, 2004, ¶12).

**Some progress, but not much.** Entering an October 28 bargaining session, the sides had held three meetings in the previous four days. The talks produced some progress. The owners reportedly backed off their hard cap demand for the first time since the labor talks began (Asher, 1998f, ¶6), and the sides appeared to agree on “an economic framework” (Wise, 1998gg, ¶13)

³ During the 2011 NBA lockout, Wise expressed regret about the story. “I vividly remember meeting Anderson at Micky (sic) Mantle’s restaurant on Manhattan’s Upper West Side for lunch 12 years ago. I even laughed when he echoed the car line, thinking at least he has a sense of humor about losing millions of dollars. … But ultimately I ended up helping mold public perception about the NBA players’ image during a protracted labor negotiation, about a guy who was not out of touch at all. On the contrary, Anderson felt deeply for the less fortunate. Months later I watched him pass out turkeys to impoverished families in the same Queens neighborhood he grew up in” (Wise, 2011a, 11-12).
that would feature the players’ luxury tax proposal for two years, followed by two years of an “escrow fund” favored by the owners (¶14). Despite “reservations on both sides” that the system would work, the idea that the sides seemed “to be closing in on a concept represented initial hope that the season could begin before next year” (¶17). There was still a great divide, however. On BRI alone, the owners were proposing the players get just 48 percent of revenue by the 2002-03 season, while the players sought 63 percent of revenues (¶16). In addition, owners sought a maximum salary, a decrease in maximum contract length, and a reduction on performance bonuses (¶18). In essence, the owners and players were inching closer to understanding each other on issues, but were making no tangible progress.

October 28 was a busy and infamous day in the lockout. The league announced that games would be canceled through the remainder of November (Wise, 1998hh, ¶11), and the owners’ Labor Relations Committee met with “about 100 players,” including “such stars as Jordan, Scottie Pippen and David Robinson” (“David Stern,” 1998c, ¶3; Wise, 1998hh, ¶16). The latter included one of the most memorable exchanges of the lockout. Jordan, a future NBA owner, suggested that Washington Wizards owner Abe Pollin sell his team if he could not turn a profit (Bucher, 1998e, ¶13), a suggestion that “offended the owners present” (¶13) and left Pollin “visibly upset” (Wise, 1998hh, ¶19). Jordan had so angered Pollin that the then-74 year old “began yelling at Jordan in front of nearly 100 players and several owners” (Wise, 1998kk, ¶1). Later, Pollin said that it had been “annoying” to him that Jordan “or anybody else would tell me when to sell my team. Nobody is going to tell me when to sell my team” (Wilbon, 1998a, ¶6).

The actual October 28 bargaining session did not begin until after 5 PM (Wise, 1998hh, ¶11), and lasted until one in the morning (¶3). While there was “some progress,” the sides remained far apart (¶3). There was reportedly some agreement on restrictions to the Bird exception. The players offered to make Bird rights apply only to players who have played four years in the league, though owners pushed for an additional year (Bucher, 1998e, ¶5). Both sides also adjusted their demands regarding the percentage of league revenue that would be devoted to player salaries, with the owners moving up from 48 to 50 percent and the players moving down from 63 to 60 percent (Wise, 1998ii, ¶5). The players also adjusted their luxury tax proposal, offering to lower the annual salary that would trigger the tax (¶7).

As the two sides inched closer in negotiations, the players took aim at a new enemy – the NBA’s television partners NBC and Turner Sports. NBC and Turner, which signed lucrative new
television deals with the NBA in 1997, would provide “$475 million in guaranteed television rights fees” to the NBA regardless of whether games were played\(^4\) (Wise, 1998jj, ¶3), an important assist considering that the players were not receiving paychecks. Hunter said the players were “not looking very favorably” on the networks (¶8). “Had the TV contract not been structured the way it is,” Hunter said, “it would have made it a lot more difficult for the N.B.A. to load up. If they're sure they're going to be paid, the economic impact on the owners is not as severe” (¶18).

Talks were set to resume on November 2 “amid hope that an agreement in principle can be resolved by the following week” (Wise, 1998ll, ¶12). The revenue split was viewed as the deciding factor as to whether a deal could be reached quickly (“Negotiations Resume,” 1998, ¶3), with both sides “said to be flexible” (¶6). The November 2 resulted in a step back in negotiations (Wise, 1998mm, ¶11), as the “loose framework for a deal” to end the lockout had “collapsed” (Asher, 1998g, ¶2). The sides were said to be divided over the owners’ proposed escrow plan (¶5). Under the escrow plan, “the sides would determine at the end of each season how much revenue was devoted to player salaries. If a target number was exceeded, part of the escrow money would be returned and distributed to all 29 teams” (Wise, 1998mm, ¶6). The union sought to exempt players under a certain salary from the escrow plan, but the owners wanted “the amount to be placed in escrow to be decided by them and ‘to be limitless’” (Asher, 1998h, ¶3). An anonymous source indicated frustration with the plan: “How do you put the players in the position that if the owners overspend to any amount, then the players have to pay it back” (¶7). Granik said the sides were “back to square one” (Wise, 1998ww, ¶11) due to the conflict over the escrow system.

**Talks falter.** After a bargaining session on November 4 failed after just 90 minutes (Wise, 1998nn, ¶10), Stern held court with the media and accused agents of trying to torpedo negotiations (“David Stern,” 1998d, ¶7). Agents of players who would be affected by the league’s proposed maximum salary had, in Stern’s words, “begun a campaign to defeat any fair deal” (¶7). Needless to say, the agents did not care very much for Stern’s assessment. Tellem called the statements “ludicrous and without any factual basis,” an attempt by Stern to find “convenient scapegoats” (Wise, 1998nn, ¶15). David Falk was far less bothered, attributing

\(^4\) NBC and TNT paid the league $186 million, or 40 percent of their combined rights fee, during the lockout (Horn, 1999).
Stern’s claims to a strategic move to attempt to “create division in the ranks” (¶13). Hunter fell somewhere in the middle of Falk and Tellem:

The commissioner has continuously tried to drive a wedge through the players and repeatedly he has failed. He attempted to pit the superstars against the minimum-salaried players, and he has tried to buy off the current veterans at the expense of younger and future players. Now he wants to split the players, the agents and the union. (Asher, 1998i, ¶7-8)

Stern’s criticism of Falk and Tellem was clearly strategic, but the commissioner did not make up out of whole cloth the idea that the agents had their own interests at heart. As an unnamed “participant” in negotiations told The New York Times, the agents had concern over whether the league’s escrow proposal would translate into a limit on salaries: “So if $15 million is the most, say, Tim Duncan can make, then why would a player pay an agent 4 percent of his salary? Why wouldn’t he just get a lawyer to look the contract over?” (Wise, 1998pp, ¶13).

The failed November 4 talks produced another noteworthy item. Stern lifted a moratorium that banned “team officials with knowledge of the negotiations from explaining the deal to players” (Wise, 1998oo, ¶11). The move created the potential for individuals sympathetic to the owners’ side to attempt to influence the players, something Hunter recognized: “We’re not going to stand by and let the owners and league attempt to have unfettered access to our players and let them manipulate them without going back out there and clearing the record up” (¶13).

The increasingly acrimonious tone of the talks was an ominous sign. “The likelihood of the season beginning in early December,” The New York Times’ Wise wrote, “is fading with each verbal grenade” (Wise, 1998nn, ¶9). The Washington Post’s Thomas Boswell suggested that the lockout would set the stage for future conflicts:

Commissioner David Stern and agent David Falk, deputy commissioner Russ Granik and union head Billy Hunter, are doing a textbook job of setting the stage for years of anger, future strikes, erosion of public image and finally -- who knows? -- maybe 13 years from now, one final battle as idiotic as the one from which baseball is still trying to recover. (Boswell, 1998, ¶6-7)

Boswell’s comments were prophetic; NBA owners would indeed begin another lockout of players thirteen years later.
A November 6 bargaining session ended after just one hour, with talks breaking off “indefinitely” (Wise, 1998oo, ¶1). All signs pointed to a hardening of positions. The union did not bring a counterproposal to the meeting, with Hunter saying that the players would not budge again until the owners made a move (Asher, 1998j, ¶8). The owners, meanwhile, continued to attempt to split the union. Granik said that there was “nothing in that deal that is not really good” for the vast majority of players (Wise, 1998pp, ¶8). “Whether they would vote for it or not out of concern for the high-end salary players, I don't know,” he added (¶8). Hunter, not surprisingly, disagreed with the owners’ rosy view of their own proposal: “Plain and simple, the concessions they want us to make would hurt everybody” (¶11). Falk put the issue into plain terms: “The Bulls aren't going to pay Michael [Jordan] $20 million [instead of $30 million] and give the other $10 million to Steve Kerr and Jud Buechler” (Wilbon, 1998a, ¶14).

While the NBA and NBPA dealt with their myriad issues, the media storm surrounding the league, specifically its players, intensified. Reflecting Martin (2004)’s findings (Martin, 2007, p. 137), articles focused on fan frustration with the lockout (Morley, 1998a, ¶4; Roberts, 1998c, ¶4), with several using children’s quotes to decry the perceived selfishness of both sides (Christian, 1998a, ¶3, Wilbon, 1998b, ¶2) – the same tactic used by several outlets during the 1994 MLB strike (Martin, 2004, p. 133). Former player Robertson, the named plaintiff in the NBA players’ 1970s antitrust suit against the NBA, was also critical of the players. In an op-ed for The New York Times, he decried perceived selfishness among players and their “irresponsible life styles” (Robertson, 1998, ¶7). Robertson, it should be pointed out, actually referred to the lockout as a “strike” – a shocking instance for a supposed union leader (¶1). The actual issues in the negotiations were of little import according to The Washington Post’s Wilbon: “I think this is the first sports labor situation in which people don't care about the issues or which side is making a better point. There's no connection between The Rest of the World and people squabbling over $2 billion” (Wilbon, 1998a, ¶16).

As time dragged on, the owners began to break their silence. Several were quoted in a November 15 New York Times article expressing their willingness to hold out for the best deal. Pollin said the owners were “prepared to gut the season” (Wise, 1998qq, ¶6). “I love the game,  

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5 Robertson would remain a consistent critic of NBA players and their supposed lifestyles – typically by making generalizations based on a few high-profile cases – for much of the next decade.

6 In a bit of ‘if I can do it, anyone can do it’ naïveté, Magic owner Richard DeVos suggested the players follow his entrepreneurial path: “I know they might not like it, but if you want unlimited opportunity, then start your own business. That's what I did” (Wise, 1998qq, ¶25).
but not at the price of another mistake,” Suns owner Jerry Colangelo added (¶7). Clippers owner Donald Sterling was the brashest of those quoted. “Some of our players have said they believe this is forced slavery and that their cars are being taken away for a horse and buggy” (¶27).

Speaking for “some owners,” Sterling also suggested that because the owners “create and make the game and put up the seed money and take all the risk,” they deserved “a more equitable distribution of the revenue” (¶3). Stern, he said, was “going soft” on those owners (¶3).

For his part, Stern reportedly began making personal appeals to the players. An unnamed NBPA official told The New York Times that Stern and other league employees had called players, and that Stern “[complained] about his inability to get a deal with union leadership” (Wise, 1998rr, ¶8). Stern and Hunter had gone ten days – since the last bargaining session – without speaking to each other (“Top Pick,” 1998, ¶3).

Finally, on November 17, negotiating teams for the players and owners met for two hours, ending a nearly two-week stalemate (Wise, 1998ss, ¶1). Though the league described the meeting as amicable, no progress was made (¶2). That said, the sides agreed to set up a full bargaining session on November 20, and the mere fact that full scale negotiations would take place “[spoke] volumes” (¶3).

On November 19 came the first sign of discord within the players union, as Washington Wizards guard Tim Legler made critical comments about the union to The Washington Post. Legler blamed stalled negotiations on the richest players in the league, as they would suffer the largest consequences of the owners’ demands for a maximum salary. “What this whole thing boils down to is the superstar players don't want to be maxed out,” Legler told Post writer Amy Shipley. “We're fighting for stuff only a few guys are going to benefit from” (Shipley, 1998, ¶3-4). Legler’s comments were quickly repudiated. He was characterized as disengaged with negotiations (¶8) and as being a lone “voice in the wilderness” (¶14), the latter characterization coming straight from Hunter.

**One step forward and two steps back.** The November 20 meeting was the “longest” and “most productive” session of the lockout thus far (Wise, 1998uu, ¶4). Each side had adjusted its demanded percentage of league revenue (Wise, 1998tt, ¶13). The owners agreed to proposed changes the players made to the escrow tax, calling for a fixed percentage of player salaries to be set aside (Asher, 1998k, ¶7), though that agreement was based on “at least four conditions, two of which the union considers to be deal breakers” (Asher, 1998l, ¶6). While saying that the sides
were “much closer” to a deal, Kessler cautioned that there a “number of points” that had not been resolved (Asher, 1998k, ¶2). Among them, a proposal by the owners that would give teams the choice to either go over the cap to resign their own player or to sign a free agent – but not do both, as they had been able to do under the 1995 CBA (¶9).

On November 25, negotiations hit another setback. The union withdrew its escrow tax proposal, reportedly informing the league that there had been a “misunderstanding” (Wise, 1998ww, ¶1-2). Granik said the progress made on November 20 was “all but gone” (¶3) and sent a letter to Hunter arguing that there was “no point in resuming talks unless the union agreed to certain league conditions” (Asher, 1998m, ¶5). The bargaining session was eventually canceled, as Hunter said the union was unwilling to bargain under the league’s ultimatums (Roberts, 1998d, ¶4). In a November 28 conference call between Hunter and more than 100 players, “there was talk of bending no further” (Roberts, 1998e, ¶4), even if it meant the loss of the season.

On November 29, The New York Times published a piece by economist Andrew Zimbalist casting doubts on the owners’ claims of unprofitability. Zimbalist assumed “conservatively” that the average NBA team made $3 million in profit during the 1997-98 season and would make nearly $17 million by the end of the 2002-03 season, and that the franchise value of NBA teams had increased “nearly sixfold” over the past decade (Zimbalist, 1998, ¶24). In addition, Zimbalist doubted the NBA’s goal to restore competitive balance, noting that the Bird exception was a powerful tool to help small market teams keep their players (¶28). “In sum, the owners' position is unreasonable” Zimbalist concluded (¶30).

Notably, another mid-level player expressed frustration with the stars’ role in negotiations. The New York Times’ Araton wrote a sympathetic profile of former New York Knicks player Charles Oakley, lamenting that Oakley was losing out on the $10 million in salary he was owed for the 1998-99 season – a “balloon payment” at the end of a contract that paid him just $2.85 million the previous year (Araton, 1998d, ¶11). It was another example of the perceived superstars of the league acting to the detriment of the less fortunate players. “They don't let the little man speak,” Oakley said, “They ought to put the microphones next to the guy who's making $350,000” (¶6). Others joined the chorus, including then-retired coach Phil Jackson. Jackson suggested that the NBPA was being “directed by a couple of agents,” and that

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7 Zimbalist assessed the league’s bargaining strategy thusly: “Waiting for the players to miss paychecks, exhorting the rank and file to turn on the union leadership and offering no substantive basis for the owners' demands is wrongheaded and unproductive” (¶31).
the ‘middle class’ players he had spoken to did not “feel like they have enough power to speak out because they don’t have the clout” (Wise, 1998yy, ¶7). Former NBPA president Isiah Thomas suggested that the union replace Hunter and Ewing “to get a deal done” (“Union May,” 1998, ¶1).

After another fifteen days without negotiating, the NBA and NBPA met again on December 3 (Wise, 1998xx, ¶1) after the league agreed to drop preconditions for returning to the bargaining table (¶4). The meeting lasted over twelve hours, but again did not result in significant progress⁸ (Wise, 1998zz, ¶1-2). With the first month of the season already gone, Stern said after the meeting that it was “more likely that we won’t have a season than we will have a season” (¶3). Hunter, meanwhile, continued to assert that the players were willing to miss the season. “Our membership is definitely prepared for that possibility. And we’re not blowing smoke” (Wise, 1998ab, ¶5).

**Players take more hits, some self-inflicted.** December 5 brought one of the more glaring instances of player-bashing from the media, as The Washington Post’s Kevin Merida used a profile of Sam Jones to blast modern day players, even as Jones himself defended the union’s cause. Merida contrasted Jones, who played during the 1950s and 1960s, from the “new school of coach-chokers, trash-talkers and multimillionaire practice-balkers” (Merida, 1998a, ¶1). Despite Merida’s evident distaste for current NBA players, Jones himself supported the union. Buried deep into the article, after several paragraphs denigrating the players, was Jones’ comment that he was “on the side of the players” (¶52). “Listen, the players don’t owe the fans anything. Listen, the players aren’t striking. The players want to play. The owners locked them out” (¶50). Jones also disputed the idea that the owners should be protected from paying lucrative deals to mediocre players: “If the owners want to pay them, who cares about greatness? Oh, no, I don't have any problem with it” (¶53). Jones’ comments – more abashedly pro-union than anything even Hunter had said to that point – were quickly dispatched in favor of more player-bashing.

Meanwhile, agents Falk and Tellem announced a charity game featuring locked out players. At a December 8 news conference announcing the game, it was formally revealed that

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⁸ During the December 3 talks, the league rejected – for the third time – the union’s request for a mediator. Stern explained his rationale in a news conference: “This is the kind of a deal that has been made by willing participants in professional sports for the 30 years I’ve been involved in professional sports -- without the assistance or the addition of a mediator. If we can't make a deal, then we won't be able to make a deal. Period” (“David Stern,” 1998d, ¶5).
while part of the proceeds would benefit Unicef, another portion would be “set aside in a trust fund for NBA players in need” – from those making the minimum salary of $275,000 to “players who have made millions but have failed to save their fortunes” (Roberts, 1998f, ¶3-4). With proceeds expected to top $1 million, just $200,000 would be set aside for Unicef, with the players receiving the rest (¶12). The prospect of a charity game to benefit the players was unsurprisingly unpopular, especially in an overall climate that was not very warm to the players in the first place.9 During the aforementioned press conference, Ewing gave one of the most memorable quotes from the lockout, one that along with the Kenny Anderson story would be repeated years down the line: “If you look at the majority of people playing professional sports, after they finish playing, there are not a lot of them financially secure. They make a lot of money, but they also spend a lot of money” (¶5).

Player agent Keith Glass said all the proceeds “should go to charity” and added that none of the five players he represented would any take proceeds from the game (Wise, 1998ac, ¶4). Glass was not alone, as some of his peers also voiced concern over public perception of the move during a conference call with Hunter (¶7). An anonymous agent told The New York Times that there was “growing support” to have all proceeds from the game go to charity (¶13). The organizers relented on December 10 and elected to give the proceeds to Unicef, Save the Children and charities in Philadelphia (Wise, 1998ad, ¶2).

Beyond the public relations errors, the charity game was viewed as a potential way to impact negotiations. NBA player Glen Rice suggested that if the game was as successful as hoped, the owners would “show some concern” (Roberts, 1998f, ¶9). The game, which would be televised by the Showtime premium cable network (“NBA Players,” 1998, ¶9), would also serve as a “trial balloon” for the potential of a new league to challenge the NBA (Roberts, 1998f, ¶10).

**One step forward, two steps back (again).** Late on December 10, chief negotiators for the owners and players met for a five-hour “private meeting” (Wise, 1998ae, ¶1-2), the second such meeting since the lockout, and the first meeting of any kind in a week. Though there was optimism surrounding the fact that talks were happening at all, expectations were not particularly high. “I don’t think there’s a lot going on here,” Kessler said, “They met. They talked. We hope to talk some more” (¶13). With that said, a pair of anonymous sources told The Washington Post

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9 In early 1999, Hunter lamented the public perception of the players during the lockout: “[Y]ou realize that people are either misinformed, uninformed or they refuse to be informed. The perception is that, one, we're on strike, two, that the players are being unfair, or unreasonable” (Rhoden, 1999a, ¶3).
that “some of the obstacles” in negotiations “had been removed” (Asher, 1998n, ¶2). One of those obstacles was reportedly the Bird exception (¶7).

The sides met for another private meeting two days later. Though the meeting lasted only one half-hour (Wise, 1998af, ¶1), the sides did not leave on “bad terms,” according to Hunter (¶4). Instead, they chose to end the meeting “while it was still amicable” (¶5). According to The Washington Post, the genesis of disagreement came “when a league negotiator asked the union to outline “what kind of deal the players would be willing to accept’” (¶5). In response, according to The New York Times, the union had offered concessions that the league said would have “little impact toward helping the owners achieve some kind of cost certainty” (Wise, 1998ag, ¶5). The BRI gap narrowed from 52-58 to 53.5-56 (Wise, 1998ah, ¶3), and the players offered to cap the salaries of players with 7-9 years in the league at $10 million, more than the $7.8 million the owners wanted, but a concession nonetheless (¶7-8). Following the failed talks, pessimism reigned (Wise, 1998af, ¶2). Granik said he did not expect any talks the rest of the week, as the sides no longer knew what to talk about (¶3).

Complicating matters was the issue of race. Newsweek published a report arguing that “racial tensions” were “contributing to the adversarial spirit in negotiations” (“Newsweek: Racial,” 1998, ¶1), and The New York Times followed with its own report (Roberts & Wise, 1998, ¶3). According to the Times, the players implied that the league had “all too willingly allowed the players to be publicly portrayed as greedy materialists interested only in their multiple car payments, as people too unintelligent\textsuperscript{10} to appreciate the financial stakes involved” (¶8). Some, including anonymous sources on the owners’ side, told The New York Times that there was a feeling that Hunter had used race as a means to rally the players\textsuperscript{11} (¶22). Hunter, however, denied publicly that race was an issue (Wise, 1998ai, ¶16).

Meanwhile, negotiations continued to drag along. At one point, Hunter and Stern traded barbs over which one of them was making the first move to set up bargaining sessions (Wise, 1998ai, ¶7-11). Stern, meanwhile, prepared to depart for a week-long vacation to Aspen, the second time during the lockout that he had gone on vacation. Hunter took note of Stern’s time

\textsuperscript{10} On the latter point, then-retired coach Phil Jackson said as much, noting that the NBPA had “players that haven’t even finished college standing up there at the podium” (Roberts & Wise, 1998, ¶31).

\textsuperscript{11} Former NBPA president Cousy, who had not been shy about his distaste for the current players association over the previous several years, diminished the players’ claims: “[F]or the players to play the race card without factual evidence is very disappointing” (Berkow, 1998, ¶11). Cousy did admit, however, that being “black in America” was “no shrimp cocktail” (¶11).
off: “When he's ready, he'll negotiate. Obviously, his timeline is not affected by the week before Christmas now that he's going to Aspen” (Wise, 1998ai, ¶6).

Before his departure, Stern made a direct appeal to the union membership, mailing out a “nine-page document” meant to explain the owners’ latest proposal (Wise, 1998aj, ¶1). The very existence of the letter was another indication that the owners did not consider the players particularly informed. Though Hunter claimed that “nothing the document contained was news to the players,” (¶9), there were a few new details for the media to consume. Among them, an increase in the proposed maximum contract length from five to six years for free agents, and from six to seven years from free agents with Bird rights (¶16). The union distributed a response to Stern’s letter, with Hunter noting that the owners’ compromises were not concessions from the existing deal, but instead were concessions from their initial demands (Asher, 1998o, ¶4). The league’s proposal, said Hunter, “represents steps backwards from the freedom and benefits that NBA players have enjoyed under the last and even earlier collective bargaining agreements” (Asher, 1998p, ¶2).

Hunter’s rebuttal prompted Stern to call the cancellation of the entire season “virtually inevitable” (Asher, 1998p, ¶3). Again insinuating that the players simply didn’t know any better, Stern said that Hunter had led them on a “tragi c course” (¶3). Hunter counter ed that cancelling the season would be Stern’s choice (¶5). “I'm not interested in raising the level of rhetoric at this point,” Hunter said, “I'm interested in meaningful negotiations” (¶5). With bargaining unlikely to resume until December 26, there would likely be just one week left to end the lockout and preserve the season (¶6).

Cracks in union solidarity. On December 19, the briefly controversial Showtime charity game took place. The game itself was not a particularly big hit. Just over 9,500 tickets were sold for the game at the 12,500 seat arena, and estimates indicated that only 5,600 actually attended (“Charity Game,” 1998, ¶1; Wise, 1998ak, ¶3). The crowd “went silent at times because of the lackluster play” (Wise, 1998ak, ¶13). That said, there were “few boos,” and the players “received a decent ovation during the pre-game introductions” (¶13).

The game, however, was secondary to Stern’s comments regarding cancellation of the season. Charles Barkley, an active player at the time, seemed resigned: “If he cancels the season, he cancels the season. … I'm not intimidated” (Knight, 1998, ¶13). Despite Stern’s statements, several players indicated that they believed that some semblance of a season would take place
“To me, a deal is just about in place,” Malone said, calling the proposal outlined in the Stern letter a “fair deal” that needed some adjustment (¶7).

Ewing publicly disputed that Malone’s view of the owners’ proposal as a ‘fair deal’ was shared by the rest of the union: “We don't agree with him. I don't know where it came from” (Roberts, 1998g, ¶4). Malone was not alone, however. Fellow player Kevin Willis “called for players to vote on the proposal by secret ballot,” claiming that most of the players would vote for the proposal so the season could begin (Wise, 1998am, ¶7-8). Of note, Willis’ agent had earlier filed a grievance against the NBPA and had “harshly criticized” Hunter, Ewing and the union (¶10).

Drop dead date and a ‘final offer.’ On Christmas Eve, news broke that Stern had scheduled a Board of Governors meeting for January 7, 1999, at which he would recommend that the entire season be canceled (Wise, 1998an, ¶1-2). Granik said that while he expected negotiations to take place before the January 7 deadline, he had no reason to expect any progress (¶3). “[W]e’ll have done what none of us thought was possible,” Granik said of the possibility of canceling the season (¶3). Of course, it was three years earlier that Stern said flatly that he was resigned that there would be no 1995-96 season. The ‘drop-dead date’ was welcomed by union member Danny Schayes, who noted that the players had previously attempted to get the owners to set a deadline, “if only to bring immediacy to the negotiations” (Wise, 1998an, ¶6).

While Stern and Hunter met unannounced for a December 23 session that yielded no progress (Broussard, 1998b, ¶1-2), the general thought among the players was that negotiations would not heat up until the deadline approached. NBA lawyer Mishkin restated that the gap between the sides was large and unlikely to be closed (Asher, 1998q, ¶2). An anonymous source told The Washington Post that Hunter believed negotiations would not “get serious until after the first of the year” (¶7), and reports indicated that the union did not expect a deal until “just before the league’s deadline—or even beyond it” (Asher, 1998r, ¶5).

As far as the actual provisions being discussed, Hunter was prepared to make concessions on the players’ percentage of league revenue and the league’s proposed maximum player salary, so long as the owners agreed to boost the minimum salary and add salary cap exceptions that would benefit ‘middle class’ players (Asher, 1998r, ¶9).

The sides reconvened on December 27. Stern and the owners presented what they termed the league’s final offer, which was promptly rejected by the union’s negotiating committee.
(Asher, 1999a, ¶2; Roberts, 1998i, ¶1). “We have gone as far as we can go,” Mishkin said, “There are no more offers. I expect the season to be canceled” (Roberts, 1998i, ¶3). Stern said the owners’ proposal – which they said included several “improvements” (¶9) – was “as far as we could possibly go” (“David Stern,” 1998e, ¶5). Granik confirmed to a reporter that any further meetings between the sides would be contingent on the players accepting the ‘final offer’ (¶20), and that the owners did “not anticipate any further negotiations” before the January 7 drop dead date (¶18).

Stern ramped up his criticism of the union in the wake of the failed talks, using the typical scare tactics that made up the cornerstone of his lockout strategy. In particular, he accused the union of ‘disciplining’ any player who indicated approval of the owners’ proposed deal (“David Stern,” 1998e, ¶30-31), said that most of the players were being “held hostage” by the 19-member union negotiating committee, and suggested that a fifth of the players could see their careers “end in a cloak of secrecy” (¶17). Never mind that the only reason those players would lose the season and presumably their careers would be because the owners imposed the lockout in the first place. In effect, Stern’s message to the players was that the union did not have their best interests at heart, and they would suffer as a result.

After months of apocalyptic warnings, it is no surprise that Hunter did not take the owners’ tone seriously (Roberts, 1998i, ¶5): “I'm convinced that when the owners look at our proposal, I don't think it's one that people are going to walk away from. I don't think they are going to be inclined to blow up the season” (¶6). Stern, however, was dead serious this time – or at least that is what he told the media. To get that message across, he belittled Hunter much in the way he did to Kessler during the 1995 labor dispute – by portraying him as often wrong, with the implication that he had led the players down a damaging path:

[Hunter] didn't believe that the National Labor Relations Board would dismiss the `Unfair Labor Practice' suit and he didn't believe that Dean Feerick would hold against him and he didn't believe that the owners would lock out and he didn't believe that we would lose regular season games and he didn't believe that we would miss Christmas Day and he didn't believe we would cancel the All-Star Game. So his analysis of this is right on target. … And on January 8, he'll turn to his players and say ‘Guess what, I was wrong.’ (“David Stern,” 1998e, ¶13)
Stern’s attempts to pit the players against union leadership and the agents did not represent a new or unique strategy. As Puette (1992) noted, editorial cartoonists throughout the twentieth century have taken to representing labor leaders as “feeding on the hard labor of poor, benighted workers who have been somehow duped into contributing their inherited wealth to the personal aggrandizement of the union leadership at no benefit to themselves” (p. 81).

**Union starts to crumble.** Despite the frankly ugly tone, Hunter expressed a willingness to continue negotiations: “If they are willing, we can negotiate. There's too much at stake not to” (Roberts, 1998i, ¶19). Though Stern had urged the union to allow the players to vote on the owners’ offer (Roberts, 1998j, ¶2), Hunter had “chosen not to put the matter to a vote” (¶4) on the belief that the vast majority of the players would vote against the proposal (¶13). Allan Houston, a member of the previously mentioned union negotiating committee, was not impressed by the owners’ offer:

Stern does a good job of putting something on the table that's ridiculous, taking it off and making it look like they've given up\(^\text{12}\) … When Stern says the things he does, he is trying to target players who are unsure of the issues. He's trying to appeal to them on an emotional level. He's trying to cause dissension and raise some hairs. (Roberts, 1998j, ¶18-19)

For all the talk of how the star agents were running the show, agents Jerome Stanley, Keith Glass and Steve Kauffman held – whose combined 33 clients were part of the league’s ‘middle class’ – said that very few of their clients would vote for the league’s proposal (Asher, 1998s, ¶2), and Kauffman said he believed “a majority of players would reject it” (¶4). Still, there were other players more than willing to take Stern’s bait. Nets star Jayson Williams warned of a “monopoly,” as “the stars people listen to are Falk guys” (Roberts, 1998k, ¶11).

As 1998 came to a close, Hunter requested a meeting with the owners to present the union’s final proposal (Asher, 1998t, ¶1). If the owners refused to meet for a bargaining session, the union intended to “submit its ‘final’ proposal in writing” to all 29 owners (¶4). Stern had done the same with the owners’ final offer, sending a summary to the players (¶5) that also warned of the “catastrophic” consequences of their refusal to accept the owners’ proposal and urged a vote.

\(^{12}\) As an example, Stern framed the owners backing off of a their demands for a hard cap and the removal of the Bird exception as “significant concessions” (“David Stern,” 1999a, ¶33).
Again, Stern garnered public support from some of the players, including, once again, Jayson Williams. Williams told reporters the union should hold a “secret vote” (Asher, 1998t, ¶9), and Nets teammate Keith Van Horn, despite being represented by Falk, agreed (Broussard, 1999a, ¶4). Van Horn went as far as to call the owners’ proposal “pretty good,” and “as close to a fair deal as we’re going to get” (¶7), and implied that the negotiating committee did not necessarily represent the interests of most players: “Even though you have 19 guys representing the players, it may not necessarily be accurate or representative of how the other guys feel” (¶3).

Stephen A. Smith of the Philadelphia Inquirer reported in early January that at least twenty players contacted former NBPA president Isiah Thomas in the hopes that he would “step in” if the union did not set up a vote on the owners’ proposal by January 4 (Smith, 1999a, ¶4). Based on accounts from Thomas and two unnamed players, Smith reported that “many” players had expressed discontent with the union’s refusal to hold a vote on the league’s offer amid suspicion that Ewing, Howard, Mutombo and Mourning were “controlled by” Falk (¶14). Stern’s tactic of contacting the players directly had worked, as unnamed players reportedly “expressed concern that the league seems more interested in showing them its proposals than the union's leaders do in showing them theirs” (¶15). The reports of infighting in the union were denied by an unnamed NBPA official.

More threats in the final days. On New Year’s Eve, the union prepared its final proposal (Wise, 1999a, ¶1), which included a maximum salary of $15 million for players with at least ten years in the league (¶6) and 55 percent of BRI by the 2001-02 season, just two percentage points higher than the percentage the owners’ proposal called for during that season (¶7). Kessler sought to set up a bargaining session at which the union would present the owners with their proposal, but the NBA’s Mishkin said the owners wanted to see the proposal first before any meeting would take place (¶14). With that as a condition, Kessler decided not to bother. In essence, the owners refused to meet without seeing the proposal first, and the union refused to give the owners’ their proposal without meeting first. The owners would later find out “about the players' compromises through the news media” (Wise, 1999b, ¶1).

The conflict over whether the sides would meet to review the players’ proposal was rendered moot when Hunter and Ewing met in person with Stern and Granik on January 4 (“David Stern,” 1999a, ¶2). The results were not positive. Granik deemed the union’s proposal nothing new (“David Stern,” 1999a, ¶2), and Stern called it step “backwards” (¶30). The NBA
Labor Relations Committee voted unanimously to reject the players’ proposal and to recommend that the 1998-99 season be canceled (Asher, 1999a, ¶1; “David Stern,” 1999a, ¶3). As is typical, Stern “talked about the stalemate in dire terms” (Wise, 1999c, ¶8), even invoking the possibility of using replacement players (“David Stern,” 1999a, ¶19): “We’re looking for people who share the spirit of partnership that got us to where we have gotten to,” Stern said, “And clearly, based on the union’s last proposal to us, there’s nobody there who shares that vision of partnership at this time” (¶23).

Even as Stern breached the idea of an NBA with entirely new players, he discounted the idea of players starting an entirely new league. “Our players have been sold a certain bill of goods about a new league,” he said, again painting the players as gullible dupes of the agents. “A couple of agents will take the top 100 players and start a league with about six or eight teams if they possibly can. The 350 other players will be left without any opportunity” (“David Stern,” 1999a, ¶26). He concluded with his typical histrionics: “It's so sad to me that it's almost unspeakable” (¶26).

A union surrender. With their proposal rejected and Stern threatening to use replacement players, the players set appeared to set in motion their own surrender. The day Stern and Granik held their press conference, the NBPA made the decision to put the league’s proposal to a January 6 vote (Wise, 1999c, ¶2). Hunter and Kessler attempted to spin the union’s reversal as an attempt to show the owners just how unified the players were against their offer (Wise, 1999c, ¶3; Asher, 1999a, ¶10). Granik said he was “glad to hear the players will have an opportunity to be heard,” using the opportunity to remind them of the owners’ threat to cancel the season (Wise, 1999c, ¶5).

It is perhaps part of Stern’s modus operandi to suggest something that sounds reasonable, but in fact is an undue hardship on the opposing side. As The New York Times’ Chass noted, it made little sense for the entire union membership to vote on the NBA’s proposal unless they had been previously “informed or educated” on the negotiations (Chass, 1999a, ¶14): “That's why player unions leave the negotiating to a selected committee. It's easier for 10 or 20 players to become intimately acquainted with proposals, then recommend them for acceptance or rejection by the entire membership” (¶15). Stern had successfully framed a typical aspect of collective bargaining as an attempt by high-powered agents to take advantage of middle class players.
In advance of the scheduled vote, the perception existed that some players were willing to give in to the owners’ demands. The feeling among union officials, reported The New York Times’ Wise, was that “players would not be voting for the deal but instead voting to salvage what’s left of the season” (Wise, 1999c, ¶16). It did not necessarily appear that Hunter, Ewing and the other higher profile members of the union were carrying the day with their membership. Houston Rockets player Mario Elie echoed the commissioner, saying that the league was not “represented by 19 players because there are 430 voices to be heard” (Roberts, 1999 ¶5). The body of the union was unlikely to have the stomach to sit out the entire season, something Stern and the owners likely were banking on. “I think a lot of players just want to play now,” player Terry Dehere said, “They’re tired of all of this. Plus, a lot of guys probably need to pay bills and get back to work because they have families” (Broussard, 1999b, ¶7).

Isiah Thomas continued to go out of his way to insert himself into the conflict, flying into New York on the behalf of what he claimed were upwards of 40 players who had contacted him about “taking a stronger role” (Wise, 1999d, ¶10). “The players need to take control of their own union again,” Thomas said, feeding into the league position that the union was not representing the interests of all the players (¶21). Williams, who would be a liability for just about any labor union based on his comments throughout negotiations, said he received “about 40 calls” from players who, like him, were leaning towards accepting the owners’ proposal (¶29). Kessler, not surprisingly, believed the players would vote in favor of the negotiating committee’s decision to reject the owners’ offer (Asher, 1999b, ¶4). In the event that the players voted in favor of the committee’s decision, the union would then seek a resumption of talks (¶5).

**An abrupt ending.** The much anticipated union vote never materialized. On the evening of January 5, Hunter contacted Jim Quinn, the former NBPA lawyer (Wise, 1999e, ¶10). Quinn, who had spoken with Granik previously regarding the negotiations but “had not been involved in a single session” (¶9), began meeting with the deputy commissioner at 6 PM. “About an hour later, it went from conversation between old friends, to brainstorming and, finally, to a bona fide negotiation to and breakthrough deal when others were called into the negotiations” (¶14). Those others were Hunter, Kessler, Stern, and NBA general counsel Joel Litvin (¶16). Negotiations continued for the next ten hours (¶18), and by the morning of January 6, the sides had reached a deal (¶23).
The union agreed to “unprecedented concessions” (Wise, 1999f, ¶5), including the league’s desired maximum salary limit,\(^\text{13}\) a salary restriction to which no sports labor union had “ever agreed” (Justice & Asher, 1999, ¶23). In a player’s first year with a team, he would be limited to between $9 million or $14 million in salary, depending on the number of years he had been in the league (Wise, 1999f, ¶19). Players would be limited to 55 percent of league revenue during the final three years of the deal, though there would be no limit in the first three years (¶22). The rookie wage scale would again last for three years, but teams would hold an option for a fourth year and have the right of first refusal in the fifth year (¶24). The escrow system would begin in the fourth year of the deal, with 10 percent of player salaries set aside for the purposes of reimbursing the owners if player salaries exceeded a certain percentage (Asher, 1999c, ¶3). The league granted the union’s request for cap exceptions that would allow teams “to sign two additional players each season, even if it is over the salary cap” (Wise, 1999f, ¶25; Asher, 1999c, ¶10). The players approved the six year deal “by a vote of 179-5” (Justice & Asher, 1999, ¶2).

The 1998-99 lockout remains the longest in the history of the NBA, and was the first to cost the league games. Despite the unprecedented nature of the dispute, however, many of the trends involved were evident in 1995 and 2011. In particular, Stern’s attempts to sow discord in the union, his portrayal of the players as pawns of the agents, and his frequent warnings that the players would suffer if they did not agree to his owners’ demands were present across all three disputes. Also consistent between 1998 and 2011 was the players’ inability to stay united, as there were inevitably those who advocated bending to the owners to salvage the season – not realizing that by bending every single time, they ensured failure for the next negotiation.

**The 2004-05 CBA Negotiations**

**An uneven start.** The NBA and NBPA began discussing a new collective bargaining agreement more than a year ahead of the original July 2004 expiration date (Sandoval, 2003, ¶9-10). In December 2003, the league exercised an option to extend the CBA an additional season, through 2004-05 (“Woods Again,” 2003, ¶4). The move was an indication that the league was generally satisfied with the existing CBA and was not seeking a radical overhaul. As Granik said

\(^\text{13}\) In a letter to the editor in *The New York Times*, a Columbia University professor noted the hypocrisy of capitalist NBA owners favoring regulations that would strangle the free market: “Since N.B.A. owners no longer seem to favor a laissez-faire system of wages in a free market, perhaps the time is ripe to revive the proposal made in 1936 by the Presidential candidate Huey P. Long: Place a ceiling on the incomes of all Americans. Long proposed a ceiling of $1 million; we could raise it to $5 million. Anything over that could be redistributed to communities in which the work took place. And, since N.B.A. owners seem to be the most eager to restrain the invisible hand, perhaps they could be the first to cap their own incomes” (“The NBA,” 1999).
in February 2005, the “system that we now have in place is not a disaster for either side the way it was before” (Sheridan, 2005a, ¶10). Of course, whether the old system was a disaster in the first place was debatable. The extension of the deal was in sharp contrast to the owners’ typical practice. During the 1998-99 and 2011 negotiations, the league either opted out of the CBA early or declined to extend the CBA an additional season.

The two high-profile items in the negotiations were the league’s desire to establish an age limit for players to enter the league and to reduce the length of player contracts. On the latter issue, the league sought in its initial proposal to cut the maximum contract length from seven to just four years (Sheridan, 2004a, ¶6). Stern explained that the owners did not want a system that rewarded “players who are no longer in the league – or who shouldn’t be in the league at higher prices” (Sheridan, 2004b, ¶5). In other words, the owners wanted to be freed from the responsibility of committing long-term to players who would drop in value. In order to safeguard owners from ending up with bad contracts, the players would have to lose even more flexibility in negotiating with teams.

Throughout 2004, there were inklings of difficulty in reaching a new deal. In June, Hunter said there was a “high probability” of a lockout if the league did not retreat from its initial proposal (Sheridan, 2004a, ¶4). In addition to the reduced maximum contract lengths, the league was also seeking to strengthen luxury tax penalties (¶6). Overall, the proposal was described as a “step back” by Hunter, who likened it to the league’s proposal in 1998 (¶7). For their part, the players sought an end to the escrow tax and the luxury tax (Sheridan, 2004b, ¶8). Through November, the sides had made “little progress” (Sheridan, 2004c, ¶11).

There were several factors complicating the negotiations. The most notable, at least to the general public, was the November 2004 altercation between players on the Indiana Pacers and fans of the Detroit Pistons. In the wake of the fight, Stern handed down lengthy suspensions to the Pacers’ Ron Artest (73 games), Stephen Jackson (30) and Jermaine O’Neal (25). Stern had “sole discretion over penalties for on-court behavior,” and under the CBA, “all appeals go through him, too” (Sheridan, 2004d, ¶6). Stern was certainly not afraid to flaunt his power, telling reporters at a news conference that the decision to suspend Artest was made “one-

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14 Needless to say, the league would be loathe to accept such a practice for itself. The NBA’s two most-recent television contracts, signed during periods of low television ratings, have lasted for six and eight years, respectively. By comparison, the league’s three television contracts from 1988 to 1998 – each of which was signed during periods of high ratings – lasted for four years each.
nothing” (Araton, 2004, ¶2). Hunter spoke of the commissioner’s “unfettered authority” (Rhoden, 2004, ¶8), and suggested to *The Washington Post* that Stern’s power would be an issue during CBA negotiations (Sandoval, 2004b, ¶4). Regardless of whether Stern’s disciplinary powers would become an issue during negotiations, the controversy had distracted from CBA talks. The league and the union postponed a 2004 CBA meeting as the sides took legal recourse (Sandoval, 2004c, ¶7).

**A thin veneer of progress masks discord.** Through February, the general perception of the talks was positive – at least publicly. At a February 18 meeting, NBPA president Michael Curry¹⁵ said he was “optimistic” that a deal would be consummated before the end of the season (Sheridan, 2005b, ¶2). The following day, Stern and Hunter “sat smiling side by side” at a news conference (Robbins, 2005a, ¶1), with Stern saying that he believed a deal would be completed by the end of the season (Sheridan, 2005c ¶5). Neither, however, could speak in specifics about where progress had been made (¶1-2).

However, those public shows of optimism merely masked behind-the-scenes strife. On March 1, according to *Sports Business Journal*, NBA representatives walked out of a meeting with the union and canceled a meeting scheduled for the following day (Mullen, 2005, ¶4). On April 18, according to ESPN.com, Hunter met with a group of player agents to outline the owners’ proposal. The agents indicated their preference to reject the proposal (Ford, 2005a, ¶16), as the owners were seeking unnecessary concessions during good financial times (¶20), and the reduction in maximum player salaries would only serve to protect the owners from themselves by limiting the players’ options in the free market (¶24). By May, Stern had ‘downgraded’ his appraisal of the talks from “‘optimistic’ to only ‘hopeful’” (Sheridan, 2005d, ¶10). Even though the negotiations were, in his words, “friendly,” the sides had not been able to close the gaps between their proposals (¶9).

Stern’s public downgrade came “just hours” after the union presented a new offer that the league said took “major steps backward on all the key elements” (Sheridan, 2005f, ¶5). In response to the union’s proposal, the league canceled a bargaining session set for May 17 (Sheridan, 2005e, ¶1) and suspended talks indefinitely the following day (Sheridan, 2005f, ¶1).

¹⁵ Notably, there were questions surrounding NBPA president Curry’s allegiance to the players. Curry had been openly campaigning for front office jobs (Sandoval, 2004a, ¶8-9), creating the perception of being too close to management. In a highly suspect circumstance, Curry was named vice president of basketball operations and player development for the NBA Developmental League mere weeks after the 2005 CBA was completed, and would be named NBA VP of basketball operations in 2006 (Whitlock, 2011, ¶4-6).
As is typical, the league pointed blame in the direction of the player agents. Granik said the sides had been close to a deal until Hunter’s aforementioned meeting with player agents. A day after the meeting, the league said the union informed them that they would “no longer agree to a previously committed five-year rule on length of contracts” (Sheridan, 2005f, ¶11). The agents – yet again – were painted as the boogeymen keeping the NBA from achieving labor-management peace. Hunter correctly noted that this tactic was anything but new, calling it even more “repugnant and offensive” than it had been in 1998 (Ford, 2005b, ¶12).

Hunter denied that he agreed to a five-year maximum contract length (Sheridan, 2005g, ¶10). According to a *Sports Business Journal* report later in the month, the union agreed to a five-year maximum contract length, but only if the league cut the escrow tax from ten to five percent (Mullen & Lombardo, 2005, ¶1). In other words, there were some kernels of truth buried in Granik and Hunter’s respective statements. The union had agreed to the five-year maximum, but conditionally.

**The threats begin.** Regardless of whether the agents had pushed Hunter toward backing off those concessions, it made little sense for the league to abandon negotiations and make such a public show of it in the process. Stern added to the needless drama, saying on May 19 that he was “confounded as to how we can make a deal at this point,” adding one of his typical threats: “Every day that we don’t make a deal, damage will occur and the changes in our offer will be apparent down the road” (Sheridan, 2005g, ¶6-7). In other words, the union could either give into the league’s demands immediately or suffer punitively for not doing so. This, perhaps more than anything else, represents the core of Stern’s collective bargaining strategy. Stern also dipped into his lockout vocabulary, describing himself as “perplexed and, ultimately, despairing” (Curtis, 2005, ¶2).

After a bargaining session on May 27 (“Contract Talks,” 2005, ¶1), the sides held a failed meeting on June 1. The union made a new proposal and offered to extend the existing CBA, but was rebuffed both times (Sheridan, 2005h ¶3). With a potential lockout just weeks away, Stern continued to go to his lockout playbook of thinly-veiled threats. “If we don't have a deal by July 1, we won't make a deal anytime soon after,” he said at a June 12 NBA Finals news conference, adding that if a lockout were to occur, “the union will have made a mistake of epic proportions” (Robbins, 2005b, ¶3). In an interesting note, Stern said the owners had increased their proposed maximum contract length from four years for players with ‘Bird’ contracts to six years, and from
three years for non ‘Bird’ players to five years (¶13). Hunter, surprisingly, “said he was not aware that the league had made that offer” (¶13).

In somewhat tongue-in-cheek fashion, Hunter told reporters on June 15 that a deal was close at hand if the three main items Stern discussed at the aforementioned June 12 press conference – contract length as well as drug testing and the age limit – were the only impediments. “I’m going to hold him to his word, ” Hunter said, “and I’m going to assume that all those other concessions they’ve talked about are no longer on the table” (Sheridan, 2005j, ¶3-4). Hunter was referring to a slew of items to which Stern did not refer, including a strengthened luxury tax, shorter raises, and a shortened rookie wage scale (¶12).

A rare show of competence by a lockout-addicted league. After Hunter placed a phone call to Stern, the sides resumed talks on June 17 (Sheridan, 2005j, ¶1). The talks lasted “for nearly 12 hours,” with both sides reporting progress (Robbins, 2005c, ¶3-4). After bargaining sessions on each of the following three days, the sides reached an agreement on June 21 (Sheridan, 2005k, ¶2) Under the new CBA, maximum contract lengths were reduced to six years for ‘Bird’ free agents, and five for non-‘Bird’ free agents (Beck & Robbins, 2005JUN22, ¶12), annual raises were cut from 12½ percent to 10½ percent for ‘Bird’ players and from ten percent to eight percent for non-‘Bird’ players (¶12), the escrow tax was reduced to eight percent (¶28), and the league obtained its much-sought after age limit (¶19). The league dropped its pursuit of additional luxury tax penalties (Sheridan, 2005k, ¶15).

2005 marked the first time since the 1970s that the NBA and the NBPA were able to reach agreement on a new CBA before the expiration of the existing deal. However, the 2005 negotiations were fairly uncomplicated. The owners were not seeking an overhaul of the system, and while they were still seeking to extract unnecessary concessions from the players union, the extent of those concessions did not match 1998 or 2011. Still, the league came within two weeks of locking out the players. The 2005 negotiations clearly indicated that, even in the best of times, the relationship between the NBA and the NBPA is dysfunctional at best.

The trends present throughout the history of labor relations in the NBA would surface again during the 2011 NBA lockout. As in 1983 and 1998, the owners spoke of widespread losses and targeted player salaries as the culprit. The following chapter documents the second-most damaging lockout in NBA history and analyzes how the news media covered the conflict.
In particular, print media outlets *The New York Times*, *The Associated Press* and *The Wall Street Journal* are analyzed, as well as television broadcasters ABC News, CBS News and PBS.
CHAPTER FIVE

ANALYZING MEDIA COVERAGE OF THE 2011 LOCKOUT


An Overview of the 2011 NBA Lockout

Prelude to the lockout. Like so many other labor-management conflicts in NBA history, the 2011 NBA lockout was years in the making. According to the *Anthony v. National Basketball Association* antitrust suit the players filed in 2011, NBA Commissioner David Stern and Deputy Commissioner Adam Silver informed the NBPA in 2007 that “the owners were determined to modify the 2005 CBA to substantially reduce what was paid to players and the benefits that players received,” and would be willing to lock the players out for two years if the NBPA did not comply (*Anthony v. NBA*, 2011, p. 12).

The first public inklings of the strife to come surfaced in February 2009, months into the global financial crisis. During the NBA’s All-Star Weekend, Stern and Hunter publicly revealed they had begun preliminary discussions for a new CBA, despite the deadline being more than two years away. “David and I talk from time to time,” Hunter was quoted as saying in *The New York Times*, “and we just thought it was apropos that we sit down and begin to look at the situation, particularly in view of the current economic climate” (Beck, 2009a, ¶3).

Throughout 2009, Stern tended to paint a picture of the league’s financial status that, if not necessarily positive, tended to reject the idea of a crisis. “[I]n a difficult economic environment we are going to maintain our attendance and our revenues,” he said in February, adding that with the stock market down over 30 percent, “[t]he fact that we may be flat or down a percent or 2, I’d sign up for it now in this environment” (Mahoney, 2009, ¶3). Later that month, after the league obtained a $200 million credit facility to distribute to teams, Stern said the twelve interested teams were not necessarily doing poorly. In fact, he said, “[m]any of them are doing well” (Skretta, 2009, ¶11). In March, he broached the possibility of changes to the CBA, but still downplayed the idea of a “doomsday scenario” and said he was not “unduly
pessimistic” about the economy (White, 2009, ¶4). In April, he offered a blunt endorsement of the league’s finances, telling Newsday:

> We have no teams that are in any trouble. Our owners are substantial people who are used to, in many cases, funding operating losses. It's not their preference and we're striving hard to increase revenues collectively and to ultimately have a collective-bargaining agreement and a revenue-sharing agreement that allows every club, if well-managed, to be profitable. (Hahn, 2009, ¶3, emphasis added)

In other words, there were no teams in trouble, and the losses that did exist were typical, even if not ideal. Stern’s comments flew in the face of later claims that the league was in financial crisis during most of the 2005 CBA. Days after the lockout began, for example, NBA spokesman Tim Frank asserted that the “league lost money every year of the just expiring CBA” and that the league did not have a “positive Net Income, EBITDA or Operating Income” in any of those years (Silver, 2011b, ¶8). The NBA said it lost $370 million during the 2008-09 season (Sheridan, 2011, ¶9) – the same season in which Stern touted the league’s finances compared to the overall economy. Of course, Stern never said the league was profitable, just that revenues would be flat or up. However, if the league really was on pace for a nearly $400 million loss during the 2008-09 season, it would be nothing more than spin to focus on slight revenues instead of massive losses. In that case, if Stern was so willing to spin the numbers to make the league look healthy in 2009, it stands to reason he would be willing to spin the numbers to make the league look financially ruined in 2011.

Even if Stern was not forecasting doom and gloom in 2009, others associated with the league were. Player agent David Falk, a thorn in the side of Stern in 1995 and 1998, predicted acrimonious talks, espousing several of the league’s talking points in the process. As paraphrased by The New York Times, Falk said economic system in the NBA was broken, that teams were losing money, and that the onus was on the union to cooperate in order to avoid a lockout (Beck, 2009b).

Falk was not alone. Timberwolves coach Kevin McHale said player salaries needed to be held in check in order to address the league’s financial issues: “I think our guarantees are way too long with way too much money. … We’re kind of in the Fannie Mae, Freddie Mac era of subprime loans. There’s some subprime contracts” (Krawczynski, 2009, ¶14-16). The New York Times’ Richard Sandomir and Ken Belson reported that there were “15 NBA teams in the red,”
though it was not clear whether they obtained that information from the league or independently (Sandomir & Belson, 2009, ¶19).

Over the summer, Stern continued to downplay the idea that the league was in crisis, at least compared to other businesses. “The losses that are being shown by the league and the decrease in business, although our decreases are less than many other businesses, are going to be delivered in some detail to the players,” he said in July (Garcia, 2009, ¶2, emphasis added). Referring to a possible 5% decline in revenue for the league during the upcoming 2009-10 season, Stern said that “most businesses would sign on immediately for a 5 percent decrease in revenues” (¶14). Still, there were hints of the ‘doom and gloom’ approach to come. The day after Stern defended the state of the league compared to other businesses, The Associated Press paraphrased him as saying that “less than half the N.B.A.’s teams turned a profit last season” (Abrams, 2009, ¶1).

The initial proposals. The NBA made its first proposal to the players in January 2010, seeking major changes to the league’s financial structure. According to numerous after-the-fact reports of the proposal’s content, the league sought a reduction of the players’ share of B.R.I. from 57 percent to 37 percent (Beck, 2011gg, ¶10), elimination of guaranteed contracts (¶10), a hard salary cap of $45 million per team, down from a soft cap of $58 million (Lombardo, 2011, ¶4), and modification of existing contracts to conform with the new rules (Rhoden, 2010, ¶10), among other provisions. The players, according to Hunter, had been “caught off guard by the strength of the league’s proposal” (Mahoney, 2010a, ¶8), and Hunter himself termed it a “nonstarter” (¶22). The league withdrew the proposal after a meeting with union members at the 2010 NBA All-Star Weekend (¶5). Still, as The Associated Press noted in July 2011, the owners did not budge from its “wish list” until shortly before the lockout began (Mahoney, 2011h, ¶16).

Concurrent with the owners’ bold proposal was a noticeable change in tone for Stern. During the aforementioned 2010 All-Star-Weekend, the commissioner spoke of hundreds of millions of losses in each year of the 2005 CBA (Mahoney, 2010b, ¶13). He deemed owners’ proposal as reflective of “the financial realities of where we are” (¶4). Suddenly, the league that had been doing relatively well compared to the overall economy – the league in which there were no teams in trouble – was in need of a massive financial overhaul. Even after the league had better than expected revenues in the 2009-10 season, Stern and deputy commissioner Silver downplayed the results. “I would say that our revenues are robust,” Stern said in August, “and
it’s taking more expense and effort to produce them than it has historically” (“Stern says,” 2010, ¶5).

Not surprisingly, that position had support outside of the league office. Falk, for example, seemed to place the responsibility for action on the players. “The times demand concessions,” he told The New York Times (Beck, 2010a, ¶26). Incoming Washington Wizards owner Ted Leonsis, already owner of the NHL’s Washington Capitals, favorably compared the NHL’s financials to those of the NBA16 (“Leonsis: Lack,” 2010, ¶3). NHL owners locked out the players for the entire 2004-05 season, eventually obtaining a hard salary cap, a 24% rollback on existing salaries (“Details of,” 2005, ¶1-3). Leonsis specifically cited the NHL’s hard cap, contrasting it with the NBA’s soft cap/luxury tax system:17 “In the NBA, you can spend a lot of money and every dollar you’re over this luxury tax you get fined. And there’s a lot of basketball teams who are losing a lot of money” (“Leonsis: Lack,” 2010, ¶4).

In July, the union submitted a proposal for a new CBA (Mahoney, 2010c, ¶11), including an offer to reduce the players’ share of BRI (Mahoney, 2010g, ¶4). The changes were not radical enough for the league and the proposal was rejected (¶5). Stern would later assert that the players’ proposal would “probably be more expensive than our current way we do things” (Cohen, 2010, ¶2), as it included looser restrictions on trades and a second midlevel exception (¶3).

Shortly after the union submitted its proposal, Hunter took aim at the league’s various claims of financial distress. Referring to Stern’s statement that the league would lose $400 million during the 2010-11 season, Hunter said he believed the situation was “much, much better than they maintain” (Mahoney, 2010c, ¶3), adding in a separate article that it “just depends on what accounting procedure one applies” (Beck & Viera, 2010, ¶10). More to that point, Fisher told SI.com in July 2011 – after the start of the lockout – that the league’s stated $300 million in losses for the 2010-11 season included “about $130 million in debt taken on by owners who borrowed money to purchase their teams” (Thomsen, 2011, ¶14). As ESPN.com writer Larry Coon noted weeks later, “Just as players aren’t entitled to share in the profits when a team is sold, neither should they be saddled with expenses related to buying the team in the first place”

16 In particular, Leonsis said the NHL was “stronger than the NBA” because the league had a “CBA in place that protects owners from taking stupid pills” (“Leonsis: Lack,” 2010, ¶3).
17 Leonsis was fined by the NBA in September 2010 for suggesting that the league would soon have an NHL-style hard salary cap (Lee, 2010, ¶3).
If those expenses were excluded, the league’s losses would be “closer to $100 million than $300 million, and seven to nine teams, rather than 22, are really struggling” (¶9).

Though the union was unsurprisingly skeptical, the league continued to see its positions validated in the media. After a summer in which star free agents in ‘small’ markets left their teams for ‘big’ market rivals, the league’s claims of competitive imbalance became a clarion call for the media. By exercising their right to sign with whatever team they chose, the players were “undermining a system that was once fine-tuned for parity and stability,” The New York Times’ Beck argued (Beck, 2010b, ¶2). LeBron James in particular had “destroyed the model” when he took less money to join Miami instead of resigning with Cleveland (¶10). The players’ insolence would be punished, Beck warned: “The reckoning will come, as with everything else, at the bargaining table, where owners will try to wrest control in the next labor deal” 18 (¶3). In a later article, Beck went onto lament that “[l]engthy contracts and guaranteed salaries can make it tough for teams to recover from bad decisions,” calling it a problem Stern wanted to fix in the CBA negotiations19 (Beck, 2010c, ¶2). No discussion was given to the implications of such remedies for the players, or whether such remedies could be reconciled with a society that is dedicated to the free market ideal.

Despite having solid representation in the media, Stern could of course speak for himself. In October, he suggested a “swing of somewhere in the neighborhood of $750 to $800 million that we would like to change” (Mahoney, 2010e, ¶3). Considering player costs equaled just over two billion, the ‘swing’ would reduce the players’ cut by nearly 40 percent. Even if the players’ salaries had begun to outpace revenues, such a drastic reduction in salary would seem to indicate that the gap between expenses and revenues was much larger than was even possible. Stern also floated the idea that contraction of franchises was a possibility, though he did not necessarily endorse the prospect (Mahoney, 2010d, ¶1-2). Again, this was months after the commissioner asserted that there were no teams in trouble. Either the league’s financial situation had changed dramatically in a year and a half, or Stern’s PR strategy had.

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18 By contrast to Beck, The New York Times’ Araton did not see anything new or dangerous about player movement in the league, calling “the recent migration of players to large NBA markets to form cabals of superstar power is no more likely to wreck professional basketball than it is to ensure multiple championships” for the teams with which the players signed (Araton, 2011a, ¶1). “The ability of empowered black athletes to befuddle their overwhelmingly white owners might still touch a nerve in some segments of society,” Araton added (¶7).

19 The league argued the same during the 2005 CBA negotiations and obtained concessions from the union. As is typical in the NBA, however, the players’ concessions in 2005 were not enough to satisfy the owners.
sold his league as fundamentally healthy. In October 2011, with a lockout months away, the league could not immediately rule out the elimination of franchises.

In November, Hunter said he was “99 percent sure” that a lockout was on the way (Mahoney, 2010f, ¶2). The next month, the familiar issue of decertification reared its head, as *Sports Business Journal* reported that the players had “begun the process of authorizing the decertification” of the union (Mullen, 2010, ¶1). As is typical, Stern described the prospect of decertification in apocalyptic terms, calling it the “nuclear option” (“Stern says,” 2010, ¶4). Even so, Hunter downplayed the decertification vote, saying the possibility was “pretty far off” and essentially existed to provide the players another option during the lockout (¶6).

**From 100 miles apart to 99.** As the calendar turned to 2011, the league and the union had still only exchanged their initial proposals – somewhat stunning in retrospect, considering that negotiations had begun in August 2009. The owners, to paraphrase deputy commissioner Silver, had not submitted a new proposal because their position had not changed (Mahoney, 2011a, ¶7). In other words, nearly a year after their initial proposal, the league had not seen fit to make any adjustments.

In January, *Forbes* reported that NBA operating income had declined 22 percent and that seventeen teams were losing money, the most since the lockout-shortened 1998-99 season (Ozanian, 2011, ¶7-8). While the *Forbes* data would seem to back up the owners’ claims of financial distress, a July analysis by *The New York Times*’ Nate Silver used the same information from *Forbes* to characterize the NBA as a “fundamentally a healthy and profitable business” (Silver, 2011a, ¶3). While seventeen teams lost money according to *Forbes*, “most of the losses were small, and the league was still profitable as a whole because of profits made by successful franchises … the profits made by the Knicks, Bulls and Lakers alone would be enough to cover the losses of all 17 unprofitable teams” (¶15-17). While that would seem to indicate that revenue sharing could remedy the league’s losses – as both Silver and the union (Mahoney, 2011f, ¶11) suggested – it was clear that merely covering losses was not the goal. The owners were not looking for a way to return to profitability, but to make profitability foolproof. As *Forbes* noted, if Stern “gets his way, an imbecile would be able to make money running a team” (Ozanian,
As Fisher noted in June, the union did not “necessarily feel it’s the employees’ responsibility to guarantee [profitability]”\(^{20}\) (Mahoney, 2011c, ¶13).

After more than a year, the league sent a new proposal to the players union in late April. The proposal, however, was viewed by the union as essentially the same as the initial January 2010 proposal (Sheridan & Broussard, 2011, ¶1). ESPN.com reported that the new proposal still sought “a similar financial cutback” as in the original, “though it would be phased in during the first two seasons” (¶8).

In late May, the union filed an unfair labor practice charge against the league, alleging that the owners had not “bargained in good faith,” that the owners were willing to make demands but not concessions, and that the league had – as in 1995 and 1998 – “bypassed the union to deal directly with players” (Mahoney, 2011b, ¶2). The sides held meetings throughout the NBA Finals, but by June 9 still remained, in Stern’s words, “very far apart” (Mahoney, 2011c, ¶1). The owners were “still seeking a hard salary cap, elimination of guaranteed contracts and a nearly $800 million rollback in salaries” (Beck, 2011b, ¶3) – seemingly bolstering the union’s argument that they were not bargaining in good faith. The union, said The New York Times, had “not budged much either” (¶4).

As the lockout approached, the owners made some slight adjustments to their proposal. A June 18 meeting produced a new proposal by the owners that “relaxed their insistence on non-guaranteed contracts” (Mahoney, 2011d, ¶1). However, the owners’ overture did not amount to much – the players already had guaranteed contracts, and the owners were still seeking a hard cap\(^{21}\) (¶8). As NBPA president Fisher noted, the players were not “asking for anything in addition to the things that we’ve negotiated some 10, 15, 20 years before now” (Beck, 2011c, ¶8). In other words, the players were merely trying to keep as much of the status quo as possible, and most of their ‘victories’ in negotiations would stem from keeping what they already had.

In the final days before the lockout, the owners made several proposals that to the untrained eye could look reasonable – or even generous. On June 21, the owners publicly revealed that they had downgraded from a hard cap to a ‘flex cap’ – or a cap that teams could

\(^{20}\) In February, Stern suggested that the union had accepted the league’s claimed losses as fact, but later clarified that the league and the union had merely agreed not to argue about the numbers (Beck, 2011a, ¶5-6). Either way, Hunter disagreed, releasing a statement saying that the union did “not agree that the stated loss figures reflect an accurate portrayal of the financial health of the league” (¶8).

\(^{21}\) In an indication of just how little the league had budged in negotiations, their turnaround on guaranteed contracts was termed “perhaps their most significant movement yet” by The Associated Press (Mahoney, 2011d, ¶2).
exceed, though only to a certain point. As the players noted, the ‘flex cap’ would still act as a hard cap by placing an impenetrable limit on salaries (Mahoney, 2011e, ¶4). During a bargaining session the same day, the owners proposed a deal that would guarantee the players “at least $2 billion annually for the next 10 years” (Beck, 2011d, ¶2). However, that guarantee amounted to little more than a salary freeze. Considering the kind of growth the league could have over a ten-year period, keeping the players’ salaries at $2 billion would cost them, according to union estimates, “about $8.2 billion over 10 years and would reduce the players’ share of revenue to less than 40 percent” (Beck, 2011e, ¶17). Stern brazenly referred to this freeze as a mere pay cut of eight percent, but neglected to point out that it was an eight percent pay cut in the first year only (Beck, 2011j, ¶2).

The union’s newest proposal, meanwhile, “offered to reduce salaries by $500 million over five years,” bringing the players’ percentage of B.R.I. down to 54.3 percent from 57 percent (Beck, 2011d, ¶11). Stern termed the proposed cut as “modest,” and The New York Times noted he did so “dismissively” (¶11).

While the argument could be made that both sides were making slight movement toward each other, the owners’ proposal would still give them much of what they wanted. In fact, most of the ‘movement’ they made in those final weeks of June merely amounted to repackaging their demands in a fashion that made them appear generous. The owners’ claim that the players would be guaranteed $2 billion and a $5 million average salary over the next ten years was especially egregious when one considers what kind of revenue the league would presumably be pulling in by 2021 – especially with a new television deal coming in 2016. Even if the union’s proposal was “modest,” the players were still willing to give up something, instead of merely rephrasing the provisions they sought.

After a few more fruitless bargaining sessions, the league announced on June 30 that it intended to lock out the players (“NBA to,” 2011, ¶1). It was to be the fourth time in the previous five CBA negotiations that the owners locked out the players, and marked the second time in fifteen years that a CBA to which the owners agreed was described as so onerous to their finances that it necessitated shutting down the league.

Legal wrangling as the lockout begins. Though the lockout began on July 1, the sides did not meet again until August. The August 1 meeting did not produce any “new issues or proposals” (Belson, 2011a, ¶5), but did produce some dismissive comments from Commissioner
Stern. “I don’t feel optimistic about the players’ willingness to engage in a serious way,” Stern said (¶6), adding that the owners had “expressed a willingness to negotiate and compromise” (¶10). Those comments were not without motive. The following day, the league filed an unfair labor practice charge against the union with the NLRB, alleging that they had “failed to bargain in good faith” (Belson, 2011b, ¶3). In addition, the league filed a lawsuit against the NBPA in the U.S. District Court in New York seeking a declaration that the lockout did “not violate the antitrust laws” (NBA v. NBPA, 2011, p. 1) – an attempt to preempt any union effort to decertify and challenge the league on antitrust grounds. The suit accused the union of threatening to decertify on “more than two dozen occasions” during negotiations (p. 2), branding decertification as an effort to “misuse the antitrust laws” (¶3).

The owners claimed in their federal lawsuit that the union had threatened antitrust litigation in “virtually every collective bargaining negotiation since 1970” (NBA v. NBPA, 2011, p. 10). As union lawyer Kessler noted, however, the NBPA had not made a decision to decertify in the 2011 conflict, and indeed had not done so in any of the previous years cited by the league (Campbell, 2011, ¶12). In other words, the NBA had taken legal action to prevent legal action by the union that was not imminent, and indeed had no precedent – at least at that point in time.\textsuperscript{22}

Perhaps the question then becomes not whether the union intended to decertify, but why decertification – one of the few opportunities for leverage the union had – would be considered any more of a bad faith effort than shutting down the league and withholding salaries in order to induce the players into accepting a deal they would likely otherwise reject. By shutting down the league to ensure greater profits, the owners were merely acting in accordance with a dominant ideology that privileged profit by any means necessary. These were goals so ingrained in the national logic as to not warrant examination. As Parenti (1993) noted, the “business-owned news media … say nothing about the incessant need of capital to extract as much profit from labor as possible” (p. 87). Or, as Martin (2004) noted in an analysis of media coverage of a General Motors plant shutdown, “the news media failed to acknowledge that corporate strategies are choices, not inevitabilities” (p. 78, emphasis added). The lockout was viewed as the natural and inevitable result of failed negotiations instead of as a bargaining chip to increase leverage. By contrast, if the players were to dissolve the union to gain leverage or to launch a legal fight, they

\textsuperscript{22} With that said, Stern was later proven correct when he took note of the decertification “playbook” in which “[y]ou announce that you’re going out of business, you swear under oath that it’s permanent and non-reversible, and then you settle the lawsuit” (Campbell, 2011, ¶14).
would be standing in the way of the owners’ right to make as much as possible for as little as possible.

**Stalled talks and rumors of a union divide.** A series of talks in late August and early September were “constructive, respectful and productive” (Beck, 2011m, ¶14), but produced very little other than false hope. By mid-September, that false hope began to evaporate. After a September 13 meeting, Fisher characterized the state of negotiations as “discouraging and unfortunate,” Hunter said he was “pessimistic and discouraged,” and Stern – usually prone to dramatics and declarations of doom in CBA talks – merely stated that the sides “did not have a great day” (Beck, 2011n, ¶3-5). Still, the meeting did have some productive elements; the players “outlined a proposal in which they would accept a significant salary reduction,” so long as the soft salary cap system remained in place (¶10-11). The reduction would leave the union with “53 percent or less” of B.R.I., and was “publicly embraced” by Stern (Beck, 2011p, ¶9).

As is typical of NBA CBA negotiations, questions of union solidarity began to arise. Citing various reports, *The New York Times* spoke of a “budding revolt” by Stern’s favorite boogeymen, “high-powered player agents” (Beck, 2011o, ¶3). At issue, an apparent push toward decertification, an option that – in contrast to what the league’s lawsuit alleged – the union’s leaders did not necessarily favor. “In our opinion,” Fisher said in an interview with the *Times*, decertification was on option only if “we truly believe that we cannot do our jobs as a players association, as a union” (¶8), also terming it a “drastic move” (¶12).

**Cancellations begin.** The sides continued to meet, but with few results. A September 23 meeting resulted in a league proposal that still called for the players to make less than 50 percent of BRI (Beck, 2011p, ¶10) – a surprise to the union after the league seemed receptive to their proposal of 53 percent or less. The same day, the league canceled the first week of the preseason, the first time since the 1998-99 lockout that games of any kind were canceled (¶2). After those cancellations, the sides held meetings on September 27 and 28. The latter meeting produced a new league proposal that would replace the hard salary cap with a “more punitive luxury tax system” (Beck, 2011q, ¶15-16). Though the move was viewed by the union as a step “in the right direction” (¶16), Fisher said the system would still amount to a hard cap (Beck, 2011r, ¶18).

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23 After a meeting on September 7, NBPA executive committee member Roger Mason Jr. accidentally posted the message “Looking like a season” to the social networking site Twitter (Mahoney, 2011s, ¶8).
In advance of another meeting on September 30, Stern gave another ominous pronouncement, declaring that there would be “enormous consequences at play” (Beck, 2011q, ¶3). ESPN.com reported that Stern was prepared to threaten the cancellation of the entire season at the meeting (Stein, 2011a, ¶1), but the league denied that was the case (¶4). Even with the stakes seemingly high, the session did not result in much progress (Beck, 2011r, ¶3), and neither did a second meeting the following day (Beck, 2011s, ¶2). Still, the sides planned to meet again on October 4.

The October 4 talks were seen as crucial, with the scheduled start of the season less than a month away. “A lot of signs point to tomorrow being a very huge day,” Fisher said in advance of the meeting (Mahoney, 2011y, ¶3). However, talks broke off after the session, with Stern cancelling the remainder of the preseason and setting in motion plans to cancel the first two weeks of the regular season (Mahoney, 2011z, ¶5). The owners formally proposed that the players receive 47 percent of BRI (¶20) and removed provisions requiring a rollback in existing player salaries (¶18). The players, meanwhile, continued to propose a 53 percent share of BRI (Beck, 2011u, ¶7).

In a “sidebar session,” Stern floated the idea of what the Times’ Beck described as a “simple 50-50 split” (Beck, 2011u, ¶9), though union officials said the split would really be a band granting the union anywhere from 49-to-51 percent. In response, the union suggested a band of 51-to-53 percent (¶16). The 50-50 split, despite being the “most basic, equitable-sounding solution” (Beck, 2011v, ¶1), still amounted to a giveback of $280 million per year, “not withstanding any increase in league revenues” (Beck, 2011w, ¶12). Over the course of a ten-year deal, the players would be giving back close to $3 billion.

The sides returned to the negotiating table on October 10 and October 11, the latter being the deadline by which a deal needed to be reached to avoid canceling games. After thirteen hours of negotiations on October 11, the league canceled the first two weeks of the 2011-12 regular season, marking just the second time ever regular season games were lost due to labor-management strife (Beck, 2011x, ¶1). The newest breakdown centered on system issues, particularly the league’s luxury tax plan24. The union viewed the proposal as a “de facto hard

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24 Under the league’s plan, teams would have to pay a $2 tax for every $1 they went above the tax threshold, with that rising to $3 for teams that did so three times in five seasons, and $4 for teams that did so in five consecutive seasons (Stein, 2011b, ¶13-14).
salary cap,” but suggested they could get behind the plan so long as it did not include “an absolute spending barrier” or “inhibit player movement” (¶25).

Mediation and more false hope. With the dust still settling from the cancellation of the first two weeks of the season, the league and the union sought the aid of Federal mediator George Cohen, who agreed to oversee bargaining sessions starting October 18 (“NBA, players,” 2011, ¶2-3). Stern, meanwhile, continued with his typical warnings of dire consequences, saying his “gut” told him that the Christmas Day games would likely be canceled if they did not reach a deal by October 18 (Mahoney, 2011ee, ¶4), and that he would “despair” if that were no deal by the end of the owners’ scheduled meetings on October 20 (¶9). There were other sideshows in the interim, such as Wizards player Javale McGee telling reporters that there were some players “ready to fold” at a union meeting (Beacham, 2011, ¶7). Perhaps it is no surprise that when negotiations resumed on the 18th, Cohen instructed the sides to refrain from speaking to the media (Beck, 2011aa, ¶3).

Cohen presided over three consecutive days of lengthy meetings – sixteen hours on October 18 (Beck, 2011aa, ¶2), eight more on October 19 (Mahoney, 2011gg, ¶3), and five more on October 20 (Mahoney, 2011ii, ¶25). The result was another breakdown in talks and Cohen withdrawing his services (Beck, 2011bb, ¶5-6). At issue was the revenue split, as the union accused the owners of giving an ultimatum – accept the 50-50 split of BRI or they would not discuss anything else (Mahoney, 2011ii, ¶11). The league formally proposed the 50-50 split of BRI, while the union proposed a band of 50-53 percent that the league said would average out to 52.5 percent (Mahoney, 2011jj, ¶7).

After the talks broke down, the league and the union did not meet again until October 26. After a fifteen-hour meeting, The New York Times reported “substantial progress” on the thorny ‘system issues’ (Beck, 2011dd, ¶3). After another seven and a half hour session the following day, signs appeared to be pointing toward an agreement. Hunter said the sides were “within striking distance” on the system issues (Beck, 2011ee, ¶3), and Stern said the owners would “give it one heck of a shot” at a negotiating session scheduled for the following day (Mahoney, 2011kk, ¶12). Stern, in particular, was noticeably loose at times (Beck, 2011ee, ¶5), adding to an overall tone that was, according to Beck, “unmistakably positive, and at times almost giddy” (¶4). Stern even broached the idea of restoring a full 82-game season (¶6). League officials,
reported *The New York Times*, “anticipating a resolution” began “quietly preparing for an 82-game season” (¶17).

A resolution was not in the cards, however. Talks broke down once again at a six-hour October 28 bargaining session, and Stern canceled an additional two weeks of games (Beck, 2011ff, ¶2). This time, the culprit was once again the revenue split, with Hunter accusing the league of setting another ultimatum for a 50-50 deal, and Stern accusing Hunter of refusing to go “a penny below 52” (¶7-8). From the union’s perspective, enough concessions had been made. Every time the union acceded to the owners during negotiations, Hunter said, “it’s like their eyes got bigger and they wanted more and more and more” (Mahoney, 2011mm, ¶17). Silver made a similar point, though obviously framed in a much different way. The deputy commissioner accused Hunter of refusing to budge from 52 percent because of pressure from players and agents (¶11).

Silver’s suggestion had merit, considering that the players and their agents could rightfully believe that enough was enough. As *The New York Times*’ Beck noted, the players had already “made concessions on nearly every major item in the collective bargaining agreement” (Beck, 2011gg, ¶8). Beck noted the various moves made by the owners during negotiations as well (¶10), but the owners’ moves merely meant that they would not be getting quite as much as they wanted. The players, even in the best case scenario, would be losing millions of dollars and be subjected to an even more restricted free agent market.

**Fractures in the union.** With no negotiations on the horizon, the news vacuum allowed for issues of solidarity to again surface. FoxSports.com writer Jason Whitlock reported as “fact” that Hunter and a member of the union executive committee confronted Fisher about the “belief that [Fisher] has been co-opted by commissioner David Stern – and promised the commish he could deliver the union at 50-50” (Whitlock, 2011, ¶2). Fisher was described in the piece as having “earned a substantial amount of money” in the NBA, but not enough to avoid being “influenced and baited by the NBA establishment” (¶14). Stern, of course, spent significant portions of the 1995 and 1998 negotiations appealing to middle-class NBA players, suggesting that richer players and their agents did not have the best interests of the union at heart. Fisher vehemently denied Whitlock’s accusations (“Text of,” 2011).

In a separate report, *The New York Times* cited a source who said Fisher was not as adamant as Hunter on rejecting the 50-50 split, and that Hunter had “bristled at Fisher’s
assertiveness in setting the agenda – sometimes without Hunter’s input” (Beck, 2011ii, ¶14-16). A later piece alleged that the “brutal negotiating process” had “strained the relationship between Fisher and Hunter”25 (Beck, 2011jj, ¶27).

Beyond the apparent Fisher-Hunter conflict, there were reports that upwards of 50 players were seeking to “dissolve their union if talks again falter, or if the talks produce a labor deal that they deem unpalatable” (Beck, 2011jj, ¶2). The reported insurrection would essentially be a repeat of 1995 – decertification that was not the product of union strategy, but of members frustrated with the state of negotiations.

The union was not alone in having some internal strife. On October 31, Miami Heat owner Micky Arison was fined $500,000 by the league for telling a fan angry about the lockout that he was “barking at the wrong owner” on the social networking site Twitter (Windhorst, 2011, ¶1). In addition, there were also several owners who were displeased with what was being proposed. The Associated Press spoke of “hardline owners” who wanted the players’ share of BRI at 47 percent as well as a hard cap (Mahoney, 2011pp, ¶6), and The New York Times reported that up to fourteen owners26 were “determined to cap the players at 50 percent” (Beck, 2011kk, ¶6).

The league’s ultimatum. Amid the discord, the sides resumed talks again on November 5, with the return of mediator Cohen (Beck, 2011ll, ¶1). Not surprisingly, the talks collapsed yet again. This time, the system issues took precedence over the revenue split. The league sought to “eliminate sign-and-trade deals for teams that exceed the luxury tax threshold” and to ban such teams from using the full $5 million midlevel exception (Beck, 2011mm, ¶16). The moves would further exacerbate the increasing lack of free market options27 for the players. As far as the revenue split, the league proposed a 49-to-51 band that the union believed would really be a 50-50 split, as there was “almost no way they could get to the [51 percent] ceiling” (Mahoney,

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25 Months after the lockout ended, the NBPA executive committee, at Hunter’s behest, asked for Fisher’s resignation (“Report: Union,” 2012, ¶1). The move came after Fisher sought a “far-ranging audit” of union “finances, staffing and business practices” – a move perceived “as an assault” on Hunter (Beck, 2012, ¶1). Hunter told The New York Times that the relationship between he and Fisher had “suffered seriously” and questioned whether the damage was “irreparable” (¶4).

26 That group of 14 owners included Bobcats owner Michael Jordan, who in 1995 was part of the group pushing for decertification of the union, and in 1998 memorably told then-Wizards owner Abe Pollin to sell his team if he could not turn a profit.

27 As Beck noted, less than a quarter of NBA players “were on negotiated contracts that were not bound by a salary slot” during the 2010-11 season (Beck, 2011mm, ¶20).
The players, meanwhile, put forth proposal granting them a 51 percent of BRI, “with 1 percent of that going into a fund for retired player benefits” (¶18).

The most notable item from the November 5 talks was an ultimatum issued by the owners. If the players did not accept the owners’ proposal – which the players found flawed on both the system and revenue issues – the owners would return with a proposal that would grant them just 47 percent of BRI and include both a hard salary cap and a “major rollback” of existing salaries (Beck, 2011, ¶16). In the players’ antitrust suit against the league, the ultimatum was described as confirmation that the league had “no intention of continuing to negotiate any material changes in the terms of its onerous proposal” and that they had “effectively abandoned collective bargaining” (Anthony v. NBA, 2011, p. 4). The players had until November 9 to accept (Beck, 2011, ¶4).

In front of a national audience on ESPN’s SportsCenter, Stern said the “only rational thing to do” would be to make the deal (Broussard, 2011, ¶13). In other words, if the union decided not to accept what they viewed as a flawed proposal under artificial duress by management, their actions would be irrational. The day before the artificial deadline, the players held a news conference at which Fisher expressed a willingness to accede to the league’s 50-50 revenue split demand so long as there was some compromise on the system issues (Beck, 2011, ¶4).

Before the business regarding the deadline could be resolved, there was yet another sideshow. In an interview with The Washington Post, Kessler said the league’s “take it or leave it” approach did not constitute good faith, adding that instead of treating the players “like partners,” the league was treating them “like plantation workers” (Shipley, 2011, ¶6). In response, Stern called Kessler “the single most divisive force” in negotiations, called his conduct “routinely despicable,” and said his invocation of race was “insulting” to the players (¶8). Stern, of course, was no stranger to divisive cheap shots, having aimed many toward Kessler – and others – in previous negotiations.

Following that distraction, the sides resumed talks on November 9, the day of Stern’s artificial deadline. The New York Times’ Beck credited a pair of “tactical moves” for the resumption of talks – the owners’ ultimatum and the players’ openness to a 50-50 split (Beck, 2011, ¶3). Predictably, the talks broke down yet again. The owners submitted a revised proposal, but Fisher said it did not meet the union “entirely on the system issues that we felt were
extremely important” (Mahoney, 2011rr, ¶3). The proposal included the 50-50 split, as well as “an array of new restrictions on player movement and team payrolls, all of which the union” opposed28 (Beck, 2011qq, ¶6). The union planned to meet to determine whether or not to accept the proposal (Mahoney, 2011rr ¶7). If the players accepted, the league planned to hold a 72-game season beginning the next month. If not, the league would substitute the punitive proposal mentioned previously. Either way, Stern said the league was “thru [sic] negotiating,” no doubt a sterling example of good-faith bargaining (¶6).

Ahead of the union meeting scheduled for November 14, there was skepticism that the deal would be accepted. “In interviews and Twitter messages, players began weighing in,” The New York Times reported November 12, “nearly all of them expressing disdain for the NBA’s current offer, and the threat that came with it” (Beck, 2011rr, ¶9). Meanwhile, Stern engaged in some of that inflammatory rhetoric to which he was supposedly opposed, again pointing to his most frequently utilized scapegoat – greedy player agents. “By some combination of mendacity and greed,” Stern told The Associated Press, “the agents who are looking out for themselves rather than their clients are trying to scuttle the deal” (Mahoney, 2011ss, ¶4). Just days after accusing Kessler of insulting the players, Stern went back to the 1995 and 1998 playbook of painting the players as well-meaning but uninformed dupes falling for the lies of the agents. “I just think that the players aren’t getting … the true information from their agents” (¶7). There was no consideration given to the idea that the players had all the information they needed and still found the deal unacceptable.

The night before the union meeting, Stern and Silver took their case directly to the public, holding a chat on the social networking site Twitter. Several of the individuals to which the league responded were players or members of the media. In one message to the league, Philadelphia 76ers player Spencer Hawes mentioned Stern’s comments about ‘greedy’ agents: “If the commish calls the agents greedy for trying to protect their clients from a [terrible] deal what does that make the owners?” (“Transcript of,” 2011, ¶9). The league responded by saying the teams were the “group being criticized” despite “trying to raise [average] salaries from $5 mill to $8 mill [and] provide for better competition” (¶9).

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28 At least one of those restrictions was lessened slightly from the previous proposal, as the league increased the midlevel exception for teams that hit the luxury tax threshold from $2.5 million to $3 million – though those teams would only be able to use the exception in every other year (Beck, 2011qq, ¶18).
Indeed, the Twitter session was a waste of time from the standpoint of obtaining any relevant information – the league merely painted itself as altruistic and fair in contradiction of the facts, pausing only to rehash talking points and answer specific questions about provisions in the deal.\(^\text{29}\)

The league also posted a video to YouTube in which it projected a $7.7 million average salary for players by the final year of the ten-year CBA (Reynolds, 2011c, ¶12). The move came months after Stern criticized a union proposal as nonsensical for granting players a $7 million average salary at the end of six years\(^\text{30}\) (Prada, 2011, ¶7). In other words, what was once used as evidence of player greed was now being used as evidence of owner generosity. With the owners’ public relations campaign out of the way, it was time for a union meeting that would change the trajectory of negotiations.

**Union decertifies.** The players’ meeting on November 14 produced what would be the most important result of the lockout. Saying the collective bargaining process had “completely broken down,” the NBPA announced that it would file a disclaimer of interest, dissolving the union and paving the way for individual players to fight the league on antitrust grounds. “We have negotiated in good faith for over two years,” Hunter said at a news conference, “and we have done everything anybody could reasonably expect of us, particularly when you look at the number of givebacks and concessions” (“Completely Broken,” 2011). No longer representing the players, the NBPA would convert into a trade association. Hunter would remain in charge of the NBPA, while lawyers Kessler and David Boies – the latter of whom represented the NFL in a lawsuit earlier in the year by the NFL Players’ Association – would be the players’ new “key leaders” (Beck, 2011uu, ¶9-10).

Stern employed his greatest theatrics in response, appearing in front of a national audience on *SportsCenter*. In a bold assault on the facts, he accused Hunter of deciding to “put the season in jeopardy,” ignoring the fact that the only reason games were canceled in the first place was because a lockout would provide the owners the leverage necessary to extract a better deal from the players. Stern described the players as potentially losing an “enormous payday” and “all that they have worked very hard to achieve” and called them “hellbent on self-

\(^{29}\) At one point, a fan asked why it was “the player's responsibility to help finance owner's debt from purchasing a team,” and the league responded by merely saying that the teams’ proposal was “for a fair deal” (“Transcript of,” 2011, ¶20) – completely and egregiously sidestepping the question.

\(^{30}\) The union contended that figure would only be reached with the most optimistic projection of league revenue (“Union Attorney,” 2011, ¶6).
destruction” (“David Stern,” 2011, n.p.). The players were not exhibiting resolve, according to the commissioner, but instead had been “badly misled” with the consequences being the possible end of some of their careers and loss of finances for themselves and their families. Perhaps the best description of Stern came from ESPN.com writer Tim Keown:

Stern actually seems to be winning the public relations battle. His ability to spew arrogance and have it come across as genuine hurt, as if he’s dealing with kids who just don’t know what’s good for them, has reached epic proportions. … Throughout the process, Stern seems intent on infantilizing the players and their position. He figuratively pats them on the head -- he knows what’s best for you, remember -- while employing questionable negotiating tactics. (Keown, 2011, ¶2, ¶11)

Stern’s public relations victory was, in part, a product of hegemony. One of the keys to the pervasive and implicit nature of the dominant ideology is that it is accepted as normal and natural. Hence, few questioned the owners shutting down the league to obtain leverage in their pursuit of greater profits. The lockout was discussed not as a choice made by the owners, but as the inevitable result of an inability to reach agreement. As Parenti (1993) noted, instances in which owners shut down or inhibit business to serve their own ends are “assumed to be management’s prerogatives and are seldom treated by the press or anyone else as contributing to conflicts between bosses and workers” (p. 86). By contrast, dissolving the union to obtain leverage in the pursuit of a less restrictive deal was, as Stern put it, irrational, irresponsible and destructive.

In perhaps the most glaring insult to the intelligence of anyone actually following the negotiations, Stern suggested the fans could “think that we were very close, and the players decided to blow it up” (“David Stern,” 2011, n.p.). The key, of course, is that the fans who were keenly following negotiations – and thus would understand what lunacy it was to suggest the players were solely responsible for failed talks – were not the audience Stern was attempting to reach by going on SportsCenter31. Instead, it was the fan who only heard about the lockout in bits and pieces between baseball highlights. Those fans would be unfamiliar with the various givebacks the players made during negotiations. Stern’s complete abdication of any responsibility for the state of negotiations was arguably the lowest point of the lockout. “I’m

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31 Of note, the ESPN interview was about as critical of Stern’s claims as if it had been conducted on league-owned NBA TV. ESPN was in the midst of a fourteen-year relationship with the NBA in which it paid the league hundreds of millions annually in rights fees.
“sorry,” Stern said, addressing the fans, “I wish the union had not done this” (“David Stern,” 2011, n.p.).

The first antitrust suits against the league were filed the following day. The previously mentioned Anthony v. NBA suit was filed in the Northern District of California, and a separate Butler v. NBA suit was filed in the District of Minnesota. Both suits argued that since the players were no longer unionized, the lockout now constituted an illegal joint boycott in violation of the Sherman Antitrust Act (Anthony v. NBA, 2011, p. 19; Butler v. NBA, 2011, p. 2). The Anthony suit was filed by Boies and Jonathan Schiller, with the NBPA collaborating (Beck, 2011vv, ¶5). Boies said he hoped it would not be “necessary to litigate this all the way” (¶4), and tweaked the owners for overplaying their hand (¶13). The antitrust litigation for the first time provided some risk for the owners in not reaching a deal. While the owners made no secret of their willingness to lose games in order to get a better deal with the players, the antitrust suits carried the risk of treble damages if the players won (Beck, 2011ww, ¶11).

On November 21, the Anthony suit was withdrawn and merged with the Butler suit (Beck, 2011xx, ¶6). The reason, according to Boies, was the possibility of a “faster result” (Cohen, 2011b, ¶4). The league viewed the players’ move as “inappropriate shopping for a forum that [Boies] can only hope will be friendlier to his baseless legal claims” (Beck, 2011xx, ¶14) – an interesting claim considering that the league’s affinity for filing suits in the Southern District of New York, “which has sided with the NBA several times before” (Krawczynski, 2011b, ¶19). In a characteristic bit of hypocrisy, the NBA was “expected to petition the Minnesota court to move the players' lawsuit to New York” (Beck, 2011xx, ¶16).

An abrupt resolution. For as overheated as the lockout became after the union dissolved, and for all the handwringing from the commissioner and others that the season would be lost, the sides resumed negotiations over the Thanksgiving holiday. The talks began quietly on November 22, with the goal of a deal by November 25 (Beck, 2011yy, ¶2). The resumption of talks did not include any new issues, with the “parties essentially [picking] up where they left off” two weeks earlier (¶6). Joining the negotiations was Jim Quinn, who swooped in to save the negotiations in 1998 as well (¶14).

The day after Thanksgiving, the sides continued negotiations. Quinn was absent, and so was Kessler, the Stern adversary whom the commissioner had turned into a convenient scapegoat for the stalled talks (Beck, 2011zz, ¶7). Even without being present, however, Kessler was
characterized in the media as nearly torpedoing the negotiations. Via speakerphone, he asked for the players to receive 51 percent of BRI, a suggestion that “infuriated representatives from the league and, according to a source close to the NBA's Labor Relations Committee, nearly ended the negotiations” (Mannix, 2011, ¶6). Regardless of whether that description of Kessler was an accurate representation of events, the sides continued negotiating. After a fifteen hour session that stretched well past three in the morning local time, a tentative settlement was reached, unofficially ending the lockout (Beck, 2011ab, ¶4). Much as in 1999, the resolution of the lockout came abruptly and amidst fears that the cancellation of the season was inevitable.

To reach a deal, the owners made some “key compromises” (Beck, 2011ac, ¶1) that made the deal somewhat more palatable for the players. The players agreed to the league’s 49-to-51 percent band of BRI, but the players would have a “better chance of reaching the highest limit than previously proposed” (Reynolds, 2011d, ¶28). Still, the reduction in the players’ share of BRI would still amount to a $3 billion give back over the course of a ten-year agreement (Beck, 2011ab, ¶14) – and $1.8 billion if either side opted out of the CBA after six years. Per year, the players’ giveback on BRI would “offset the NBA’s reported $300 million in annual losses” (¶14). The owners also made some slight gestures on the system issues. For example, teams that paid the luxury tax would still have access to a smaller midlevel exception ($3 million), but could use the exception every year instead of every-other-year (“NBA union,” 2011). All teams would be able to use the full $5 million midlevel exception so long as the signing did not take them $4 million over the luxury tax (Beck, 2011ac, ¶4).

Despite some small wins by the players, the new CBA overwhelmingly favored the owners. In addition to the BRI split, the players agreed to shorter contract lengths (from six years to five for players with ‘Bird ‘ rights, and from five years to four or free agents) and raises (from 10.5 percent to 7.5 percent for players with ‘Bird’ rights, and from eight percent to 4.5 percent for other free agents) (Coon, 2011b). Keep in mind that the players had given in on these issues in 2005 as well. Overall, whatever gains the players made in the final days of negotiations were roughly the equivalent of a team cutting a 25-point deficit down to a more respectable 15 in the final minutes of a blowout.
The sides ratified the new collective bargaining agreement on December 8 (Belson, 2011e, ¶1), officially ending the second-longest lockout in NBA history.\(^{32}\)

The day-to-day machinations of the NBA lockout were only part of the story. More important in regard to the overall perceptions of the owners and the union is how the media interpreted the lockout. Following is an analysis of media coverage of the lockout in *The New York Times, The Associated Press, The Wall Street Journal*, ABC News, CBS News, and PBS.

**Coverage of the 2011 NBA Lockout in *The New York Times***

Coverage of the 2011 NBA lockout in *The New York Times* leaned heavily on four main official sources: NBA Commissioner David Stern, NBA Deputy Commissioner Adam Silver, NBPA executive director Billy Hunter, and NBPA president Derek Fisher. Beyond those four main sources, other on-the-record quotes came from a wide variety of players and from San Antonio Spurs owner Peter Holt, chairman of the NBA labor relations committee. While that would seem to indicate that the players had an advantage in advancing their point of view, the owners benefited from remaining silent. A significant portion of lockout coverage was devoted to the issue of solidarity, in particular whether fractures existed in the union or among the owners. With the players able to speak to the media unfettered, and with there being so many more players than owners in general, the opportunities abounded for any given player to create the perception that the union was not united. By contrast, with one notable exception, that perception only existed for the owners through second-hand accounts either by an understandably biased source – the union – or by reporters citing unnamed sources.

These sources, particularly Stern, Silver, Hunter and Fisher, primarily drove the direction of lockout coverage. Press conferences, conference calls, owners’ meetings, league announcements, interviews with players, and letters to union members (both from the union and from the league) tended to result in coverage. For example, Hunter sent a letter to players in July 2011 suggesting they play overseas during the lockout in order to both pressure the league and make a living. *The New York Times* then wrote about the letter and the issue of players going overseas (Beck, 2011h). Several practical factors weighed into quote placement and the total number of quotes. For example, during the actual lockout negotiations, quote placement was often determined by which side spoke first. A September 8 article began with a quote from

\(^{32}\) Miami Heat owner Arison was one of five owners to vote against ratification. Arison cast a “protest vote” over the league’s new revenue sharing plan (Reynolds, 2011e, ¶4).
Hunter, as Stern spoke an hour afterward (Beck, 2011). Articles did not always make clear which side spoke first, so it was not immediately clear whether timing always played such a role. Other practical considerations included whether one side spoke at all. In articles based primarily on player interviews or league announcements, quotes from the opposing side may not have been available or needed. As a result, any given article could end up with a significant skew to one side or the other in terms of sourcing.

**Journalism of stenography.** Articles in *The New York Times* typically stated the positions of both labor and management. With one notable exception, these positions were described but not examined. Or, as Martin (2004) wrote when describing media coverage of the 1993 American Airlines flight attendants strike, the coverage “treated the monitorial citizen to a superficial tit-for-tat that presented some of the competing claims of the union and company but never investigated the truth of the claims” (p. 111). The result in 2011 was the same as in 1993 – “a journalism of stenography, not of inquiry or analysis” (p. 111). Martin’s findings were not isolated. Parenti (1993) found similar trends in coverage of a 1989 United Mine Workers strike. CBS News aired a special about the strike that completely omitted “any reference to the substance of the issues, the content of the conflict … Not once did CBS mention that Pittston wanted to cut their wages and benefits by substantial amounts” (p. 91).

The owners’ position throughout negotiations was that the league was sustaining massive losses and suffering from competitive imbalance. The players’ position was that the league overstated those problems, and that there were alternatives, such as revenue sharing, to cutting player salaries. While both sides’ positions were stated, the *Times* tended to take for granted the league’s contention that teams were losing money and the league suffered from a lack of parity.

For example, an article contrasting the NBA lockout from the then-concurrent NFL lockout stated as a matter of fact that while “NFL owners and players are haggling over how to divide $9 billion in revenue, the NBA and its players are arguing about losses – more the $300 million a year, according to league officials” (Beck, 2011g, ¶23, emphasis added). An article about league layoffs repeated the $300 million loss statistic: “League officials said the two events were unrelated, although they were clearly intertwined, with the NBA claiming annual losses of $300 million and searching for cost savings” (Beck, 2011i, ¶3). The *Times*’ observation was echoed by a league spokesman, who argued that the layoffs were a “response to the same underlying issue [as the lockout] – that is, the league’s expenses far outpace our revenues” (¶4).
In August, *Times* writer Ken Belson described the owners as wanting to cut the players’ percentage of basketball-related income “so the league’s ailing teams can be nursed back to financial health,” and union president Fisher as finding such cuts “unacceptable” (Belson, 2011a, ¶3). Such a portrayal ran the risk of painting the owners as being concerned with the overall health of the league and the players as being consumed by self-interest.

It is not surprising that the media would accept the idea that player salaries were largely to blame for the league’s stated financial woes. Martin (2004) found similar trends in media coverage of the 1993 American Airlines flight attendants strike. When American sought to keep flight attendant salary at lower “b-scale” levels during a time when the airline industry was losing billions, the mainstream media “adopted the logic of American’s cost-cutting strategy without question” (p. 112). News media coverage largely ignored alternative causes for the airline industry’s losses, leading the audience “to believe that pressuring the flight attendants is the only way for American to remain a viable company” (p. 114). For as much as the financial state of NBA players and American Airlines flight attendants may differ, both sets of employees were treated similarly by the media.

Even an article casting doubt on the league’s claims of financial distress conceded that 17 of the 30 teams lost money and that there were “a sizable number of owners who have reason to be unhappy” (Silver, 2011a, ¶15). Similarly, writer Harvey Araton said that the players’ more conservative estimates of league losses – $100 million, with eight or nine teams losing money – would still be emblematic of a financially unstable business (Araton, 2011c, ¶6). Citing low attendance for “a fair amount” of teams, Araton suggested the players should be more concerned with “the preservation of jobs” than “the continuation of a system” (¶8). Beck viewed the players’ many concessions as “a tacit admission that the league’s economic woes are real and substantial and had to be addressed” (Beck, 2011gg, ¶8) – not as an indication that the union was negotiating at a severe disadvantage due to a lack of leverage and paychecks.

The *Times* was even more willing to toe the league line on the issue of parity. In July, Beck noted the fact that the league’s previous four champions paid the luxury tax, calling it a “troubling trend for a league in which many small-market teams struggle to remain competitive” (Beck, 2011f, ¶17). He repeated that fact in October, noting that those four champions were also “high-spending teams in major markets” (Beck, 2011y, ¶8). The idea that small market teams were at a disadvantage to big-spending, big-market competitors was one of the cornerstones of
the league’s lockout strategy. When describing the owners’ desired changes to the system, such as a strengthened luxury tax, Beck said they were “citing” – not claiming – “an increasing competitive gap between big-market and small-market franchises” (Beck, 2011x, ¶17). The league’s perceived competitive balance problem was so ingrained as fact that when economist Andrew Zimbalist was quoted as saying that competitive balance was not an issue, Beck said the assessment came “[d]espite apparent trends” (Beck, 2011y, ¶26).

In October, Beck again contrasted the NBA and the NFL, stating that the former wanted what the latter already had: “competitive balance, a healthy distribution of talent and a belief that every team, regardless of market size, should have the chance to win a title” (Beck, 2011y, ¶1). He suggested that the owners’ desired restrictions on player salaries and contract lengths were part of an effort to “close a widening gap between big-market and small-market franchises” (¶5). The owners’ motives were portrayed as egalitarian in nature: “They want, in effect, to ensure that the Milwaukee Bucks have as much a chance as the Green Bay Packers of bringing a title to Wisconsin” (¶5). The ultimate goal of the owners’ proposed CBA, Beck stated in November, was to create a “more vibrant league with more player movement” (Beck, 2011tt, ¶4). Or, as Deputy Commissioner Silver put it in the same article, the owners’ side believed that the “new model, if the players were to agree to it, will create a better league” (¶5).

That would not be the only time the owners were painted as acting in the best interests of the league. Beck and Belson wrote that Trail Blazers owner Paul Allen was an advocate of “slashing player salaries to help small-market franchises like his compete with those in New York, Los Angeles and Boston” – not only assuming a lack of competitive balance in the league, but the idea that somehow player salaries were in part to blame (Beck & Belson, 2011a, ¶2). Though they noted the contradiction in Allen – whose wealth was such that he “could single-handedly bankroll the league three times over” (¶3) – advocating major cutbacks in salary, they viewed his motives as mostly pure:

NBA owners are bound by mutual interests (like reducing expenses) and a mutual dependence. The Celtics and the Lakers may enjoy feasting on the Cavaliers and Timberwolves, but their owners recognize that the league needs as many healthy franchises as possible. The N.B.A. is not 30 independent businesses, but a 30-way partnership. (¶4)
In essence, the best interests of the owners and the league as a whole were served by extracting concessions by the players and not much else. As Martin (2004) noted in the 1993 American Airlines strike, employee concessions were not the only path to profitability, “but may have been the easiest knee-jerk response to the bottom line” (p. 116). Not surprisingly, alternative cost-cutting measures were largely ignored.

Beyond Beck, an editorial by former National Basketball League of Australia commissioner Rick Burton not surprisingly supported the league’s position. Noting that only eight NBA teams had won the championship in the previous 25 years, Burton said that most of the remaining teams “have never contended for the title and most have lost money. That explains, in part, why an aggregate of NBA teams reportedly lost $650 million in the past two years” (Burton, 2011, ¶11). Burton, who ironically is the David B. Falk professor of sport management at Syracuse University – Falk, of course, being a Stern nemesis in the 1990s – called the lockout “necessary for the NBA to find its financial footing and to present the illusion of parity” (¶4).

In general, articles in The New York Times seemed to suggest that the owners’ claims of financial distress and competitive imbalance had validity, but did not necessarily endorse the owners’ remedies – significant cuts to the players’ percentage of BRI and changes to system. Beck, for example, noted that the players viewed discussions of parity “as a red herring, an excuse to shift hundreds of millions of dollars from players to owners,” adding that many economists were “unconvinced that payroll controls do much to promote competitive balance” (Beck, 2011y, ¶24). In addition, there was some skepticism regarding the extent to which the owners were suffering, most notably embodied in a controversial article by Nate Silver.

On July 5, days after the lockout began, Silver cited estimates from Forbes and Financial World magazines that indicated the league was “fundamentally a healthy and profitable business” (Silver, 2011a, ¶3). According to his analysis, the league had an operating income of $183 million during the 2009-10 season, and an operating margin around 7% during the course of the 2005 CBA – “not dissimilar to what other businesses have experienced recently” (¶10-11). The difference between the data Silver cited (a $183 million profit) and the numbers the league had put forth (a $340 million loss) was “roughly of the same size on an annual basis as the salary concessions the NBA is seeking” (¶19). The picture Silver painted was not entirely rosy; he did concede that the NBA was well behind competitors the National Football League and Major
League Baseball in terms of profits (¶13) and that most teams in the league had incurred losses – albeit small – during the 2009-10 season (¶15).

While the league’s largest expense was player salaries, Silver stated that it was “not clear that growth in player salaries, which has been modest compared to other sports … is responsible for the league’s difficulties” (¶3). In fact, growth in ‘non-player expenses’ may have been more to blame. “Had nonplayer expenses been the same in 2009-10 as they were in 1999-2000 (adjusted for inflation), the league would have made a record profit that year,” Silver asserted (¶8). The most damning aspect of Silver’s piece was the suggestion – also made by Zimbalist during the 1998-99 lockout – that the league had put forth misleading financial information. In particular, he claimed that as much as $250 million of the league’s losses could be attributed to “an unusual accounting treatment” and that leaked financial statements for the New Orleans Hornets “closely matched” the generally positive data provided by Forbes (¶20-21).

In response to the Silver piece, the NBA e-mailed a statement to The New York Times discrediting both the Forbes data and Silver’s claims that the league used accounting tricks to overstate losses (Silver, 2011b). The New York Times published the e-mail on Silver’s FiveThirtyEight blog, with the writer noting that the Forbes data was “the only independent estimate of the league’s financial condition” (¶26). In the absence of such estimates, the only choices for reporters were to either accept the league’s claims or to use whatever available information existed to conduct their own analysis. Notably, Silver was the only reporter in any of the publications analyzed to take the second option.

**Misidentification of the lockout as a strike.** There were multiple instances in The New York Times of the owner-imposed lockout being described as a strike, typically in pieces that did not directly focus on the lockout. In an article about the music and ticketing company Live Nation Entertainment, writer Ben Sisario said the company “expected to lose some important ticketing business because of the National Basketball Association strike” (Sisario, 2011, ¶10). In an article touting the ABA as a low-cost alternative to the NBA, the lockout was referred to as a strike on multiple occasions. ABA Richmond Rockets owner Eric Marquis was quoted as saying his team should “have more people coming in with the NBA strike” (Elinson, 2011, ¶14). Later, the author of the article referred to the lockout as a strike when asking a sport management professor whether the ABA would benefit from the work stoppage. The professor in turn used
the term in his response: “Historically, if you look at what happens with strikes, fans return pretty quickly” (¶22).

Throughout the lockout, the players emphasized that the conflict was a lockout and not a strike (Beck, 2011x, ¶12), a fact that Times writer Araton dismissed in an October article. Referring a Twitter campaign in which players expressed their desire to play, Araton noted that their “stated intention was to remind the general public that the NBA shutdown was the result of a lockout and not a strike. Not that the public generally appreciates the difference” (Araton, 2011d, ¶5).

The misidentification of the lockout as a strike was not a trivial misuse of terms. By referring to the lockout as a strike, the media conferred responsibility for the owner-imposed lockout onto the employees – even though the lockout was being used by the owners as a means to gain leverage in negotiations. In other words, the players were being blamed for the weapon being used against them. This is especially problematic when, as Steuter (2001) noted, work stoppages are “almost universally” called strikes (p. 4).33

**How The New York Times Framed the Lockout**

The **lockout as senseless and avoidable.** One of Parenti’s seven generalizations of media coverage of organized labor is that labor-management conflict will be portrayed as “senseless, avoidable contests created by unions’ unwillingness to negotiate in good faith” (Puette, 1992, p. 10). This frame was occasionally present in The New York Times. Though not as often as in 1998, the lockout was at times framed as senseless. Araton, for example, took note of the “foolish ravings of hard-line owners and the myopia of the players union” in the lead of one column (Araton, 2011c, ¶1). The same writer later paraphrased Willis Reed as saying that the owners and players would “eventually benefit if they could all just put the extended family ahead of ego and self-interest” (Araton, 2011e, ¶23). While the framing of the dispute as senseless was consistent with Parenti (1993)’s seven generalizations, the cause of the dispute was not always viewed as union-caused. Zinser, for example, insinuated that the lockout was senseless and avoidable when she called the NBA “another league bent on image annihilation” (Zinser, 2011a, ¶1) and later accused the players and owners of “bludgeoning their own sport” (Zinser, 2011c, ¶2). However, she also tended to place most of the blame on the owners. “[I]t is

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33 Even former members of the NBPA were not immune. In his monologue as host of a January 2012 edition of *Saturday Night Live*, former player and broadcaster Charles Barkley joked that he was “so happy the NBA strike is over” (“SNL Transcripts,” 2012).

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maddening to watch the machinations of another pro sports lockout in which the owners strong-arm the players union to save them from their own terrible business decisions” (Zinser, 2011b, ¶3). After the players dissolved the union in November, Zinser wrote that while there was “plenty of blame to go around on all sides,” one should “save extra scorn for the owners” (Zinser, 2011d, ¶2). She characterized the owners as “billionaires screaming to be saved from the countless bad decisions the old system let them make” (¶2).

**Millionaires versus billionaires.** The ‘union-owner conflict frame’ was one of two narratives identified by Martin (2004) in coverage of the 1994 Major League Baseball strike. The frame “focused on the intractable nature of the two parties and how both were greedy and unwilling to compromise” (p. 129). Often marked by overuse of the term ‘millionaires vs. billionaires,’ the frame epitomized the consumerist approach to reporting on labor-management conflict. Several writers in *The New York Times* made use of the ‘millionaires vs. billionaires’ frame. In an article that hearkened back to some the public missteps the players made in 1998, Beck observed that “fans, generally speaking, do not want to hear about the woes of millionaires athletes – or the billionaire owners who pay them” (Beck, 2011k, ¶6), adding that the “sluggish economy and high unemployment” made it a “bad time for millionaires and billionaires to be waging public relations battles” (¶34). The general public, Araton noted, would not care “about a battle of megamillionaires versus multimillionaires in a country a that is polarized on the issue of providing basic health care for almost 50 million uninsured” (Araton, 2011d, ¶5). Writer George Vescey invoked the Occupy Wall Street protests in taking note of the difficult economic times, writing that during a “time of diminished economic prospects for most people – dare I mention the figure 99 percent? – the [NBA] seems to be going to the outer limits to maintain its obscene payrolls” (¶12). It is, of course, notable that Vescey mentioned the league’s “obscene payrolls” during a conflict in which the bone of contention was just how much player salaries would be cut. For their part, some fans who were quoted in articles voiced similar sentiments. “We’ve got a feud between millionaires and even richer people,” one fan was quoted as saying in October (Perkins, 2011, ¶18). Another fan contrasted the “people camping out in the street” with the “players and owners arguing over billions of dollars,” specifically mentioning the eight-year old story of Kobe Bryant buying a four-million dollar ring for his wife, Vanessa (Elinson, 2011, ¶7). After the sides reached a tentative agreement, Araton sardonically noted that the players would “get less but still plenty, and those struggling to hang on to their homes and health care will no
longer have to hear them whine about the fairness of it all” (Araton, 2011f, ¶16). But what of the owners, one might ask. They, the ‘billionaires’ in this scenario, were getting even more money – and yet the players’ whining is what caught his attention.

In the same article, Araton came to an intriguing conclusion about what the players learned during the lockout: “The lockout lesson for N.B.A. players is that they were finally made subject to the same forces of capitalism that dictate the swings of the stock market, the housing market and the salaries of the average worker” (Araton, 2011f, ¶15). Of course, those same ‘forces of capitalism’ left the owners untouched. One topic virtually absent from coverage of the lockout in all media outlets was the free market. Venerated by politicians on both the left and right, the free market was shunned by NBA owners during the lockout. After all, the logic is that the free market, left to operate on its own, will allow poorly-run companies to fail and properly-run companies to succeed. Not once was the argument made that perhaps the NBA’s failing teams were failing for a reason and should be left to wither on the vine. Furthermore, the owners’ reticence to embrace the free market was not once viewed as evidence that the market model may itself be flawed, or even may not work.

The workers caught in the middle. Another of Parenti’s seven generalizations is that media coverage of labor will focus on the “impact rather than the causes” of work stoppages, “detailing the damage the strike does to the economy and the public weal” (Puette, 1992, p. 10). Workers, even in a lockout as opposed to a strike, are “portrayed as indifferent to the interests of the public’s well-being” (Martin, 2004, p. 12). This was only partly evident in *The New York Times*. As the lockout was management-caused, perhaps it is not surprising that their rationale for shutting the league down was repeated ad infinitum. With that said, the impact of the lockout on the overall economy was a significant aspect of media coverage of the lockout in all six media outlets analyzed.

Several articles in *The New York Times* wrote of the plight of those whose livelihoods depended on NBA basketball. “My primary worry is that there are so many people beyond the owners and players connected to the league,” Araton quoted former Knicks player Willis Reed as saying shortly after the first games were canceled: “These people depend on it for their livelihood, and man, these are tough times for them not to have work” (Araton, 2011e, ¶2). Araton praised Reed for thinking first of the “vendors, ushers and parking attendants” whom he called “unrepresented and easily forgotten” (¶2). Of course, that could not have been further
from the truth, as arena workers were frequently mentioned – and often quoted – in coverage. “Our vitality is at stake,” one bar-owner told the Times (Belson, 2011c, ¶4). “[H]undreds of people who work in parking lots and concession stands and as ushers during [Portland Trail] Blazers games will not see their lost income replaced,” Times writer Belson noted in the same article (¶14). In a separate piece, Belson lamented the “thousands of ticket-takers, security guards, ushers and concessionaires who rely on the income they earn at NBA arenas” (Belson, 2011d, ¶2). The ripple effects even extended beyond those workers affected – perhaps too far. “Without games,” Belson observed, “office supply companies sell less paper and toner, sanitation companies have less trash to haul and advertisers have fewer campaigns to market” (¶14). Under that standard, a downturn in just about any business could be blamed on the lockout.

It would make sense to attribute the negative consequences of lost games to the owners, as they made the decision to cancel games. However, as Martin (2004) noted, while “businesses are the visible creators credited with the achievements of the consumer economy, organized labor is almost always portrayed as an impediment for the consumer” (p. 53). Because the 2011 conflict was a lockout and not a strike, the players bore less of the blame than the literature would indicate. However, the fact that they bore any blame at all is a testament to just how much the media portray labor as an impediment. Keep in mind the lockout was not an inevitable result of failed negotiations; the league and the union had bargained past the point of expiration before. Instead, the lockout was a negotiating tactic used to put the players at a disadvantage and induce them into accepting a deal they would otherwise reject. For as much as the media value objectivity, an evenhanded discussion of the impact on arena workers and local businesses would place the blame for lost games solely on the owners and question why their pursuit of profits – on top of the billions they already had – should impair others’ livelihoods.

**Scrutiny of player salaries.** A third of Parenti’s generalizations is that the media will avoid covering “management salaries, bonuses of compensation” and how those are “inconsistent with concessions demanded of the workers” (Puette, 1992, p. 10). By contrast, “fat” employee salaries receive coverage (Martin, 2004, p. 12). Especially in a lockout in which one of the owners’ main objectives was to slash player salary, reporting on player wages at the expense of owner income could significantly skew perceptions of the conflict. This was the case in The New York Times.
In general, athlete salaries are discussed in a fashion not unlike their on-court statistics. During labor-management conflict, those salaries are used – by the media and by management – as evidence of greed. As Beck noted in August, “[l]eague officials are clearly campaigning for fan support by emphasizing their financial losses ($300 million a year) and the players’ generous compensation ($2.1 billion last season)” (Beck, 2011k, ¶23). In the same article, Beck noted the salaries of players Dwyane Wade and George Hill after quoting tongue-in-cheek comments they made on the social networking website Twitter about needing jobs (¶28-29). Multiple articles made note of the players’ average salary of over $5 million (Beck, 2011k, ¶24; Beck, 2011z, ¶15; Elinson, 2011, ¶18). By contrast to literature that suggests management income is not covered during labor-management disputes, there were some – albeit infrequent – mentions of owner income. Beck and Belson, for example, noted that the Blazers’ Paul Allen was the 23rd wealthiest person in America according to Forbes, and that he and Mark Cuban both ranked in the magazine’s top 200 (Beck & Belson, 2011a). Mentions of owner wealth, in general, were rare.

More so than the amount of money made by the players – and to a lesser extent, the owners – the primary focus in The New York Times was on the amount of money lost due to the lockout. For example, an article published days before the league began canceling games noted that the players “stand to lose about $350 million a month” (Beck, 2011u, ¶5). Several articles mentioned that the players would lose their first paychecks on November 15 (Beck, 2011x, ¶9; Beck, 2011cc, ¶8; Beck, 2011nn, ¶15). On November 15, the day the players filed an antitrust suit against the league, Beck noted that it was also the same day “NBA players missed their first paychecks, which would have totaled in excess of $170 million,” paying specific attention to antitrust suit plaintiff Carmelo Anthony, who “would have received a check for $1.5 million” (Beck, 2011vv, ¶17). While these could perhaps be construed as merely factual information, there was an inkling of disdain. In an article reflecting on the players’ PR missteps during the 1998 lockout, Beck noted that the work stoppage “forced hundreds of players to contemplate life without seven-figure paychecks” (Beck, 2011k, ¶2). The owners’ financial losses were also mentioned, but not as often, rarely on an individual level, and almost always in conjunction with the players’ losses. For example, the day after an agreement was reached, Beck noted that the canceled regular season and preseason games “cost the owners and players an estimated $400 million each” (Beck, 2011ab, ¶10).
Of course, the losses for the players and the league differed in significance. Before imposing the lockout, the owners undoubtedly knew they would lose money if games were canceled. Their decision to move forward with the lockout indicates that they weighed the pros and cons and decided that those losses would be acceptable. In November, *Forbes* reported that five NBA teams would lose less money if the entire season were canceled than if games were played (Ozanian, 2011, ¶2), and the *Chicago Tribune* reported earlier in the year that some owners had told Commissioner Stern the same (Johnson, 2011, ¶4). Stern said the same during the 1998 lockout (Moore, 1998, ¶5). In other words, the owners’ lockout-induced losses were expected and the product of their own decision-making.

The players, on the other hand, certainly did not make the decision to cancel games and put their own livelihoods at stake. Therefore, their losses represented an incentive to give into the owners’ demands. As Beck noted when discussing the announced cancelations of regular season games: “The announcements are a warning shot to the league’s 430-plus players, a reminder that they are losing hundreds of millions of dollars” (Beck, 2011cc, ¶6). Those warning shots were not necessarily subtle. After the NBPA decertified in November, Commissioner Stern criticized union leader Hunter for having “deprived his union members of an enormous pay day” (Beck, 2011uu, ¶15). The loss of money was a threat the owners could wield against the players; union leadership was costing them millions of dollars, and the only way to stop the bleeding would be to agree to the owners’ demands.

**Management offers and demands.** Another of Parenti’s seven generalizations is that media coverage of labor issues emphasizes management ‘offers’ while “omitting or underplaying reference to takebacks and employee grievances” (Puette, 1992, p. 10). The result is that management looks magnanimous and labor comes off as intractable and irrational. Interestingly, this was not quite the case in *The New York Times*. On several occasions, discussion of a league proposal was followed by a union position explaining why it would be detrimental to the players, and *Times* writers often took note of the players’ concessions during negotiations.

Several articles kept in mind not only the distance between the players and owners’ respective proposals, but the distance between those proposals and the existing status quo. In an early October article, for example, Beck described the owners and players as being “at least $240 million apart” on the issue of how to divide revenue (Beck, 2011kk, ¶2), with the owners “offering” 47% of basketball-related income and the players “proposing” 53% (¶7). Later in
piece, however, he noted that even in the union proposal, “the players will sacrifice about $160 million a year” (¶18). In other words, even the best-case scenario for the players at that point would have resulted in hundreds of millions in givebacks. While the union’s concessions were noted on multiple occasions, they were usually mentioned alongside similar ‘concessions’ by management. For example, Beck outlined the narrowing gap between the sides in late October:

The players, who last season earned 57 percent, have already made a $180 million concession. They have agreed to a harsher luxury tax, shorter contracts and smaller raises. They have made concessions on nearly every major item in the collective bargaining agreement … The owners make the same claim. They initially demanded an absolute, hard salary cap, an $800 million rollback in salaries, elimination of guaranteed contracts and a 37 percent share for players. They have dropped all of those demands and are making the 50 percent offer over the objections of several small-market owners. (Beck, 2011gg, ¶8, 10)

Of course, as Allan Houston noted during the 1998 lockout, “Stern does a good job of putting something on the table that's ridiculous, taking it off and making it look like they’ve given up something” (Roberts, 1998h, ¶18-19). By initially asking for an $800 million cut in salaries, the owners could be perceived as compromising by settling for a giveback of ‘merely’ $280 million.

Even if the owners were given some perhaps undeserved credit for backing off of their initial demands, the general consensus was that the players were making concessions. Zinser, for example, argued that “an agreement seems to be hinging on the players caving in on the final points of contention” (Zinser, 2011b, ¶3). When the players offered to accept a 50-50 deal, Beck noted that it would represent a $280 million annual pay cut, terming the offer a “financial sacrifice” that the players hoped would “be enough to induce the owners to make a deal” (Beck, 2011pp, ¶7). In an article largely defending a revised owner proposal from union criticism, Beck noted that the proposal “would be a major win for the owners,” as the players were “being asked to take a $280 million pay cut, with shorter contracts, lower raises and tighter restrictions on the top-spending teams” (Beck, 2011ss, ¶21). Still, even with that win acknowledged – albeit in the penultimate paragraph of the article – the league was given credit for having “improved its offer, albeit modestly” (¶9), and the proposal was termed “not nearly as bad as the rumor mill suggests” (¶21). After the players dissolved the union, however, Beck took a somewhat different tack, giving full credit to the union:

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Before talks collapsed it was the union that had been making all the concessions. It conditionally agreed to a massive reduction in salaries — about $3 billion over a projected 10-year deal — along with shorter contracts, lower raises and new spending controls on the richest teams, a bow to the league's claims of competitive imbalance. (¶12)

He continued down that path later in November, noting that the $300 million annual reduction in salaries to which the players agreed would “wipe out the NBA’s reported losses” (Beck, 2011ww, ¶16). “The players,” he argued, “having made every significant concession over the last four months, finally decided they had compromised enough” (¶22).

Indeed, there was a perception after the league’s ultimatum to players and the players’ subsequent dissolution of the union that the owners had overplayed their hand. “If the owners wanted a victory, they could have had one weeks ago,” Times writer Rob Mahoney wrote, noting the “projections of power” the owners made throughout negotiations. “The N.B.A. set deadlines for canceling games, and then pinned blame on the players for failing to give in by those dates. Stern issued a pair of ultimatums, and threatened an incomprehensible ‘reset’ deal if the players refused to concede even more ground” (Mahoney, 2011, ¶5).

When the sides finally reached a tentative agreement on November 26, Beck noted in the lead of his column that the players “made every concession imaginable – on salaries and free-agent rules and payroll limits” (Beck, 2011ac, ¶1). However, the players had been able to extract “some key compromises from the league” in the final hours before the deal was struck (¶1). Beck outlined the “handful of concessions” that would “allow the richest teams to keep spending on players, ensuring a more competitive free-agent market” (Beck, 2011ab, ¶3). Still, the new deal would “heavily [favor] the owners” (¶1), with the league having “achieved their two broadest goals: reduced costs and a system that evens the playing field between the richest and poorest teams” (¶14). Of course, the owners had won CBA negotiations before, only to come back years later and lament what a good deal the players had. One imagines that once the sides have an opportunity to opt out of the 2011 CBA, the owners will be again pursuing smaller player salaries and a more restrictive system — the two goals which they have pursued since the 1960s, and two goals for which there may never be a great enough remedy.

Coverage of union solidarity. In another of Parenti’s seven generalizations, media coverage of labor tend to overlook “stories of union solidarity and mutual support” (Puette, 1992, p. 10). In some cases, such as General Motors’ 1992 shutdown of a plant in Michigan, union
solidarity was not ignored, but viewed negatively (Martin, 2004, p. 84). GM planned to close either the Michigan plant or a plant in Texas, pitting the workers against each other. When GM eventually chose to close down the Michigan plant, an NBC News reporter noted that whereas “the UAW workers in Michigan reaffirmed their solidarity … union workers in Texas were going to the polls and voting to make local contract concessions” (p. 84). The Texas workers, the reporter concluded “made concessions, and now they’re celebrating” (p. 84). In other words, surrender was preferable to solidarity.

In the NBA, across media outlets, coverage of solidarity differed somewhat from the expected frame. Two decades of infighting in the union – and the league exploiting those fractures – led to solidarity becoming one of the key issues during coverage of the 2011 lockout. Most of the coverage, however, was devoted to whether there were fractures in the union, or to a lesser extent, among the owners. The only time actual solidarity among members of the union was reported was when Hunter, Fisher, or another representative made public statements to that effect. Union solidarity was not taken seriously as a threat, as the solidarity that existed within the NBPA came in the form of a thin veneer.

During the first few weeks of the lockout, union solidarity was primarily discussed in the context of players moving overseas. In July, Araton argued that ‘high-end’ players moving overseas during the lockout could divide “the union’s alpha haves from the (relative) have nots” (Araton, 2011b, ¶4). Quoting a phone interview he conducted with Billy Hunter, Araton said the NBPA leader “acknowledged the dangers of creating class union warfare” (¶5). In addition, he paraphrased Hunter as saying that even if the star players did not go overseas, “paycheck-less rank-and-file players might grow to resent them for their hefty salaries and endorsement riches” (¶20).

As the lockout wore on, stories began to surface regarding possible fractures within the union. In early October, Beck reported that the union’s efforts “were being potentially undermined by a group of powerful agents,” citing a joint-letter by six agents “urging their clients to reject any deal that reduces the players’ revenue share below 52 percent” (Beck, 2011t, ¶12). Nearly a month later, Beck noted “unsourced reports of fractures” within the players’ union by FoxSports.com (Beck, 2011hh, ¶1). At the center of the FoxSports.com report was the allegation that NBPA president Fisher went behind the back of the other union leaders to pursue a 50-50 deal with Commissioner Stern. The Beck article quoted a letter Fisher wrote to the
players denying the report. In addition, Beck included a quote from Hunter to the *Sports Business Journal* denying any rift with Fisher (¶10) – a denial that would later prove false.

It was not just the players whose solidarity was questioned. As mentioned before, the owners’ great advantage over the players during the lockout was that their perspective was generally represented by either Stern or Silver – both of whom were not surprisingly consistent in their talking points. Whereas any player could talk to the media about the lockout and thus cause headaches for Hunter and Fisher, the owners were largely mum. That changed when Heat owner Micky Arison responded on Twitter to fan who called the owners “greedy pigs” by saying said fan was “barking at the wrong owner” (Beck & Belson, 2011b, ¶5). Arison was fined by the league, and the *Times*’ Beck and Belson deemed the incident the collapse of “the artificial edifice of NBA owner solidarity” (¶6). Arison’s message “seemed clear: If you are upset about the lockout, complain to the owners who are holding out for a better deal. Some of us want to play” (¶28).

Still, even if Arison’s Twitter comment caused a stir, it was the potential rift between Hunter and Fisher – a rift that would later prove to have a basis in reality – that was the dominant story. The “internecine battle” had “overshadowed the lockout itself and threatened to derail the bargaining process,” Beck argued (Beck, 2011ii, ¶5). Damage control efforts by Hunter and Fisher had “supplanted any attempt to break the 125-day stalemate with the league” (¶7). The *Times*, citing anonymous sources, described Fisher as wanting to at least consider a 50-50 deal, while Hunter was described as being “more adamant about holding firm” (¶14). In an indication of the state of the relationship between Hunter and Fisher, Beck also reported that “Hunter has sometimes bristled at Fisher’s assertiveness in setting the agenda” (¶16). In a separate piece, Beck wrote that “the brutal negotiating process” had “strained the relationship between Fisher and Hunter” (Beck, 2011jj, ¶27). Of note, league officials were said to be “privately … alarmed” about the apparent divide, as there would be “little hope for a labor deal if union leaders have conflicting agendas” (Beck, 2011ii, ¶12).

Amid the conflict between Hunter and Fisher came a *Times* report that “a disillusioned faction of players” was planning a move to decertify the union (Beck, 2011jj, ¶1-2). The players were “represented by the same high-powered agents who lobbied for the union decertify this summer” (Beck, 2011kk, ¶20). Notably, those players were cast in the same light as the owners’ “hardliners,” a group of up to fourteen owners who were “determined to cap the players at 50
percent” (¶6). As Beck described it, “disenchanted constituencies of owner and players” had begun “threatening to undermine a deal” (¶4). Eventually, the faction of players seeking decertification saw their efforts rendered “moot” after the union disbanded (Beck, 2011uu, ¶19).

**Summary of The New York Times coverage.** Overall, even though The New York Times tended to accept the owners’ claims as fact, there was at least one noteworthy attempt to critically examine the league’s financial state. In addition, the publication countered expected frames by acknowledging the myriad concessions made by the union. With that said, several expected frames were present. There were several examples of the consumerist ‘millionaires versus billionaires’ frame, and there was also heavier scrutiny of player salaries than those of management. While there was coverage of union solidarity, it was only in the context of discussing rumored fractures within the union – and such coverage greatly exceeded coverage of similar fractures among the owners. In essence, the *Times* painted a picture of heavily compensated players who, while justified in balking at the extent of the owners’ demands, should have been expected to give back at least some of their earnings for the good of the league. With the owners, they shared responsibility for the negative effects of lost games on the economy – even though they had no role in the cancellation of games. Their cause lacked support even within their own ranks, and their plight in negotiations was trivial, as they would still be richly compensated. That one of the few labor unions with any leverage was expected to make givebacks yet again in negotiations – 2011 was the fourth straight CBA to include significant player concessions – was not worth examining, nor were the parallels between the negotiations and the overall trend in American business toward profitability on the backs of workers.

**Coverage of the 2011 NBA Lockout in The Associated Press**

As with The New York Times, the four primary sources for The Associated Press coverage of the lockout were Stern, Hunter, Silver and Fisher. One key difference between the *Times* and the AP is that a wider variety of players were quoted. Whereas The New York Times had just Beck and Belson writing pieces about the lockout, the AP had writers across the country who had access to players throughout the league. In most of these cases, the players’ opinions of the lockout were only one part of the story, with other portions of the article detailing their offseason workouts or other on-court topics. The extent to which a story was balanced, or featured a relatively equal amount of quotes from labor and management, depended in part on whether both sides were represented at the same event. For example, an article written from
player Kevin Durant’s Oklahoma City basketball camp consisted exclusively of quotes from labor – in this case, Durant only (Latzke, 2011). Similarly, an article written from the NBA’s owners meetings in Dallas consisted exclusively of quotes from management (Hawkins, 2011). Location was not the only concern. An article based on a phone interview the AP conducted with Commissioner Stern quoted management heavily (Campbell, 2011). Other articles were merely whole text reposts of league statements (“NBA to,” 2011) or union letters (“Text of,” 2011).

Of course, quote placement had the potential to significantly impact the manner in which the articles portrayed the negotiations. In one glaring example, the first four sentences of one article gave the impression that an early October breakdown in talks was essentially the sole fault of the players:

Commissioner David Stern floated it as an idea more than a firm proposal: a 50-50 revenue split. Even so, the union's reply was unequivocal. "They said, 'We can't do it.'" according to Stern. And with that, the remainder of the preseason was lost and the first two weeks of the regular season moved to the brink of cancellation. (Mahoney, 2011z, ¶1-4)

Writer Brian Mahoney’s lead portrayed the owners as offering an egalitarian-seeming compromise, the union as rejecting it outright for seemingly no reason, and the result being the cancellation of games. While the article does describe why the players rejected the 50-50 split, the explanation is in the twelfth paragraph, beyond the point a casual reader would likely reach. Perhaps more important is the implication the article gives that the cancellation of games – entirely a management decision – was the fault of the union’s intransigence. Of note, Stern and Silver were quoted three times before the union was quoted once.

Another Mahoney article began with Stern’s accusation of that the union was not willing to negotiate:

David Stern returned to the bargaining table Monday and said "nothing" gave him reason for encouragement. And for that, the NBA Commissioner pointed the blame in one place. "I don't feel optimistic about the players' willingness to engage in a serious way," Stern said. (Mahoney, 2011n, ¶1-3)

While Mahoney somewhat cynically described Stern’s assertion as “blame” (¶4), the fact that the first three sentences of the article focused on Stern’s description of the players as stonewalling in
negotiations was surely more impactful than the players making the same accusations of the owners in the sixth sentence of the piece (¶6).

In a similarity to *The New York Times*, the AP tended to take the owners’ claims of widespread losses and competitive imbalance as fact. In particular, the statistic of 22 teams in the red and $300 million in losses was repeated throughout the AP’s coverage. On the day the lockout began, Mahoney noted that the league’s on-court exploits the previous season “couldn’t hide a simple fact: Owners insisted they were losing money, perhaps $300 million this season, and weren't interested in subsidizing a system they felt guaranteed they'd keep losing more” (Mahoney, 2011h, ¶2). An article from later in the same day took the owners’ claims as fact to an even greater extent: “Tired of losing millions in a system that has guaranteed players 57 percent of revenues, [the owners] want an overhaul that would allow small-market teams to compete with the big spenders, and all of them to make money” (Mahoney, 2011i, ¶9). The questions of whether the owners were actually losing as much as they claimed, whether those losses were in fact due to the players’ percentage of revenue, whether small-market teams really were at a disadvantage to their big-market rivals, and whether that disadvantage could be remedied by any of the league’s fixes went unexamined in the piece.

Other examples abounded. In the lead of an October 6 article, Mahoney stated flatly that “NBA owners, losing hundreds of millions of dollars a year, wanted an overhaul of the financial system to ensure themselves a chance to profit” (Mahoney, 2011aa, ¶1). The same article described the owners’ two goals in negotiations as finding “a way to escape losses and a system where all teams could compete equally” (¶7), outlining the players’ 57% share of B.R.I. and salary cap exceptions as obstacles to said goals (¶8-9). Of course, both the goals and the obstacles were described as coming from management, not from the writers themselves. However, in the absence of any countervailing union position, those management claims went unchallenged. Another article quoted former player Dennis Rodman as contrasting the 2011 lockout with the 1998-99 lockout. “Now you’ve got maybe 10 teams that are making money,” Rodman said, forgetting that the NBA made the same argument of widespread losses during the 1998-99 dispute (“Rodman to,” 2011, ¶9).

With the owners’ purported losses accepted as fact, their stance in negotiations could seem reasonable. In an October article, Mahoney quoted Spurs owner Holt as saying that the owners’ goal was to have an “opportunity to make a few bucks” (Mahoney, 2011hh, ¶2). Holt, it
should be noted, had an estimated net worth of $80 million as of 2005 ("2004-05 NBA"). Whereas Kevin Garnett seeking a few extra millions in 1997 was evidence of greed, Holt’s similar pursuit was not worthy of notice. As is typical in media coverage of labor, management pursuit of profitability is natural, expected, and beyond rebuke – while employee pursuit of greater wages is evidence of greed and has negative consequences for both business and the overall economy.

While the owners’ positions were frequently reinforced throughout AP coverage, some articles provided support for the union’s argument that owner losses were either overstated or could be overcome by means other than slashing player salary. When news surfaced that the NBA would actually have to pay the players back their escrow money after player salaries during the 2010-11 season fell below the 57% threshold, Mahoney noted that it “could strengthen the players' contention that an overhaul of the current financial system isn't needed and that owners can address their losses by controlled, smarter spending” (Mahoney, 2011l, ¶5).

Other articles noted the union’s skepticism of the league’s claims, though not in any great detail. When The New York Times’ Silver published his controversial piece questioning whether the NBA was in fact suffering any losses, the AP reported on the story. However, the lead of the article focused on the NBA’s denial of Silver’s claims, and the rest of the piece consisted of quotes by an NBA spokesman, the oft-cited $300 million loss statistic, and some discussion of the union skepticism (Mahoney, 2011j). Silver’s argument that the league purposefully manipulated the financial data was not included. A later article, however, did include Silver’s suggestion that most of the league’s losses could be attributed to an unusual accounting treatment (Mahoney, 2011k, ¶14).

It should also be noted that there were zero examples of The Associated Press describing the lockout as a strike. This is in contrast to both The New York Times and The Wall Street Journal.

Overall, the Associated Press did not necessarily endorse the league’s claims. Most – but not all – of the articles mentioning the league’s supposed financial distress noted that these were the claims of the league or of Stern, and not necessarily objective fact. However, by repeatedly mentioning the league’s possibly-inflated $300 million loss statistic and rarely examining the accuracy thereof, the AP left little choice for readers but to accept the claims as fact.
How the AP Framed the Lockout

The lockout as senseless and avoidable. The description of the lockout as senseless and avoidable was not as nearly as prevalent in the AP as in The New York Times. In one of the few examples, AP writer Paul Newberry used a three-month old quote by Hawks player Josh Smith stating that the lockout “really wouldn’t make any sense,” considering the league’s success in the television ratings. “No sense, indeed,” Newberry concurred (Newberry, 2011a, ¶15-16). An article by Newberry later in the lockout suggested that readers put their hands over their ears “and shout ‘La! La! La! La! La!’” the next time the topics of revenue splits and hard salary caps were broached. “Sure, it’s a bit childish,” he wrote, “but no more so than billionaire owners bickering with millionaire players after one of the most successful seasons in NBA history” (Newberry, 2011b, ¶6). In another example, an AP article excerpted a San Francisco Chronicle editorial that suggested the owners and players “look out their tinted windows to get a sense of how absurd their dispute seems in the context of the times” (“Editorial Roundup,” 2011, ¶13).

Millionaires versus billionaires. The familiar millionaires versus billionaires frame was quite frequent in AP coverage of the lockout, primarily in editorials. “In one corner,” Newberry wrote in August, “there’s Commissioner David Stern and an obstinate band of billionaires crying poverty. In the other, a bunch of sheltered, pampered athletes who make more in a week that most Americans do in a year, drawing a line in the sand for the status quo” (Newberry, 2011a, ¶17). In October, writer Jim Litke noted that there was “zero interest in watching wealthy players and wealthier owners play chicken” (Litke, 2011a, ¶6). After the players decertified the union in November, writer Paul Newberry wrote that it was “impossible to pick sides in this fight,” summarizing the lockout as a battle between “rich guys determined to get even richer vs. not-quite-as-rich guys who don’t want to give up their other, other Benzes” (Newberry, 2011b, ¶9).

The players and owners were described as being out-of-touch considering the difficult economic times. Writer Tim Dahlberg wrote of a “strange dichotomy” in which “the economy is so weak that nearly 1 in 10 people are unemployed,” and yet “major sports are so awash in cash that the biggest arguments revolve around how to divide up the loot” (Dahlberg, 2011a, ¶5). Dahlberg argued that there was “[n]o need to feel sorry for the owners, who plead poverty even while they shop for a Rolex or two of their own” (¶3), and no need to feel sympathy for the players either, who were “determined to stick it out for the greater good of basketball players everywhere, even if they have to sell their Rolexes to make ends meet” (¶4).
Fans and arena workers were of course quoted on multiple occasions about their plight due to the lockout, but few were quoted as lamenting the money made by the players and owners. One Utah restaurant owner quoted by the AP wondered “how much money do these guys really need to keep making?” (Withers, 2011, ¶32). One 12-year old fan – continuing the practice of quoting children’s opinions on sports labor disputes – countered the traditional ‘pox on both their houses’ approach by saying he thought the owners were “being greedy with the money. It’s the truth. The owners just really want the money and the players just want to play” (“LeBron, Rudy,” 2011, ¶21). Another fan did away with the ‘millionaires versus billionaires’ approach altogether and tried to understand both sides: “I like the idea that owners want to try to make it more competitive. But the players are the product and I think they should be getting the lion's share of the money. It's a tough one to figure out” (Krawczynski, 2011a, ¶16).

Even if the fans were not engaging in the expected player-and-owner bashing in the AP coverage, others – writers, players, even the U.S. president – tended to speak for them. “[The fans] see it as just a whole bunch of guys that are getting paid to play basketball complaining that they're not getting paid.” Clippers player Blake Griffin was quoted as saying. “To a certain extent they're right, but at the same time, we just want what we had” (Harris, 2011, ¶26). Rockets player Jonny Flynn said the fans were “tired of hearing about millionaires and guys who make a lot of money complain about making more money” (Duncan, 2011, ¶14). Bulls player Derrick Rose said there was “no reason why billionaires and millionaires should be arguing about money. There are other things in this world that we should be arguing about, but money shouldn’t be the problem” (Seligman, 2011, ¶3). Beyond the players, even U.S. president Barack Obama entered the fray, saying that “in a contest between billionaires and millionaires, they should be able to figure out how to divvy up their profits in a way that serves their fans who are allowing them to be making all this money” (“Obama: Penn,” 2011, ¶9).

AP writers also got into the act. Krawcynzki, in particular, focused primarily on fan backlash against the players. In one article, he wrote that “some” of the fans “view the players as greedy for not agreeing to a deal sooner” (Krawcynzki, 2011a, ¶15). Mahoney offered a more balanced approach when the union decertified in November, noting that “both the owners and players eventually must regain the loyalty of an angered fan base that wonders how the league reached this low point” (Mahoney, 2011tt, ¶28).
The workers caught in the middle. On several occasions, the AP made note of the arena workers and small business owners who would be affected by the lockout. “Real harm will be felt first by the people who eke out a living on game days,” Litke wrote in October, mentioning the “vendors, ushers and parking lot attendants” (Litke, 2011a, ¶9). Similarly, Mahoney wrote that the “hardest hits likely will be felt by those off the court” (Mahoney, 2011aa, ¶17), quoting a Salt Lake City restaurant owner as saying the cancellation of games would have a “tremendous impact” on his business (¶20). Writer Tom Withers noted that the “loss of one game, let alone 10 or maybe 82, will have a devastating impact on workers with jobs dependent on pro basketball’s six-month-plus season” (Withers, 2011, ¶9). Withers added that “ushers, security personnel, parking lot attendants, concession workers, restaurant employees and others all stand to have their hours cut or join the country's 14 million unemployed” (¶10) – notably, the sentence was used word-for-word in a Mahoney article published days later (Mahoney, 2011bb, ¶11).

In an article published the day the league canceled the first two weeks of the season, Mahoney wrote that the “pain” of the cancellations “may be more acute for thousands of people with no seat at the bargaining table” (Mahoney, 2011cc, ¶1). Mahoney made similar points after the league canceled all games through November, arguing that the “real losses … could be felt by arena staff and other people who work in fields connected to the game” (Mahoney, 2011ll, ¶36). In still another article, Mahoney somewhat derisively noted that the players “will eventually get their money, just less of it,” while “the damage to businesses that rely on the game won’t be recovered” (Mahoney, 2011mm, ¶18). After the union decertified in November, Newberry wrote that the owners and players clearly did not “give a flip about the fans, the low-paid arena workers in desperate need of a paycheck, or the nondescript team employees who might soon be out of work as well” (Newberry, 2011b, ¶7).

Because the AP has writers scattered across the country, the publication provided more articles than The New York Times about the financial impact of the lockout in various NBA cities. The previously mentioned Withers article, for example, included contributions from AP writers in Cleveland, Memphis, Salt Lake City and Orlando (Withers, 2011, ¶36). Several articles quoted individuals whose livelihoods would stand to be affected by the lockout. The manager of one Cleveland restaurant told the AP that he had “three single moms on my wait staff and two single dads in the kitchen,” and “their 11 children to think about” (¶5). The owner of an Orlando restaurant near Amway Arena, where the Magic play, said the “economic impact would be
A waitress at a Hooters restaurant said she worried that her “money situation is going to change a lot” (Mahoney, 2011cc, ¶3). A Boston bar manager said it was “hard for the average person to understand what it is they’re arguing over,” adding that concession workers at the TD Garden had their pay “budgeted into how they pay their mortgages, how they put their kids through school … There’s a whole ancillary economy that depends on the Garden, and it’s pretty far reaching” (Mahoney, 2011mm, ¶19-20). A Denver bar owner said he “thought the owners and players had an obligation to work this thing out while continuing to play the game, given the dire economic circumstances that are taking place in our country right now” (Mahoney, 2011cc, ¶12). Of course, in a point the AP neglected to mention after that quote, the players had expressed their interest in continuing to play during negotiations (Begley, 2011, ¶2) – a practice the league and the union had engaged in throughout the 1970s and 1980s.

Other than small business owners and their employees, NBA employees were also quoted. The radio voice of the Charlotte Bobcats, who was laid off in the early days of the lockout, said he believed it was a shame that “the everyday employees of these teams are caught in the middle of it” (Cranston, 2011b, ¶14).

**Scrutiny of player salaries.** The salaries of the players – both on an individual level and on average – were mentioned on several occasions by the AP. Primarily, player salaries were mentioned to spotlight their disconnect with disaffected fans and workers, or to bolster management claims of widespread losses.

In early July, the AP noted that both basketball-related income and total player compensation had increased by 4.8% during the 2010-11 regular season (“Basketball income,” 2011, ¶1), which makes sense considering that the players are guaranteed a set percentage of B.R.I. and, under the escrow tax, must return any money that exceeds that amount. The article noted that the average player salary of $5.15 million – one of several mentions of the players’ average salary – had increased by 16% over the six years of the 2005 CBA (¶5). There was no mention of whether B.R.I. had increased by the same amount – a small matter that would go a long way to showing that the players’ growth in compensation was commensurate with the NBA’s growth in income. Another article noted the players’ “$2.1 billion in salaries and benefits” earned during the season (Mahoney, 2011w, ¶14).

In November, the AP took note of a video the NBA posted to the video sharing website YouTube projecting that the players would have an average salary of $7.7 million in the tenth
year of the owners’ proposed CBA (Reynolds, 2011c, ¶12). The “projection means that team payrolls will in theory top $115 million by the proposed deal’s end, which could come to the chagrin of many owners,” Reynolds wrote (¶13). The seemingly generous average salary was not accompanied – at least in the AP article – by a projection of how much revenue the league would bring in.

The players’ salaries were frequently used to cast them as out of touch with the rest of society. Dahlberg wrote of a union press conference in which members of the union “all wore matching T-shirts to show how united they were, looking much like union workers anywhere in search of a fair contract” – with the difference being that “these union members all stood about 6-foot-8 and made millions of dollars dunking basketballs” (Dahlberg, 2011a, ¶6). In the same article he noted the players’ $5.15 million average salary and said that the money could “do a lot of things in a country where some 46.2 million people … live in poverty” (¶10). Specifically, he mentioned the charity Feeding America and included a quote from the organization’s spokesman: “Eating is not always a sure thing for everyone in America. A lot of people are really hurting” (¶11). While that may seem a transparent way to portray the players as greedy – especially since the owners’ various riches could no doubt alleviate hunger and poverty throughout the nation – Dahlberg did concede that hunger and poverty were not the fault of NBA players, who had “simply taken advantage of market conditions to make a lucrative living” (¶12).

Dahlberg went even further in a subsequent column. He agreed with Dennis Rodman’s statement that the players should “bow down” in negotiations, suggesting that they accept the owners’ 50-50 proposal and “save the drama for the last two minutes of the game” (Dahlberg, 2011b, ¶12). The players, in his words, needed to “[a]ccept the fact that the average NBA salary of $5.15 million is not only quite fair, but extraordinarily generous” – as if their salaries were based on merit instead of what the market should bear (¶13). Of course, Dahlberg’s suggestion seems to indicate that the players were asking for more money and that they should be satisfied with what they already had. In actuality, the players were willing to incur cuts that would likely – at least in the short term – result in a lower average salary. In the same column, Dahlberg said that “no one is sure what great cause the players are trying to advance other than keeping a status quo that has made them the best paid athletes on average in American team sports” (¶19). Perhaps the cause being advanced by the players was to be paid what the market would bear without being inhibited by artificial restrictions – a cause one would presume the capitalists who
run NBA teams would embrace wholeheartedly in any other context. While the players’ dual roles as both employee and product provided them with more leverage than the average labor union, it also allowed for the obfuscation of the basic fact that they are, at the core, workers. The cause of workers to resist cuts in wages – especially when those cuts are justified by that may or may not be justified is universal, regardless of how many millions the workers in question may make.

Overall, Dahlberg’s sentiments were in keeping with coverage of labor since the nineteenth century. As Puette (1992) noted, dating back to political cartoonist Thomas Nast in the mid-to-late 1800s, the “great media clarions of the national conscience have tended to believe that labor should know its place and accept its lot humbly and quietly” (p. 77) – or, as Dahlberg said in quoting Rodman, labor should ‘bow down.’

Dahlberg was not alone in discussing the players’ salaries in the context of the overall economic crisis. In a profile of Heat player Dwyane Wade, writer Tim Reynolds noted that Wade “knows why fans are upset that players and owners can’t find a solution when the nation’s economy is struggling and unemployment is soaring” – but not before mentioning his “estimated $25 million to $30 million annually in on-and-off court earnings” (Reynolds, 2011b, ¶20).

Not all articles related player salaries to league losses or to the overall economic climate. One article profiling Cavaliers player Antawn Jamison hinted at the often-discussed divide between superstar players and the NBA’s rank and file, noting that he was “due one of the largest salaries in the league next season,” and as such “would have plenty to lose if next season is wiped out” (Cranston, 2011a, ¶6).

There was coverage of management salary, but only rarely. One article focused on Commissioner Stern’s salary, with Mahoney citing league officials to debunk reports that Stern made $20 million (Mahoney, 2011p, ¶1). The sources did, however, confirm other reports that Stern had “declined to accept a pay check during the work stoppage” (¶5). Another article mentioning the 76ers sale to new owners mentioned that one member of the ownership group “was worth $1.45 billion, according to Forbes, as of September” (Gelston, 2011, ¶12). Primarily, however, management income was discussed primarily in the context of how much the players and owners were losing during the lockout.

As in The New York Times, there was substantial coverage of potential losses for the players, and to a lesser extent, the owners. In October, days before the league began cancelling
regular season games, Mahoney noted the “staggering” cost for both sides – a predicted $200 million loss for the league from the cancellation of preseason games alone, and $350 million in losses per month for the players (Mahoney, 2011aa, ¶14-16). In advance of an exhibition game organized by players, Reynolds noted that the “players expected to compete … collected more than $168 million in salary last season and, unless things change, would earn $0 on NBA courts this year” (Reynolds, 2011a, ¶4). After the league canceled the first two weeks of the season, Mahoney restated the expected losses: “Deputy Commissioner Adam Silver said the league would lose hundreds of millions of dollars, while union executive director Billy Hunter estimate the players’ losses at $350 million for each money they were locked out” (Mahoney, 2011bb, ¶10). In the lead of still another article, Mahoney mentioned the losses again (Mahoney, 2011cc, ¶1).

As the lockout wore on, the focus turned primarily to player losses. In late October, Mahoney noted that “all games through Nov. 14 … have been scrapped, costing players about $170 million in salaries” (Mahoney, 2011gg, ¶12), a statement that was repeated in a separate piece (Mahoney, 2011ii, ¶7). When the possibility was briefly broached in late October that the league could still play a full 82-game season, Mahoney noted that it would be a “boost for the players, meaning they wouldn't miss the paycheck that seemed lost when the first two weeks were scrapped” (Mahoney, 2011kk, ¶14). The next day, after talks broke down and the league canceled all games through November 30, he wrote that the union would now be “out roughly $350 million” (Mahoney, 2011ll, ¶13). There was still some mention of the financial hit the league was taking – Mahoney noted that the loss of the first month would add “another couple hundred million” to the league’s losses (Mahoney, 2011mm, ¶15) – but the hit to the players was mentioned more frequently. Articles counted down to November 15, when the players would lose their first paychecks, and an article from that day noted that it was “the first time players missed out of on a twice-a-month paycheck because of the lockout” (Fendrich, 2011, ¶7). Not only were player losses covered more often than those of the league, but they were often noted without any mention of losses by the league. By contrast, virtually all discussions of league losses were accompanied by mentions of player losses. This not only played into Stern’s strategic pressure on the players – i.e., give in now or lose millions – but also continued the overall trend whereby player income received significantly more coverage than that of the owners. Even when owner losses were discussed, those losses were attributed to the league and
not to the owners themselves. This is especially notable considering that Stern was on record saying the owners would benefit more from shutting down the league than by continuing under the present system. If the players were losing millions while the owners were either making money or losing less than before, it would go a long way to debunking the idea that the lockout was a two-way street – instead of a hammer wielded by the owners.

**Management offers and demands.** The *AP* frequently mentioned the players’ various offers and concessions to management during negotiations. Before the lockout, the *AP* took note of the hundreds of millions of dollars in givebacks to which the union had already consented. In late June, Mahoney wrote that the players had “declined to offer a new economic proposal in the most recent meeting,” suggesting that “they may still feel their previous offer to reduce their salaries by $500 million over five years is going far enough” (Mahoney, 2011g, ¶7). When the lockout began, Mahoney wrote that the owners had “taken a hard-line stance from the start” of negotiations because of their claimed losses, paraphrasing Hunter as saying that “negotiations never recovered from that rocky beginning” (Mahoney, 2011h, ¶16). He echoed that point in an October article, noting that the “owners’ initial proposal … got the process off to a tense start” (Mahoney, 2011bb, ¶30). One mid-July article noted that the players had proposed dropping their share of B.R.I. from 57 percent under the old deal to 54.3 percent in their final proposal before the lockout, “an offer Commissioner David Stern termed ‘modest’” (Mahoney, 2011l, ¶7). That would not be the only time a union proposal was accompanied by a management statement dismissing said proposal. In August, Mahoney noted that the players made the most recent proposal for a new deal, “an offer the league said would have increased average player salaries to nearly $7 million in the sixth year” (Mahoney, 2011r, ¶15). Of course, considering the league would later tout an offer that would increase average player salaries to $7.7 million per year by the tenth year of the deal, one wonders how far apart the sides could really have been.

The relatively union-friendly coverage continued in September, Mahoney noted that the players had already “been asked to accept an 8 percent pay cut in the first year of a new deal, changes to the salary cap structure and the maximum length of contracts” (Mahoney, 2011t, ¶19). A later article noted that the players had been “planning to make what Hunter called a ‘significant’ financial concession … but that fell through when owners rejected the union’s insistence that the current cap system remain intact” (Mahoney, 2011v, ¶6). Hunter’s claim was repeated in several subsequent articles, with one noting that the players had gone down to 54.3
percent of B.R.I. and “were prepared to go lower if owners would agree to leave the cap system untouched” (Mahoney, 2011w, ¶13). Similarly, a Mahoney article in October noted that the players proposed a drop from 57 to 53 percent, “which they said would transfer more than $1 billion to the owners over six years,” but “expected something in return” (Mahoney, 2011dd, ¶8).

Mahoney also critically examined the owners’ proposals, noting in August that the owners’ deal would “guarantee players total compensation of no less than $2 billion annually … But that represents a pay cut from the more than $2.1 billion players were paid this season” (Mahoney, 2011n, ¶26). While a perhaps better way to put the owners’ proposal in context would have been to contrast the $2 billion with what the players would have made if the status quo continued, merely acknowledging the potential negative effects of the owners’ deal constitutes more even-handed treatment than the literature indicates is typical. Another article described the owners as seeking “a significant reduction in the players’ guarantee of” B.R.I. (Mahoney, 2011w, ¶13).

Whereas multiple AP articles mentioned player ‘offers’ – for example, one used the term when discussing the players’ same 54.3% proposal (Mahoney, 2011m, ¶6) – several used the term ‘demands’ to describe owner proposals. In an article dominated by quotes from Stern, who gave an interview to the AP, Mahoney nonetheless spoke of “the owners’ economic demands” (Mahoney, 2011o, ¶6). Another article by Mahoney noted that the players had “balked at the demands” (Mahoney, 2011q, ¶3). More typical was the description of the owners as being insistent or insisting upon certain terms. For example, Mahoney described the owners as “insistent on a 50-50 split” in October (Mahoney, 2011ll, ¶11). Another article described the owners as “determined” not to move beyond 50-50 (Mahoney, 2011pp, ¶4).

Other articles were softer on the owners’ proposals. In October, Mahoney reported that the owners had “relaxed their insistence on the hard cap” (Mahoney, 2011x, ¶17) and noted that they sought a reduction in the players’ percentage of B.R.I. without describing the extent of their proposed cuts (¶19).

As the lockout entered the stage where games began to get canceled, coverage of management and labor proposals became more salient. When Stern revealed his ‘50-50’ concept in October, Mahoney characterized it as an ‘offer’ that was below what the players received in the previous CBA, “but more than the 47 percent union officials said was formally proposed to them” (Mahoney, 2011z, ¶8). The same article noted that the players “had offered to reduce their
BRI guarantee to 53 percent, which they said would have given the owners back more than $1 billion over six years” (¶11), and also explained their opposition to the ‘50-50’ split (¶12). Deeper in the article, Mahoney offered more context on the history of the ‘50-50’ concept, writing that the owners, “[a]fter hardly budging off their original proposal for 1 1/2 years” had formally increased their “offer to players from 46 to 47 percent” (¶20). It was after that point when “top negotiators discussed the 50-50 concept” (¶20). In a later article, he wrote that the “union believes a reduction from 57 percent to 53 percent is enough of a concession, saying it would transfer more than $1 billion to owners in six years,” adding that “while sharing 50-50 sounds great in kindergarten, it may not work for NBA players” (Mahoney, 2011aa, ¶23-24).

When the league canceled the first two weeks of the season, Mahoney wrote that Stern “felt the league had made serious concessions on the system” by “withdrawing its demands for non-guaranteed contracts and what they considered a hard salary cap” (Mahoney, 2011bb, ¶17). Immediately afterward, however, he noted that the players believed the league’s hard cap alternative – a strengthened luxury tax – “would have acted as a hard cap, scaring too many teams from spending above the tax level” (¶17). Several articles repeated the players’ rationale for opposing the strengthened tax and their argument that it would merely be a pseudo hard cap (Mahoney, 2011ee, ¶13). Another article paraphrased union leaders Fisher and Hunter as saying the “players' positions on every issue have included enormous concessions, but they don't see similar accommodations by the league” (Beacham, 2011, ¶16).

After a breakdown in talks in October, a Mahoney article dominated by players union quotes noted the union’s contention that the owners “essentially gave [them] an ultimatum to accept a 50-50 split of revenue” (Mahoney, 2011ii, ¶10). Another article from the same day repeated the claim, adding that the players were told that they “must commit to a 50-50 split of revenues before owners would agree to discuss the salary cap system” (Mahoney, 2011hh, ¶20). Mahoney concluded that the players “seem willing to give on one of the issues if they scored concessions on the other,” but “management has made it clear it must have both” (¶23). In an article done in the style of a Q and A, Mahoney said the players dropping from 57 to 50 percent of B.R.I. would be an “enormous concession,” but one that would “only erase about $280 million of the $300 million the league said it lost last season” (Mahoney, 2011jj, ¶13). The players “make it sound as if they are the ones doing all the giving back,” Mahoney stated in yet another article (Mahoney, 2011ll, ¶27).
In November, Mahoney characterized the owners who wanted a “53-47 split in its favor and a hard salary cap” as a “hardline faction” (Mahoney, 2011oo, ¶1). In the same article, he wrote that the players believed their 52.5 percent offer was “a concession they feel is more than enough to cover their end of the league’s stated $300 million in annual losses” (¶11), and that a 50-50 deal would wipe out “about $280 of what owners say were $300 million in losses last season” (¶18) – a statistic that was used previously. When the owners gave the players an ultimatum to accept a 49-51 percent ‘band’ or see the next offer reduced to 47 percent with a hard cap, Mahoney cited the union position that the so-called band was really just a 50-50 offer by another name (Mahoney, 2011qq, ¶17).

Even after the owners added some “improvements” to their proposal in mid-November, Mahoney noted that it was “still far short of what the players had in the former collective bargaining agreement” (Mahoney, 2011ss, ¶8). Once the players decertified the union, he wrote that the players had “made numerous economic concessions and were willing to meet the owners’ demands of a 50-50 split of basketball-related income,” adding that it was “a transfer of about $280 million annually” (Mahoney, 2011tt, ¶24), a statement he repeated in a subsequent article (Mahoney, 2011uu, ¶34). While the players’ moves were described as concessions, Mahoney described the owners’ moves in negotiations as “compromises … such as dropping its demands for a hard salary cap, non-guaranteed contracts and salary rollbacks” (Mahoney, 2011tt, ¶33). Perhaps the most conspicuous instance of Mahoney espousing a union position came in the lead of a November 16 article about the players filing antitrust suits against the league: “NBA players kept offering economic concessions, and it was never enough to satisfy owners. So with no labor deal and no place else to go, players decided to take their fight to the courtroom” (Mahoney, 2011uu, ¶1-2). All of which is to say that even if Mahoney was not exactly a union booster, his articles throughout the lockout tended to counter the expected frame of ‘management offers that omit or downplay givebacks.’

Beyond Mahoney, not all writers were keen to note the players’ concessions – or the extent of what the owners were asking for. Dahlberg wrote that “[a]n offer of half the league’s millions wasn’t enough to keep players talking, much less get them to sign on the dotted line” not-quite-subtly painting the players as greedy, unreasonable, and intractable in one mere sentence (Dahlberg, 2011a, ¶2). Somewhat unbelievably, Dahlberg then accused the union of having “taken a hard line in the negotiations” in a separate article, alleging they had budged
“only a bit on the current 57 percent guarantee of basketball revenue” (Dahlberg, 2011b, ¶15). Though he accused the owners of being inflexible as well, the idea of a hard-line players union was not reflected in reality, where the players had already agreed to transfer hundreds of millions to the owners. In a far less glaring example, Litke noted that the players’ 52 percent proposal would “still transfer more than $1 billion back to the owners in any new deal,” but still wrote of “Hunter’s intransigence” on the issue (Litke, 2011b, ¶8). In the second sentence of an editorial, Newberry wrote that the owners “say they’ve made their best offer,” and the players had responded “by vowing to file an antitrust suit” (Newberry, 2011b, ¶2) – a juxtaposition that, in the absence of any analysis of the owners’ offer, gave the impression of an intractable union.

Even an article by Mahoney downplayed the players’ concessions by heavily quoting Jay Krupin, the chair of the EpsteinBeckerGreen national labor practice – and not an objective source when it comes to labor-management conflict. When the sides began mediation in October, Krupin blatantly suggested that the players were responsible for there not being a deal: “If the players want to get back on the court, then this is a great time for them to try to show that they’re willing to make some type of compromise … This is an opportunity to really determine whether or not the players are willing to make concessions” (Mahoney, 2011ff, ¶6). While Mahoney noted that the players “already feel they’ve conceded plenty financially” (¶8), it is certainly notable that a blatant pro-management perspective was quoted prominently as being the perspective of an objective observer. Krupin also received the last word in the article, saying that mediator George Cohen could be “used as a facilitator to try to get a deal if the players really wanted one” (¶20, emphasis added). As CNN noted when quoting him in 2009, Krupin “has negotiated more than 300 labor agreements on behalf of employers” (Easton, 2009, ¶13), making him far from the objective source Mahoney portrayed him as in the article. This type of coverage is not surprising. As Parenti (1993) noted, the media “regularly presents labor as unwilling to negotiate in good faith when in fact management – in pursuit of high-profit policies – is usually the side that refuses all compromises” (p. 93).

**Coverage of union solidarity.** Allegations of divides within the union and within management were lobbied back and forth between Stern and Hunter in the early days of the lockout. In June, Mahoney wrote that Hunter had “hinted at a divide that exists among ownership,” stemming from a letter several small market owners wrote to Stern asking for better revenue sharing (Mahoney, 2011f, ¶16). Later in the lockout, Mahoney noted that Hunter hoped
“that at some point a split will develop between big-market and small-market owners,” if such a split was “not already there” (Mahoney, 2011u, ¶21). Of note, the idea of a split between big and small market owners was mentioned on occasion, with Litke writing in November that “successful teams such as the Heat, Knicks, Lakers and Bulls” could not be “thrilled with the prospect of losing an entire season of profits to help the poorer franchises squeeze a more favorable deal from the players” (Litke, 2011b, ¶6).

Stern, meanwhile, “dismissed” the idea of players heading overseas during the lockout, “warning it could divide the union” (Mahoney, 2011o, ¶2). The article quoted heavily from a Stern interview with the AP, with the commissioner deftly sowing the seeds of discord: “It threatens to split the union because only the high-paying stars, only the superstars, will be able to get any significant number of dollars” (¶5). By and large, however, the issue of players going overseas – and the potential divides as a result – were not mentioned as often in the AP as in The New York Times.

In September, Aron and Beacham led an article by noting that players and owners had “at least one thing in common. Each side is unified, and wants everyone to know it” (Aron & Beacham, 2011, ¶1). The article included accusations by Fisher of a divide between the owners that promptly rebutted by deputy commissioner Silver (¶5). While the owners did not make similar accusations of a split within the players’ ranks, the players felt compelled to stress their unity. “The union’s emphasis on solidarity,” the writers noted, “stems from suggestions that players could get antsy once they start missing paychecks in a few weeks” (¶13).

Talk of union solidarity heated up once Wizards player Javale McGee told reporters after attending a union meeting that there were “definitely some guys in there saying that they’re ready to fold” (Beacham, 2011, ¶7). Of course, while McGee added that “the majority of guys are willing to stand strong” (¶7), it was only the first part of his comment that attracted attention. In the lead sentence of his story on McGee’s comment, Beacham wrote that he had “only acknowledged the inevitable” (¶1). The brief McGee controversy was followed up by the controversial foxsports.com report alleging that Fisher had gone behind the union’s back to attempt to broker a deal with Stern. In the lead sentence of an article on the story, Mahoney wrote that Fisher denied there being a “rift in union leadership,” quoting a letter the NBPA president wrote to his constituents (Mahoney, 2011nn, ¶1). The article quoted the foxsports.com report as suggesting that Fisher and Hunter had not “been on the same page” during the lockout.
A separate *AP* article consisted almost solely of Fisher’s letter to players (“Text of,” 2011). After the Arison controversy on the owners’ side, in which the Heat owner seemed to indicate he was not part of the faction driving the lockout, Litke wrote that the two sides “seem just as interested in cannibalizing their own as the other side” (Litke, 2011b, ¶5). The *AP* also reported on rumors that a group of “about 50 disgruntled players” was seeking to decertify the union (Cohen, 2011a, ¶6). Like *The New York Times*, the *AP* focused primarily on potential fractures within the union, with coverage of solidarity among the players taking the form of face-saving comments by Hunter or Fisher. Of course, most readers – if not the writers themselves – would likely cast a skeptical eye at the players’ efforts to reinforce that they were united.

**Summary of The Associated Press coverage.** Coverage of the NBA lockout in *The Associated Press* had several similarities to coverage in *The New York Times*. The *AP* generally did not examine the league’s claims of widespread losses and competitive imbalance through a critical lens. However, *AP* articles – primarily those written by Brian Mahoney – provided even greater coverage of player concessions than the *Times*. With that said, there were multiple occasions when the players were described in *AP* articles as not having given back enough. More so than in the *Times*, the *AP* espoused the expected consumerist frames. Several articles either complained about ‘millionaires and billionaires’ or quoted individuals making the same complaints. In addition, owing to the nationwide presence of the *AP*, there were several articles focusing on the impact of the lockout on local economies across the country. Other expected frames were present as well. There was greater scrutiny given player salaries than those of management – recall that Dahlberg never brought up Commissioner Stern’s multimillion dollar salary in relation to the nation’s hunger crisis. In addition, there little coverage of union solidarity, but significant coverage given to potential fractures within the union. The overall image of the players emanating from the *AP* was of heavily compensated individuals whose problems were trivial. Like so many other unions in labor-management conflicts, the players bore the brunt of the scrutiny when it came to salaries and the effect of the work stoppage on the overall economy. The only real difference between *AP* coverage and typical media coverage of labor-management conflict came on the issue of concessions. Depending on the writer, the players were portrayed as either having gone above and beyond in agreeing to league demands or as intractable.
Coverage of the 2011 NBA Lockout in *The Wall Street Journal*

While *The New York Times* and *The Associated Press* each published over 100 articles each directly pertaining to the NBA lockout, *The Wall Street Journal* offered only 33. What coverage there was tended to follow the same pattern as in the previously examined newspapers in regard to sourcing. Commissioner Stern, deputy commissioner Silver, NBPA executive director Hunter, and NBPA president Fisher were the primary individuals quoted, with some additional quotes from other players. The frequency and the order of those quotes at times depended on practical factors. For example, one article quoted deputy commissioner Silver and Spurs owner Peter Holt three times before quoting the union once – but Silver and Holt spoke at a press conference before Fisher and Hunter (Clark, 2011c). This was not always the case, however. Another article quoted both Stern and Silver before Fisher, even though Fisher had spoken first (Clark, 2011a). Overall, of the 33 *Journal* articles directly pertaining to the lockout, fourteen quoted the league first, and fourteen quoted the union first, and the number of direct quotes from both – regardless of placement – was approximately even.

As in *The New York Times* and *The Associated Press*, the owners’ claims of widespread losses were mentioned ad nauseum. “The root cause of the NBA dispute: The league says its teams are losing money,” writer Scott Cacciola wrote the day before the lockout began. Cacciola went on to cite the familiar $300 million in losses and 22 teams in the red statistic, writing that the owners believed the problem was “spiraling player salaries” and revenue that was not “keeping up” (Cacciola, 2011, ¶4-5). Of course, that suggestion had little basis in reality; as the *AP* reported in July, salaries and basketball-related income increased by the same percentage in the 2010-11 season, and the CBA already had provisions to make ensure the players’ salaries could not exceed the agreed to 57% of BRI. Cacciola and colleague Schechner repeated the claim about “spiraling player salaries” in another article (Cacciola & Schechner, 2011, ¶9).

When the NFL lockout concluded in July, *Journal* writers Futterman and Schuker contrasted the league with the NBA, repeating the owners’ claims. “While the NBA says it has about 20 money-losing teams, every NFL team is profitable. The NBA’s current losses have led owners to lock out their players” (Futterman & Schuker, 2011, ¶9). The writers added that “many NBA teams could be better off financially by not having a season” (¶9).

One major difference between *The Wall Street Journal* and *The New York Times* or *The Associated Press* is the level of depth with which the issues were examined. Even though the
Times and the AP tended to parrot the owners’ claims of losses and grant them legitimacy, there was at least some discussion given as to why the players disagreed. In the Journal, the owners’ claims often went without critical examination of any kind.

There was not as much focus given to the league’s competitive imbalance argument. In one piece contrasting the NFL and the NBA, writer Kaminski said that “a dozen” NBA teams were “perennial losers on the court and as businesses,” while the NFL “prides itself on parity among its teams” (Kaminski, 2011, ¶9). When the league and the players agreed to a tentative deal in November, the Journal paraphrased deputy commissioner Silver as saying the deal would “produce more competitive balance, giving big-spending teams less of an advantage in free agency” (Clark, 2011i, ¶7).

There was an instance of the owners’ lockout being described as a strike. In a transcript of the Fox News program “The Journal Editorial Report” that was published by the Journal, writer Steve Moore asked, “what if the NBA had a strike and nobody cared?” (“President Gingrich,” 2011, ¶116). Fox News, of course, is a corporate sibling of the Journal.

How The Wall Street Journal Framed the Lockout

The lockout as senseless and avoidable. There was very little evidence of The Wall Street Journal portraying the lockout as ‘senseless and avoidable.’ The closest example came when writer Jason Gay noted the many alternatives to NBA basketball, calling the lockout “basketball’s solitary, self-inflicted mess” (Gay, 2011a, ¶17).

Millionaires versus billionaires. Interestingly, there were also few examples of the ‘millionaires vs. billionaires’ frame. While that may seem surprising at first, keep in mind The Wall Street Journal is more business-oriented than The New York Times or The Associated Press, which cater to a general audience. The ‘pox on both their houses’ populism may not be in keeping with the general tone of the publication.

The workers caught in the middle. As a traditionally business-oriented publication, it is no surprise that the Journal covered the potential impact of the lockout on league employees, arena workers, and small business owners. Maltby and Needleman wrote of the “collateral damage to a range of businesses” caused the lockout, mentioning “caterers, bars, stores, parking lots – and even the self-employed masseurs who tend to players” (Maltby & Needleman, 2011, ¶2). In an article contrasting ‘hardcore’ and ‘casual’ NBA fans’ reaction to the lockout, Gay argued that the former would “wonder about the livelihoods of the many anonymous, non-
basketball-playing or team-owning people whose job security and income is tied to pro hoop” (Gay, 2011b, ¶1). After the sides reached a tentative agreement, writer Kevin Clark wrote of a convenience store owner in Orlando who “said he can make up to $1,200 in the hours before a [Magic] game but has been lucky to make $300 with no basketball” (Clark, 2011j, ¶7). Still, even coverage of this issue was scarce.

**Scrutiny of player salaries.** Mirroring the trend found in *The New York Times* and *The Associated Press*, coverage of the lockout in *The Wall Street Journal* tended to focus on the financial status of the players in greater frequency than that of the owners. One article about an upcoming exhibition tour by the players mentioned that Lakers player Kobe Bryant “earns $25 million during the NBA season” (Clark, 2011d, ¶11). The same piece noted that the players in the various lockout exhibitions were “earning hundreds of thousands of dollars instead of many millions” (¶1). In a transcript of the Fox News show ‘The Journal Editorial Report,’ writer Steve Moore noted the players’ average salary of $5 million: “Let’s face it. Kobe, Lebron, Carmelo, you’re getting tens of millions of dollars a year to play basketball?” (“President Gingrich,” 2011, ¶16).

In the most detailed discussion of player salaries, ex-NBA player Paul Shirley wrote an editorial for the *Journal* focused on why the players could not compete with the owners financially. “When this year’s lockout ends, it will probably be for the same reason as the last one: On average, NBA players are not particularly good with money, and NBA owners know this” (Shirley, 2011, ¶3). Shirley argued that this was not because the players were “stupid,” but because they contained an “unlimited capacity for irrational behavior” – a trait he said was necessary to defy the odds and become a professional athlete (¶6). Interestingly, he did not apply the same characterization to the owners, arguing that they were “too smart” as a group to “yield to the players’ demands” (¶13). Of course, one might wonder why the owners were not described as being ‘not particularly good’ with money. After all, 2011 was the second time in less than fifteen years that most of the teams in the league – at least according to management – were losing money to the point that the CBA had to be overhauled.

Player salaries were also discussed in the context of how much they were losing due to the lockout. It was in this context exclusively that league finances were covered. On multiple occasions, articles mentioned that the players would lose $350 million per month during the
lockout, and the league would incur a $200 million hit for the cancellation of the preseason alone
(Clark, 2011h, ¶14; Clark, 2011e, ¶3).

Management offers and demands. Depth was an issue in the discussion of ‘offers’ and
‘demands.’ While the Journal discussed the various league and union proposals throughout the
lockout, those discussions rarely went into as much detail as in The New York Times or The
Associated Press. The status of negotiations was often stated and restated, but not put into any
real context. For example, one article stated the players’ opposition to a strengthened luxury tax
thusly:

The union said they opposed a harsher "luxury tax," which is a penalty that high-spending
tears pay to keep a large payroll. The union said it shot down deals that could multiply
the tax up to four times over, saying such a system would operate the same way as a "hard
salary cap," or the strict pay structure the union has fought against. (Clark, 2011b, ¶4)

Omitted was any discussion as to why the luxury tax or a hard cap would be problematic for the
players. Just stating that the provisions would be problematic without any explanation as to why
is emblematic of the surface-level reporting found in the Journal’s lockout coverage. The lack of
context is not surprising for a publication that skews toward business interests. The owners’
claims were most legitimate when viewed in a vacuum that did not take into account previous
negotiations or the union’s many concessions.

Discussions of the revenue split were similarly problematic. The aforementioned article,
and several others, noted that the “owners have proposed cutting the players’ share to between
47% and 50%” while the “players haven’t wanted to go below 53%” (Clark, 2011b, ¶9). Some
mention of the financial stakes – for example, the amount of millions in givebacks that would
constitute a decline from 57% to 53% of BRI – would have been edifying.

Not all of the articles were as light on details. An article during the early weeks of the
lockout repeated a union contention that the “owners had rejected the players’ offer to reduce
their salaries by half a billion dollars,” a rare case where the players’ givebacks were given in
dollar amounts (Koppel, 2011, ¶10). An early November piece by Clark noted that the players
were not satisfied with a league proposal that would allow them a ‘band’ of 49-51 percent of
BRI. Instead of leaving it at that, as would have been characteristic of the coverage, the Journal
paraphrased Kessler as claiming the offer was “essentially a 50/50 split … it could only climb to
51% with ‘wild, unimaginable’ economic projections” (Clark, 2011g, ¶3).
Once the sides reached a tentative deal, Clark described the owners as having “scored an obvious economic win” (Clark, 2011j, ¶2). ESPN NBA analyst and former NBA executive Tom Penn was quoted in the piece as saying the deal would be “tough … for the superstars,” as it would reduce the number of years they could sign for, their annual raises, and maximum salaries would “level off or go down” over the long term (¶10). “Once again,” Penn concluded, “they won’t be getting their fair share” (¶11). The Penn quote provided one of the few examples of the consequences of the deal being described in the Journal.

Though the Journal generally did not go into particularly great detail about the proposals made during negotiations, the coverage did have one noteworthy skew toward management. On several occasions during negotiations, the players’ proposed terms were characterized as demands (Clark, 2011c, ¶8; Clark, 2011e, ¶6; Shirley, 2011, ¶13). This was not the case in the AP or The New York Times, and it was not the case when the owners’ proposals were discussed by the Journal.

Coverage of union solidarity. There was very little coverage of solidarity within the union or among the owners. In November, Clark noted that Hunter and Fisher denied there being any “fractures in the union” (Clark, 2011f, ¶11). In the same paragraph, he wrote that there was “some disharmony among the players” due to talk of decertification (¶11).

Summary of The Wall Street Journal coverage. The Wall Street Journal provided very little coverage of the 2011 NBA lockout compared to The New York Times or The Associated Press, and what little coverage there was lacked much in the way of depth or context. Management positions were described in cursory detail and, crucially, went unchallenged. Several expected frames were present, including little coverage of the implications of management proposals on labor – with union proposals referred to as ‘demands’ on multiple occasions – greater scrutiny of player salaries than those of management, and little coverage of union solidarity. One frame that was not present was the consumerist millionaires versus billionaires perspective. A possible reason for the absence of that frame could be the business-oriented focus of The Wall Street Journal; there may have been little need to pander to put-upon workers and consumers, considering the audience to which the newspaper is geared. Or, perhaps a battle between millionaires and billionaires would not be distasteful to a publication catering to those demographics.
One possible explanation for the lack of coverage in the Journal is the overall change in tone the publication has adopted since being acquired by Rupert Murdoch in 2008. In 2011, the Pew Research Center Project for Excellence in Journalism (PEJ) found that front-page coverage of business in the Journal had declined from 29.8% of the ‘newshole’ in 2007 to 19.5% in 2011. By contrast, lifestyle coverage increased from 3.8% to 6.2% over the same four-year span, crime coverage increased from 2% to 4.5%, and coverage of the government and foreign affairs increased from a combined 23.4% to 36.6% (“The Wall,” 2011).

Coverage of the 2011 NBA Lockout on ABC News

If coverage of the lockout was scarce and lacking depth in The Wall Street Journal, those trends were even more apparent in television news coverage of the story. ABC News rarely covered the lockout, and what little coverage the network provided was usually limited to brief news updates. Direct quotes were limited to brief sound bites by Commissioner Stern and NBPA president Fisher. The quotes themselves were generalities that did not convey anything specific. Fisher, for example, was quoted as saying the players “want to play basketball” and were “best in the world at that particular craft” (Elliott, 2011a, ¶25).

Not surprisingly, with such little coverage of the lockout, there was hardly room for discussion of the players and owners’ respective positions. For example, Good Morning America co-anchor Josh Elliott noted in October that the “players and owners still disagree over just how to cut up a $4 billion pie,” but did not mention why, to what extent, or any other pertinent issue (Elliott, 2011a, ¶14).

How ABC News Framed the Lockout

Senseless and avoidable. There were no instances of the lockout being framed as ‘senseless and avoidable.’

Millionaires vs. billionaires. There were no blatant instances of the millionaires versus billionaires frame. However, there were a few instances that seemed to hint at a populist approach. When the lockout began on July 1, ABC’s Elliott said the conflict was “another example of powerful people unable to compromise” (Elliott, 2011c, ¶7). On Nightline, former NBA player Shaquille O’Neal echoed President Obama, saying “it would be a shame … if rich people cause regular people to lose their jobs” (Roberts, 2011, ¶61).

The workers caught in the middle. Coverage of the lockout on ABC included periodic mentions of the conflict’s effect on the economy and on workers. On the day the league
announced the first regular season cancellations, ABC’s Elliott noted that “cities around [the] country will be losing millions of dollars in revenue” (Elliott, 2011b, ¶12). The same day, he narrated a separate report on the economic consequences of the cancellations. The loss of the first two weeks of the season were described as “not just bad news for the basketball fans, but also for the cities who now stand to lose millions and some workers who’ve already lost their jobs” (Elliott, 2011a, ¶5). After mentioning the potential $83 million in lost ticket sales the league would incur, Elliott noted that those were “[e]conomic losses that don’t include those felt by jobless arena workers and struggling local businesses the nation over” (¶23).

**Scrutiny of player salaries.** There were zero references to player salaries in ABC News coverage. In fact, the only mention of finances on either side came from ABC’s Elliott, who noted that the league’s cancellation of the first two weeks of the season would cost “more than $83 million in lost ticket sales” (Elliott, 2011a, ¶18).

**Management offers and demands.** In keeping with the very limited coverage of the lockout ABC offered, the network’s coverage of league and union proposals consisted of just one sentence. After the union decertified in November, ABC anchor Diane Sawyer reported that the players had “rejected what the league called its last best offer” (Sawyer, 2011, ¶5).

**Coverage of union solidarity.** There was no coverage of league or union solidarity in ABC news coverage.

**Summary of ABC News coverage.** Coverage of the NBA lockout on ABC News was negligible at best. There was no coverage of management or labor positions, few vague instances of the millionaires and billionaires frame, very slight coverage of management and labor proposals, and no coverage (positive or negative) of union solidarity. The only coverage given the lockout by ABC News was in reference to the effect of canceled games on local economies.

**Coverage of the 2011 Lockout on CBS News**

CBS News provided noticeably more detail in coverage of the lockout than ABC. With that said, the coverage was still not nearly as detailed as in the print media. CBS coverage included a few brief sound bites from Commissioner Stern, NBPA president Fisher, and NBPA executive director Hunter.

Unlike ABC, CBS did provide some coverage of the positions taken during negotiations. However, that coverage exclusively privileged the positions of management. When the lockout began on July 1, CBS anchor Betty Nguyen cited Stern as saying that “twenty-two NBA teams
are losing money” – the familiar statistic used in various publications throughout the lockout – and that “the [league’s] offer was good for both sides” (Nguyen, 2011a, ¶76). That was followed by a Stern sound bite in which the commissioner claimed that the league’s proposal would keep average player salaries at “five million dollars at a time when the league is losing money” (¶77). The players were not represented at all in the brief report, a glaring omission considering that the league was portrayed as losing money and offering the players a fair deal. Even the slightest amount of context would have provided a more balanced account of the conflict. For example, mentioning player skepticism of the extent of league losses, or questioning whether an offer to keep player salaries at five million over the course of ten years – while the league would presumably see increases in BRI – would really constitute fairness.

After the league and players reached a tentative agreement in November, a piece on the CBS Evening News quoted SportsCorp president Marc Ganis as saying the owners “had to win this one because the economics of the previous deal” were “very bad for the league” (Guida, 2011, ¶96). Ganis went on to cite the familiar $300 million loss statistic (¶96). As is typical, the league’s claimed losses were accepted without question.

How CBS News Framed the Lockout

Senseless and avoidable. There were no instances of the lockout being described as ‘senseless and avoidable’ in CBS News coverage.

Millionaires vs. billionaires. There was one instance of the ‘millionaires versus billionaires’ frame in CBS coverage. In a feature on the effect of the lockout on local businesses – that coincidentally aired hours before the league and the union reached an agreement – reporter John Blackstone spoke to an usher for Portland Trail Blazers games. “We got a lot of rich owners, a lot of rich basketball players,” Blackstone noted, adding, “And then there’s guys like you” (Blackstone, 2011, ¶93-95). The usher then responded that “in the world of bigger, better, more, the lesser, little, none don’t have a voice or don’t get seen” (¶96).

The workers caught in the middle. Discussion of the lockout’s economic impact on local businesses and workers did not make up as large a percentage of coverage on CBS as on ABC. Still, the network covered the topic on multiple occasions. One CBS Evening News feature took a unique angle by focusing on the several NBA cities in which taxpayers financed arena construction and renovation. “Taxpayers don’t have a seat at the table,” anchor Scott Pelley observed, “even though they have spent more than $2 billion on arenas in the last 10 years”
The previously mentioned Blackstone feature focused on the economic impact in a more traditional sense, noting the “economic toll” on workers and businesses. The piece included a quote from Oregon Sports Authority CEO Drew Mahalic outlining the various individuals who would be affected by the lockout: “[I]t’s the waiters and waitresses at the bars and restaurants. It’s the taxi cab drivers. It’s the vendors that sell cotton candy in the arena” (Blackstone, 2011, ¶88).

**Scrutiny of player salaries.** There were no instances in which player salaries discussed. In addition, beyond mentioning the league’s stated $300 million in losses, there was no discussion of league finances.

**Management offers and demands.** There was some discussion of league and union proposals during CBS coverage of the lockout, but nothing in-depth. In one segment, Nguyen noted that Commissioner Stern had given the players an ultimatum to “accept the league’s latest proposal today to split profits forty-nine to fifty-one percent, or face a worse offer” (Nguyen, 2011d, ¶80). While that is still more than what ABC was willing to muster during its lockout coverage, there was no mention of how much money those percentages represented, how much the players made previously, or the fact that the players believed the ‘49-51’ band to be nothing more than ‘50-50’ by another name. Of course, the format of television news shows, featuring quick hits on a variety of news stories, precluded any in-depth discussion – especially of an issue that likely did not have much importance for the target morning or evening news demographic.

**Coverage of union solidarity.** Surprisingly, CBS did offer some coverage of union solidarity during the lockout. In November, Nguyen mentioned the various reports that “a group of fifty disgruntled players may seek to decertify their union if players’ union negotiators make any more concessions” (Nguyen, 2011b, ¶88). The next day, she spoke of “hard-line factions on both sides” that were “jeopardizing the chances of success” – in particular, the previously mentioned players seeking decertification, and the owners who were “holding firm at fifty percent” (Nguyen, 2011c, ¶35).

**Summary of CBS News coverage.** CBS News’ coverage of the lockout was noticeably more detailed than that of rival ABC News, but still lacked depth. CBS coverage tended to provide management positions unchallenged and did not provide coverage of union concessions. While there was zero scrutiny given player salaries, CBS News coverage did feature several other expected frames. There was one example of the millionaires versus billionaires frame, and
several more references to the impact of the lockout on local economies. CBS also provided coverage of union fractures, but not of union solidarity.

**Coverage of the 2011 NBA Lockout on PBS**

PBS covered the lockout with the least amount of frequency, mentioning it in just a handful of news programs. However, the level of depth with which the issues were examined far exceeded ABC News, CBS News, and even *The Wall Street Journal*. Of the three PBS shows that made more than a passing mention of the lockout – two episodes of *Newshour* and one episode of *Charlie Rose* – each included interviews with sports journalists outlining the pertinent issues. Official sources were quoted only once, with one episode of *Newshour* using brief sound bites from Commissioner Stern and NBPA president Fisher.

The journalists interviewed in each program were quite skeptical of the league’s stated positions. In an episode of *The Charlie Rose Show*, *The Washington Post* reporter Sally Jenkins mentioned the league’s claim of 20 teams in the red, but noted that the same number of teams had gone over the salary cap. “So if they’re not making money,” she concluded, “it could be that they should look to their own in-house management rather than to the players to take huge salary cuts” (Hunt, 2011, ¶173). On *NewsHour*, University of Maryland professor and ESPN contributor Kevin Blackistone accused the league of “crying poverty” (Woodruff, 2011, ¶125).

In the same *NewsHour* segment, *The New York Times*’ Howard Beck said the NBA had been “very open with its books,” but noted that there was “debate over what is included” (Woodruff, 2011, ¶135). While the league claimed losses of “between $300 million and $400 million a year … the players are saying, well, we can see that in the financials you have presented to us, but we don’t agree with everything that’s in there” (¶135). Both Beck and Blackistone noted that the employees were tasked with bailing out the employers, with Blackistone looking at the broader picture:

> So much of this is reflective of what’s going on in America. … 2011 is a record year for corporate profits. Yet, corporate America points to the economy as being in bad shape. They point to unions and workers as people who need to pitch in and help them save themselves. (¶139)

On *The Charlie Rose Show* days later, Blackistone said the players “were being asked to make concessions to ownership because ownership has been unable to control hits and its spending …
Let’s make this a 50-50 cut. Let’s put a cap on salaries. Let’s get you to help us try and control our own incredible spending” (Hunt, 2011, ¶186).

More to that point, Jenkins argued against the perception that the owners were good businessmen cursed with a bad system:

I think there`s an underpinning of belief here that the owners are good businessmen. They`re wealthy and therefore we sort of equate intellect and wealth. That`s not always the case. … [I]t’s not always true these owners are sound businessmen who we should believe when they cry that the business model is somehow broken. It may very well be their personal business model that`s broken, not necessarily the league`s or the fans. (Hunt, 2011, ¶194)

Notably, as in The New York Times, the owners` claims of competitive imbalance were not examined as critically. When The Charlie Rose Show guest host Al Hunt said that the NBA was “not a very competitive league,” Blackistone concurred (Hunt, 2011, ¶187-188). After the players decertified the union in November, NewsHour guest and Sports Illustrated writer Ian Thomsen accepted the idea that the owners were pursuing parity – instead of perhaps using the issue as a smokescreen to enact a more restrictive system – but noted accurately the implications of that pursuit: “What it really comes down to, the players want a free market system, and the owners want regulation” (Suarez, 2011, ¶200). Though not in reference to the NBA, Blackistone made a similar point on The Charlie Rose Show, calling the NFL’s system “the most socialistic system in the country” (Hunt, 2011, ¶181).

**How PBS Framed the Lockout**

**Senseless and avoidable.** While PBS News programs frequently cast doubt on the owners claims, none of the programs described the lockout as ‘senseless and avoidable.’ Even if the sides – mainly the owners – were portrayed as dishonest or shirking their own responsibilities, the actual issues involved in the lockout were treated with the appropriate level of weight. In other words, there were no journalists encouraging viewers to stick their fingers in their ears and block out lockout talk, ala AP writer Paul Newberry.

**Millionaires vs. billionaires.** Not surprisingly, given the overall tenor of PBS coverage, the millionaires versus billionaires frame was largely absent. When it did surface, it was quickly debunked. On The Charlie Rose Show, guest host Al Hunt asked Jenkins whether the NBA and NFL lockouts were “a battle in both cases of multimillionaires against billionaires,” and if so,
“who should we cheer for?” (Hunt, 2011, ¶169). In response, Jenkins noted the difference between the two sides: “the billionaire owners [are] the ones who actually make the decisions when it comes to fiscal responsibility and the health of these leagues” (¶170). She went on to accuse the owners of “overspending” and “crying poor” despite revenues of $9 billion in the NFL and $4 billion in the NBA. The owners, she argued, “have explaining to do to their players and to themselves as to why it is they’re not able to make what they claim to be a decent living on $9 billion and $4 billion” (¶170-171).

**The workers caught in the middle.** PBS coverage tended to focus on the consumer caught in the middle rather than on the worker caught in the middle. In other words, instead of arena workers and small business owners, the fans were considered the aggrieved party. On *The Charlie Rose Show*, Jenkins referred to the NBA and NFL revenues as “other people’s money” (Hunt, 2011, ¶192). Specifically, it was “really the fans’ money” (¶192). She mentioned taxpayer funded stadiums and exorbitant ticket prices before suggesting that it was “time for fans to reassess why they’re sort of spending like crack addicts on the four major sports” when there were less expensive alternatives “who value the fan more properly” (¶197). Like the ‘senseless and avoidable’ and ‘millionaires vs. billionaires’ frames, however, this line of discussion was infrequent.

**Scrutiny of player salaries.** There was very little coverage of league or player finances, at least beyond the owners’ claims of widespread losses. After the players decertified the union in November, an episode of *NewsHour* noted that “[b]oth sides, and the team’s home cities, now stand to lose billions of dollars” (Suarez, 2011, ¶191). In the episode, *SI* writer Thomsen said the players would give up “$2 billion worth of income” if the season were canceled, suggesting that they would look back in their inability to reach a deal and second-guess their decision-making (¶207-208).

**Management offers and demands.** PBS discussed league and player proposals in more detail than ABC or CBS and even provided more perspective than *The Wall Street Journal*. On *NewsHour* in July, Blackistone noted that by contrast to the NFL, “NBA owners and management are actually asking concessions from their players” (Woodruff, 2011, ¶127). In a November episode of the same show, host Ray Suarez asked SI’s Thomsen to explain the state of negotiations thusly: “What are the owners demanding, and what have the players offered?” (Suarez, 2011, ¶196). The word choice – ‘demands’ for owners and ‘offers’ for the players – ran
counter to what is typical of labor-related media coverage. It is intriguing to note that both the AP and PBS used the word ‘demand’ to describe owner proposals, while The Wall Street Journal used the word in relation to the players.

Thomsen responded to the aforementioned question by noting the players’ giveback of “$280 million” for the upcoming season, adding that they “want to have a system of their liking” in return (Suarez, 2011, ¶198). While that is certainly more insight into the players’ motives than ABC, CBS, or even the Journal offered, The New York Times and AP went into more detail far more often. Of course, much of that has to do with the difference between the television news and print news. Television news programs, especially hard news shows such as NewsHour, ABC’s World News, or the CBS Evening News, do not have dedicated ‘sports sections’ to cover these issues. As a result, lockout coverage was significantly less frequent in all three television news outlets than in the print media, making it more difficult to track the day-by-day changes in proposals that were characteristic of the lockout.

Coverage of union solidarity. There was no coverage of union solidarity in any of the PBS news programs.

Summary of PBS coverage. While PBS covered the NBA lockout on precious few occasions, what little coverage there was went into a level of depth matched only by The New York Times and The Associated Press. Management positions were scrutinized, player concessions received coverage, and even the ‘millionaires vs. billionaires,’ ‘a pox on both their houses’ approach was scrutinized and picked apart. There was little coverage of player salaries, zero coverage (positive or negative) of union solidarity, and the impact on local economies focused on the owners’ responsibility to the taxpayers who funded their stadiums rather than the players’ responsibility to bar-owners and arena workers.

Summarization of Media Coverage of the 2011 NBA Lockout

Overall, the trends observed in media coverage of the 2011 NBA lockout should not be surprising. Of the three print media outlets examined, the two with the loosest relationship to the NBA or to similar businesses – The New York Times and The Associated Press – provided the greatest amount of context and in-depth coverage, and were most likely to defy the expected frames. Coverage in both outlets was flawed at times, but certainly provided a more balanced examination of the conflict than The Wall Street Journal. In the television media, public broadcaster PBS was by far more willing to critically examine the owners’ claims and discuss
player concessions than ABC or CBS News, which were both more preoccupied with how the lockout would affect local economies. Overall, the three outlets aligned with one of the Big Five media conglomerates, the Journal (News Corp.), ABC (Disney) and CBS (CBS Corp.) provided the least in-depth coverage of the lockout, with the least amount of attention given player concessions and givebacks.

Within the print media, The New York Times and The Associated Press provided far greater coverage, in both quantity and quality, than The Wall Street Journal. Both publications provided daily reports on the lockout, and both detailed player givebacks over the course of negotiations. Neither publication was without flaw. To the contrary, the Times and the AP both provided several examples of the typical frames found in media coverage of organized labor. Still, it is important to note that the Times and the AP were far more in-depth than the Journal, which is the only one of the three publications to be part of a major media conglomerate.

Within the televised media, public broadcaster PBS far exceeded commercial broadcasters CBS News and ABC News when it came to detailing the issues in the lockout, covering player concessions, and providing a critical examination of the owners’ various claims. CBS and ABC, both part of major media conglomerates, focused primarily on the impact the lockout had on the economy and consumers. ABC, the only of the three media outlets to have a direct financial relationship with the NBA, offered the least in-depth coverage of the three. Whereas CBS at least went into some cursory detail of the owners’ arguments and proposals (though not those of the players), ABC only discussed the impact of the lockout on the economy. One possible reason for such coverage is the fact that ABC still had to sell the players to the viewing public in the winter, spring and summer for the next five years.

There were marked differences between coverage of the lockout in the print and television media. Print outlets went into significantly more detail and offered readers more context than the television networks – with the notable exception of PBS. Whereas the television news outlets reported on the lockout only in the wake of the highest profile events, such as the cancellation of games or the dissolution of the union, print media outlets the AP and The New York Times reported on the story on a daily basis. Of note, the frequency of lockout reports in The Wall Street Journal was more similar to the television networks than to the other print media outlets. These findings are in line with what Martin (2004) observed during the 1993 American Airlines flight attendants strike. The two national newspapers he examined, the Times and USA
Today, “offered more extensive coverage over a longer period of time” than did broadcasters ABC, CBS and NBC (p. 105).

Overall, the three outlets that provided the most in-depth coverage of the lockout were the AP, the Times, and PBS. The three outlets detailed player concessions and provided some – albeit woefully inadequate – skepticism of the owners’ positions. It is quite notable that the three other outlets, the Journal, ABC, and CBS, are owned by major media conglomerates which have lucrative television deals with major sports leagues. None of the three discussed any aspect of the negotiations in any real depth, and it should be pointed out that all three virtually ignored player concessions over the course of negotiations.

Having analyzed media coverage of the 2011 NBA lockout, it is now necessary to understand the significance of such coverage on organized labor in sports and in general. The next chapter describes the various implications of lockout coverage on perceptions of labor’s role in the economy, the responsibilities of management, and the validity of the free market system.
CHAPTER SIX

CONCLUDING THOUGHTS

This chapter examines the implications of the previously stated findings on perceptions of labor, management, and the free market. In particular, the chapter addresses how the dominant ideology perpetuated by the media has resulted in labor bearing much of the responsibility for ensuring profitability and the health of the economy. The chapter also identifies means by which citizens can counteract the overall trends in media coverage of labor.

The Significance of Media Coverage of Sports Labor

Why should it matter to the average citizen that the media provide skewed coverage of labor-management disputes involving millionaire athletes? The stakes, after all, would not seem to be particularly high. Even if the players were being taken advantage of in negotiations, they still made significant amounts of money. In a nation where so many workers are being squeezed by management, why be concerned over the treatment of athletes who are seemingly set for life?

Professional sports makes up a large portion of labor coverage. Media coverage of organized labor has declined over time, meaning that any coverage of labor issues will take on added importance. As noted previously, Bruno (2008) found that the professional sports industry made up the second-largest proportion of media coverage of labor in the Chicago Tribune from 1991 to 2001 (p. 396). While that applies to only one newspaper outlet, the consumerist perspective can explain why labor issues in sport are more likely to receive media coverage than in other sectors of society. As Martin (2004) noted, “the level of coverage of any labor story generally correlates to the level of presumed consumer relevance” (p. 53). Media coverage of work stoppages in sport tend to focus heavily on the economic impact of lost games on arena workers and small business owners, to say nothing of fans who are left with one fewer entertainment option on which to spend money. Martin gave the example of a baseball strike being “deemed much more worthy of national coverage” than a lockout of Midwestern industrial workers, as the latter “scarcely disrupted the consumer market for corn byproducts” (p. 53).

If labor-management issues in sport make up a large proportion of media coverage of labor in general, it is reasonable to assume that sports labor has great implications for workers across industries and classes. Bruno (2008) called the sports section in the Chicago Tribune the “principal vehicle for educating the public about organized labor” (p. 397) – a troubling fact
when one considers that most of the sports labor coverage in the *Tribune* was far more negative than coverage of labor in other industries (p. 396).

**Sports labor unions are powerful and powerless.** For as much coverage as sports labor issues receive, athletes are “particularly unrepresentative examples of how unionism works for the vast majority” of workers (Bruno, 2008, pp. 397-398). Indeed, sports labor unions are markedly different than unions in any other part of society, but not for the reasons usually cited. During the 1998 NBA lockout, *The New York Times*’ William Rhoden spoke of sports labor as “a contradiction in terms,” contrasting the lockout from other labor-management conflicts:

“We're not talking about closing down factories, laying off workers, shipping jobs to overseas plants. This is a skirmish between the rich fighting the wealthy for a greater portion of huge profits” (Rhoden, 1998b, ¶10). The greatest difference between sports labor unions and those in other sectors of society, however, is not player salary, but player leverage.

Sports labor unions are uniquely powerful, owing to the fact that employees in any given major league are the product being sold. This is especially the case in the NBA, as the departure of a single player – LeBron James – from the Cleveland Cavaliers to the Miami Heat resulted in a 26% decline in franchise value for the former and a 17% increase for the latter (Ozanian, 2011, ¶2). In other words, whereas other businesses have been able to hire replacement workers at lower wages and then force unionized employees to fight for the remaining jobs (Martin, 2004, p. 103), such a move in professional sports would be far more conspicuous. This is not to say that sports labor unions are immune from threat, or are not worthy of concern – in fact, just the opposite. It should be ominous to any worker that the most powerful labor unions in the country are being routinely routed in collective bargaining negotiations. If high-profile employees/commodities like Kobe Bryant, LeBron James, Tom Brady and Peyton Manning cannot avoid having their wages slashed on spurious grounds, that would not seem to leave much hope for anonymous workers in fields in which there are many replacements waiting in the wings and the commodity cannot be traced back to any one individual.

**How the Media Cover Sports Labor**

**Trends in the 2011 NBA lockout.** Labor issues in sport are highly covered relative to other labor issues, and sports labor unions are highly powerful relative to other unions. With that in mind, what kind of coverage are these powerful unions generating in the media? In the 2011 NBA lockout, player salaries were viewed as the primary cause of the league’s claimed financial
distress, often without any critical examination. Even if journalists disputed the extent of the cuts
the league needed, the idea that the league needed to slash salaries generally went unchallenged.
The impact on the economy was discussed to the complete exclusion of the impact on the
workers – an example of the consumerist perspective in its purest form. The income of the
players, namely their average salary, was salient, but the income and net worth of the owners
was very rarely mentioned.

In essence, there were two primary lessons put forth by the 2011 lockout. The first was
that employees need to be ready to give up salary and other rights in order to help business in
difficult economic times. Such a mindset reflected the overall trend in the nation. Sensing an
opportunity in the wake of the 2008-09 budget crisis, Republican lawmakers nationwide claimed
that “unions’ negotiated wages and benefits were a major cause of the deficits and that
bargaining with unions limited the ability of governments to resolve it” (Freeman & Han, 2012,
p. 391). In states such as Wisconsin, Indiana, and Ohio, the result was a serious reduction – or
complete elimination – of collective bargaining rights (pp. 390-392). This is not necessarily a
new finding. In an analysis of media coverage of the 1993 American Airlines flight attendants’
strike, Martin (2004) found that the media tended to report on cutting labor costs as “the only
possible response to American’s profitability problems” (p. 116). In the same way alternate
expenses were generally ignored in the American Airlines strike, alternate means to shrink the
NBA’s claimed losses received only token coverage.

The second lesson of lockout coverage was that the impact of negotiations on the
economy at large was more important than the impact on employee livelihoods. It can be argued
that this was the case because NBA players are far better off financially than the average worker,
and thus could withstand lost or reduced wages more easily than arena workers and small
business owners. However, keep in mind this trend is present in most media coverage of
organized labor, regardless of employee salary.

Overall, it can be inferred that a large percentage of organized labor coverage in the
media focuses on an industry in which powerful labor unions are forced to accede to
management demands for the good of their industry and the economy as a whole. If this is the
case, it would not be surprising that employees in other sectors were told to adhere to that
example. Coverage of labor-management conflict in sport may not have set in motion the anti-
union fervor, but it certainly did not help.
Reinforcing and contradicting the neoliberal ideal. The overall message emanating from NBA lockout coverage was that the goals of business are sacrosanct, and the worker must sacrifice his or her well-being for the sake of maintaining those goals. In this way, lockout coverage would seem to reinforce the ideals of neoliberalism, at least on the surface. However, the NBA has for decades contradicted the core tenet of the neoliberal paradigm – that the market should oversee all aspects of society. While NBA owners embrace capitalism without government intervention on a broad level, the free market is considered dangerous within the league itself.

The various regulations the league has imposed over the past thirty years, particularly the 1983 salary cap and the 1999 maximum player salary, would be anathema if proposed by any politician. The anti-free market policies point toward an inherent conflict within the neoliberal model – the same unfettered free market policies that are supposed to govern the overall economy can impinge on profit maximization when applied to an individual business. The result is an ideal fraught with implicit hypocrisy: businesses must impose regulations on employees to remain competitive in the marketplace, but the government cannot impose regulations on businesses to, for example, maintain diversity in a highly concentrated industry.

As Giroux (2005) noted, neoliberalism “seeks to bring all human action within the domain of the market” (p. 2). Instead of questioning whether salary caps and maximum salaries conflicted with the idea of an unfettered marketplace, the mainstream media outlets covering the NBA lockout accepted those restrictions without challenge, with the only criticism being the extent to which they would limit player’ income. By not challenging these restrictions, the news media put forth the idea that businesses, in order to compete in the free market, should be able to restrict free market rights for their employees.

Not once was there an examination of this contradiction. If the only way for business to succeed is to place limits on the free market, then it would seem to stand to reason that the only way for the overall economy to succeed is to place limits on the free market. The absence of critical examination of the market model was a crucial omission in lockout coverage. Presumably, most of the 29 NBA ownership groups at the time of the 2011 NBA lockout were made up of capitalists who objected to the idea of government intervention in business. Within the NBA, however, owners generally viewed regulation as the key to viability.
Professional sports is an industry in which NFL commissioner Roger Goodell once described his league’s revenue sharing system as a “form of socialism” that had “worked quite well” (“The NFL,” 2012, p. 3). Essentially, professional sports owners can take advantage of the lack of regulation in the overall economy, and then use regulations to ensure the survival of their own leagues. The message to the citizenry is that regulation is only acceptable for the purposes of ensuring profitability. The market should govern every segment of society except, ironically, business. Business is where a more nuanced, balanced approach should be used. The NBA, of course, is not alone. Even government intervention, as outlined in an earlier discussion of the media industry, is accepted so long as it is in the furtherance of profitability.

Codifying a double-standard. The overall message of the lockout boiled down to a lack of accountability on the part of owners and business as a whole. In order to ensure profitability, employees – no matter how rich they may be or how much leverage they may have – must ‘bow down’ and give up salary. Regulations must be created that would not be tolerated in the service of any other goal. Never must the business be left to die out as it surely would if the supposedly infallible free market were to reign. Consider the opposite. Imagine if it were common practice in America to help lower income individuals by forcing their employers to slash their own compensation, or by imposing salary caps and maximum salaries for CEOs and executives and spreading the wealth among the employees. With the free market having has been subsumed into the national identity (Kumar, 2005, p. 135), such regulations would be considered a betrayal of what America stands for.

Coverage of the lockout told citizens that the double-standard business enjoys over the rest of society is not just acceptable, but need not be addressed. It is the normal and natural way of doing business. Not once during the lockout was the owners’ goal of profitability challenged, but one only had to go back to 1998 to read that Kevin Garnett was greedy for not being satisfied with a nine-figure contract. One imagines that anyone telling an NBA owner to be satisfied with millions in profits from other business ventures would be promptly told off in the same fashion Abe Pollin told off Michael Jordan. In essence, greed is not just acceptable for business, but is an unspoken right – one that is possibly far less controversial than the first and second amendments in the Bill of Rights. An owner should not be told to be satisfied with the billions he or she already had, whereas players are routinely criticized for prioritizing money. The double-standard
is damaging for NBA players, but especially so for workers who do not have contracts that, at minimum, pay hundreds of thousands of dollars.

**Corporate owned media protected its interests.** If corporations are people, then the right to pursue profitability may be the most inalienable human right – at least according to the dominant ideology put forth by the media. Coverage of the lockout in the corporate-owned news media propagated the double-standards mentioned previously. In general, owners can pursue as much profit as they see fit, while employees must be willing to give back. Owners must be free to operate in the market, while employees must be regulated to allow the owners to compete in the free market.

The advantage of hegemony is that the media did not have to overtly advocate for employers. None of the media outlets analyzed argued that the owners had the right to profit on the backs of employees; that was assumed. While media outlets such as *The New York Times* and *The Associated Press* at least took issue with the extent of what the owners wanted from the players, outlets owned by mega conglomerates took issue with nothing at all. News Corp’s *The Wall Street Journal*, Disney’s ABC News, and CBS Corporation’s CBS News did not, even for a moment, question whether the owners were overreaching, much less whether it was right for them to squeeze out a few more millions at the expense of the workforce. It made sense that those three outlets mostly ignored the lockout, as opposed to cheerleading for the owners. Beyond the necessity to be seen as objective, there was no need for any of the outlets to argue in favor of the owners. The owners’ goals were already natural and ingrained.

**How does this impact perceptions of labor?** Based on the literature, it would seem likely that extensive coverage devoted to a work stoppage would have a negative effect on perceptions of labor. Schmidt (1993) noted that media coverage of labor tends to focus on strike activity (p. 159), a finding that was observed in Bruno (2008)’s analysis of the *Chicago Tribune* (p. 393). Schmidt found a positive relationship between percentage of strike-related coverage and disapproval of labor unions (Schmidt, 1993, p. 160). Based on Schmidt’s findings, it would seem reasonable to assume that the high-profile media coverage of the 2011 NBA lockout and other recent labor-management disputes in sports – from the 1994-95 MLB strike to the 2011 NFL lockout – would result in higher disapproval of labor unions. Future research should be conducted to examine whether this is the case.
Beyond the broad impact on perceptions of unions, media coverage of the lockout provided a hegemonic endorsement of a profit-oriented ideology. By virtue of omission, the media largely approved of the idea that the owners should be able to pursue profitability at the expense of their employees. On the two main fronts in the lockout – the BRI split and the ‘system issues’ – the only discussion was, as mentioned before, the extent of the restrictions to which the players would agree. Only on rare occasions was the idea put forth that the owners should sacrifice in order to increase profitability. Even if the owners’ methods betrayed neoliberal orthodoxy, the mentality that profits should take precedence over all is very much in line with the dominant ideology perpetuated by the media. With that logic in mind, the existence of the lockout could only be a reflection of the players’ stubbornness in the face of much-needed change – instead of a negotiating tactic to punish the players financially until they were willing to give up a large enough percentage of their wages to account for financial shortfalls that may or may not have existed.

**Where to Go From Here**

In the corporate media, again excluding PBS, the NBA lockout was not unlike labor-management disputes in any other industry. As much as labor unions in sports are considered markedly different due to the salaries involved, they are treated generally the same by the media. Many of the frames identified in media coverage of labor by Martin (2004) and Parenti (1986) were present in coverage of the lockout. On the most basic level, the workers were subject to scrutiny and the employers were not. More specifically, the players were expected to give back, with the underlying implication that they made more than enough money, and their inability to acquiesce quickly enough was having a negative impact on the economy.

Even at the point when the union finally decertified, having already agreed to hundreds of millions in salary givebacks and various other restrictions, the business leaders of the NBA were largely exempt from scrutiny. Articles detailing the concessions the players had made did not cover the flip side of that coin – the owners’ many victories still had not been enough. It is a testament to just how invisible greed is in business that the acquisition of $3 billion in givebacks over ten years was not enough for the owners – and yet they still avoided scorn in the press. One imagines that any union that somehow managed to wrangle an additional $3 billion over ten years from their employers and still was not satisfied would be harangued as intractable and greedy at best.
The question now becomes where to go from here. Even after what will likely be yet more concessions in 2017 – once the owners decide the 2011 CBA is untenable – NBA players should still remain well compensated. That is not the issue, however. In a $4.3 billion industry with only 400 workers, any employee who was not well compensated relative to the average U.S. worker would be taken advantage of in a serious fashion. Every NBA player should be making salaries the rest of the country would consider exorbitant for however long the league continues to generate billions in revenue. The real issue is how many regulations on workers will be acceptable in a nation where any regulation on business is considered socialism. The workers are expected to give and give for the good of their business, the economy, and the nation. The employers are expected to receive for the good of the business, the economy, the nation. This inequity bears examination. If even millionaire NBA players are, as *The New York Times’* Harvey Araton wrote, “subject to the same forces of capitalism that dictate … the salaries of the average worker” (Araton, 2011f, ¶16), what hope is there for any worker? One of the few, and dwindling, powerful labor unions in the country was blown out once again. In the media, it was the expected and rational result. For as much handwringing as there was about competitive imbalance in the NBA, the media’s silence on the competitive imbalance between management and labor will continue to allow those inequities to allow owners in every industry to run up the score.

**Changing the system.** It is certainly difficult to propose a means by which citizens can change the media system. For as much as the free market supposedly encourages business to be responsive to its customers, the reality is that business is responsive to other businesses, such as advertisers. The barriers to entry are such that it is almost impossible to build a grassroots alternative to the corporate media. More importantly, it is difficult to affect change when one does not recognize that change is needed.

This is the most insidious effect of hegemony. The dominant ideology, which privileges the goals of business, has come to be accepted as normal by the citizenry. Television news, scripted series and advertisements inform viewers that America is a meritocracy where everyone can succeed, and failure is the product of insufficient work ethic. As a result, the business-oriented pursuit of profit above all else is viewed as benefiting everyone, as theoretically, everyone can reach the elite, ruling class if they just try hard enough. It is not surprising, then, that the goals of profit-oriented management are rarely critiqued. Those goals are the default.
In other words, there are many obstacles to bringing about change, both structural and ideological. However, both need not be addressed at the same time. Before the structural factors can be addressed, the ideological obstacles must be mitigated. One means to counteract the dominant ideology is to increase media literacy among citizens.

In the early 2000s, there was a broad, though “largely inchoate” public opposition to media concentration. A 2000 survey found that half of Americans were “highly concerned about media mergers,” and that 60 percent “did not believe that media mergers led to ‘better content and services’” (McChesney, 2004, p. 255). When the FCC tried to loosen regulations on media ownership in 2003, opposition came from both the left and right of the political spectrum (p. 280), with The New York Times’ conservative writer William Safire writing multiple columns opposing media consolidation and receiving what he termed an “unprecedented torrent” of positive e-mails in response – even from those opposed to his beliefs in general (McChesney, p. 281; Safire, 2003, ¶2). It is clear that when the issue is made salient, media concentration does not have widespread support among the populace, regardless of political affiliation.

The key is to make the issue of media consolidation salient again. It is not every year that media consolidation becomes high-profile news, primarily because it is not in the interest of the corporate media to report such news. To be sure, citizens have a deep mistrust of the media in any year. In 2011, A Pew Research Center survey found that 80 percent of respondents viewed the media as “often influenced by powerful people and organizations,” a record since the organization began tracking views of the news media in 1985 (“Press Widely,” 2011, ¶4). However, it is worth recalling a statement former Bush FCC chair Michael Powell made in 2003. In dismissing public opposition to the loosening of media ownership rules, Powell did make one astute observation: “I think the public is more upset with the media than they are with the rules” (Labaton, 2003, ¶18). Indeed, much of the mistrust of the media stems from political biases. In the aforementioned Pew survey, 77 percent of respondents said the media tend to favor one side and 63 percent accused the media of being politically biased (“Press Widely,” 2011). Most notable is the fact that 25 percent of respondents believed that news organizations in general get the facts straight – but that number increased to 62 percent for news organizations respondents typically consumed. In other words, personal biases would seem to have had an effect on perceptions of news media trustworthiness.
The key is not to stoke the already existing mistrust of media, in which left-leaning individuals criticize Fox News and right-leaning individuals criticize the other cable news outlets. The key is instead to encourage citizens to challenge the system – or the ‘rules’ to which Powell referred – instead of individual reporters and news media outlets with which they may not agree. Raising awareness that the media Americans consume is highly concentrated, largely indistinguishable, and beholden to corporate interests would not necessarily change long-held ideological beliefs, but it would encourage citizens to challenge the system as a whole.

In 2003, the news media were far from the driving force behind opposition to looser FCC regulations (McChesney, 2004, p. 275). Instead, interest groups on the left and right, members of Congress, and Democratic FCC member Michael Copps helped drag the issue into the spotlight. Clearly, in the political climate of the early 2010s, dependence on Congress is not tenable. Neither is dependence on one lone dissenter in a governmental organization. With that said, it is still possible to generate a groundswell of public opinion against the media industry.

In late 2011, two bills – the Stop Online Piracy Act (SOPA) and Protect IP Act (PIPA) – were proposed in Congress that would give copyright holders greater latitude in pursuing websites who pirated their content. The legislation, which was “alarming in its reach” (Carr, 2012, ¶12), was “loudly and enthusiastically” supported by the major media companies (¶4) and also enjoyed bipartisan support in Congress (¶3). Five of the six major media corporations did not cover the story between October 2011 and early January 2012, and the sixth – Time Warner, which owns CNN – covered the story only once (Dimero, 2012, ¶2). Despite support by the corporate media and by Congress, both bills were defeated after a groundswell of public opposition. Aided in part by major web companies such as Google, citizens staged protests both real and virtual (Wortham, 2012).

Of course, much of the groundswell against SOPA and PIPA was aided by major, mainstream websites that are corporations in their own right. Companies such as Google and Facebook will likely come out in support of damaging legislation in the future, and one imagines neither company will be helping to generate protests in such a scenario. With that said, smaller websites and blogs also helped generate attention to SOPA and PIPA, as did the social networking website Twitter. While it is likely that such grassroots opposition was influenced by the attention generated by large, corporate websites, the proliferation of blogs and the ubiquity of social media provide a greater opportunity today than in 2003 for citizen-based protest. Those
protests may not always be effective, and the nature of social media is such that the great cause of Thursday night is often forgotten by Friday morning. Whatever the shortcomings, the means by which to raise awareness of media concentration exist and should be utilized.

If the means by which to deliver the message exist, the question then becomes what is the nature of the message? In 2003, public disapproval of highly concentrated media content was used to prevent even looser ownership rules. That disapproval, however, did not extend to changing the existing media system. Impending change can be a motivating factor, but the status quo is more difficult to challenge.

One means by which to affect change could be to highlight the significance of media concentration for the average individual. NBA owners are involved in businesses that can impact citizens in damaging ways. Billionaire Aubrey McClendon, for example, is a minority owner of the NBA’s Oklahoma City Thunder and the CEO of Chesapeake Energy. While McClendon came under some scrutiny in 2012 for allegedly shady business dealings – such obtaining $1 billion in undisclosed loans from companies he owned by using his stake in Chesapeake as collateral (Driver & Grow, 2012) – it is the nature of his business that can impact the lives of the average citizen. McClendon has described Chesapeake Energy, which holds the naming rights to the Thunder’s home arena, as “the biggest frackers in the world,” referring to a technique in oil drilling that carries the potential of contaminating drinking water (Goodell, 2012, ¶1; ¶9).

Another example is Cavaliers owner Dan Gilbert. Gilbert, who famously trashed former employee LeBron James for exercising his right in free agency to sign with another team, “made his millions as CEO of Quicken Loans, offering 0%, no money down mortgages to potential home buyers” (Zirin, 2010, ¶12). Though Quicken Loans has denied making subprime loans (Watrick, 2011, ¶13), the Michael Lewis book The Big Short cited an investor who found that the company was offering “million dollar mortgages with initial payments of just $25” (Lewis, 2010, p. 55, as cited in Watrick, 2011, ¶15). By comparison, “a 30-year fixed-rate million dollar mortgage works out to monthly payments of over $5000” (¶15).

To be sure, any profit or loss made by the Oklahoma City Thunder or the Cleveland Cavaliers would be a mere drop in the bucket for McClendon and Gilbert, both of whom rank among Forbes’ 400 richest Americans. With that said, it should be noted that by omitting scrutiny of the owners’ positions, the corporate-owned media essentially endorsed the idea that billionaires whose primary industries can have negative implications for people’s health and/or
finances should be allowed to pursue as much in profit as they desired at the expense of workers. It would be worthwhile to inform the public that the corporate media’s silent approval allows for individuals like McClendon and Gilbert to exploit the populace.

Limitations and future research. This analysis focused on only one sport, thereby providing a somewhat narrow view of labor-management conflict in sports. All four major North American sports leagues have shut down due to lockouts or strikes over the past twenty years, and there are some indications that media coverage may differ depending on the sport. Football players, in particular, would seem to be prone to more sympathetic coverage in the media. There are significant health risks endemic in the game of football, and the average salary of NFL players was the lowest in the four major sports entering the 2011 lockout – despite the fact that the NFL is easily the most popular and lucrative sports league in the nation.

The analysis also focused on general news publications. While The New York Times, The Associated Press, and The Wall Street Journal had sports reporters at their disposal to cover the lockout, ABC News, CBS News and PBS used general news reporters. Perhaps in 1994 this would not have been problematic. However, in 2011, both ABC News and CBS News had ‘sports sections’ in their own right. ABC had corporate sibling ESPN, an empire of networks and websites solely devoted to sports. CBS, meanwhile, had the CBS Sports Network and CBSSports.com. It should be pointed out that ESPN.com and CBSSports.com provided the kind of daily coverage of the lockout found in the Times and the AP. Considering that the most detailed coverage of the lockout came from the three publications that used sports reporters, perhaps an examination of media coverage in these sports-related media outlets would provide greater content for analysis.

One intriguing possible avenue for discussion would be labor-management conflict within the WNBA. Over the course of research, it became clear that the WNBA was the site of a satellite battle between the NBA and NBPA in 2003 that received coverage in the major media outlets. It would be interesting to examine how the media covered a major sports league in which average salaries were far closer to that of the average worker.

Finally, this analysis generally did not examine the issue of race or of gender. Considering the similarities in coverage of the NBA lockout to coverage of previous labor-management conflicts, it would seem that race – while undoubtedly a factor – did not noticeably affect the tenor of media coverage. Still, for a league that has a primarily African American
worker base, it would be prudent to compare media coverage of labor in the NBA to that of the NHL, a league with a primarily Caucasian player base that has been shut down due to lockouts on several recent occasions. An analysis comparing coverage of the NBA lockout to media coverage of other labor-disputes involving primarily African American workers would be enlightening as well.

**A Final Thought**

For as much as NBA players may seem dissimilar to the average worker, media treatment of their 2011 dispute with league owners was not unlike media coverage of any other labor-management dispute. Management, in many ways, was invisible. Their goals went unchallenged, their salaries unreported, their various ties with the corporate media unexamined. In a sense, the players were not negotiating with the owners at all. Instead, they were up against the rationale underlying the U.S. economy – that the pursuit of profitability above all, and especially at the expense of workers, is sacrosanct. The success of business, under the guise of being the success of the overall economy, has been rooted in the sense of U.S. identity since the Cold War.

At a time when organized labor is being marginalized across the country, it is critical to question the manner in which the media cover unions. In the NBA, a league with some of the most recognizable employees in the country, the players were treated largely as obstacles in the way of management’s justified march to greater profits. That does not bode well for the many anonymous public and private sector employees who will find themselves soon in the crosshairs. With membership, media coverage, and public perception of unions all in decline, the implication for workers is clear. NBA players may have been able to weather the storm far easier than others, but the coverage of their very public defeat sent a signal to workers everywhere: no matter how much leverage an employee may have, he or she must always ‘bow down’ to management.

The cause of organized labor is not lost, however. Neither is the cause of reforming the highly concentrated media industry. Social media have proven to be a means by which to attract attention to causes and challenge the dominant media industries, if even just briefly. For every failed ‘Kony 2012’ campaign, there is a successful effort such as the movement to stop SOPA.

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34 As of 2010, union members made up just 7 percent of private sector workers, compared to 38 percent in 1955 (Freeman & Han, 2012, p. 387). Union members made up 36 percent of public sector workers, but as mentioned previously, states have been moving furiously in the past two years to curtail public sector collective bargaining rights.
and PIPA. While those efforts are on a fairly small scale, and – as in 2003 – may have only stalled the growing power of the concentrated, corporate media, they offer some hope that similar grassroots efforts can be made to turn concentrated media ownership into a cause worth challenging. It may be daunting to suggest that these methods can be used to make the goals of workers as important and ingrained as the goals of management. However, it is entirely possible to make salient among the public the fact that the media are not objective observers when it comes to covering organized labor. It is possible to bring the heretofore unchallenged goals of management and the ideology of the ruling class out of the shadows and expose them for what they really are – a means by which for the most powerful members of our society to maintain their dominance.
## APPENDIX A

### TELEVISION RIGHTS FEES FOR MAJOR SPORTS

<table>
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<tr>
<th>League</th>
<th>Network</th>
<th>Annual Rights Fee</th>
<th>Expiration Year</th>
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BIOGRAPHICAL SKETCH

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