

Fixing The Struggle for Labor Equality in Minor League Baseball: A Call for Unionization

INTRODUCTION

Since 1975, the median household income in the United States has risen by nearly 440%.¹ Over that same time frame, the Major League Baseball (MLB) minimum salary for players has increased by over 3,400%.² The average minimum salary for Minor League Baseball (MiLB) players, however, has increased only 69%.³ The severity of this discrepancy is one of the many reasons that the current state of Minor League Baseball must be addressed.

Professional sports have become one of America's biggest businesses.⁴ Despite the tremendous success the sports leagues have enjoyed, constant labor struggles have permeated through the industry.⁵ To combat these issues, players in many sports, including MLB, have become represented by a union and operate under a collective bargaining agreement (CBA) between the

¹ In 1975, the United States' median household income was \$11,800. *Household Money Income in 1975 & Selected Social and Economic Characteristics of Households*, U.S. CENSUS BUREAU (Mar. 1977), <https://www2.census.gov/prod2/popscan/p60-104.pdf>; the median household income in November 2018 was \$63,554. *November 2018 Median Household Income*, SEEKING ALPHA (Jan. 6, 2019), <https://seekingalpha.com/article/4231615-november-2018-median-household-income>

² The minimum MLB salary in 1975 was \$16,000 and the minimum salary in 2019 is \$555,000. *Minimum Salary*, BASEBALL REFERENCE, https://www.baseball-reference.com/bullpen/Minimum_salary.

³ Garrett R. Broshuis, *Touching Baseball's Untouchables: The Effects of Collective Bargaining on Minor League Baseball Players*, HARV. SPORTS & ENT. L.J. 4.1 (2012). [HEREINAFTER, Broshuis, *Touching Baseball's Untouchables*]

⁴ Steven Kutz, *NFL Took in \$13 billion in Revenue Last Season – See How it Stacks Up Against Other Pro Sports*, MARKETWATCH (July 2, 2016), <https://www.marketwatch.com/story/the-nfl-made-13-billion-last-season-see-how-it-stacks-up-against-other-leagues-2016-07-01>

⁵ See Michael Schiavone, *Sports and Labor in the United States*, SUNY PRESS, (July 2015)

league (i.e. MLB) and that union (i.e. MLB Players Association).⁶ The result of this relationship in baseball is that nearly every aspect that governs the league's functions is stipulated as part of the agreement through negotiations between the bargaining parties. From player salaries, to uniform regulations, grievance arbitrations, travel accommodations, and more, MLB players have the right to bargain with their employers over matters deeply affecting their day-to-day lives.⁷

The same cannot be said for MiLB players. Over 5,000 players on 250 different teams are currently employed in MiLB.⁸ With only 1,200 players in MLB, the 5,000 minor league players represent the vast majority of all professional baseball players.⁹ Nevertheless, these players are not granted any of the same bargaining rights that their MLB counterparts enjoy. The development of the labor relationship between MLB and the MLBPA has left minor league players with subpar living conditions and unsustainable wages. Although minor leaguers not part of the MLBPA bargaining unit, the CBAs signed between the MLBPA and MLB have affected minor league players for decades.¹⁰

This paper will focus on the problems with the current state of Minor League Baseball and will propose unionization for players as a solution to those problems. Part I will explore baseball's

⁶ *FAQs*, MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION, <https://www.mlbpa.org/faq.aspx>

⁷ *Id.*

⁸ See Lisa A. Delpy & Kathleen B. Costello, *Lawyering on the Front Lines: On-Site Legal Counsel for Major Sporting Events*, 6 MARQ. SPORTS. L.J. 29 (1995).

⁹ The 30 MLB teams have a 25-man active roster as well as an expanded 40-man roster that includes 15 players who play in the minor leagues but may be called up to the major league roster at any time. The calculation of 1,200 players includes members on the 40-man roster for the 30 teams. Major League Baseball Roster History, BASEBALL ALMANAC, http://www.baseball-almanac.com/articles/baseball_rosters.shtml

¹⁰ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 55.

labor history. It will explain the structure of MiLB as well as how MLB's labor history has affected players at the minor league level. Part II will then examine the attempts made to change the current system of MiLB along with MLB's resistance to those efforts. It will analyze the high-profile labor litigation that has ensued as well as the millions of dollars spent lobbying Congress to preempt that suit. Lastly, Part III will propose solutions to the current situation, particularly for the players, and will discuss the limitations to those solutions. It will examine the benefits of bargaining, the model to follow as set out in minor league hockey, and the limitations of those proposed solutions.

Part I. Background: Labor History in Baseball

A. Background of Minor League Baseball

a. The Structure of Minor League Baseball

To analyze the current status of MiLB, it is important to understand the structure of the minor leagues. Every major league team must have at least one affiliated team at each of the minor league levels—Triple A, Double A, Advanced A, A, Short-Season A, and Rookie.¹¹ All major league teams currently go beyond those minimum requirements and retain either seven or eight different minor league clubs.¹² Teams typically have a total of roughly 200 players under contract.¹³

The majority of minor league teams are independently owned.¹⁴ Under this structure, the independent owners are responsible for all business aspects of the team's finances including

¹¹ For a list of classifications and affiliates, see *MiLB Clubs by MLB Affiliation*, MILB.COM, <http://www.milb.com/milb/info/affiliations.jsp>.

¹² *Id.*

¹³ Tom Goldman, *Fight Against Low, Low Pay in Minor League Baseball Continues Despite New Obstacles*, NATIONAL PUBLIC RADIO (Aug. 3, 2018), <https://www.npr.org/2018/08/03/635373608/fight-against-low-low-pay-in-minor-league-baseball-continues-despite-new-obstacl>

¹⁴ The Business of MiLB, MILB.COM, <http://www.milb.com/milb/info/faq.jsp?mc=business#9>

promotion and ticket sales.¹⁵ Notably, however, the major league owners pay the salaries and food expenses for all players, coaches, and managers.¹⁶ The major league team also makes all of the decisions related to player development, including promotions and releases.¹⁷ This financial arrangement has assisted in the growth of Minor League Baseball's business, as franchise values have appreciated at impressive rates.¹⁸ Double A teams that were worth \$500,000 30 years ago, for example, are now worth up to \$25,000,000.¹⁹

b. How Minor League Players Are Affected by the Major League's Structure

The structure of this system bifurcates the financial commitments between the business of the minor league clubs and the baseball operations commitments. This dynamic creates an incentive for major league clubs to suppress wages of the minor league players who are not currently contributing towards the major league club's success.²⁰ The salaries for players at all levels reflect this incentive. At the lowest levels (Rookie and Low A), players are paid \$1,100 per month.²¹ At

¹⁵ Goldman, *supra* note 13.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Michael K. Ozanian, *Minor Leagues, Major Profits*, FORBES

https://www.forbes.com/2008/08/06/baseball-minors-sacramento-biz-sports-cz_mo_0806minors.html#224c023373e0. MiLB's 20 most valuable teams are worth an average of

\$37.5 million, up 35% from 2013. <https://www.usatoday.com/story/sports/mlb/2017/05/08/minor-league-baseball-better-business-not-bigger-business/101451572/>

¹⁹ *Id.*

²⁰ Goldman, *supra* note 13.

²¹ The Business of MiLB, *supra* note 14.

the highest level (Triple A), players can earn \$2,150.²² At all minor league levels, players are paid only during the five-month regular season; they are not paid during spring training and cannot earn overtime wages.²³ Most players earn less than \$10,000 per year, which falls well below federal poverty levels.²⁴

These meager monthly earning figures do not adequately reflect the hours the players dedicate to their professions or the working conditions they endure. Players consistently work over fifty hours per week at the ballpark (their “office”) and routinely spend countless more hours in the batting cage, weightlifting facility, or training room to dedicate additional practice into their craft.²⁵ They work six to seven days per week, and when they are not working, they often are traveling long hours by bus.²⁶ When not sleeping on buses, players frequently squeeze up to six players in two-bedroom apartments or live on the couches of generous host families in an effort to reduce living costs.²⁷ Minor league players endure a standard of living that most Americans would cringe at the

²² Ted Berg, *\$12,000 a Year: A Minor Leaguer Takes His Fight for Fair Pay Public*, USA TODAY (Jan. 31, 2017), <https://ftw.usatoday.com/2017/01/minor-league-baseball-pay-fair-labor-standards-act-minimum-wage-lawsuit-kyle-johnson>

²³ *Id.*

²⁴ The poverty threshold was \$12,488 in 2017. Historical Poverty Tables: People and Families – 1959 to 2017 Table 1, UNITED STATES CENSUS BUREAU, <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-people.html>

²⁵ Broshuis, *Touching Baseball’s Untouchables*, *supra* note 3, at 63.

²⁶ *Id.* at n. 81.

²⁷ Garrett Broshuis, *Playing for Peanuts*, BASEBALL AMERICA, March 31, 2010, available at <http://www.baseballamerica.com/today/minors/season-preview/2010/269689.html>.

[HEREINAFTER, Broshuis, *Playing for Peanuts*]

thought of while pursuing an improbable endeavor of one day graduating to the major leagues.²⁸ They stomach these dire working conditions and unsustainably low wages to pursue the only avenue for fulfilling their lottery ticket dream of graduating to Major League Baseball.²⁹

In an attempt to undercut the notion that minor league players are underpaid, many cite to the lofty signing bonuses some players receive upon being drafted.³⁰ The majority of players enter the minor leagues through the MLB's Rule 4 draft, during which teams select players from the United States, Canada, and Puerto Rico in 50 rounds.³¹ Some players earn large signing bonuses as an incentive to sign with an MLB team instead of playing in college.³² The median signing bonus for players drafted in 2016, however, was \$50,000, with over 40% of players earning less than \$10,000 and 20% earning less than \$1,000.³³ This disparity creates a misconception that players are earning far more than their weekly incomes indicate. Even for the players who do earn the million-

²⁸ Ian Gordon, *Minor League Baseball Players Make Poverty-Level Wages*, MOTHER JONES, <https://www.motherjones.com/politics/2014/06/baseball-broshuis-minor-league-wage-income/>

²⁹ Sneed, *supra* note 74.

³⁰ Mitchell Hartman, *For Some Minor League Baseball Players, Wages Can Seem Like Peanuts*, MARKETPLACE (Apr. 5, 2018), <https://www.marketplace.org/2018/04/05/business/minor-league-baseball-draws-fans-and-dispute-over-pay>; *see also* Ben Badler, *Data Shows Most Players Don't Get Big Bonuses*, BASEBALL ALMANAC (Oct. 7, 2016), <https://www.baseballamerica.com/stories/data-shows-most-players-don-t-get-big-bonuses/> (Commissioner Manfred stating, "Look, I think that it's important to realize that a lot of the information out there about what minor league players are paid and make ignores things like signing bonuses that are paid in advance, that often are large sums of money.")

³¹ *Rule 4 Draft*, MLB.COM, <http://m.mlb.com/glossary/transactions/rule-4-draft>

³² *Many MLB Draft Picks Must Decide Between Money or College*, STAR TRIBUNE (Jun 18, 2017), <http://www.startribune.com/many-mlb-draft-pick-must-decide-between-money-or-college/429147703/>

³³ *See* Badler, *supra* note 30.

dollar signing bonuses, taxes, agent's fees, and clubhouse dues significantly reduce the amount on which players are able to live for the duration of their minor league careers.³⁴

Finally, in addition to the undesirable working conditions and unsustainable wages, minor league players do not have the flexibility to choose their own employer. Major League Rules mandate that all drafted players sign contracts lasting seven minor league seasons.³⁵ During this time, their employers may trade, promote, or demote the player at will.³⁶ The clubs also may fire the player at any time without severance pay.³⁷ Even if the player retires, he may not decide to sign with another team, even internationally, for the duration of the seven-year contract.³⁸ This dynamic creates a system in which employees are not free to choose their employer, terms of employment, or even location of employment.

³⁴ Michael Baumann, *The Disgrace of Minor League Baseball*, THE RINGER (Apr. 20, 2018), <https://www.theringer.com/mlb/2018/4/20/17259846/minor-league-baseball-anti-labor-ronald-acuna-scott-kingery>

³⁵ See *The Business of MiLB*, *supra* note 14. (“According to Major League Rule 3(b), “All Minor League Uniform Player Contracts between either a Major or a Minor League Club and a player who has not previously signed a contract with a Major or a Minor League Club shall be for a term of seven Minor League playing seasons.”)

³⁶ Major League Rules Attachment 3; see also Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 64.

³⁷ See Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 64.

³⁸ Major League Rule 14(b) (“If a voluntarily retired player, during the player’s retirement, shall desire to play baseball for hire, otherwise than for the Major or Minor League Club entitled to the player’s services, the player shall first obtain written consent of the player’s Club” and must also file an application with the Commissioner’s office); see also Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at n. 91.

Overall, the current system in Minor League Baseball restricts players' professional autonomy and flexibility while they toil with the hopes of making it to the major leagues. About 10% of minor league players eventually graduate to the major leagues and fulfill their dream.³⁹ For the remaining 90%, the hours they dedicate to their profession culminate in modest seasonal salaries with no directly transferable skills to utilize for future workforce opportunities.⁴⁰

B. Major League Baseball Labor History

a. *The Antitrust Exemption*

Given the impact Major League Baseball has on minor league players, it is also important to understand MLB's decorated labor history to comprehend the situation minor league players face. This history highlights the adversities major league players overcame in their pursuit for unionization. Ultimately, the history has been shaped by the federal antitrust exemption the league holds.⁴¹ Although professional baseball is no different than any other professional sport including football, basketball, or hockey, it is the only one with an exemption from antitrust law,⁴² effectively insulating MLB from liability for engaging in anti-competitive conduct.⁴³

³⁹ Gordon, *supra* note 28.

⁴⁰ Grant Brisbee, *Here's Why the Save America's Pastime Act is a River of Molten Sewage*, SB NATION (July 30, 2016), <https://www.sbnation.com/mlb/2016/6/30/12068178/save-americas-pastime-act-minor-league-salaries>

⁴¹ Kevin Reichard, *Supreme Court Yet Again Declines to Strike Down MLB Antitrust Exemption*, BALLPARK DIGEST (June 12, 2018), <https://ballparkdigest.com/2018/06/12/supreme-court-yet-again-declines-to-strike-down-mlb-antitrust-exemption/>

⁴² *Antitrust Labor Issues in Sports*, US LEGAL, <https://sportslaw.uslegal.com/antitrust-and-labor-law-issues-in-sports/>

⁴³ *Id.*

MLB's exemption has existed since 1922, when the United States Supreme Court decided *Federal Baseball Club v. National League*.⁴⁴ The suit alleged a conspiracy among the professional baseball leagues at the time and described the constant interstate travel that took place as part of league operations.⁴⁵ Nevertheless, the Supreme Court held that federal antitrust laws did not apply to baseball because those laws only governed interstate commerce, and that baseball was not an interstate activity.⁴⁶ According to Justice Holmes, "[t]he business is giving exhibitions of baseball, which are purely state affairs."⁴⁷ The transportation players endured was "mere incident," and although the exhibitions had monetary implications, they "would not be called trade of commerce in the commonly accepted use of those words" because they were "not related to production."⁴⁸

This antitrust exemption was challenged in the Supreme Court again in 1953 and 1972, but the Court declined to overrule *Federal Baseball Club* even though the conventional professional understanding of interstate commerce had expanded dramatically in the interim.⁴⁹ Ironically, in two cases from the 1950s, one involving boxing and the other football, the Court made clear that the exemption is for baseball only, not for sports generally.⁵⁰ As a result of these Supreme Court decisions, the antitrust exemption has become firmly embedded within the system of MLB.

⁴⁴ *Fed. Baseball Club of Baltimore v. Nat'l League of Prof'l Base Ball Clubs*, 259 U.S. 200 (1922)

⁴⁵ *Id.* at 207.

⁴⁶ *Id.* at 209.

⁴⁷ *Id.* at 208.

⁴⁸ *Id.* at 209.

⁴⁹ *Toolson v. N.Y. Yankees, Inc.*, 346 U.S. 356, 357 (1953); *Flood v. Kuhn*, 407 U.S. 258 (1972).

⁵⁰ Stuart Banner, *The Baseball Trust: History of Baseball's Antitrust Exemption*, Oxford U. Press (Mar. 1, 2013) at 3.

b. Formation of the Major League Baseball Players Union

After decades of failed unionization attempts, the Major League Baseball Players Association (MLBPA) was formed in 1966 to represent all MLB players in their quest to achieve better working conditions for the bargaining unit.⁵¹ Beginning in 1885, major league players sought to strike a more equitable balance of power between players and owners by making unionization efforts.⁵² After failed attempts in 1885, 1914, 1946, the Major League Baseball Players Association finally emerged in 1966.⁵³ Although the first collective bargaining agreement between owners and players was not reached until 1968 after Marvin Miller became the head of the MLBPA, the bargaining history since that time has provided MLB players with an avenue through which players are able to address concerns regarding their financial security, workplace conditions, and more.⁵⁴ Within his first eight years as head of the MLBPA, Miller helped the players achieve groundbreaking goals, including league minimum salaries, an arbitration process for grievances, and unrestricted free agency for players.⁵⁵

c. Effect of Major League Unionization on Minor League Players

As demonstrated above, major league players have enjoyed great improvement in their working conditions and wages as a result of their unionization efforts. This success, however, has not translated in the same way for minor league players. While the major leaguers have enjoyed

⁵¹ *MLBPA FAQs*, *supra* note 6.

⁵² Jeffrey S. Moorad, *Major League Baseball's Labor Turmoil: The Failure of the Counter-Revolution*, 4 *VILL. SPORTS & ENT. L.J.* 53, 55 (1997).

⁵³ *Id.*

⁵⁴ *MLBPA FAQs*, *supra* note 6.

⁵⁵ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 70-71.

considerable gains, the interests of minor league players often have been used as a trading chip during bargaining negotiations.⁵⁶ Since the 1976 CBA, the disparity between what major league players experience versus what minor league players endure has widened considerably.⁵⁷

Before examining the divergences, it is important to note that although the discrepancies are striking, blame cannot be placed squarely on the MLBPA. The MLBPA does not represent minor leaguers and does not owe a duty to bargain for their interests.⁵⁸ Without the MLBPA's gratuitous efforts, it is possible MLB could have implemented nearly any minor league policy without regard to the negative ramifications for players.⁵⁹ Nevertheless, the CBAs that the MLBPA and MLB have

⁵⁶ In 2007, for example, the interests of minor league players were used as a trading chip in bargaining negotiations for changes to the Rule 5 Draft. At the time, MLBPA executive director Donald Fehr conceded that the changes “will clearly have an effect [on minor leaguers]” but “[y]ou have to find compromises.” For further discussion on areas in which minor leaguers have been used trading chips, see Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 91-92. Additionally, in 2008, MLBPA Board Member Andrew Miler acknowledged instances in which minor league player interests are sacrificed: “In negotiations, everything is essentially traded dollar for dollar . . . [t]here might be a possibility for us to pressure the MLB side to raise wages on the minor league side. However, we would probably be sacrificing, say, arbitration, or some sort of dollars that are being spent on us elsewhere. That is just the reality of the deal.” Bill Shaikin, *Minor League Baseball Players Exploring Union as They Continue to Battle Low Wages*, L.A. TIMES (Sept. 15, 2018) <https://www.latimes.com/sports/mlb/la-sp-mlb-column-20180915-story.html>

⁵⁷ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 91-92.

⁵⁸ Don Wollett, *Getting on Base: Unionism in Baseball*, 96 (2008) (“The unit consists exclusively of major leaguers.”)

⁵⁹ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 55-56.

agreed to have had ramifications for minor league players over time.⁶⁰ In many instances, the MLBPA has received benefits for major league players at the expense of minor league players.⁶¹ This form of trading has resulted in gains for major leaguers, but has consequently resulted in difficult losses for minor league players.⁶²

Although the major league union does not represent minor league players, the disparity between the conditions each group experiences becomes more apparent when one compares minor league working conditions to those of major league players. For example, in the years after the MLBPA formed, CBAs have required that major league players travel first class, receive first class meals as well as an \$85 per diem for food, and receive single person hotel rooms when traveling.⁶³ Minor leaguers, on the other hand, have enjoyed little progress over the same time period. Rather than travel by plane, teams travel almost exclusively by bus, with road trips sometimes lasting as long as 16 hours.⁶⁴ As aspiring major leaguers, players receive a \$25 per diem to fuel their bodies.⁶⁵

⁶⁰ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 72-93 (describing how the labor history in MLB has impacted minor league players)

⁶¹ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 86-87 (citing the change in Rule 5 draft rules as a specific concession the MLBPA made in return for higher salaries for players on MLB 40-man rosters)

⁶² Broshuis, at 86-87.

⁶³ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 91.

⁶⁴ PJ Dragseth, *Now I Know How Casey Felt*, *BASEBALL WISE* (July 7, 1982), <http://www.baseballwise.com/club/caseythree.html>

⁶⁵ Berg, *supra* note 22; Many players have noted the difficulties associated with the meager meal *per diem*. "I think the biggest one I've noticed is the meal money — especially now since there's a big movement toward eating healthy, maintaining weight or either gaining weight or losing weight," MLBPA representative Curtis Granderson said. "In the cities you're traveling to, your options are very limited. So trying to make 20 or 25 dollars stretch, on top of the fact that you're

Few restrictions exist regarding scheduling of games, so players often sleep on the busses while traveling to play the next day's game in a new city.⁶⁶

Despite enduring these unpleasant working conditions, minor league players have not seen financial advancement in their wages over time. For major league players, average salaries have risen from roughly \$50,000 in 1976 to over \$4,500,000 in 2018.⁶⁷ Minimum salaries over that time have risen from \$16,000 to \$555,000.⁶⁸ The same story cannot be told about minor league players, whose average minimum yearly salaries have risen from \$4,375 to just \$7,375 over that same period.⁶⁹ The minimum salary at the lowest level has increased from roughly \$500 per month to just \$1,100 per month.⁷⁰ Although minor league players are not expected to see the same economic gains that major league players enjoy, their increases have failed even to keep up with inflation over time, as depicted in Table 1.⁷¹

not getting a meal at the stadium at certain levels, makes it very difficult for you to do the things that the team requires you to do.” *Id.*

⁶⁶ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 91-92.

⁶⁷ Minimum and Average Salaries Major League Baseball 1967-2012, https://www3.nd.edu/~lawlib/baseball_salary_arbitration/minavg salaries/Minimum-AverageSalaries.pdf; Major League Baseball Average Player Salary 2003-2018, STATISTA (Mar. 2018), <https://www.statista.com/statistics/236213/mean-salaray-of-players-in-majpr-league-baseball/>

⁶⁸ Baseball Reference, *supra* note 2.

⁶⁹ Overall average salaries are not calculated for minor league players, so the average of the minimum salaries have been calculated by adding the minimum salaries per month for each level, dividing them by the number of levels, and multiplying by a five-month season. *See* Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 93.

⁷⁰ Broshuis, *Playing for Peanuts*, *supra* note 27.

⁷¹ *See* Appendix, Table 1: Major League, Minor League, National Median and Poverty Level Increases since 1976 *infra* Part I (B)(c).

This financial outlook paints part of the picture for life as a minor league player, but it still does not capture the entire frame of what minor league players endure. In addition to receiving inferior working conditions and wages, minor league players remain without a grievance system. A player who is suspended in MLB, for example, may appeal the decision to a panel of arbitrators.⁷² On the other hand, there is no process in place for minor league players to appeal a decision or settle a dispute other than appeal it again to the commissioner's office, which makes the initial decision to discipline a player and is a representative of the owners.⁷³

Whether one examines the wages, working conditions, grievance procedure, or several other issues, minor league players have been left behind relative to their major league counterparts and even relative to the average working person in the country. The bargaining history in MLB has helped major league players but has left minor league players powerless in their own pursuits.

Part II. Conflict: Efforts to Change the Minor League System

The discrepancies between the workplace advancements major league players have received relative to those minor league players have received is significant. Frustrated with their limited bargaining power and unsustainable living situations, minor league players have attempted to initiate changes to the system. Former players have begun to shed light on their experiences and

⁷² An example of this was seen when MLB player Ryan Braun was successfully able to appeal a 50-game suspension for allegedly taking a performance enhancing drug. *See* Ken Belson & Michael S. Schmidt, *Star Player First to Win Appeal On a Drug Test*, NY TIMES, Feb. 24, 2012, at A1.

⁷³ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 92 (citing Art. XX.B, Minor League UPC, Major League Rules Attachment 3, which states, "the sole exclusive forum available to Player and Club to resolve such dispute shall be arbitration by the Commissioner"))

litigation has ensued to obtain fair compensation for the services of minor league players.⁷⁴ To combat these efforts, MLB has fought the lawsuits and lobbied congress, the efforts of which have resulted in debilitating legislation against the players. Players' attempts to level the playing field thus far have been futile.

A. Attempts to Change the System

a. *Rationale Behind the History of Player Inaction*

Minor league players have long acknowledged that the system within which they operate is less than glamorous.⁷⁵ This acknowledgement, however, has rarely translated into action for various reasons. First, minor leaguers are playing for a dream of one day advancing into the major leagues. By taking a stand against the industrial structure, players would be rebelling against the system that is the gatekeeper of their professional fate. Challenging the status quo would mean jeopardizing their chances of making it to the major leagues, a risk players are hesitant to take.⁷⁶

⁷⁴ See e.g., Brandon Sneed, *This is What It's Like To Chase Your Pro Baseball Dreams...For 12 Bucks an Hour*, BLEACHER REPORT (Apr. 3, 2017), <https://bleacherreport.com/articles/2700299-this-is-what-its-like-to-chase-your-pro-baseball-dreamsfor-12-bucks-an-hour>; see also Broshuis, *Playing for Peanuts*, *supra* note 27.

⁷⁵ According to Garrett Broshuis, a former minor league player, "Very early on in my career, I looked around and noticed things didn't seem quite right. You have the bat boy in some cases making more money per game than the first baseman is making. You're cramming six guys into a two-bedroom apartment, just to make ends meet and split the rent as many ways as possible. You have players sleeping on futons in people's basements, because a host family saves you a lot of money. Host families are great, but why are we asking people in the community to take in professional baseball players in a \$10 billion industry?" Marc Normandin, *Why Minor League Baseball Players Haven't Unionized*, SB NATION (June 5, 2018),

<https://www.sbnation.com/mlb/2018/6/5/17251534/mlb-draft-minor-league-baseball-union-phpa>

⁷⁶ *Id.*

Garrett Broshuis, a former minor league player who recently has challenged the current norm has communicated the sentiments players feel: “They’re chasing this boyhood dream that they’ve been after since they were three or four years old . . . [s]o guys are reluctant to do anything that might place that dream in jeopardy.”⁷⁷ With over 5,000 other players chasing the same dream of making it to the major leagues, individual players fear the consequences of taking a stand against the industry that controls their future.⁷⁸ This logic is a primary factor behind why players have subjected themselves to unsustainable working conditions and wages.

A second reason for this inaction on behalf of players stems from deep-rooted history. As previously explained, baseball has a storied labor history that continues to unfold.⁷⁹ As it pertains to minor league salaries, players feel “powerless” against the league in the face of the “collusive MLB cartel.”⁸⁰ In principle, a cartel is conducive to collective bargaining because there is less market pressure. Yet without individuals who are willing to challenge the status quo, the current system has perpetuated, continuing to determine the livelihood of minor league players.

A final reason that no action had been taken pertains to the size of the unit of players involved. When the MLBPA initially was formed, Executive Director Marvin Miller considered the idea of including the minor league players in the bargaining unit.⁸¹ Ultimately, however, Miller

⁷⁷ Sneed, *supra* note 74.

⁷⁸ Gordon, *supra* note 28.

⁷⁹ *Infra*, Part I.

⁸⁰ Lucas Mann, *Minor Leagues, Microscopic Paychecks*, SLATE (Mar. 30, 2014), <https://slate.com/culture/2014/03/minor-league-baseball-lawsuit-should-we-care-that-low-level-ballplayers-make-as-little-as-1100-per-month.html>

⁸¹ Lily Rothman, *Emancipation of the Minors*, SLATE (Apr. 3, 2012), <https://slate.com/culture/2012/04/minor-league-union-thousands-of-pro-baseball-players-make-just-1100-per-month-where-is-their-cesar-chavez.html>

decided against fighting for this inclusion given the lack of resources, decentralization of the minor leagues, and the dreamy idealism of the players: “The notion that these very young, inexperienced people were going to defy the owners, when they had stars in their eyes about making it to the Major Leagues — it’s just not going to happen.”⁸² The hurdles minor league players face in challenging the status quo is undeniable. These barriers halted players from taking action for decades, but several individuals recently have attempted to serve as a champion for change.

b. Senne v. Office of the Commissioner of Baseball

Although these obstacles had created inaction in the past, several minor league players have become increasingly dissatisfied with their working conditions and recently began to call for change. Garrett Broshuis, who became a labor lawyer after retiring from MiLB, has spearheaded this pursuit.⁸³ In February of 2014, Broshuis’s St. Louis law firm filed a lawsuit in the U.S. District Court for the Northern District of California against five defendants: Major League Baseball, then-MLB commissioner Bud Selig, the Kansas City Royals, Miami Marlins, and San Francisco Giants.⁸⁴ Initially represented in the suit were three minor league players: Aaron Senne (Marlins), Michael Liberto (Royals), and Oliver Odle (Broshuis’ former teammate in the Giants’ farm system).⁸⁵ Over time, the plaintiffs amended the suit to add a minor league player from each major league club, enabling them to name all 30 MLB organizations in the suit.⁸⁶

⁸² *Id.*

⁸³ Dave Matter, *Minor Leaguer-Turned-Lawyer Targets MLB in Lawsuit*, ST. LOUIS POST DISPATCH (June 25, 2014), https://www.stltoday.com/sports/baseball/minor-leaguer-turned-lawyer-targets-mlb-in-lawsuit/article_713f4d65-e981-5565-a4a2-2e36ed1e627c.html

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

The class action suit, *Senne v. Office of the Commissioner of Baseball*, now on appeal to the Ninth Circuit, alleges that baseball’s minor league wages and labor practices violate the minimum wage and overtime rules in the Fair Labor Standards Act of 1938 (FLSA).⁸⁷ The suit asserts that MLB has allowed minor league salaries to “remain stuck in the 19th century.”⁸⁸ According to the filed complaint, congress passed the FLSA to protect workers from wage and labor abuses of the type minor leaguers face.⁸⁹ The FLSA mandates a minimum wage for workers and requires overtime for most employees who work more than 40 hours weekly, yet minor league players routinely work 60 to 70 hours per week and do not receive overtime wages.⁹⁰

If successful in their suit, players would receive a modest but important increase in their minimum earnings. Assuming even a 50-hour work week for the 28-week season,⁹¹ players would

⁸⁷ Complaint, *Senne v. Office of the Comm’r of Baseball, et al.*, 105 F. Supp. 3d 981 (No. 14-cv-00608-JCS) (N.D. Cal. 2015) (No. 1).

⁸⁸ Matter, *supra* note 83.

⁸⁹ Aaron Senne, et. al, 2015 WL 1826255 (N.D.Cal.)

<https://www.scribd.com/document/224796744/Senne-v-MLB-2d-Amended-Complaint>. The complaint adds that President Franklin D. Roosevelt said prior to the FLSA’s passing, “[The Act must] protect workers unable to protect themselves from excessively low wages and excessively long hours [and] should reiterate the oft-repeated pledge of political parties that labor is not a mere commodity.” *Id.*

⁹⁰ *Id.*; see also SI Wire, *Former Minor League Players Sue MLB Over Low Salaries*, SPORTS ILLUSTRATED (July 10, 2014), <https://www.si.com/mlb/2014/07/10/ex-minor-leaguers-sue-mlb-low-salaries>

⁹¹ The 28-week figure was calculated by adding the five-month (20 week) regular season with the additional two months (eight weeks) of spring training, during which time minor league players currently are not compensated. Alternate calculations have used 29-weeks as the proper number of weeks for which players should be paid. See, e.g., Sam C. Ehrlich, *Minor Leagues, Major Effects: What is Senne Wins?*, 6 MISS. SPORTS L. REV 23, 24 (2016)

earn \$11,165 per the federal minimum wage.⁹² Although this amount would still fall below the National Poverty Line of \$12,490 for a single person household,⁹³ it would represent a meaningful increase for many minor league players who earn currently just \$3,000 to \$7,500 for an entire season.⁹⁴

B. Attempts to Oppose Change: MLB Lobbying Efforts and Current Legislation

a. *Rationale for Resisting Change*

In the eyes of the owners, voluntarily increasing the salaries of all minor leaguers is an unnecessary and unjustified expense.⁹⁵ Economists have pointed out a simple truism that reflects owners' sentiments about minor league salaries: "Minor League Baseball gets away with paying its players so little simply because there is nothing telling them that they can't."⁹⁶ Owners understandably do not want to pay more than they have to, and baseball's labor history has thus far dictated that minor league players are not to be compensated on a wage scale like a typical nine-to-five job would.

The commissioner of Major League Baseball, Rob Manfred, shares the views of the owners, and adds that paying minor league players an hourly wage would be impractical.⁹⁷ According to

⁹² Based on the current federal minimum wage of \$7.25 with time and a half given past forty hours. *Minimum Wage*, UNITED STATES DEPARTMENT OF LABOR, <http://www.dol.gov/whd/minimumwage.htm>

⁹³ *Poverty Guidelines*, UNITED STATES DEPARTMENT OF HEALTH & HUMAN SERVICES, <https://aspe.hhs.gov/poverty-guidelines>

⁹⁴ Complaint, *Senne v. Office of the Comm'r of Baseball*, *supra* note 87.

⁹⁵ Goldman, *supra* note 13.

⁹⁶ Gordon, *supra* note 28.

⁹⁷ Ronald Blum, *MLB Doesn't Think Minor Leaguers Should Get Overtime*, ASSOCIATED PRESS (July 12, 2016), <https://apnews.com/6c7f98a16ed7419eb59ba1e7e4c0ea47>

the commissioner, calculating hours for minor league players would create a blurry line because it would be irrational to attempt to determine when a player is or is not working.⁹⁸

This is not a dollars and cents issue. It is the irrationality of the application of traditional workplace overtime rules to minor league baseball players. It just makes no sense. If I want to take extra [batting practice], am I working? Or am I not working? With travel, every moment you're on a bus, is that your commute that you don't get paid for, or is that working time? Where is the clock? Who is going to punch a clock to keep track of those hours? When you're eating in the clubhouse, with a spread the employer provided, is that working time, or is that your lunch break?⁹⁹

Commissioner Manfred's comments reflect the reason for the league's opposition to the proposal in *Senne*. Forcing the league to operate under the FLSA's rigid system that was not designed for baseball would create issues the league believes would be unreasonable.

In addition to communicating the impossibility of calculating hours for minor leaguers, Commissioner Manfred has also cautioned about the financial ramifications of increasing minor league pay. Although MLB revenues have reached annual highs of more than \$10 billion per year, Commissioner Manfred warns that being forced to pay minor league players more could force some minor league teams out of business: "The litigation is going to run its course, but I have to tell you this is area where excessive regulation could have a really dramatic impact on the size of minor league baseball."¹⁰⁰ Undoubtedly, the resulting impact of the pending litigation would see the

⁹⁸ *Id.* Garrett Broshuis dismisses Manfred's argument that timekeeping is a barrier to paying minor league baseball players adequately: "Not everybody works in a factory anymore," he said. "Industries of all different types have figured out a way to comply with wage and hour laws. MLB can find a way to do it. They are sophisticated businessmen." Bill Shakin, *Minor Leaguers Could be Paid Minimum Wage – and No More*, L.A. TIMES (Mar. 23, 2019), <https://www.latimes.com/sports/mlb/la-sp-minor-league-baseball-wage-20180323-story.html>

⁹⁹ Blum, *supra* note 97.

¹⁰⁰ Bauman, *supra* note 34. Manfred adds, "Minor league baseball would not exist were it not for the fact that we subsidize those player costs, to the tune of several hundred million dollars a year."

salaries for minor league players rise. The increases, however, should not result in the drastic changes the commissioner is wary of. If MLB clubs were forced to pay their minor league players the federal minimum wage of \$7.25 for 50 hours per week (40 hours of \$7.25 per hour plus 10 hours of “time and a half” overtime) during the season and spring training, the total expenditures would rise to roughly \$2 million per club.¹⁰¹ Considering minor league players currently cost major league clubs roughly \$1 million per year,¹⁰² the costs would only increase a total of \$1 million per team.¹⁰³¹⁰⁴ For context, the team with the lowest payroll in MLB spends over \$50 million on major league player salaries while the highest-spending team spends over \$220 million.¹⁰⁵ In addition, the

Shakin, *supra* note 98; MLBPA Executive Director Tony Clark responded that minor league players deserve to receive the full protection of the law just as all other workers do: The Major League Baseball Players Association, which represents players with big league contracts on 40-man rosters, issued a statement last month saying it “believes that all workers, including athletes who are directly employed by the major and minor league clubs, are entitled to the statutory protections afforded them by all of the employment laws of the United States and the various states and municipalities, including the protections for both minimum wages and overtime work.” *Id.*

¹⁰¹ Ehrlich, *supra* note 91, at 43, Table 3.

¹⁰² Ehrlich, *supra* note 91, at 44, Table 2.

¹⁰³ See Appendix, Table 2: Current Estimated Minor League Salaries Per Club; see also Appendix, Table 3: Estimated Minor League Salaries Per Club at \$7.25/hour for 50 Hours/Week

¹⁰⁴ Note, however, that under this structure, players in Short-A and Rookie-Level would see the biggest benefit. Although players in Triple-A would make less per month, they would still make more money over the course of the full season than they currently do. See Ehrlich, *supra* note 91, at 44. Additionally, some Triple-A players (and possible even some Double-A players) are on MLB 40-man rosters and would receive significantly more than the minimum salary. *Id.* at 42.

¹⁰⁵ MLB Team Payroll Tracker, SPOTRAC, <https://www.spotrac.com/mlb/payroll/>

minimum major league salary is \$555,000;¹⁰⁶ paying minor league players according to federal minimum wage standards would increase ownership expenses by less than two minimum salary players, as indicated in Table 2 and Table 3 below.

b. Save America's Pastime Act

Given the financial implications owners would incur as a result of the proposed structure in *Senne*, MLB lobbied congress to pass legislation that would declare it legal for the league to pay players as it always has.¹⁰⁷ The figures above indicate that roughly \$30 million more dollars would be allocated to minor league players per year if the MLB loses the litigation in *Senne*.¹⁰⁸ Acknowledging this fact, MLB attempted to preempt the lawsuit by making an investment that would exempt minor league baseball players from minimum wage laws.¹⁰⁹ After spending just \$330,000 in lobbying efforts in 2015 and less than \$550,000 in each of the previous five years, MLB increased its lobbying expenses by nearly \$1 million in 2016 and 2017, spending \$1.32 million in each of those years.¹¹⁰

¹⁰⁶ Maury Brown, *Breaking Down MLB's New 2017-21 Collective Bargaining Agreement*, FORBES (Nov. 30, 2016), <https://www.forbes.com/sites/maurybrown/2016/11/30/breaking-down-mlbs-new-2017-21-collective-bargaining-agreement/#65eac23e11b9>

¹⁰⁷ Real Sports with Bryant Gumbel Ep 256: Minor-League Pay, HBO GO (2018), https://play.hbogo.com/feature/urn:hbo:feature:GW1dppQkM3cNokQEAAANL?icid=hbo_streamingoverlay_go_Gok6&reentered=true&userProfileType=liteUserProfile

¹⁰⁸ Number calculated by multiplying \$1 million per team by 30 teams in MLB.

¹⁰⁹ Maury Brown, *Minimum Wage Exemption Is the Culmination of A Battle Over MLB And Minor League Economics*, FORBES (Mar. 26, 2018), <https://www.forbes.com/sites/maurybrown/2018/03/26/the-fragile-economics-between-mlb-the-minors-and-the-minimum-wage-exemption/#70eb00fe3c21>

¹¹⁰ Annual Lobbying by Major League Baseball Commissioner's Ofc, OPEN SECRETS (2018), <https://www.opensecrets.org/lobby/clientsum.php?id=D000022093>

As a result of MLB's lobbying efforts, members of congress introduced the Save America's Pastime Act (SAPA), which now exempts "any employee who has entered into contract to play baseball at the minor league level" from the FLSA.¹¹¹ SAPA failed to garner much traction as a stand-alone bill when it was introduced,¹¹² but eventually was passed when it was included on the 1,967th page of the \$1.3 billion omnibus spending bill signed by President Trump in 2016.¹¹³ Several congressmen admitted they were unable to read the entire 2,323-page bill and were initially unaware that legislation affecting minor league baseball was included.¹¹⁴ Nevertheless, MLB's multi-million dollar investment in lobbying congress successfully excluded minor league players from the FLSA and debilitated the likelihood of success for the upcoming *Senne* hearing.

The effect of SAPA becoming law has the potential to completely preempt *Senne* before it is even heard by the Ninth Circuit. Broshuis acknowledges the hurdles now in place due to SAPA.¹¹⁵

¹¹¹ Save America's Pastime Act, H.R.5580, 114th Cong. (2015-2016).

¹¹² Ryan Fagan, *Despicable 'Save America's Pastime Act' Aims to Screw Minor Leaguers*, SPORTING NEWS (June 29, 2016), <http://www.sportingnews.com/us/mlb/news/minor-league-save-americas-pastime-act-salaries-antitrust-exemption-broshuis-congress/1jjn290g1ubcd18af2tjyb1u7l>

¹¹³ Stephen Hawkins, *MLB Commish Says Federal Provision Will Mean Raise for Some*, ASSOCIATED PRESS NEWS (Mar. 29, 2018), <https://www.apnews.com/b6f4532c602e4176b8bee17574693e12>

¹¹⁴ Kristie Ackert, *Rep. Peter King Clarifies After Saying He Was Unaware Spending Bill Makes Minor Leaguers Exempt from Minimum Wage Laws*, NY DAILY NEWS (Mar. 24, 2018), <https://www.nydailynews.com/sports/baseball/mets/peter-king-didn-minor-leaguers-hurt-spending-bill-article-1.3891867>. Other representatives echoed those sentiments by communicating "no one knows what is in this bill" because it was not provided in timely enough fashion for any representative to have read the entire bill. <https://www.gaslampball.com/2018/8/1/17640894/the-save-americas-pastime-act-mlbs-dirty-secret>

¹¹⁵ Real Sports with Bryant Gumbel Ep 256: Minor-League Pay, *supra* note 107.

He notes, however, that although SAPA may preempt any federal challenges, he is hopeful individual states will ignore the federal exemption in favor of state minimum wage laws,¹¹⁶ and at the very least that backpay will be awarded for the period preceding SAPA.¹¹⁷ The arguments under state law are likely to face significant hurdles as well, as MLB has continued its lobbying spending in effort to pass similar legislation to SAPA at the state level.¹¹⁸ Given the efforts MLB has taken, Broshuis fears for the next generation of players, who similarly will be left behind if these issues remain unaddressed.¹¹⁹

Part III. Resolution: Solutions and Limitations for the Future of Minor League Baseball

Given the hurdles minor league players now face as a result of Save America's Pastime Act, their chances of succeeding in *Senne* are severely reduced. The unsustainable working conditions and wages players sustain, however, remain present and must be addressed. Although MLB's quest for legislative intervention limited the opportunity for remedy under the FLSA, it does not close the door for opportunity under other labor-related solutions. One remaining avenue through which players should choose to pursue change is unionization. There are significant hurdles to minor league unionization as well, but there are also demonstrable benefits of accomplishing this goal. Management currently has undeniable leverage over the players but organizing minor leaguers could benefit both parties. Collective bargaining would allow the parties to negotiate over issues rather

¹¹⁶ *Id.*

¹¹⁷ Author phone interview with Garrett Broshuis on March 22, 2019.

¹¹⁸ Mitchell, Williams, Selig, Gates, & Woodyard, P.L.L.C., *Saving America's Pastime Means Not Paying Minor League Players*, JD SUPRA (Jan. 25, 2019),

<https://www.jdsupra.com/legalnews/saving-america-s-pastime-means-not-45220/> (noting MLB's lobbying increase in Arizona, one of two states where teams play spring training games)

¹¹⁹ Real Sports with Bryant Gumbel Ep 256: Minor-League Pay, *supra* note 107.

than continue costly litigation resulting in poor public relations. Unionization efforts would not come easily but they have proven successful in another minor league sport. It is time the players explore this option.

A. Benefits of Bargaining

Collectively bargaining for solutions each party values rather than engaging in burdensome litigation has many benefits. In this labor context, players have an interest in seeing their workplace conditions improve and wages increase.¹²⁰ As of now, this interest is being pursued through litigation because all other efforts to address the status quo have failed.¹²¹ This paper encourages minor league players to pursue unionization efforts because of the many potential benefits.

The value of addressing the issues minor league players face, however, is not only in the players' best interest. As the issues have surfaced, MLB has received national condemnation for its practice of exploiting workers for their labor,¹²² failing to provide adequate financial resources for meals or housing,¹²³ and spending millions lobbying congress to thwart the possibility of change.¹²⁴ Although the ramifications of negative public relations are not always tangible, there are financial benefits MLB could reap as a result minor leaguers being appropriately compensated.

¹²⁰ Sneed, *supra* note 74.

¹²¹ Sheryl Ring, *The Minor-League Wage Battle Might Be on the Verge of Ending*, FANGRAPHS (Mar. 20, 2018), <https://blogs.fangraphs.com/the-minor-league-wage-battle-might-be-on-the-verge-of-ending/>

¹²² Joel Mendelson, *Major League Wage Theft: How Baseball Owners and Congress Exploit Minor League Players*, JOBS WITH JUSTICE (Mar. 28, 2018), <http://www.jwj.org/major-league-wage-theft-how-baseball-owners-and-congress-exploit-minor-league-players>

¹²³ Emma Baccellieri, *The Cruel Bill Allowing MLB To Keep Screwing Over Minor-Leaguers Is Now Law*, DEADSPIN (Mar. 23, 2018), <https://deadspin.com/the-gross-bill-allowing-mlb-to-keep-screwing-over-minor-1824029651>

¹²⁴ Bauman, *supra* note 34.

Minor league players are an investment for the owners.¹²⁵ These investments, however, currently are unable to fuel their bodies with proper meals and are unable to afford living spaces that are conducive to success on the field.¹²⁶ In the offseason, players sometimes work three or four jobs to sustain themselves.¹²⁷ Affording them the opportunity to focus on training and improving would increase the quality of play at the minor league level and correspondingly would create more competition at the major league level.¹²⁸ It also would foster strong workplace relations between the clubs and the individuals who later will become members of their major league team.¹²⁹

Although labor and management appear to disagree on many issues, they agree that change is overdue. The president of Minor League Baseball, Pat O'Connor, acknowledged just last year that players deserve raises:

We're not saying that [pay to the players] shouldn't go up. We're just saying that the formula of minimum wage and overtime is so incalculable. I would hate to think that a prospect is told, 'You got to go home because you're out of hours; you can't have any extra batting practice.' It's those kinds of things. It's not like factory work. It's not like work where you can punch a time clock and management can project how many hours they're going to have to pay for.¹³⁰

¹²⁵ Goldman, *supra* note 13.

¹²⁶ Baccellieri, *supra* note 123.

¹²⁷ Zack Meisel, *Many Minor Leaguers Work Second, Third or Fourth Jobs During the Offseason, So When Do They Find Time to Train?*, CLEVELAND.COM (Feb. 1, 2016), https://www.cleveland.com/tribe/index.ssf/2016/02/many_minor_leaguers_work_secon.html

¹²⁸ Goldman, *supra* note 13.

¹²⁹ This workplace relations benefit is one of the reasons the Toronto Blue Jays recently decided raise minor league salaries by 50% for the 2019 season. See discussion *infra* note 133.

¹³⁰ Maury Brown, *Minor League Ballplayers Would Lose Minimum Wage Rights as Part Of \$1.3 Trillion Spending Bill*, FORBES (Mar. 22, 2018), <https://www.forbes.com/sites/maurybrown/2018/03/22/minor-league-ballplayers-will-lose-minimum-wage-rights-as-part-of-1-3-trillion-spending-bill/#5819231e37fa>. MLB Commissioner Manfred communicated similar sentiments in 2016 when asked about why the league was opposed

Although O'Connor disagrees with the manner in which the players in *Senne* currently are proposing change, he does not specifically take issue with the underlying interest in the matter. Major league teams, too, are beginning to see the benefits of addressing these workplace matters and have started to address these issues on their own.¹³¹ In March of 2019, the Toronto Blue Jays unilaterally decided to raise wages for all minor leaguers by 50%,¹³² citing many of the above benefits to both the players

to paying players a minimum wage: “For us, it’s really not about the money, so much as the burden that would be imposed. I don’t think that when the wage and hour laws were passed, that people were thinking about minor league baseball players.”

Joe Lemire, *Minor Leaguers Are Cheap Artists, Says MLB Boss Rob Manfred*, VOCATIV (Oct. 6, 2016), <https://www.vocativ.com/365477/rob-manfred-mlb-minor-league/index.html>

¹³¹ Associated Press, *Blue Jays Give Their Minor Leaguers 50% Raise; Union Hopes More MLB Teams Follow*, MARKETWATCH (Mar. 18, 2019), <https://www.marketwatch.com/story/blue-jays-give-their-minor-leaguers-50-raise-union-hopes-more-mlb-teams-follow-2019-03-18> (noting the raises the Toronto Blue Jays will be giving their minor league players beginning in 2019)

¹³² *Id.*

and club.¹³³ Although the Blue Jays currently are the only team thus far to implement such a change,¹³⁴ other clubs are considering following suit.¹³⁵

¹³³ Toronto Blue Jays' Vice President of Baseball Operations Ben Cherington communicated that the Blue Jays raised minor league wages by 50% for the 2019 season for these very reasons: "We just feel like it's consistent with our values of trying to be a player-centered organization and give them every resource possible to be at their best." *Id.* The decision was popular among those in the organization. Blue Jays manager Charlie Montoyo stated, "Hopefully that gives an idea to everybody else in baseball. That's awesome I think. I'm proud to be a Blue Jay by what we just did." *Id.* Minor league players approved of the decision as well, citing the difference it will make to their teammates: "It's definitely going to help a lot of people out . . . It takes their mind off if they have families at home. Some of them are married. It's hard to live off that especially. That puts a lot of pressure on their wives or their family back home. So that makes it a little bit easier to focus on baseball itself instead of trying to maybe skip a meal and save a little money." *Id.*

¹³⁴ John Delcos, *Toronto Blue Jays Boost Pay Of Their Minor Leaguers; Major League Baseball Not Thrilled*, FORBES (Mar. 18, 2019), <https://www.forbes.com/sites/johndelcos/2019/03/18/toronto-blue-jays-boost-pay-of-their-minor-leaguers-major-league-baseball-not-thrilled/#2206f4af2a7b>

¹³⁵ The Chicago Cubs have also considered making a unilateral change to their payment of minor leaguers according to team president Theo Epstein: "It's something that people have been talking about a lot, how it would be better for all common good if we could find a way to get them a more livable wage. It's obviously a complicated issue, but it seems like a lot of steps are in the right direction. Especially with what Toronto's done, it seems like it's becoming a leaguewide conversation, which is a good thing." Gordon Wittenmyer & Madeline Kenney, *Cubs Have Discussed Raising Minor-league Pay, as Blue Jays Did*, CHICAGO SUN TIMES (Mar. 21, 2019), <https://chicago.suntimes.com/sports/cubs-discussed-raising-minor-league-pay-blue-jays/>; The St. Louis Cardinals, however, are among the teams who plan to let MLB ultimately make any changes for them: "Ultimately we're going to have to address minor-league compensation," Cardinals president of baseball operations John Mozeliak said. "That will be something that will be done from a broader stance. I don't think we are about to change how we do things internally. If the industry starts to change in that (way), that's something we'll have to think about." Derrick Goold,

Ultimately, an increase in mutual bargaining efforts, particularly in the midst of the Blue Jays' decision, would provide all parties involved an opportunity to explore solutions that transcend the rigid remedies litigation would provide. The Blue Jays' unilateral alteration has forced MLB to consider addressing the issue;¹³⁶ MLB has stated it is entering discussions with an umbrella organization of MiLB to consider changes to the current structure.¹³⁷ The benefits of these management-only discussions, however, are limited without union representation at the other end of the table.¹³⁸ The utilization of bargaining through a union would enable the parties to craft a solution that increases wages for players without placing restrictive conditions on the league in the

Minor Wages Become a Major Question for Cardinals and Other Clubs, https://herald-review.com/sports/minor-wages-become-a-major-question-for-cardinals-and-other/article_eb918009-5e15-5f87-8151-6b0cd44eb5f5.html

¹³⁶ Jeff Passan, *Sources: MLB Eyes Higher Salaries in Minors*, ESPN (Mar. 18, 2019), http://www.espn.com/mlb/story/_/id/26298523/mlb-eyes-higher-salaries-minors

¹³⁷ *Id.* ("While each Club makes its own decisions regarding minor league salaries, the Office of the Commissioner is presently in negotiations with the National Association of Professional Baseball on the terms of a new agreement between the Major Leagues and the Minor Leagues to replace the agreement that expires in September 2020. The working conditions of minor league players, including their compensation, facilities and benefits, is an important area of discussion in those negotiations.")

¹³⁸ Garrett Broshuis notes that although it is a step in the right direction that MLB is taking steps to move the ball forward, their discussions are limited by the fact that they talking to MiLB president Pat O'Connell, who does not represent the players' interests. Author phone interview with Garrett Broshuis on Mar. 22, 2019. Broshuis adds that it would be much more beneficial if the players had a seat at the table given the plethora of issues and interests. Passan, *supra* note 136. ("If [MLB] is serious about improving, there are so many different places. College baseball players receive a higher per diem than [MiLB] players do. College players don't need to pay clubhouse dues, whereas minor league players do. You look at housing, where you're making so little that six players live in a two-bedroom apartment on air mattresses. That's less than ideal.")

manner that overtime requirements would. For these reasons, the players should take this opportunity to push open the door to obtaining focused bargaining discussions with their employer. The league likely would not assist the players in their pursuit, but players taking the initiative to open this door could provide the league and players significant benefits.

B. Model for Success: Minor League Hockey Unionization

Although the benefits of collective bargaining have yet to be acknowledged in the Minor League Baseball context, the situation MiLB players face is not entirely unique among their peers; minor league hockey players have successfully demonstrated the benefits of unionizing. In 1967, minor league hockey players overcame similar hurdles that MiLB players face when they formed the Professional Hockey Players Association (PHPA).¹³⁹ The PHPA and its effects on the relationships between minor league teams, major league teams, and the leagues themselves are perhaps the best examples of what collective bargaining could look like for MiLB.¹⁴⁰

There are many similarities between the industries of hockey and baseball, yet the discrepancies between the workplace conditions and compensation structures for their minor league players is significant. Although the minimum salary for both National Hockey League (NHL) and MLB players is between \$550,000 - \$650,000,¹⁴¹ the discrepancy between the salaries for their

¹³⁹ Danie Lavender, *AHL and PHPA Ratify New Collective Bargaining Agreement*, ADMIRALS ROUNDTABLE, <https://admiralsroundtable.com/2015/10/09/ahl-and-phpa-ratify-new-collective-bargaining-agreement>

¹⁴⁰ See e.g., Marc Normandin, *How Minor League Baseball Players Can Begin Unionizing*, SB NATION (July 12, 2018), <https://www.sbnation.com/mlb/2018/7/12/17518102/minor-league-baseball-unions-mlb-garrett-broshuis-mlbpa>; see also Shaikin, *supra* note 56.

¹⁴¹ The minimum NHL salary for the 2018-2019 season is \$650,000. NHL Collective Bargaining Agreement Art. 11.12; The minimum MLB salary for the 2019 season is \$555,000. MLB Collective Bargaining Agreement Art. VI(A)(1).

respective minor league players is far more significant. The minimum salary of a Triple-A baseball player (the highest level in MiLB) is \$2,150 per month, paid only during the season (\$10,750 per year).¹⁴² The minimum annual salary of an American Hockey League (AHL) player (the highest level in minor league hockey), on the other hand, is \$42,375 annually with an average salary of \$90,000.¹⁴³ As an added benefit, the AHL's *per diem* (\$74) is nearly three times what MiLB players receive.¹⁴⁴ Similarly, while Single A baseball players (one of the lower levels in MiLB) earn \$1,250 per month (\$6,250 per year),¹⁴⁵ first year players in the East Coast Hockey League (ECHL) (the lowest level of professional hockey associated with the NHL) earn nearly double that amount while earning a minimum of \$10,790 per season.¹⁴⁶ Additionally, ECHL players are provided housing in the form of furnished, utilities-paid, apartments while MiLB players are not assisted with their housing needs.¹⁴⁷

Although the absence of a bargaining unit in Minor League Baseball may not be the exclusive reason for these discrepancies in pay, the incongruences in these figures should not come as a surprise given the timing of the PHPA's formation. When the PHPA was founded in 1967, it became the first legally recognized union for minor league athletes.¹⁴⁸ This formation occurred

¹⁴² Ehrlich, *supra* note 91, at 42.

¹⁴³ Brian MacPherson, *Minor League Hockey Players Benefit from NHL Relationship*, PROVIDENCE JOURNAL (Feb. 21, 2015), <https://www.providencejournal.com/article/20150221/news/150229777>

¹⁴⁴ Normandin, *supra* note 140.

¹⁴⁵ Ehrlich, *supra* note 91, at 42.

¹⁴⁶ MacPherson, *supra* note 143.

¹⁴⁷ *Id.*

¹⁴⁸ Lavender, *supra* note 139.

during the same year that NHL players formed their own union, the NHLPA.¹⁴⁹ The PHPA received support from their major league counterpart, the NHLPA, and has benefitted from that strong relationship in the years since.¹⁵⁰ As a result of this support, the PHPA and NHLPA were able to work jointly to establish standards such as minimum salaries for two-way contracts.¹⁵¹ PHPA Executive Director Larry Landon believes MiLB players would benefit greatly from similar support, but the players thus far have yet to receive such.¹⁵²

Ultimately, using minor league hockey players as a model to follow would serve Minor League Baseball players well in their pursuit for labor equality. The system of Minor League Baseball is distinct from that of hockey, but there is undeniable untapped value in exploring this system's model for success. MiLB players can learn from the advancements their hockey counterparts have enjoyed. The most important lesson that players can take from this example is that unionization is possible at the minor league level. By educating themselves of the labor structure in hockey, MiLB players should be inspired by the prospects of such possibilities.

C. Limitations of Unionization

a. *Fear of Being Blackballed By MLB*

The benefit of change to the current system is clear for minor league players. Nevertheless, significant obstacles limit their probability of success in organizing. A primary issue the players

¹⁴⁹ MacPherson, *supra* note 143.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² "I wish Major League Baseball players would see it and say, 'You know what, these guys need an office. They need employees, they need to show that they're organized so players believe in it,' and maybe put a stipend in, each player each year." Normandin, *supra* note 140.

face in this pursuit questions who the pioneer for the players will be and who will follow.¹⁵³ Although Broshuis and other former players have challenged the current operations, having a highly touted minor league player vocalize his displeasure or take action would help immensely.¹⁵⁴ The problem with this ideal, as Broshuis acknowledges, is that it ignores the fear that players face:

Fear is the predominant issue for players. When I was talking to players [about organizing], it's not that they didn't recognize the benefits of a union, but they were scared. They looked at me as if I might as well have been asking them to jump off of a cliff with me. They are so fearful of those owners, and what they might think about it, and how the owners might judge that decision to act collectively.¹⁵⁵

Because most minor leaguers are fungible, they fear speaking up would give the team an excuse to replace them.¹⁵⁶ With over 5,000 minor league players for less than 1,200 major league spots and only 10% of minor leaguers eventually reaching the majors, players know the margin for error is slim.¹⁵⁷

Although players fear the ramifications of organizing, there is no dispute that minor league players are permitted to unionize if they can organize themselves accordingly. Major League Baseball has argued that minor leaguers are apprentices, and that they accordingly are exempt from the FLSA.¹⁵⁸ It has not, however, taken a position against the possibility of minor league players

¹⁵³ Rothman, *supra* note 81.

¹⁵⁴ Rothman, *supra* note 81.

¹⁵⁵ Normandin, *supra* note 75.

¹⁵⁶ Normandin, *supra* note 140.

¹⁵⁷ Gordon, *supra* note 28.

¹⁵⁸ When addressing the current state of MiLB, Manfred noted MiLB is “more like apprenticeship programs or artistic pursuits where there are explicit exceptions to the wage and hour requirements.” *NL Wild Card Game: Giants vs. Mets Rob Manfred Interview*, ASAP SPORTS (Oct. 5, 2016), http://www.asapsports.com/show_interview.php?id=123987. This argument is facially meritorious, but it ultimately is a red herring emphasized by the employers that ignores the

unionizing. The primary limitation is not that players are forbidden from organizing; it is that the structure of baseball has created a system in which players are afraid of taking the step to try.¹⁵⁹ Players understandably fear the repercussions of spearheading an organizing effort in an industry in which the rules against retaliation by the employer are virtually unenforceable.¹⁶⁰ Combining this fear with the already statistically unlikely chances of graduating to the major leagues creates the most burdensome limitations for the potential organizing efforts.¹⁶¹

baseball's specific structural restrictions. Artists operate in a free market system in which they may rise to the top of their industries in a variety of ways in which minor league players may not. For example, artists may seek an employer of their choice and may bargain for higher wages against other organizations. MiLB players, on the other hand, operate within a "cartel" of sorts that has the ability to collude on salaries. Players are only permitted to sign with the team that selects them in the draft and are unable to explore the market for their services for seven years, per the standard MLB CBA. Even signing bonuses for highly touted players are artificially capped because the draft creates limits on who the players can use to negotiate against one another. While there are strong arguments against paying minor league players a free-market wage, comparing this industry to the entertainment industry is weak. Author interview with Garrett Broshuis.

¹⁵⁹ Author phone interview with Garrett Broshuis on March 22, 2019

¹⁶⁰ An example of this lack of discrimination policing recently was seen within the sports industry in 2018. Ultimate Fighting Championship fighter Leslie Smith filed NLRA §§8(a)(1) and 8(a)(3) claims against UFC alleging that her contract to fight was not renewed in retaliation for her union organizing efforts and participation in §7 protected concerted activities, but the NLRB dismissed the charges given its hesitation to interfere with employer business decisions. Jackson Lewis P.C., *NLRB Avoids Question Of Whether UFC Fighters Are Union Eligible Employees...For Now!!!!*, JD SUPRA (Oct. 26, 2018), <https://www.jdsupra.com/legalnews/nlr-avoids-question-of-whether-ufc-78383/> ("[T]he NLRB's proper role is not to second guess a business decision not to continue an agreement in the absence of union animus.")

¹⁶¹ For this reason, it would be particularly beneficial if a top minor league prospect, or a group of top prospects, spearheaded the effort. They are particularly valued by their employers and, in

b. Lack of Support from MLBPA or Other Outside Unions

Another limitation players face pertains to the likelihood that they would receive support from their major league counterparts. While the PHPA received, and continues to receive, support from the NHLPA and NHL, MiLB players have yet to receive similar support that would assist in their pursuits.¹⁶² The MLBPA has expressed empathy and support for minor leaguers in their plight,¹⁶³ but ultimately recognizes that the union's obligation is to its own rank-and-file, the major leaguers. Additionally, although nearly every MLB player has spent time in the minor leagues,¹⁶⁴ none have taken a stand to change the system within which they once toiled.¹⁶⁵

Given these hurdles, it is possible the players might consider the prospects of an outside union to lead their charge. Utilizing an outside union, as proposed by labor lawyer Don Wollett, would provide an answer to many of the aforementioned obstacles players face and could help organize the players and represent their interests.¹⁶⁶ Although this avenue is intriguing, it is similarly possible that the low wages involved for minor league players would create little incentive for an outside union to invest time and effort into organizing the players.¹⁶⁷

many cases, represent significant investments that teams made, so it is less likely they would face repercussions for leading organizing efforts. Author phone interview with Garrett Broshuis.

¹⁶² Normandin, *supra* note 75.

¹⁶³ MLBPA Executive Director expressed support for minor league players after the Save America's Pastime Act was passed: "We stand shoulder to shoulder with the minor league players and the labor community in opposing this legislation." Shakin, *supra* note 98.

¹⁶⁴ Of all drafted players since 1965, only 21 have gone directly to the major leagues. Only one player, Mike Leake, has done so since 2000. Straight to the Major Leagues, BASEBALL ALMANAC, <http://www.baseball-almanac.com/feats/feats9.shtml>

¹⁶⁵ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 54-55.

¹⁶⁶ Normandin, *supra* note 75.

¹⁶⁷ Broshuis, *Touching Baseball's Untouchables*, *supra* note 3, at 99.

c. Bargaining Unit Size and Nature

The size and nature of any potential bargaining unit in minor league baseball present additional hurdles the players must overcome in their pursuit for union representation. For instance, larger bargaining units can provide benefits to members in the form of heightened bargaining power due to a greater disruptive capacity, lower administrative overhead costs per member, and more wage compression between different skill and productivity levels.¹⁶⁸ At the same time, however, a larger bargaining unit can also be more difficult to organize, can ultimately lead to a bargaining agreement of a more restrictive scope, and can be less democratic in that each worker has less of a voice among the crowd.¹⁶⁹ With over 5,000 minor league players in over 250 different cities across the country,¹⁷⁰ significant thought must be given to the structure of any proposed unit, especially considering members of each level may have different bargaining interests.¹⁷¹

¹⁶⁸ Professor Aditi Bagchi, *Fordham Law School*, Labor Law Lecture, Mar. 6, 2019.

¹⁶⁹ *Id.*

¹⁷⁰ See Delpy & Costello, *supra* note 8.

¹⁷¹ For example, players at the highest level (Triple-A) may have different interests than players in Rookie ball do. While players in Triple-A may desire more long-term protections or benefits for their families, younger players at the Rookie level may place a higher premium on larger up-front wages to help their worse living conditions. An additional consideration pertains to NLRB certification. Of course, the NLRB is granted much discretion in determining the appropriate bargaining unit. See *Packard Motor Car Co. v. NLRB*, 330 U.S. 485, 491–92 (1947). The test for appropriateness “is whether the employees comprising the unit share a ‘community of interest.’” *Friendly Ice Cream Corp. v. NLRB*, 705 F.2d 570, 575 (1st Cir. 1983).

The size of the bargaining unit is an issue that must be considered, but it is not one that is unique within the sports industry.¹⁷² Garrett Broshuis acknowledges these hurdles when organizing minor league players, but he also sees the PHPA as a potential model to follow.¹⁷³ Given the range of interests of players at the bottom and top of the minor leagues, it is likely the most rational unit size would be to divide at each level of the minor leagues.¹⁷⁴ Creating a separate union for players in Triple A, Double A, Single A, and Rookie levels would provide an opportunity for each unit to represent the unique interests of the players in their specific unit.

Although this solution is plausible given the range of player interests at each level, the inherent structure of Minor League Baseball creates additional complications for the nature of each bargaining unit. In the industry of Minor League Baseball, much like other sectors in which

¹⁷² Robert C. Berry, William B. Gould & Paul D. Staudohar, *Labor Relations in Professional Sports* 220 (1986) (stating that establishing the appropriate bargaining unit is always difficult in the sports industry).

¹⁷³ Author phone interview with Garrett Broshuis on March 22, 2019; Note, however, Broshuis has also considered other ideas for the unit size as well: “What is an appropriate bargaining unit, that’s an important question, and one that can be debated quite a bit. Sure, you could try to bite off the entire system all at once, but you could make it smaller, too. You could go by Major League organization, you could go by minor league, too, where maybe you’re focused on just the International League or just the Eastern League. If it’s a bit smaller, it becomes more manageable then.” Normandin, *supra* note 140. Broshuis notes, however, that there may not just be one correct answer on the matter: “There would be legal challenges, as this is often a hotly contested issue. ‘What is an appropriate bargaining unit?’ The act itself, the [NLRA] uses ‘an’ not ‘the.’ It sort of implies that there’s not just one correct bargaining unit, that there could be several different possibilities as long as you have a sufficient level of cohesiveness within the unit that you’re choosing.” *Id.*

¹⁷⁴ *Id.*

employees intend not to be members of the union indefinitely,¹⁷⁵ players aspire to graduate to the major leagues as soon as possible. Because each player has this ultimate goal in mind, he inherently would desire to be a member of a minor league union for the shortest time period possible. To complicate matters further, creating a system with different units for each level theoretically would result in players entering and exiting multiple bargaining units in a matter of days given how frequently players are promoted and demoted from one level to another.¹⁷⁶ Ultimately, although the structure of baseball creates hurdles that must be considered before any bargaining efforts begin, these efforts are not unique to baseball and can be overcome.¹⁷⁷

CONCLUSION

The current situation in Minor League Baseball begs for change. Players have endured dire working conditions and unsustainably low wages in an effort to pursue their lottery ticket dreams of graduating to Major League Baseball.¹⁷⁸ The system within which minor league players currently

¹⁷⁵ The labor situation for medical residents, for example, parallels that of MiLB players in this sense given medical residents' aspirations to become full time doctors. For further discussion on labor issues for medical residents, *see generally*, Aton, Angel M. & Connolly, Heidi S., *The Debate Over the Unionization and Collective Bargaining of Private Physicians*, 18 HOFSTRA LAB. & EMP. L.J. 658 (2001), Available at: <http://scholarlycommons.law.hofstra.edu/hlelj/vol18/iss2/11> (noting the interests medical residents have compared to those of full-time physicians regarding potential bargaining goals)

¹⁷⁶ PHPA Executive Director Larry Landon notes that the similar structure in minor league hockey actually helped the unionization efforts, as they started efforts at the highest league then moved down to the lower levels: "We were Triple-A, then we went to Double-A, and everyone said, 'What the hell are you doing that for?' Well, because the Double-A players become Triple-A players. And the Triple-A players are going to reach the National Hockey League. You got to start somewhere." Normandin, *supra* note 140.

¹⁷⁷ Berry, Gould, & Staudohar, *supra* note 172.

¹⁷⁸ Sneed, *supra* note 74.

toil has been impacted by major league operations and has seen player wages increases at a fraction of the rate that even the United States poverty line has risen.¹⁷⁹ After decades of futilely operating within the system, players turned to the courts in *Senne v. Office of the Commissioner of Baseball* to call for change.¹⁸⁰ Rather than risk an overhaul to the system through a loss in court, Major League Baseball spent millions lobbying congress for the passage of Save America's Pastime Act.¹⁸¹ This bill delivered a debilitating blow to the players' chances of succeeding in their suit.

The story must not end there though. The commissioner of Major League Baseball and president of Minor League Baseball concede that change is overdue.¹⁸² Teams have begun making unilateral changes to minor league wages.¹⁸³ Adhering to strict FLSA requirements that were not designed for the industry of baseball may not be the answer. The journey that has taken the parties to this point, however, demonstrates that some form of change is not only possible, but also necessary.

Players have waged a lawsuit to fight for proper compensation, but they have yet to make an effort to unionize. It is time they do so. By organizing MiLB, players would gain an opportunity to collectively bargain over matters that must be addressed in a manner that would fit the interests of both parties. There are limitations to this pursuit, as players fear the repercussions associated with stepping out of line while the league has little reason to engage in such bargaining efforts given their clear power imbalance over the players. Nevertheless, change must be made. The solutions are not clear, but they are necessary. The only question left is whether the players take the next step.

¹⁷⁹ *Infra*, Part I.

¹⁸⁰ Complaint, *Senne v. Office of the Comm'r of Baseball*, *supra* note 87.

¹⁸¹ Annual Lobbying by Major League Baseball, *supra* note 110.

¹⁸² Brown, *supra* note 130.

¹⁸³ See discussion *supra* Part III(A).

Appendix:

Table 1: Major League, Minor League, National Median and Poverty Level Increases since 1976

	MLB Minimum Yearly Salary	MLB Average Yearly Salary	MiLB Average Yearly Minimum	National Median Household Income	Poverty Level for an Individual ¹⁸⁴
1976	\$16,000	\$51,501	\$4,375	\$11,800	\$2,884
2018	\$555,000	\$4,520,000	\$7,375	\$63,554	\$12,488
Percent Increase	3,369%	8,848%	69%	438%	333%

Table 2: Current Estimated Minor League Salaries Per Club

	Players	Per Month	Months	Yearly Pay	
				Per Player	Per Club
AAA	25	\$2,150	5	\$10,750	\$268,750
AA	25	\$1,500	5	\$7,500	\$187,500
High-A	25	\$1,250	5	\$6,250	\$156,250
Low-A	30	\$1,250	5	\$6,250	\$156,250
Short-A	35	\$1,100	3	\$3,300	\$99,000
Rookie-1	35	\$1,100	3	\$3,300	\$115,500
Rookie-2	35	\$1,100	3	\$3,300	\$115,500
Total	200				\$1,098,750

Table 3: Estimated Minor League Salaries Per Club at \$7.25/hour for 50 Hours/Week

	Players	Per Week	Per Month	Months ¹⁸⁵	Yearly Pay	
					Per Player	Per Club
AAA	25	\$398.75	\$1,595	7	\$11,165	\$279,125
AA	25	\$398.75	\$1,595	7	\$11,165	\$279,125
High-A	25	\$398.75	\$1,595	7	\$11,165	\$279,125
Low-A	30	\$398.75	\$1,595	7	\$11,165	\$334,950
Short-A	35	\$398.75	\$1,595	5	\$7,975	\$279,125
Rookie-1	35	\$398.75	\$1,595	5	\$7,975	\$279,125
Rookie-2	35	\$398.75	\$1,595	5	\$7,975	\$279,125
Total	200					\$2,009,700

¹⁸⁴ Historical Average Poverty Tables, Table 1 *supra* note 24.

¹⁸⁵ Note, this calculation includes compensating players during Spring Training.