

There Are No Winners in Lockouts: Understanding the 2011 NBA Lockout Through the Lens of Philippine Laws and Jurisprudence on Collective Bargaining

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I. INTRODUCTION.....	807
II. THE DUTY TO BARGAIN COLLECTIVELY	808
III. PARTIES TO A COLLECTIVE BARGAINING AGREEMENT	809
IV. STEPS IN COLLECTIVE BARGAINING.....	810
V. NBA’S CBA PROPOSAL	813
A. <i>Basketball Related Income</i>	
B. <i>Hard Salary Cap v. Soft Salary Cap</i>	
C. <i>Length and Guarantee of Players’ Contracts</i>	
VI. THE NBPA FILES A SUIT FOR UNFAIR LABOR PRACTICE.....	817
VII. THE NBA DECLARES A LOCKOUT	819
VIII. PLAYERS FILE ANTI-TRUST LAW SUITS.....	822
IX. THE LOCKOUT IS OVER	825
A. <i>Basketball Related Income</i>	
B. <i>Hard Salary Cap v. Soft Salary Cap</i>	
C. <i>Length of Player Contracts</i>	
X. CONCLUSION.....	830

I. INTRODUCTION

Every fan of the National Basketball Association (NBA) looks forward to the month of October because October means the beginning of a new NBA regular season.¹ However, in 2011, October came and went, and no NBA

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1. See NBA Frequently Asked Questions, *available at* <http://www.nba.com/news/faq> (last accessed Feb. 1, 2019).

basketball was played.² In time, news surfaced that the league had locked out all its players due to an impasse in collective bargaining between the NBA Players Association (NBPA), on one hand, and the NBA and team owners, on the other.³ It was not until Christmas Day of 2011 that the NBA opened its 2011-2012 Season, with a reduced schedule of 66 instead of 82 games per team.⁴

This Article is an in-depth study of the 2011 NBA Lockout contextualized by applying concepts from Philippine laws and jurisprudence on collective bargaining, strikes, and lockouts. While it is conceded that Philippine laws find no application in the NBA context, it is still hoped that this Article brings to light a better understanding of local labor laws and the reason why so many NBA fans were deprived of a complete NBA regular season in 2011.

II. THE DUTY TO BARGAIN COLLECTIVELY

At the heart of collective bargaining are the policies of the state “to ensure the participation of workers in decision and policy-making processes affecting their rights, duties, and welfare”⁵ and “to encourage a truly democratic method of regulating the relations between employers and employees by means of agreements freely entered into through collective bargaining[.]”⁶ It is, therefore, a concrete opportunity for employees to participate and have a say in the terms and conditions of employment that affect their lives.

2. ESPN.com News Services, CBA expires, NBA locks out its players (ESPN News Article), *available at* <http://www.espn.com/nba/news/story?id=6723645> (last accessed Feb. 1, 2019).

3. *Id.*

4. Howard Beck, *N.B.A. Reaches a Tentative Deal to Save the Season*, N.Y. TIMES, Nov. 26, 2011, *available at* <https://www.nytimes.com/2011/11/27/sports/basketball/nba-and-basketball-players-reach-deal-to-end-lockout.html> (last accessed Feb. 1, 2019).

5. A Decree Instituting a Labor Code Thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Insure Industrial Peace Based on Social Justice [LABOR CODE], Presidential Decree No. 442, art. 218 (A) (g) (1974) (as amended).

6. *Id.* art. 218 (B).

The Labor Code of the Philippines provides that employers and employees are not only encouraged, as they are, in fact, duty-bound, to bargain collectively, thus —

Article 263. *Meaning of duty to bargain collectively.* The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement with respect to wages, hours of work[,] and all other terms and conditions of employment including proposals for adjusting any grievances or questions arising under such agreement and executing a contract incorporating such agreements if requested by either party but such duty does not compel any party to agree to a proposal or to make any concession.⁷

Jurisprudence further defines the *duty to bargain collectively* as “negotiations towards a collective agreement ... designed to stabilize the relation between labor and management and to create a climate of sound and stable industrial peace. It is a mutual responsibility of the employer and the Union and is characterized as a legal obligation.”⁸

III. PARTIES TO A COLLECTIVE BARGAINING AGREEMENT

In traditional collective bargaining negotiations, there are two parties who negotiate on the terms and conditions of labor within a single establishment:: the employees and the Management. Collective bargaining in professional sports, specifically in the NBA, is peculiar because there appears to be three (3) parties negotiating on two ends of the negotiating panel — the players, the teams, and the league. Interestingly, for purposes of CBA Negotiations, the league and the team owners have a common interest and therefore sit on one side of the table, with the players association sitting on the other.

For the purposes of collective bargaining negotiation, the employees, categorized as a “bargaining unit”, are represented by a duly authorized sole and exclusive bargaining agent.⁹

An appropriate bargaining unit is defined as

a group of employees of a given employer, comprised of all or less than all of the entire body of employees, which the collective interest of all the employees, consistent with equity to the employer, indicate to be best

7. *Id.* art. 263.

8. *Kiok Loy v. NLRG*, 141 SCRA 179, 185 (1986) (citing *Pampanga Bus Company v. Pambusco Employees' Union*, 68 Phil. 541, 544 (1939)).

9. *See* LABOR CODE, art. 267.

suites to serve the reciprocal rights and duties of the parties under the collective bargaining provisions of the law.¹⁰

To determine an appropriate bargaining unit, “the test of grouping is community or mutuality of interest ... [The] basic test of an asserted bargaining unit’s acceptability is whether or not it is fundamentally the combination which will best assure to all employees the exercise of their collective bargaining rights.”¹¹ The sole and exclusive bargaining agent is presumed to represent the entire employee population; it is the singular voice of all the employees within a particular establishment.

In NBA CBA Negotiations, all active NBA players are represented by the NBPA, which is its sole and exclusive bargaining agent.¹² In the 2011 Negotiations, the NBPA was led by its executive director Billy Hunter and former president Derek Fisher.¹³ As the players’ sole and exclusive bargaining agent, the NBPA is primarily concerned with upholding players’ rights, which includes making sure that the players receive a fair share in the league’s revenue and have significant control over contract flexibility and player movement. Today, it continues to represent the players in ensuring that the provisions in the current CBA are upheld. On the other hand, the league and all team owners were represented by former NBA Commissioner David Stern.¹⁴ For purposes of collective bargaining, team owners and the NBA as an institution share a common interest of increasing league revenue, viewership, and competitiveness throughout the NBA.

IV. STEPS IN COLLECTIVE BARGAINING

Once an appropriate bargaining unit is identified and the parties’ respective representatives are selected, the following steps are undertaken to arrive at a Collective Bargaining Agreement (CBA):

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10. *San Miguel Foods, Incorporated v. San Miguel Corporation Supervisors and Exempt Union*, 655 SCRA 1, 11 (2011) (citing *San Miguel Corp. Supervisors and Exempt Employees Union v. Laguesma*, 277 SCRA 370, 379 (1997)).
 11. *San Miguel Foods, Incorporated*, 655 SCRA at 11 (citing *National Association of Free Trade Unions v. Mainit Lumber Development Company Workers Union-United Lumber and General Workers of the Phils.*, 192 SCRA 598, 602 (1990)).
 12. NBPA, *About Us*, available at <https://nbpa.com/about> (last accessed Feb. 1, 2019).
 13. ESPN.com News Services, *supra* note 2.
 14. *Id.*

- (1) Bargaining *per se* is commenced by a party through the service of a written notice containing a statement of its proposal to the other party.¹⁵
- (2) Upon receipt of the proposal, the counter-party is required to submit a reply thereto within ten (10) days from receipt of the same.¹⁶ Failing to reply to a proposal sent by a certified bargaining agent may be characterized as “refusal to bargain,” which is an Unfair Labor Practice (ULP).¹⁷
- (3) Once the proposal and reply have been submitted by the Union and management, respectively, the parties set a pre-negotiation meeting where the ground rules for negotiation are discussed. In the pre-negotiation meeting, parties may agree to the composition of panels, spokespersons, format of discussions, venue, scheduling, and frequency of meetings, among others.¹⁸
- (4) After the parties agree to the ground rules of negotiation, the Negotiations Proper commences. Based on Article 263 of the Labor Code, the parties are compelled to negotiate on certain “mandatory subjects,” which are “wages, hours of work[,] and all other terms and conditions of employment including proposals for adjusting any grievances or questions arising under the [CBA].”¹⁹ However, an employer may refuse to bargain on non-mandatory subjects. Moreover, no strike or lock-out may be declared due to a bargaining impasse on non-mandatory subjects.²⁰
- (5) Once the parties agree to all the terms covered by the proposal and the reply, they execute a CBA. To be valid, the CBA must

15. LABOR CODE, art. 261 (a).

16. *Id.*

17. *Id.* arts. 259 (g) & 260 (c) & *General Milling Corporation v. Court of Appeals*, 422 SCRA 514, 523 (2004).

18. See Randy Nickolaus, *The Importance of Ground Rules in the Negotiation Process*, available at <https://www.calpelra.org/pdf/Nickolaus,%20Randy.pdf> (last accessed Feb. 1, 2019).

19. LABOR CODE, art. 263.

20. *Id.* See also American Bar Association, *Management and Union Rights and Obligations in Collective Bargaining at 1*, available at https://www.americanbar.org/content/dam/aba/events/labor_law/basics_papers/nlra/obligations.authcheckdam.pdf (last accessed Feb. 1, 2019).

be posted in two conspicuous places within the workplace, ratified by a majority of all the workers in the bargaining unit, and registered with the DOLE.²¹

If the parties agree on all the subjects of negotiation, then they achieve the end-goal of collective bargaining, which is the execution and registration of a CBA. A CBA is defined in Philippine jurisprudence as

a contract executed upon request of either the employer or the exclusive bargaining representative incorporating the agreement reached after negotiations with respect to wages, hours of work[,] and all other terms and conditions of employment, including proposals for adjusting any grievances or questions arising under such agreement. While the terms and conditions of a CBA constitute the law between the parties, it is not, however, an ordinary contract to which is applied the principles of law governing ordinary contracts. A CBA, as a labor contract within the contemplation of Article 1700 of the Civil Code of the Philippines which governs the relations between labor and capital, is not merely contractual in nature but impressed with public interest, thus, it must yield to the common good.²²

In another case, the Court ruled —

A collective bargaining agreement is the law between the parties [—]

It is familiar and fundamental doctrine in labor law that the CBA is the law between the parties and they are obliged to comply with its provisions. We said so in [*Honda Phils., Inc. v. Samahan ng Malayang Manggagawa sa Honda* —]

[“]A collective bargaining agreement or CBA refers to the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work[,] and all other terms and conditions of employment in a bargaining unit. As in all contracts, the parties in a CBA may establish such stipulations, clauses, terms[,] and conditions as they may deem convenient provided these are not contrary to law, morals, good customs, public order[,] or public policy. Thus, where the CBA is clear

21. LABOR CODE, art. 237, ¶ 3.

22. *Davao Integrated Port Stevedoring Services v. Abarquez*, 220 SCRA 197, 204 (1993) (citing *Meycauayan College v. Drilon*, 185 SCRA 50, 55 (1990); *Kapisanan ng mga Manggagawa sa La Suerte Foitaf v. Noriel*, 77 SCRA 414, 418 (1977); *Mactan Workers Union v. Aboitiz*, 45 SCRA 577, 581 (1972); *Transportation-Communication Emp. Union v. Union Pac. R. Co.*, 385 U.S. 157, 160 (1966); & *John Wiley & Sons, Inc. v. Livingston*, 376 U.S. 543, 550 (1964)).

and unambiguous, it becomes the law between the parties and compliance therewith is mandated by the express policy of the law.[']

Moreover, if the terms of a contract, as in a CBA, are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of their stipulations shall control.²³

Simply put, a CBA is the win-win result of collective bargaining whereby the Union and Management enter into a contract regarding the terms and conditions of employment.

Having outlined the general steps in collective bargaining, it then begs the question — where did the NBA and the NBPA go “wrong” in 2011?

V. NBA’S CBA PROPOSAL

The 2005 CBA between the NBA and the NBPA was set to expire on 30 June 2011.²⁴ Thus, the parties had to agree on a new CBA on or before the said date to prevent a stoppage of work — or the postponement of the regular season — in the NBA.

As early as 2010, the league sent the NBPA their first proposal to open negotiations for a new CBA.²⁵ While the exact details of the negotiations between both sides were confidential, several press releases and statements summarized the main points of contention as follows:

- (1) A drastic reduction of the players’ share in Basketball Related Income (BRI);²⁶
- (2) Hard Salary Cap v. Soft Salary Cap;²⁷ and
- (3) Length and Guarantee of Player’s Contracts.²⁸

23. *Goya, Inc. v. Goya, Inc. Employees Union-FFW*, 689 SCRA 1, 15-16 (2013) (citing *Honda Phils., Inc. v. Samahan ng Malayang Manggagawa sa Honda*, 460 SCRA 186, 190-91 (2005) & *TSPIC Corporation v. TSPIC Employees Union (FFW)*, 545 SCRA 215, 225 (2008)).

24. ESPN.com News Services, *supra* note 2.

25. Mike Prada, NBA Lockout Ends: A Comprehensive Timeline from Five Wild Months, *available at* <https://www.sbnation.com/nba/2011/11/28/2588568/nba-lockout-2011-timeline-david-stern> (last accessed Feb. 1, 2019).

26. Cork Gaines, DAVID STERN: The Owners and Players Are ‘Very Far Apart on Virtually All Issues,’ *available at* <https://www.businessinsider.com/the-nba-lockout-update-2011-10> (last accessed Feb. 1, 2019).

27. *Id.*

A. Basketball Related Income

In the 2011 NBA CBA, Basketball Related Income (BRI) is defined as

the aggregate operating revenues ... received or to be received for or with respect to such Salary Cap Year by the NBA, NBA Properties, Inc. ... NBA Media Ventures LLC, or any other entity which is controlled, or in which at least fifty percent (50%) of the issued and outstanding ownership interests are owned, by the NBA, Properties, Media Ventures, and/or a group of NBA Teams ... all NBA Teams other than Expansion Teams during their first two (2) Salary Cap Years ... from all sources, whether known or unknown, whether now in existence or created in the future, to the extent derived from, relating to, or arising directly or indirectly out of, the performance of Players in NBA basketball games or in NBA-related activities.²⁹

BRI includes, among others:

- (1) Regular Season and Playoff gate receipts;³⁰
- (2) Proceeds from the broadcast or exhibition of, or the sale, license, or other conveyance or exploitation of the right to broadcast or exhibit NBA Games;³¹
- (3) Proceeds from in-arena sales of novelties and concessions, NBA game parking and programs, Team sponsorships and promotions, arena club revenues, summer camps, non-NBA basketball tournaments, mascot, and dance team appearances;³² and
- (4) A percentage of the revenue from (1) sale of fixed arena signage; (2) sale, lease, or licensing of luxury suites; (3) arena and practice facility naming rights agreements.³³

In the 2005-2011 CBA, NBA Players were guaranteed a whopping 57% of all BRI.³⁴ This meant that more than half of all BRI received by the

28. *Id.*

29. NBA Collective Bargaining Agreement (2011 NBA-NBPA Collective Bargaining Agreement) art. VII, § 1 (a), available at <http://3c9osm37lsaecdwt32v9qof-wpengine.netdna-ssl.com/wp-content/uploads/2016/02/2011-NBA-NBPA-Collective-Bargaining-Agreement.pdf> (last accessed Feb. 1, 2019) (emphasis supplied).

30. *Id.* art. VII, § 1 (a) (i) & (iv).

31. *Id.* art. VII, § 1 (a) (ii).

32. *Id.* art. VII, § 1 (a) (v).

33. *Id.* art. VII, § 1 (a) (vi); (vii); & (viii).

teams would go into the players' salaries. Thus, when the league sent its proposal in 2011, it sought to drastically reduce this number to around 40%.³⁵ In no uncertain terms, and to no one's surprise, the players rejected this proposal.³⁶

B. Hard Salary Cap v. Soft Salary Cap

Another point of major contention between the parties was the kind of salary cap that would be implemented by the NBA. A *salary cap* is defined as "the maximum allowable Team Salary for each Team for a Salary Cap Year, subject to the rules and exceptions set forth in [the CBA]."³⁷ It is intended to "equalize" teams' spending on players' salaries to maintain a competitive balance in the league.³⁸ Theoretically, a salary cap should be able to prevent richer teams from spending significant amounts of money to acquire multiple star players simply because they can afford it.³⁹ Without a salary cap, teams that generate the most revenue would inevitably be able to afford more skillful (and therefore more expensive) players. In the minds of the owners and the league, the salary cap is put into place to retain competitive balance between teams. From a business perspective, it also limits team spending for players' salaries.

In its proposal, the NBA advocated for "hard salary cap" where teams are prohibited, in all instances, from exceeding the Salary Cap.⁴⁰ This was rejected by the players who, on the other hand, advocated for retaining the league's "soft salary cap" whereby teams are permitted to exceed the set salary cap under exceptional circumstances and subject to the payment of a

34. Gaines, *supra* note 26.

35. *Id.*

36. NBA, CBA Basics: Owners, players and the negotiations, *available at* <http://www.nba.com/news/labor-primer> (last accessed Feb. 1, 2019).

37. NBA Collective Bargaining Agreement, *supra* note 29, art. I, § 1 (hhh).

38. Kerry Miller, How NBA Free Agency, Salary Cap Work, *available at* <https://bleacherreport.com/articles/2787871-how-nba-free-agency-salary-cap-work?src=rss#slideo> (last accessed Feb. 1, 2019).

39. NBA Salary Cap FAQ, *available at* <http://www.cbafaq.com/salarycap.htm> (last accessed Feb. 1, 2019).

40. John Lombardo, Memo: NBA proposing \$45M hard cap, *available at* <https://www.sportsbusinessdaily.com/Journal/Issues/2011/05/16/Leagues-and-Governing-Bodies/NBA-memo.aspx> (last accessed Feb. 1, 2019).

“luxury tax.”⁴¹ Players advocate for a soft salary cap since this allows for higher salaries and more player flexibility.

BRI and the salary cap are directly related because the set salary cap is computed based on the projected BRI for the upcoming season.⁴² Thus, increased BRI projections results in a higher salary cap, and a higher salary cap results in higher individual salaries for the players.

C. Length and Guarantee of Players’ Contracts

Another point of contention between the two sides was the length of players’ contracts. The owners wanted to limit the duration of free-agents’ contracts to three years for players signing with new teams and four years for players re-signing with their current team.⁴³ In response, the NBPA argued that these should be extended to four and five years, respectively.⁴⁴

Moreover, the NBA sought to end the guaranteed contracts whereby the players enter into multi-year deals with their respective teams, who are in turn expected to honor those contracts regardless of a player’s health or performance.⁴⁵ The owners proposed, instead, for a system whereby players would only sign one-year deals, renewable at the end of every season.⁴⁶

The NBA’s initial proposal was rejected for being extremely lopsided in favor of the owners.⁴⁷

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41. NBA Salary Cap FAQ, *supra* note 39 & Andrew Brandt, What owners, players want in new CBA, *available at* <http://www.espn.com/nba/news/story?page=labor-110629> (last accessed Feb. 1, 2019).
 42. NBA Salary Cap FAQ, *supra* note 39.
 43. Gaines, *supra* note 26.
 44. *Id.*
 45. Derek Thompson, The NBA Lockout: Here’s What You Need to Know, *available at* <https://www.theatlantic.com/business/archive/2011/06/the-nba-lockout-heres-what-you-need-to-know/241251> (last accessed Feb. 1, 2019).
 46. See Howard Beck, *N.B.A. Players Rejecting a 50-50 Split of Revenue*, N.Y. TIMES, Oct. 5, 2011, *available at* <https://www.nytimes.com/2011/10/06/sports/basketball/nba-labor-talks-players-rejected-a-50-50-split-of-revenue.html> (last accessed Feb. 1, 2019). The NBA owners had initially sought the “elimination of guaranteed contracts.” *Id.*
 47. See Howard Beck, *Progress of Negotiations Is Hidden in Semantics*, N.Y. TIMES, Feb. 19, 2011, *available at* <https://www.nytimes.com/2011/02/20/sports/basketball/20stern.html> (last accessed Feb. 1, 2019).

In defense of their proposal, the NBA claimed that the league had been “[losing] more than US\$300 million a year and is pushing for a fundamental overhaul of the labor deal.”⁴⁸ Specifically, it argued that 22 of the 30 “small market” teams were losing about US\$370 million per season collectively.⁴⁹ In response, the players argued that these losses could be addressed by the league’s revenue sharing scheme whereby all the teams pool their annual revenue and redistribute it from high grossing teams to low grossing ones.⁵⁰ By this mechanism, each team will receive revenue equal to the salary cap that year.⁵¹ The players further argued that any losses experienced by the team were due to team management’s over-spending, overpayment of staff, or poor decisions on rosters and personnel.⁵² Not having played any role in the league’s or their respective teams’ losses, the NBPA argued that they should not, therefore, be made to face the consequences of the owners’ poor decisions.⁵³

VI. THE NBPA FILES A SUIT FOR UNFAIR LABOR PRACTICE

In the course of collective bargaining, the parties are fully expected to negotiate in good faith to arrive at a CBA.⁵⁴ Failing to do so is considered “bargaining in bad faith,” which is one of the forms of ULP.⁵⁵

In several cases, the Philippine Supreme Court ruled that there is no established definition or test to determine whether a party is bargaining in good faith as it is established on a case-to-case basis, thus —

48. *Id.*

49. Larry Coon, Is the NBA really losing money?, *available at* http://www.espn.com/nba/columns/story?columnist=coon_larry&page=NBA_Financials-110630 (last accessed Feb. 1, 2019) [hereinafter Coon, Losing Money].

50. Henry Abbott, Hunter: ‘Small number’ losing money, *available at* <http://www.espn.com/nba/news/story?id=6243850> (last accessed Feb. 1, 2019).

51. Trevir Nath, The NBA’s Business Model, *available at* <https://www.investopedia.com/articles/investing/070715/nbas-business-model.asp> (last accessed Feb. 1, 2019).

52. Coon, Losing Money, *supra* note 50.

53. *Id.*

54. LABOR CODE, art. 263.

55. *See* LABOR CODE, art. 259 (g); art. 260 (c); & *General Milling Corporation v. Court of Appeals*, 422 SCRA 514, 523 (2004).

It has been held that the crucial question whether or not a party has met his statutory duty to bargain in good faith typically turns on the facts of the individual case. There is no *per se* test of good faith in bargaining. Good faith or bad faith is an inference to be drawn from the facts. To some degree, the question of good faith may be a question of credibility. The effect of an employers or a unions actions individually is not the test of good-faith bargaining, but the impact of all such occasions or actions, considered as a whole, and the inferences fairly drawn therefrom collectively may offer a basis for the finding of the NLRC.⁵⁶

In any event, the Author posits that bargaining in good faith may be defined, by inference, as “[the party’s] willingness to discuss freely and fully the claims and demands set forth by [its counterparty].”⁵⁷

With several issues unresolved, the NBA and the NBPA continued their negotiations throughout the early part of 2011, to no avail.⁵⁸ In May 2011, the NBA sent the NBPA a second proposal which was, in essence, exactly the same as the earlier rejected proposal.⁵⁹ This was rejected by the Players.⁶⁰

Thus, in the same month of May 2011, the NBPA filed a Complaint for ULP with the National Labor Relations Board (NLRB).⁶¹ In essence, the NBPA accused the Owners of “bargaining in bad faith” and sought an injunction to prevent the NBA from declaring a lock-out upon the expiration of the 2005 CBA on 30 June 2011.⁶²

56. *Hongkong and Shanghai Banking Corporation Employees Union v. National Labor Relations Commission*, 281 SCRA 509, 518 (1997) (citing 48 AM. JUR. 2D *Labor and Labor Relations* §§ 1028, 828).

57. *Kiok Loy*, 141 SCRA at 186 (citing *Herald Delivery Carriers Union (Paflu) v. Herald Publication, Inc.*, 55 SCRA 713, 720 (1974)).

58. Prada, *supra* note 25.

59. Tom Ziller, *NBA Players’ Union Displeased with League’s Latest Offer*, available at <https://www.sbnation.com/nba/2011/5/4/2153021/nba-players-union-league-lockout/in/1383943> (last accessed Feb. 1, 2019).

60. *Id.*

61. Howard Beck, *Turning to Labor Board, N.B.A. Union Fires First*, N.Y. TIMES, May 24, 2011, available at <https://www.nytimes.com/2011/05/25/sports/basketball/players-accuse-nba-of-failing-to-bargain-in-good-faith.html> (last accessed Feb. 1, 2019).

62. Chris Sheridan, *Players union files claim against owners*, available at <http://www.espn.com/nba/news/story?id=6584220> (last accessed Feb. 1, 2019).

In their Complaint, the NBPA specifically accused the NBA of:

- (1) Making harsh, inflexible, and grossly regressive “takeaway” demands that the NBA knows are not acceptable to the Union;⁶³ and
- (2) “[E]ngaging in classic ‘take it or leave it’ and surface bargaining”⁶⁴ or “‘going through the motions of negotiating’ without any legal intent to reach an agreement.”⁶⁵

The NBPA alleged that the NBA’s intent was to run out the clock on the CBA, “until the NBA locks out the represented employees in order to coerce them into accepting the NBA’s harsh and regressive demands.”⁶⁶

Unfortunately, the NLRB never resolved the NBPA’s Complaint for ULP.⁶⁷

VII. THE NBA DECLARES A LOCKOUT

Without any resolution on the issues between the NBA and the NBPA, the parties found themselves in a “deadlock,” which is defined as

the counteraction of things producing entire stoppage; ... There is a deadlock when there is a complete blocking or stoppage resulting from the action of equal and opposed forces ... The word is synonymous with the word impasse, which ... ‘presupposes reasonable effort at good faith bargaining which, despite noble intentions, does not conclude in agreement between the parties.’⁶⁸

63. *Id.* This is otherwise known as Blue-Sky Bargaining, which is “unrealistic and unreasonable demands in negotiations by [a party] where neither concedes anything and demands the impossible. It actually is not collective bargaining at all.” *Standard Chartered Bank Employees Union (NUBE) v. Confesor*, 432 SCRA 308, 314 (2004) (citing HAROLD S. ROBERTS, *ROBERT’S DICTIONARY OF INDUSTRIAL RELATIONS* 51 (1971 rev. ed.)).

64. Sheridan, *supra* note 63.

65. *Standard Chartered Bank Employees Union*, 432 SCRA at 324 (citing *K-Mart Corp. v. N.L.R.B.*, 626 F.2d 704, 706 (9th Cir. 1980) (U.S.)).

66. Sheridan, *supra* note 63.

67. Sam Ivo Burum, *Yes, NBA Players Should Make More Money: How the NLRB can Change the Future of Collective Bargaining Agreements in Professional Sports*, 63 AM. U. L. REV. 845, 847-48 (2014).

68. *Tabangao Shell Refinery Employees Association v. Pilipinas Shell Petroleum Corporation*, 720 SCRA 631, 650 (2014) (citing *Capitol Medical Center*

A deadlock in collective bargaining is one of the grounds for the union to declare a strike or for the management to declare a lockout. The Philippine Labor Code defines strikes as “any temporary stoppage of work by the concerted action of employees as a result of an industrial or labor dispute,”⁶⁹ and lockouts as any temporary refusal of an employer to furnish work as a result of an industrial or labor dispute.⁷⁰

Strikes and lockouts are less than favorable situations where, in either case, there is a cessation of work or operations within the establishment, resulting in loss of income on both the parts of the employers and the employees.⁷¹

In view of the impasse in collective bargaining by the NBA and the NBPA on the date of the expiration of the existing 2005 CBA, the league declared a lockout effective 1 July 2011.⁷² As a result, teams were prohibited from signing, trading, and contacting players.⁷³ On the other hand, players were prohibited from using team facilities, including their respective coaches, trainers, and staff.⁷⁴

Alliance of Concerned Employees-Unified Filipino Service Workers v. Laguesma, 267 SCRA 503, 513-14 (1997)).

69. LABOR CODE, art. 219 (o).

70. *Id.* art. 219 (p).

71. *See* Luzon Marine Dept. Union v. Roldan, 86 Phil. 507, 513-14 (1950).

72. ESPN.com News Services, *supra* note 2.

73. John Lombardo, NBA sets player contact rules in case of lockout, *available at* <https://www.sportsbusinessdaily.com/Journal/Issues/2011/05/09/Leagues-and-Governing-Bodies/NBA-lockout.aspx?hl=NFL&sc=0> (last accessed Feb. 1, 2019) & Mike Wise, *BASKETBALL; It's Their Ball, and N.B.A. Owners Call for Lockout*, N.Y. TIMES, June 30, 1998, *available at* <https://www.nytimes.com/1998/06/30/sports/basketball-it-s-their-ball-and-nba-owners-call-for-lockout.html> (last accessed Feb. 1, 2019).

74. *Id.*

Meanwhile, the parties continued to negotiate in an attempt to save the 2011–2012 NBA Season.⁷⁵ However, by October 2011, the parties remained to be at a deadlock.⁷⁶ Thus, the league cancelled its official regular season games.⁷⁷

The lockout severely impacted the earning capacities of both the players and the league. On the part of the players, pursuant to the principle of “a fair day’s wage for a fair day’s labor,” they did not receive their salaries for the entire duration of the lockout.⁷⁸ Meanwhile, their contracts were considered “suspended” so they were free to sign contracts with other professional teams.⁷⁹

The lack of work in the NBA prompted several players to pursue other playing opportunities overseas.⁸⁰ Most popularly, NBA star point guard

75. Reuters, *TIMELINE - Key moments in NBA lockout*, available at <https://www.reuters.com/article/idINIndia-60186420111029> (last accessed Feb. 1, 2019).

76. Michael Lee, *NBA lockout: David Stern cancels first two weeks of regular season*, WASH. POST, Oct. 10, 2011, available at https://www.washingtonpost.com/sports/wizards/nba-lockout-david-stern-cancels-first-two-weeks-of-regular-season/2011/10/10/gIQA0loRbL_story.html?noredirect=on&utm_term=.2a57f345ac12 (last accessed Feb. 1, 2019).

77. *Id.* & Michael Lee, *NBA lockout: David Stern cancels games through November, says ‘there will not be a full NBA season’*, WASH. POST, Oct. 28, 2011, available at https://www.washingtonpost.com/sports/wizards/nba-lockout-david-stern-cancels-games-through-november-says-there-will-not-be-a-full-nba-season/2011/10/28/gIQA98aqQM_story.html?utm_term=.847f3a762be6 (last accessed Feb. 1, 2019).

78. ESPN.com News Services, *For NBA players, check’s not in the mail*, available at http://www.espn.com/nba/story/_/id/7238632/nba-lockout-average-player-loses-220000-paychecks-arrive (last accessed Feb. 1, 2019).

79. See Howard Beck, *Union Leaders Give Players Support to Play Overseas*, N.Y. TIMES, July. 13, 2011, available at <https://www.nytimes.com/2011/07/14/sports/basketball/union-leaders-give-players-support-to-play-overseas.html?mtrref=undefined&gwh=920459B341D39F3894B613E25D6F77FD&gwt=pay> (last accessed Feb. 1, 2019).

80. See Howard Beck, *A Lot of Talk, but Few Stars Have Left the Country to Play*, N.Y. TIMES, Oct. 12, 2011, available at <https://www.nytimes.com/2011/10/13/sports/basketball/nba-lockout-few-stars-join-foreign-teams.html> (last accessed Feb. 1, 2019).

Deron Williams signed a one-year contract with a Turkish professional basketball team.⁸¹ However, given the peculiar situation of the NBA at that point, Williams' contract included an escape clause which allowed him to terminate his contract with the Turkish team in the event that the NBA would declare the lockout to be over.⁸²

On the other hand, the NBA was projected to lose at least US\$700-US\$800 million in revenue for each month of lost games.⁸³ However, it appeared that this was a small price to pay as the league and the NBPA remained steadfast in their respective bargaining positions.⁸⁴

VIII. PLAYERS FILE ANTI-TRUST LAW SUITS

Anti-trust law suits are meant to protect persons from violating laws that are designed to protect trade and commerce from abusive practices such as price-fixing, restraints, price discrimination, and monopolization.⁸⁵ In professional sports, several athletes had succeeded in prosecuting anti-trust law suits against their respective leagues on the ground that the latter was preventing the former from earning a living and making a profit.⁸⁶

Several months had passed, and no resolution was arrived at between the NBA and the NBPA in their CBA Negotiation.⁸⁷ In anticipation that the

81. Howard Beck & Pete Thamel, *Nets Star Has Deal to Play in Turkey*, N.Y. TIMES, July 7, 2011, available at <https://www.nytimes.com/2011/07/08/sports/basketball/deron-williams-reaches-deal-to-play-in-turkey.html> (last accessed Feb. 1, 2019).

82. *Id.*

83. Katie Kindelan, *NBA Cancels First Two Weeks of Season*, available at <https://abcnews.go.com/blogs/headlines/2011/10/nba-cancels-first-two-weeks-of-season-over-contract> (last accessed Feb. 1, 2019).

84. See Reuters, *supra* note 76.

85. Antitrust Violations (Entry in *Wex*, A Free Legal Dictionary and Encyclopedia by the Cornell Law School Legal Information Institute), available at https://www.law.cornell.edu/wex/antitrust_violations (last accessed Feb. 1, 2019).

86. See Lawrence M. Kahn, *Sports, antitrust enforcement and collective bargaining*, 54 ANTITRUST BULL. 857, 870 (2009).

87. See Reuters, *supra* note 76.

players could file an anti-trust law suit against the league, the NBA filed an action for declaratory relief,⁸⁸ praying that:

- (1) the federal district court make a positive declaration that the league's lockout does not violate federal anti-trust laws;⁸⁹
- (2) the court support the potentially drastic salary reform should the union opt to dissolve its representative status; and
- (3) the federal court declare that the union's potential decertification would result in the voiding of all existing players' contracts because, it argues, without a union and a collective bargaining relationship, the terms and conditions of those previously negotiated contracts could no longer apply.⁹⁰

Again, the NBA's action for declaratory relief was not resolved.

By 15 November 2011, a majority of the NBA Players had missed their first pay checks and were perhaps beginning to feel the true effects of the lockout.⁹¹ Thus, the players sought to file anti-trust law suits against the NBA.⁹² However, one obstacle stood in their way — the NBPA.

The United States Supreme Court in *Brown v. Pro Football, Inc.*⁹³ ruled that a union wishing to pursue an anti-trust claim against management cannot escape the strictures of the non-statutory exemption until its labor dispute is “sufficiently distant in time and in circumstances from the collective-bargaining process.”⁹⁴ In American jurisdiction, this is known as the doctrine of non-statutory labor exemption which states that “any [term] of the collective bargaining agreement [is] immunized from attack under anti[-]trust law.”⁹⁵ The Court ruled that the exemption applies, even in the

88. Class Action Complaint for Declaratory Relief, National Basketball Association v. National Basketball Players Association, No. 11CV05369, 2011 WL 3274242 (S.D.N.Y. Aug. 2, 2011) (U.S.).

89. *Id.* at 1, ¶ 1.

90. *Id.* at 4, ¶ 12.

91. ESPN.com News Services, *supra* note 79.

92. Lester Munson, Legal decisions face NBA players, *available at* http://www.espn.in/nba/story/_/id/7239331/nba-players-lawyers-mulling-several-legal-decisions (last accessed Feb. 1, 2019).

93. *Brown v. Pro Football, Inc.*, 518 U.S. 231 (1996).

94. *Id.* at 250.

95. Gabriel A. Feldman, The Legal Issues Behind the NBA Players' Decertification Strategy, *available at* https://www.huffingtonpost.com/gabriel-a-feldman/the-legal-issues-behind-t_2_b_1081107.html (last accessed Feb. 1, 2019).

absence of a current collective bargaining agreement, as long as a bargaining relationship still exists since permitting affected employees to pursue anti-trust claims would “introduce instability and uncertainty into the collective-bargaining process.”⁹⁶

Thus, in order for the players to pursue their respective anti-trust law suits, they first had to dissolve the union and end any form of collective bargaining by any of the following means:

- (1) decertifying the NBPA or formally revoking the latter’s authority to engage in collective bargaining on their behalf;⁹⁷ or
- (2) opting to disclaim its interest or formally terminate its right to represent the players.⁹⁸

The NBPA opted for the latter disclaimer of interest, which was the simpler and quicker process.⁹⁹

Thus, following the NBPA’s disclaimer of interest, one group of NBA players (including Carmelo Anthony, Chauncey Billups, Kawhi Leonard, and Leon Powe) filed an anti-trust lawsuit against the NBA in a California federal court, while another (including Anthony Tolliver, Ben Gordon, Caron Butler, and Derrick Williams) filed their own suit against the NBA in

96. *Brown*, 518 U.S. at 242.

97. Feldman, *supra* note 96. This process would have been particularly tedious since it would require a 30% vote of the bargaining unit to file a Petition to Decertify with the NLRB, followed by a majority approval vote of all union members. If a union decertifies, it would have to wait for a twelve-month period before the NLRB would allow them to re-unionize. Nathaniel Grow, *Decertifying Players Unions: Lessons from the NFL and NBA Lockouts of 2011*, 15 VAND. J. ENT. & TECH. L. 473, 486 (2013).

98. *Id.* (citing National Labor Relations Board, Casehandling Manual, Part 2, Representation Proceedings, Memorandum OM 17-12 [OM 17-12], § 11120 (January 2017)).

99. Grow, *supra* note 98, at 486-87.

a Minnesota federal court.¹⁰⁰ On November 21, the California lawsuit was dropped in order to merge with the Minnesota lawsuit.¹⁰¹

In their anti-trust complaints, the players claimed that the lockout was an “illegal group boycott.”¹⁰² In doing so, the players sought “treble damages,” i.e., triple the amount they would have made in salaries and earnings in the full 2011–2012 season.¹⁰³ The players argued that the NBA was causing them “irreparable harm by preventing them from playing in their ‘very short’ NBA careers.”¹⁰⁴

IX. THE LOCKOUT IS OVER

With the threat of paying treble damages looming and the significant losses in income for all parties involved, they quietly resumed negotiations in November 2011.¹⁰⁵ On 26 November 2011, following a 14-hour long negotiating session, the parties announced that they had arrived at a tentative agreement that would end the lockout and cause the players to withdraw their anti-trust law suit.¹⁰⁶ Notably, the owners backed down on their “last

100. Michael Lee, NBA players file two antitrust suits against league, WASH. POST, Nov. 15, 2011, available at https://www.washingtonpost.com/sports/wizards/nba-players-file-two-antitrust-suits-against-league/2011/11/15/gIQARURhPN_story.html?utm_term=.680566f08c00 (last accessed Feb. 1, 2019).

101. Howard Beck, *N.B.A. Players Merge Lawsuits; No Hearing Date Set*, N.Y. TIMES, Nov. 21, 2011, available at <https://www.nytimes.com/2011/11/22/sports/basketball/nba-players-merge-lawsuits.html> (last accessed Feb. 1, 2019).

102. Sean Keeley, NBA Lockout: Players File Antitrust Complaint Against League, available at <https://www.sbnation.com/2011/11/15/2565191/nba-lockout-players-file-antitrust-complaint-league> (last accessed Feb. 1, 2019).

103. NBA.com’s Labor Central, Players file pair of antitrust lawsuits against NBA, available at <http://www.nba.com/2011/news/11/15/tuesday-labor.ap> (last accessed Feb. 1, 2019).

104. *Id.*

105. Howard Beck, *N.B.A. and Players Resume Negotiating, With Christmas Day in Their Sights*, N.Y. TIMES, Nov. 23, 2011, available at <https://www.nytimes.com/2011/11/24/sports/basketball/nba-and-players-resume-negotiating.html> (last accessed Feb. 1, 2019).

106. Michael Lee, NBA lockout: Owners, players reach tentative agreement to start season on Christmas, WASH. POST, Nov. 26, 2011, available at <https://www.washingtonpost.com/sports/wizards/owners-players-reach->

best offer” that they had held on to for several months, enabling the NBA to salvage at least a portion of the 2011-2012 season.¹⁰⁷

As a result of the successful negotiation, it was likewise announced that training camp would resume on 9 December 2011, with the NBA opening on Christmas day, 25 December 2011.¹⁰⁸ Each team would only play a total of sixty-six (66) instead of eighty-two (82) games that year.¹⁰⁹ The schedule likewise drastically changed as teams played 48 conference games and 18 non-conference games in the revised 66-game schedule.¹¹⁰ Teams played on average two more games per month and also played three consecutive games at least once in the season.¹¹¹ In total, the league had 42 sets of back-to-back-to-back games, with 11 teams playing two such sets.¹¹²

A. Basketball Related Income

In the new CBA, the NBPA and the NBA agreed to the following terms as regard the sharing of Basketball Related Income:

tentative-agreement-to-end-lockout/2011/11/26/gIQA8p6tzN_story.html?utm_term=.eea72753e124 (last accessed Feb. 1, 2019).

107. See Ariel Sandler, The NBA Has Presented Its Final Offer And Now The Players Will Decide If It's Worth Accepting, *available at* <https://www.businessinsider.com/nba-lockout-nba-david-stern-presented-final-offer-to-players-and-union-2011-11> (last accessed Feb. 1, 2019).

108. Ariel Sandler, NBA Players And Owners Reach A Tentative Agreement To End The Lockout, *available at* <https://www.businessinsider.com/nba-lockout-is-over-sides-have-agreed-to-a-settlement-2011-11> (last accessed Feb. 1, 2019).

109. Lee, *supra* note 107.

110. Tim Newcomb, How to Reschedule an Entire NBA Season, Post-Lockout, *available at* <http://newsfeed.time.com/2011/12/15/how-to-reschedule-an-entire-nba-season-post-lockout> (last accessed Feb. 1, 2019).

111. Howard Beck, *NBA Schedule a Cram Course for Teams*, N.Y. TIMES, Dec. 6, 2011, *available at* <https://www.nytimes.com/2011/12/07/sports/basketball/nba-schedule-a-cram-course-for-teams.html> (last accessed Feb. 1, 2019).

112. *Id.*

2005	Players receive 57% of BRI ¹¹³
2011	Player receive 51.15% of BRI in 2011-2012. ¹¹⁴ Players receive 49-51% of BRI in 2012 until the expiration of CBA. ¹¹⁵

The drop of the players' share in BRI to about 50% is considered a huge win for the NBA.¹¹⁶ To put things in perspective, in 2010-2011, the NBA's BRI was US\$3.8 billion.¹¹⁷ Thus, the difference or transfer from BRI of players to the owners pursuant to the 2011 CBA is about US\$270 million.¹¹⁸

B. Hard Salary Cap v. Soft Salary Cap

In the 2011 CBA, the players prevailed in retaining the soft salary cap¹¹⁹ whereby teams could spend above the set maximum budget for players' salaries, subject to the payment of a luxury tax.¹²⁰ Additionally, the NBA retained the several ways by which the luxury tax could be avoided or reduced.¹²¹

113. Gaines, *supra* note 26.

114. NBA Collective Bargaining Agreement, *supra* note 29, art. VII, § 12 (b) (3).

115. *Id.*

116. Patrick Rishe, NBA Owners Win Big with New Collective Bargaining Agreement, *available at* <https://www.forbes.com/sites/prishe/2011/11/28/nba-owners-win-big-with-new-collective-bargaining-agreement/#54e243926470> (last accessed Feb. 1, 2019).

117. *Id.*

118. *Id.*

119. The Associated Press, NBA lockout officially ends with approval of new collective bargaining agreement, *available at* https://www.oregonlive.com/blazers/index.ssf/2011/12/nba_lockout_official_ends_with.html (last accessed Feb. 1, 2019).

120. Larry Coon, Breaking down changes in new CBA, *available at* http://www.espn.com/nba/story/_/page/CBA-111128/how-new-nba-deal-compares-last-one (last accessed Feb. 1, 2019) [hereinafter Coon, Breaking Down Changes].

121. Larry Coon, NBA Salary Cap FAQ 2011 Collective Bargaining Agreement, *available at* <http://www.cbafaq.com/salarycap11.htm#Q25> (last accessed Feb. 1, 2019).

For instance, the 2011 CBA introduced the “stretch provision” whereby the player’s remaining salary and his cap hit may be stretched across twice the number of seasons remaining on the contract, plus one.¹²² This is illustrated by the following example.

Player X signed a one-year contract with Team Y for US\$12 million. As it turns out, Player X underperforms, and Team Y wishes to waive him or remove him from the roster.

- (1) Under the old CBA, Player X’s US\$12 million salary would still be part of the computation for Team Y’s salary cap, making the team less flexible in replacing Player X with another free agent.
- (2) With the new stretch provision, Team Y can opt to waive Player X, “stretch” his salary over the course of three (3) years [(1 year x 2) + 1], for US\$4 million per year. Thus, for the year that Player X was waived, Team Y’s cap is relieved of US\$8 million.

The players also managed to negotiate an increase in “salary floor” or the minimum that a team can spend on players’ contracts.

2005 CBA	Teams must spend at least 75% of the salary cap. ¹²³
2011 CBA	Teams must spend: <ol style="list-style-type: none"> (1) at least 85% of the cap in 2011-2012 and 2012-2013; and (2) at least 90% of the cap in later years of the agreement.¹²⁴

Despite the fact that the league retained the soft salary cap, the NBA also took away some wins in this regard. Specifically, the 2011 CBA significantly increased rate of luxury tax per year accordingly:¹²⁵

122. NBA, CBA 101 (Highlights of the 2011 CBA Prepared by the NBA), available at <https://www.nba.com/media/CBA101.pdf> (last accessed Feb. 1, 2019) & Coon, Breaking Down Changes, *supra* note 121.

123. *Id.*

124. NBA Collective Bargaining Agreement, *supra* note 29, art. VII, § 2 (b) (1).

125. Rishe, *supra* note 117.

2005 CBA	Teams paid US\$1 for every US\$1 their salary was above the luxury-tax threshold. ¹²⁶
2011 CBA	<p>Teams pay US\$1 for every US\$1 their salary is above the luxury-tax threshold in 2011-2012 and 2012-2013.¹²⁷</p> <p>Effective with the 2013-2014 season, teams pay an incremental tax that increases with every US\$5 million above the tax threshold (US\$1.50, US\$1.75, US\$2.50, US\$3.25, etc.).¹²⁸</p> <p>Teams that are repeat offenders (paying tax at least four out of the past five seasons) have a tax that is higher still — US\$1 more at each increment (US\$2.50, US\$2.75, US\$3.50, US\$4.25, etc.).¹²⁹</p>

With the foregoing luxury tax structure, teams are more incentivized to keep their salaries within the cap to avoid paying stiff penalties and repeater tax.¹³⁰

C. Length of Player Contracts

On the issue of the length of player contracts, the owners were able to negotiate shorter contract periods. However, in recent years, short contracts have proven to be more of a challenge than an advantage for team owners. For instance, one-year deals have been utilized by players (most popularly, NBA superstar LeBron James) to choose a new team every year. Instead of the teams being given more security by not having to hold on to players it no longer wanted, it resulted in teams losing players they would much rather have kept.

126. Coon, *Breaking Down Changes*, *supra* note 121.

127. *Id.*

128. *Id.*

129. *Id.*

130. *See* Rishe, *supra* note 117.

2005	<p>Six years for Bird free agents; five years for other players.¹³¹</p> <p>Players coming off their rookie scale contracts can extend for five additional seasons.¹³²</p> <p>All other veterans can extend for five total seasons, which includes the seasons remaining on their current contracts.¹³³</p>
2011	<p>Five years for Bird free agents; four years for other players (including all sign-and-trade transactions).¹³⁴</p> <p>Players coming off their rookie scale contracts can extend for four additional seasons, although the team can designate one player who is eligible for five seasons at the maximum salary.¹³⁵</p> <p>All other veterans can extend for four total seasons, which includes the seasons remaining on their current contract.¹³⁶</p> <p>The extension in an extend-and-trade contract is limited to three total seasons, which includes the seasons remaining on the current contract.¹³⁷</p>

On this issue, again, the league prevailed in shortening the duration of players' contracts.¹³⁸ However, the players retained their guaranteed contracts and continued to be ensured of salaries and jobs for multiple seasons, regardless of their performance or health.¹³⁹

X. CONCLUSION

In all instances, a CBA is essentially a compromise between the parties. In the 2011 NBA CBA, there was no clear winner since both parties had to make significant concessions as such, it appears that the NBA Lockout resulted in a win-win (or a lose-lose) situation between the NBA and the

131. Coon, *Breaking Down Changes*, *supra* note 121.

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

136. *Id.*

137. Coon, *Breaking Down Changes*, *supra* note 121.

138. *Id.*

139. NBA Collective Bargaining Agreement, *supra* note 29, art. II, § 4 (a)-(e).

NBPA. Unfortunately, by the time all issues were resolved and the bargaining impasse had ceased, both sides had already lost millions of dollars in unearned revenue and, arguably more importantly, precious time spent preparing for and playing NBA games. Worse, the quality of play during the compressed season was compromised, considering that teams were made to play three games on three consecutive nights, plus travel, to accommodate the new schedule.

In any event, it appears that both sides have learned their respective lessons in collective bargaining. In October 2017, all was well for NBA fans since the league opened as scheduled.¹⁴⁰ Unbeknownst to many, the NBA and the NBPA peacefully and quietly entered into a new CBA covering the period until the 2023-2024 NBA Season, thereby avoiding a lockout, at least for the next seven years.¹⁴¹

140. See Fox Sports staff writers, NBA opening night wrap: LeBron James' masterclass in emotional win, Hayward suffers horror injury, Rockets stun Warriors, *available at* <https://www.foxsports.com.au/basketball/nba/nba-opening-night-live-boston-celtics-v-cleveland-cavaliers-houston-rockets-v-golden-state-warriors/news-story/c033bd98c15616a53a43ef134c61d7d9> (last accessed Feb. 1, 2019).

141. Ian Begley, NBA players, owners have ratified new CBA, league says, *available at* http://tv5.espn.com/nba/story/_/id/18341379/nba-labor-deal-ratified-contract-good-2024 (last accessed Feb. 1, 2019).