

AN EMPLOYER'S GUIDE TO THE BASEBALL LOCKOUT: ANSWERING YOUR QUESTIONS ABOUT THE FIRST MLB WORK STOPPAGE IN ALMOST 30 YEARS

Insights
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For the first time since the 1994-1995 seasons, Major League Baseball has entered a work stoppage – and you have questions. What led to this point? What is a lockout versus a strike? What are the two sides fighting over? And most importantly: can we look forward to the annual joy of spring training or are games in danger of getting canceled? The Fisher Phillips Labor Relations Practice Group and our Sports Team have joined together to answer your pressing questions.

What Happened?

The Collective Bargaining Agreement (CBA) between the MLB and the MLB Players Association, which governed the sport since the 2017 season, expired without a new deal in place as of 11:59 pm am Eastern on Wednesday, December 1. Following the expiration of the CBA, the MLB owners voted in favor of a lockout — ceasing all business until a new deal is reached. Winter is truly coming, with the promise that the annual rite of spring – baseball in Florida and Arizona – could be impacted.

What is a Lockout?

MLB Commissioner Rob Manfred characterized this move as a “defensive lockout,” which likely means that the league feared a strike by the Players Association and decided to act quickly to prevent that from happening. A lockout and a strike differ in some materials respects. At their core, the primary difference between a lockout and a strike is the initiating party. While both inevitably result in work

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stoppages, a lockout is a shutdown of the workplace initiated by the employer, while a strike is the withholding of services/labor by the workforce.

The term “strike” is actually defined in federal labor law as a concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Both actions serve as weapons, or bargaining leverage, for their respective proponents. Just as a strike can be a potent economic weapon for a union an employer, a lockout is an employer’s legitimate economic weapon as well. Here, MLB opted to utilize this leverage before the Players Association resorted to a strike (or so MLB feared, it seems).

What is the Immediate Impact of the Lockout?

While spring training is not set to begin for several months, the lockout still has important ramifications. Freezing all business means players are not allowed inside club facilities. It also means that no trades can occur, and teams cannot talk to free agents, let alone sign them.

Even MLB’s website has changed – [a note posted to MLB.com](#) reads, in part “Until a new agreement is reached, there will be limitations on the type of content we display. As a result, you will see a lot more content that focuses on the game’s rich history.” Indeed, because of legal restrictions involving the league’s ability to use the likenesses of current players, the website also created [shadow silhouettes in place of players’ faces](#) – a situation that [many current players have poked fun at](#) by similarly altering their own twitter profile pictures.

What is in Dispute?

In a [letter to fans](#), Commissioner Manfred endeavored to explain “how we got here and why we have to take this action.” Commissioner Manfred referred to the lockout as a “defensive action” and the best mechanism to protect the MLB. Specifically, he stated:

This defensive lockout was necessary because the Players Association’s vision for Major League Baseball would threaten the ability of most teams to be competitive. It’s simply not a viable option. From the beginning, the MLBPA

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has been unwilling to move from their starting position, compromise, or collaborate on solutions.

The Players Association, in turn, released its own statement. They challenged Commissioner Manfred's assertion that the lockout is necessary. Per the Players' Association, the lockout is a "dramatic measure... not required by law or for any other reason. It was the owner's choice... specifically calculated to pressure Players into relinquishing rights and benefits, and abandoning good faith bargaining proposals that will benefit not just Players, but the game and industry as a whole."

MLB and the Players Association have their disagreements on several fronts. Players have wanted a series of improvements, including:

- rewarding young players with higher compensation much sooner in their careers;
- allowing players to reach free agency sooner;
- raising luxury tax thresholds from \$210 million to \$245 million; and
- increasing competition in the league through changes to the amateur draft (among other proposals).

MLB has offered up a smaller luxury tax threshold increase (starting with \$214 million), making free agency based on age, expanding the playoffs from 10 to 14 teams, and others.

What's Next?

These gaps will need to be bridged before there is any hope of a 2022 season. Most believe that three outcomes are most likely:

- The lockout move will spur an immediate acceleration in bargaining, leading to an agreement in the coming weeks or by the turn of the new year.
- The lockout will drag on into 2022, but the parties will recognize that too much money (and reputational damage) is at stake and will reach an agreement in mid-February – with enough time to launch spring training games in March as currently planned.

- Neither side will blink and the lockout will lead to the cancellation of some spring training activities and games – and by that point, it’s possible that regular season play in early April is interrupted.

Our Prediction

There have been three lockouts and five strikes throughout the course of MLB history. Those hoping to see a swift return to the business of baseball should prefer the fact that this work stoppage was triggered by a lockout and not a strike. Why, you should ask?

- The five strikes in MLB history have led to more than 1700 canceled games combined.
- The three lockouts, on the other hand, have led to zero.

We predict that, similarly to the way the two sides traded public barbs but got a deal done to salvage a pandemic-ravaged season in 2020, we’ll see the two sides forge a compromise by the end of February. While we might see the spring training season shortened by a matter of weeks, we have confidence that an umpire in Pittsburgh will call “play ball!” to start the regular season on time for the season’s opening game between the Cardinals and Pirates at 1:05 PM Eastern on Thursday, March 31.

Conclusion

We will continue to monitor developments and related questions that arise. Make sure you are subscribed to [Fisher Phillips’ alert system](#) to get the most up-to-date information. Any questions may be directed to your Fisher Phillips attorney, the authors of this Insight, any attorney in our [Labor Relations Practice Group](#), or any attorney on our [Sports Team](#).