

Insights, News & Events

LAST EXIT TO COOPERSTOWN: AN EMPLOYER'S GUIDE TO BASEBALL'S LATEST WORKPLACE STRIFE

Insights
Sep 12, 2022

Fall baseball provides a few guarantees for fans, as playoff races, assaults on historical records, and jockeying for draft position typically imbue the last month of the season with an air of certain uncertainty. This year, however, it seems that there is more doubt in the baseball world — and it has nothing to do with the surprising Baltimore Orioles. In recent weeks, Major League Baseball (MLB) has been hit with labor relations developments which have come at them faster than a Jordan Hicks fastball: from the Players Association joining the AFL-CIO, to the unionization efforts of their minor league counterparts, to a \$185 million settlement in contentious FLSA litigation, baseball as we know it is in for some major changes. What do employers need to know about these developments?

AFL-CIO and Major League Players Team Up

News broke last week that the Major League Baseball Players Association (MLBPA), the union representing the league's players, had joined the ranks of the AFL-CIO, adding their numbers to its more than **12.5** million worker roster. While the MLBPA **traditionally outsources its legal issues to outside law firms**, joining the AFL-CIO places major league ballplayers in concert with workers from all walks of life, from the Actors Equity Association to the International Association of Machinists and Aerospace Workers.

The move to the AFL-CIO also protects the MLBPA from other unions which may try to organize minor league baseball (more on that below). Overall, partnering with the AFL-CIO provides MLBPA with some increased clout at the

Related People



Joshua D. Nadreau

Regional Managing Partner
and Vice Chair, Labor
Relations Group

617.722.0044

Service Focus

Labor Relations

Wage and Hour

Industry Focus

Sports

labor table and is the sort of move that would make former union executive director Marvin Miller proud.

The move to join the nation's largest labor organization comes at the heels of [a baseball lockout that largely preserved the status quo through to the next Collective Bargaining Agreement](#). While players received concessions toward increased pay, increased incentive to stop service time manipulation, rules against tanking, and pre-arbitration bonuses, neither side reached an agreement on a salary cap. Moreover, the owners were able to expand the revenue-producing postseason and usher in an era of the universal DH and — maybe a bit too late for Chris Davis — [a ban on the shift](#).

While both sides will likely be open to small, competition-driven rule changes over the next few years (think pitch clock, larger bases), expect to see serious conversations regarding spending floors, linking player salaries to revenues, and a more structured framework placed around the international draft. And this could lead to another labor battle – stay tuned after the 2026 season for what's sure to be another contentious round of negotiations.

Minor League Unionization Efforts Heat Up

Doubly problematic for Major League Baseball is the continued progress of Minor League Baseball's (MiLB) players toward unionization. Most recently, we saw an announcement from the MLBPA that claimed the union had signed authorization cards from [more than half of minor leaguers supported unionization](#).

This has the likelihood to impact baseball far more than the AFL-CIO news and in a far more profound way. With more than 50% of minor leagues supporting a union, the minor leaguers have asked MLB to *voluntarily* recognize their union.

Unionization will likely not cure all the issues minor leaguers have raised in the past, from lower salaries than their major league counterparts to the uncertainty that comes with being a minor leaguer. However, a minor league union working with the support of the MLBPA — and, by proxy, the support of the AFL-CIO — would be a formidable negotiation foe. It remains to be seen how baseball owners will respond at the bargaining table with the minor leaguers.

Just last week, news broke that MLB would agree to voluntarily recognize the MLBPA as the minor leaguer's collective bargaining representative. Under the *Joy Silk* doctrine, an employer presented with a union's demand for recognition must show a good faith basis for rejecting the demand or face a bargaining order — *without* a secret ballot election. Though two Supreme Court cases rejected this doctrine more than 50 years ago, NLRB General Counsel Jennifer Abruzzo [has proclaimed her desire to reinstate it for employers across the country.](#)

Wage and Hour Settlement Finalized

Hand-in-glove with MiLB unionization efforts is MLB's \$185 million settlement for alleged lost wages and overtime arising out of claims for time spent in extended spring training, spring training, and instructional leagues in the Florida and Arizona complex leagues. While the individual payout may ultimately be small (there are thousands of qualified individuals who participated in spring training during the years covered in the settlement) the message sent is quite clear: the status quo is creating more liability than a shaky reliever with the bases loaded.

What Does This All Mean?

It would appear the "Hot Labor Summer" may continue through the early fall. Unionization efforts across the service industry, increased power to college athletes via NIL deals, and now baseball: a common thread throughout is an increased interest in labor unions. Baseball may be the next frontier of the labor movement, but it is likely not the last.

Minor leaguers may very well unionize, but it could come at the cost of the number of affiliated minor league teams decreasing in the face of increased operating costs. The MLBPA may further try to negotiate better deals for its players or end the practice of prized talents staying in the minors for an additional five weeks to "work on defense." It seems that, as per usual, the only constant a baseball fan has is the All-Star Game and Bobby Bonilla continuing to cash checks.

Make sure you are subscribed to [Fisher Phillips' Insight 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 Industry Team.