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Major League Baseball has enjoyed a historic run of labor peace since 1995—a 25-year stretch that is at risk this December. Shortly after the landmark decision of Silverman II, MLB players ended their strike and began playing the 1995 season. Much of today's labor struggles can be traced back to this case: from good-faith bargaining to the players' third-rail approach to a salary cap and outstanding flaws in free agency and salary arbitration. As a baseball fan, I tried to paint the picture of a disconnect between strategies of resolving these labor and economic issues and the game's historical identity as "America's Pastime" — https://anchor.fm/conor-furey/episodes/Furey_Silverman-II-1995-ent72m

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Name: *Silverman v. Major League Baseball Player Relations Committee*, 880 F. Supp. 246 (S.D.N.Y. 1995)

Issue: In the action for unfair labor practices between owners and players of Major League Baseball, was injunctive relief for petitioner NLRB "just and proper" under the circumstances?

Rule(s):

- ***National Labor Relations Act of 1935, §8(a)(1) and (5)***: Makes it an unfair labor practice for an employer "to interfere with, restrain, or coerce employees in the exercise of the rights" and "makes it illegal for an employer to refuse to bargain in good faith about wages, hours, and other conditions of employment with the representative selected by a majority of the employees in a unit appropriate for collective bargaining."
- ***Mackey v. NFL,* 543 F.2d 606 (8th Circuit 1976)**: Held terms and conditions to be treated as mandatory subjects because the Rozelle Rule (required a team signing a free agent to compensate that player's former team) "operated to restrict a player's ability to move from one team to another and depresses player salaries."
- ***Wood v. National Basketball Association,* 809 F.2d 954 (2nd Circuit 1987)**: Ruled that the collective-bargaining agreement between players and owners "is a unique bundle of compromises" and that matters such as salary caps, minimum salaries, fringe benefits, and guaranteed revenue-sharing were mandatory subjects of bargaining because "each of them is intimately related to 'wages, hours, and other terms and conditions of employment.'"
- ***New York Typographical Union No. 6 v. Printers League Section of the Association of the Graphic Arts,* 919 F.2d 3 (2nd Circuit 1990)**: Established that "interest arbitration" deals with "disputes over terms of new or renewal contracts."

Analysis:

The court ruled that baseball club owners are bound to the mandatory terms and conditions of existing collective-bargaining agreements, such as issues related to the reserve/free-agency system and salary arbitration, until new terms are negotiated in good faith to an impasse. Although the issue here is not directly tied to wages and salaries, it is directly related

to the collective-bargaining process. Per *Wood* these ruled as mandatory, not permissive, subjects of collective bargaining under the National Labor Relations Act.

The PRC argues that matters related to the reserve/free-agency system should be permissive because if mandatory, the owners would be forced to give up their statutory right to bargain collectively. The owners, however, fail to understand that the right to bargain collectively belongs to employees, not employers. The only reciprocal right the National Labor Relations Act imposes on employers and employees is that they bargain with each other in good faith. Additionally, in order to form a multi-employer bargaining unit such as the PRC, the unit must obtain consent from the NLRB and the union. Maintaining the reserve/free-agency systems between collective-bargaining agreements does not alter the rights of the owners to have the PRC represent them for negotiating future agreements. Likewise, in *Mackey*, an employer has an obligation to bargain and the union is entitled to demand bargaining for subjects that restrict player movement and salary.

Here, the salary-arbitration clause is not a traditional interest-arbitration clause like the case of *New York Typographical Union*. The salary arbitrator is not creating new future contractual obligations. Rather, by the time the parties reach salary arbitration, they have already agreed to the terms of the Uniform Player's Contract, and the arbitrator just fills in the salary.

The court found that salary arbitration and free agency are both "inextricably intertwined" as terms of employment and therefore as mandatory subjects. Employers committed unfair labor practice by unilaterally amending provisions regarding both. Court seemed to recognize that one key value requiring immediate legal action was the public's interest in more productive and peaceful collective bargaining in baseball.

Conclusion:

- Yes, the court finds reasonable cause to support the conclusion that injunctive relief shall be ruled "just and proper." The unfair labor practice of unilaterally eliminating of free agency and salary arbitration prior to an impasse in negotiations both meets the duty of irreparable harm to professional athletes and their careers and violates the duty to bargain in good faith.