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Minor leaguers' salary lawsuit poses major problems for baseball

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Just in time for spring training, baseball litigation seems to be on the upswing. Exhibit A is the suit filed by three ex-farmhands on Feb. 7 in San Francisco federal court alleging Major League Baseball, three of its teams and the commissioner "have preyed upon minor leaguers, who are powerless to combat the collusive power of the MLB cartel."

These former low-level players are claiming baseball pays minor leaguers less than minimum wage in violation of federal and state law. MLB's roots may date to the 19th century, according to the plaintiffs' complaint, but "its wage and labor practices remain stuck there."

This new putative class-action complaint will barely have to survive baseball's inevitable motion to dismiss to prove more durable than many other recent actions that reached the courthouse only for a proverbial cup of coffee.

Consider former Cardinals first baseman Albert Pujols' lawsuit, for example. He had barely filed his defamation claim against former Cardinals first baseman Jack Clark, who had accused him of juicing, before dropping it.

Likewise, A-Rod quickly withdrew his federal suit against both Major League Baseball, which suspended him 162 games for juicing, and the MLB Players Association, which allegedly provided him with inadequate and "perfunctory" representation.

Meanwhile, Cubs shortstop Starlin Castro recently had \$3.6 million in his bank accounts frozen based on a contract his father signed when he was but 16, allegedly pledging some future earnings to a Dominican baseball academy. Castro claims the contract is illegal and has responded with his own action seeking millions more against the agent who counseled his father.

Interestingly, Castro's court papers blame his disappointing 2013 season on this whole dispute. Cubs fans can now add the Dominican Republic's judicial system to the long list of enduring Cubs scapegoats, including the black cat who infamously circled Ron Santo during that 1969 Mets series, Steve Bartman and Bill Sianis' billy goat, of course.

Back to the newly filed class action. Aaron Senne, Michael Liberto and Oliver Odle, former minor leaguers with the Miami Marlins, Kansas City Royals and San Francisco Giants organizations, respectively, reference some of baseball's controversial history in pleading their case. MLB's near century-old antitrust exemption, its notorious "reserve clause" and another former player's 1997 testimony before Congress comparing minor league service to "the indentured servitude of the 1700s" flavor their heavily footnoted complaint.

Unlike major leaguers, whose collective bargaining agreement produced an “explosion in salaries” and a current minimum of \$500,000 per season, the complaint notes how minor leaguers enjoy no union rights, “even though they comprise the overwhelming majority of baseball players employed by the defendants.” While inflation has risen more than 400 percent since 1976 and major league salaries skyrocketed more than 2,000 percent during this time, Mssrs. Senne, Liberto and Odle allege minor league salaries increased an average of only 75 percent.

Overpayments may abound in the 2014 big leagues (e.g. Adam Dunn’s \$15 million or Edwin Jackson’s \$11 million), but MLB’s allegedly exploitative methods suppress wages at the minor league level.

In monetary terms, the plaintiffs allege that most of the 6,000 minor leaguers gross only \$3,000 to \$7,500 over the five-month season with no overtime while working 50 to 70 hours per week. During spring training, instructional leagues and winter ball, minor leaguers allegedly receive no compensation under MLB rules.

Perhaps it’s no wonder Cubs first baseman Anthony Rizzo recently remarked, “There’s no reason to ever take your time in the minor leagues. It’s the worst.”

Salaries as recommended by MLB range from \$1,100/month for rookie league players to \$2,150/month for Class AAA, the highest minor league level, according to the plaintiffs. Baseball franchises generally follow these guidelines and permit no negotiations. The 2013 Miami Marlins Minor League Player Guide is quoted: “This salary structure will be strictly adhered to; therefore, once a salary figure has been established and sent to you, there will be NO negotiations.”

The complaint sets out the players’ woes against MLB’s riches. MLB 2012 revenue reportedly reached \$7.5 billion and is projected to hit \$9 billion in 2014. The game is broadcast in 233 countries and territories and heard in 17 different languages.

Despite MLB’s vast resources, it purportedly gets away with paying the majority of its ballplayers, the minor leaguers, well below minimum wage. Plaintiffs make the case that MLB also exploits its antitrust exemption to mandate a uniform, non-negotiable player contract for minor league players while limiting signing bonuses.

Franchises’ exclusive means of acquiring minor league talent, through baseball’s amateur draft or free agency, also receives a critical look through the lens of the complaint.

The drafting team receives exclusive rights to a player, who is unable to bargain with other teams under MLB rules and often lacks an agent or other financial adviser. College players are not permitted by NCAA policies to use agents or attorneys during contract negotiations.

Sounding an ethnic note, the plaintiffs charge more 40 percent of minor leaguers are Latin American, and free agency is used to sign them as early as age 16. Most of them “come from poor families and have only the equivalent of an eighth-grade education.” These Latinos are often represented only by “buscones,” usually former players with training facilities.

The complaint notes certain team scouts were recently reprimanded or investigated by the FBI for participating in kickback schemes with the buscones.

It is no revelation that minor leaguers enjoy little mobility. Yet, it does appear inequitable that MLB’s uniform contract grants their signing teams exclusive rights for seven years during which they cannot play for another team, even outside of MLB, and cannot even retire without the commissioner’s approval. The teams, meanwhile, are free to assign their rights to any other team or to terminate the contract at any time.

The plaintiffs’ 20-count complaint seeks to recover unpaid minimum and overtime wages for various proposed classes of minor leaguers, statutory damages for record-keeping violations and injunctive relief against baseball’s allegedly unlawful practices, among other relief.

Baseball should be expected to play hard-nosed defense to this action, which threatens to undo the prevailing order of the national pastime, but the minor leaguers' serious and well-researched action looks to have staying power. Even if certain claims are fielded easily and the swing these players are taking at the game produces only a ground rule double, the minor league system could still receive a sweeping overhaul.

The case is *Senne v. Office of the Commissioner of Baseball*, No. 14-cv-0608 (N.D.Calif).

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