

## The football lockout of 2011

*After a 136-day lockout, the longest work stoppage in NFL history, the union and league finally reached an agreement that financially satisfied all parties, improved player health and safety, and avoided loss of any 2011's games*

Paul D. Staudohar

The National Football League (NFL) is the most successful sports league ever. It generated about \$9.3 billion in revenue in 2010, by far, eclipsing other leagues. Although the profits that team owners made are not available, no team loses money and most have enviable profit margins.<sup>1</sup> Therefore, the collective bargaining dispute that led to the 136-day lockout in 2011<sup>2</sup> was not the result of owners' *inability* to pay, as it was in the recent National Hockey League (NHL) and National Basketball Association (NBA) lockouts, but rather was due to the owners' *unwillingness* to pay. In the end, NFL owners were able to get the players to accept a smaller share of revenue. Except for the cancellation of the Hall of Fame exhibition game in Canton, Ohio, no other loss of the 2011 season occurred.

The average net worth in 2010 of the NFL's 31 private majority owners (only the Green Bay Packers are publicly owned) was \$1.4 billion, and the average player salary was \$1.9 million.<sup>3</sup> Billionaires versus millionaires during a period of high national unemployment irritated many fans who have to pay high ticket prices for games, yet whose wages are only a small fraction of the profits and salaries that owners and players earned.

The NFL's previous contract with the

NFL Players Association (NFLPA) was reached in 2006 and was scheduled to run until February 2013. However, the agreement contained an opt-out clause, which the owners voted to exercise in 2008, to be effective at the end of the 2010 season. Under the old contract, players received about 59 percent of a designated revenue pool. Initially, the owners were pleased with the deal, which was negotiated during a period of national economic prosperity and generous public funding for stadium construction. But with the economic decline of the Great Recession, December 2007 to June 2009, and accompanying decrease in government largesse to sports, the owners wanted to reduce the players' share. In addition, fans were resisting higher ticket costs. Average attendance in the league declined 4 percent in 2008 and 2009, with tickets averaging about \$75 in 2009.<sup>4</sup>

### Background

The NFLPA was formed in 1956. A year later, the U.S. Supreme Court found professional football to be subject to the antitrust laws.<sup>5</sup> This ruling prompted the union to threaten the owners with an antitrust suit. Not wanting to risk an adverse judgment, the owners agreed to a \$5,000 minimum salary and a healthcare plan, followed by a pension plan in 1959.

In one of the first work stoppages in professional sports, NFL players boycotted train-

Paul D. Staudohar is professor emeritus of business administration at California State University, East Bay, and a member of the National Academy of Arbitrators.

ing camps in 1968 over pension issues and the owners retaliated with a lockout.<sup>6</sup> After 10 days, players and owners compromised. Another strike and lockout occurred in 1970 for 20 days at training camps. In 1974, with a full slate of issues at stake, players struck training camps for 42 days in an acrimonious dispute. The big issue was free agency, which the players failed to achieve.

Edward Garvey, a Wisconsin attorney, who had become the full-time executive director of the NFLPA in 1971, led the 1974 strike. Garvey adopted an adversarial stance toward the league, and for years, the parties' relationship was based on conflict rather than cooperation. Garvey resigned in 1983 and was succeeded by Gene Upshaw, a former Hall of Fame offensive lineman for the Oakland Raiders, who handled negotiations for the first time in 1987.

On the management side was Alvin "Pete" Rozelle, the NFL commissioner since 1960. Rozelle was largely responsible for making the league profitable. He convinced clubs in big cities, such as New York and Chicago, to share revenues with teams in smaller markets, thus ensuring competitive balance between teams. Despite his successes, Rozelle was unable to achieve peace with the union. In 1989, Paul Tagliabue, a lawyer and former Georgetown basketball player, succeeded Rozelle.

Tagliabue and Upshaw were eventually able to achieve a working harmony in the ground-breaking 1993 agreement. However, several years of conflict stemming from the 1982 and 1987 strikes preceded that agreement.

The 1982 negotiations focused on the union's demand for 55 percent of gross revenues. Although the union achieved a modest guaranteed compensation package, the owners clearly prevailed in this 57-day strike, which wiped out half the season.<sup>7</sup>

Frustrated over the lack of progress in gaining freedom in the labor market, players struck again in 1987.<sup>8</sup> Although this strike was shorter than the strike in 1982, lasting only 24 days, the union suffered an even bigger defeat. The issues disputed were free agency and a long list of other economic issues, such as minimum salaries, severance pay, and healthcare. Relations between the parties were hostile and featured a lack of trust. The owners were more prepared for the strike than the players, whose lines of communication among themselves and with the union were limited. Teams signed replacement players for \$1,000 so that games could go on in the face of the strike. Union solidarity crumbled

as veteran players crossed picket lines.

Apart from the one-sided outcome in favor of the owners, the union lost its dues check-off arrangement when the contract expired on August 31, 1987. Disgruntled players stopped paying dues, and the union lost much of its financial viability. The union filed an antitrust suit on October 15, 1987, in federal district court, challenging the college draft, restraints on free agency, and other practices that allegedly restrain competition in the football labor market. To have a better chance to prevail in this litigation,<sup>9</sup> the union decertified itself as the players' representative.

The legal foundation for decertification is the "nonstatutory labor exemption." This phrase means that as long as the NFL and NFLPA have a bargaining relationship, the union is unable to pursue an antitrust action against the league.<sup>10</sup> Decertification as player representative casts the union into the role of a trade association, which cannot come to an agreement with the league on matters pertaining to players' interests. With the shift in labor relations to the courts, several years passed with no collective bargaining.

Sensing their vulnerability on antitrust grounds, the owners implemented "Plan B" in 1989, which somewhat liberalized opportunities for players to change teams. However, a U.S. District Court jury in Minneapolis in September 1992 ruled that Plan B violated antitrust law.<sup>11</sup> As a result, in January 1993, after a 5-year hiatus, the NFL and reconstituted NFLPA reached a new collective bargaining agreement. Key features of this 7-year deal provided a quid pro quo on two issues: (1) free agency for players after 4 years and (2) a salary cap limiting team spending.

Up to the 2011 lockout, player salaries grew in accordance with the players exercising free agency, and the level of the salary cap increased each year to keep team payrolls within limits. The popularity of NFL football, especially on television, brought revenues to record levels. Even in the 2007–2009 recession, league revenue increased by a remarkable 12 percent. Televised games in 2009 attracted an average of 16.6 million viewers, a 14 percent increase over 2008.<sup>12</sup> The average audience increased to 17.9 million people in 2010, and the Super Bowl™ game in February 2011 between the Green Bay Packers and Pittsburgh Steelers was the most watched telecast in U.S. history, with 111 million viewers.<sup>13</sup>

## Causes

Gene Upshaw was the executive director of the NFLPA for 25 years. During most of that time, he and Paul Tagliabue had a peaceful and stable relationship.<sup>14</sup> However, Tagliabue retired in 2006 and Upshaw died of pancreatic cancer in August 2008. When new leadership takes over, it is not unusual for

collective bargaining relationships to be strained.

In 1984, Commissioner Pete Rozelle hired Roger Goodell, son of a Congressman and Senator from New York, as an intern, not long after graduating from Washington & Jefferson, a small college in Pennsylvania. Goodell rose through the ranks to become Tagliabue's chief lieutenant and succeeded him as commissioner in 2006.

Goodell's opposite number, DeMaurice Smith, a graduate of Virginia Law School, worked in Washington, DC, as a lawyer in the U.S. Attorney's Office for 9 years and as a trial lawyer for top firms for several years. He was voted executive director of the NFLPA in March 2009. Smith adopted a more adversarial stance with the league than the previous working harmony under Upshaw.

Two overarching occurrences caused the 2011 lockout. One was the so-called billion-dollar giveback. The owners communicated to the union, well before the lockout began, that they wanted to take \$1 billion (about 18 percent) off the top of the revenue pool to build new stadiums. Investment in infrastructure, argued the owners, would increase revenues that would benefit everyone.<sup>15</sup> The players, however, had difficulty with this long-term view, because their average career length is only 3½ years. Instead, the union favored the status quo.

The second major cause of the lockout was the owners' proposal to increase the regular schedule to 18 games, two more than currently played. This idea seemed positive in that it would eliminate two of the four preseason exhibition games, so the same overall number of games would be played. Also, increasing the number of regular season games would be a big revenue producer.

The catch, however, was player safety. Ironically, the league supported the increase in games despite its concern that professional football has become exceedingly dangerous, causing severe injuries, particularly brain injuries that can lead to long-term debilitation. In 2010, the NFL levied \$175,000 in fines to players for especially violent hits. More games expose players to greater risk of injuries.<sup>16</sup> In a 2010 poll of NFL players concerning how they felt about an 18-game schedule, 82 percent of the players opposed it and 18 percent favored it.<sup>17</sup> The owners' proposal was a deal breaker because the union staunchly opposed the increase.

With the expiration of the collective bargaining agreement about 2 weeks away, no real progress had been made at the bargaining table. Therefore, in mid-February 2011, Goodell and Smith agreed to meet with mediator George Cohen, director of the Federal Mediation and Conciliation Service (a U.S. government agency that handles me-

diation of labor disputes). Cohen requested, and the parties agreed, that they would not speak publicly about the mediated negotiations. The news-media blackout sought to address a problem in past negotiations in which inappropriate statements were made to the media, which negatively affected the parties' trust and respect and chilled negotiations.

Although Cohen succeeded in jump-starting negotiations and the parties agreed to extend the agreement by a week, the situation seemed almost certain that the owners would impose a lockout. Complicating the situation was the union's request that each club provide fully audited financial statements, a request the union has unsuccessfully made in past negotiations.

## Legal overplay

On March 11, 2011, following a collapse in bargaining, the union decertified itself as the representative of the players. This action plunged the parties into litigation, as the contest moved from the bargaining table to the courtroom. In anticipation of a possible lockout, the NFL extended television contracts to provide guaranteed income of about \$4 billion to the league if games were not played. The union contended that the league agreed to a smaller increase in network television fees in exchange for the guaranteed payments. The NFL, on the other hand, argued that the television revenues were actually loans that must be repaid with interest if games were not played. U.S. District Court Judge David S. Doty in Minneapolis, Minnesota, decided that the league's acceptance of below-market fees in order to bankroll a lockout was improper, thus providing the union with an early victory.<sup>18</sup>

The decertification maneuver was an attempt to (1) prevent the owners from imposing a lockout and (2) sue the league on antitrust grounds. The union filed its antitrust suit in U.S. District Court in Minneapolis to prevent owners from locking out players. However, early on Saturday, March 12, the owners imposed the lockout.

The Sherman Antitrust Act of 1890 forbids any "contract, combination, or conspiracy in restraint of trade in interstate commerce" and provides treble damages for violation. Ten players were the plaintiffs in the suit, including star quarterbacks Tom Brady, Peyton Manning, and Drew Brees. Decertifying the union enabled the players to sue the NFL for violation of the Sherman Act. As noted previously, the union used this tactic in the 1987 strike.

Playing the decertification card was not without risks for the union. Antitrust litigation could take years to unfold, awaiting decisions and appeals of decisions. In the

absence of the union as their bargaining agent, players would be unable to negotiate important economic issues, such as minimum salaries, pensions, and healthcare. Moreover, owners would be loath to allow games to be played, because doing so would compensate players for their litigation.

Another part of the union's legal strategy was to request the court in Minneapolis for an injunction that would lift the lockout. This request was part of Brady et al. versus NFL on violation of the Sherman Act, claiming that the lockout was part of this violation. Chosen by random computer selection to hear the case was District Court Judge Susan Richard Nelson. To maximize its chances of keeping the lockout in place, the league hired one of the nation's preeminent attorneys, David Boies, a specialist in antitrust law.

Meanwhile, the NFL filed an unfair labor practice charge with the National Labor Relations Board. The charge contended that the players failed to bargain in good faith and that the union's decision to decertify itself was a sham to gain an edge in negotiating.<sup>19</sup> The league sought an order that the union return to the bargaining table.

After hearing the parties' arguments on April 6, 2011, Judge Nelson deliberated for 3 weeks. During the interim, she appointed Chief Magistrate Judge Arthur Boylan, of the U.S. District Court, to oversee a new round of talks between the parties toward settling the antitrust litigation. The union was reluctant to comply, however, because renewing the collective bargaining process might compromise its status to sue on antitrust grounds. Judge Boylan met with lawyers for each side in separate sessions, and Judge Nelson ordered that the parties' participation in mediation could not be used against them in the future.<sup>20</sup>

On April 25, Judge Nelson issued an injunction to end the 7-week lockout. She said that "The Brady Plaintiffs have shown not only that they likely would suffer irreparable harm absent the preliminary injunction, but that they are in fact suffering such harm now."<sup>21</sup> The NFL promptly filed for a stay of the injunction with the Eighth Circuit Court of Appeals, located in St. Louis, Missouri.

To support her decision, Judge Nelson interpreted from the Norris-La Guardia Act of 1932. Prior to the passage of this law, federal courts commonly issued injunctions to stop strikes, thereby constricting the power of unions. The Norris-La Guardia Act was designed to limit the use of injunctions in labor disputes. This law provides, in part, that injunctions will be issued only when "substantial and irreparable injury" is threatened.

Attorney Boies argued that the Norris-La Guardia Act prohibited Judge Nelson from issuing the injunction to

stop the lockout. The Eighth Circuit is regarded as one of the most conservative and probusiness courts.<sup>22</sup> On April 29, that court granted the NFL a temporary delay of the injunction. Resumption of the lockout only hours after players were allowed to return to their teams was a temporary victory for the NFL, which became more complete when the appellate court granted the NFL's appeal on July 8, finding that Judge Nelson applied the law incorrectly because the players were not suffering irreparable harm.

## Back to the table

In the meantime, Chief Magistrate Boylan requested that the parties submit new proposals to him confidentially. As a result, attention began to shift from the courts back to the bargaining table. Although Goodell and Smith handled the overall direction of negotiations, the main negotiators on particular issues were Jeff Pash, general counsel for the NFL, and George Atallah, deputy executive director for the NFLPA. Owners who participated in several sessions were John Mara of the New York Giants, Bob Kraft of the New England Patriots, and Jerry Jones of the Dallas Cowboys. Also participating was Kevin Mawae, president of the NFLPA.

At some point in a work stoppage, negotiators have to decide whether to continue to fight or whether to engage in appreciable compromises toward reaching an agreement. The exact time this decision occurred during the lockout is difficult to say, but shortly after Boylan requested new offers, the sides began to move toward closing a deal. Contributing a sense of urgency was that unless an agreement was reached soon, games would have to be canceled. The parties were doubtless wary of risking serious financial harm and alienating fans. Also, the legal machinations had played out for the time being.

The parties made significant progress on economic issues. They tentatively reached an agreement on sharing revenue, and they dropped the 18-game schedule. The last big hurdle was a rookie salary cap. In recent years, salaries of first-year players skyrocketed. In 2007, JaMarcus Russell, highest overall draft choice by the Oakland Raiders, was paid \$39 million over three disappointing seasons, after which he was no longer playing in the league. The number one overall picks in 2009 and 2010 signed outsized contracts that dwarfed those of almost all veteran players. Even the union was in favor of a rookie salary cap, which already exists in the NBA and NHL, but the details had to be negotiated.<sup>23</sup>

The parties also had to agree on the length of the deal. The league preferred a 10-year agreement, while the union wanted an opt-out provision after 7 years. Needing further resolution were settling the antitrust suit and recon-

stituting the union itself. The latter was important because some issues remained, such as drug testing, retiree benefits, and player conduct policy, that needed resolution.

## Settlement

With virtually all the big issues agreed to, at least tentatively, the owners peremptorily voted 31 to 0 (with Oakland Raiders owner Al Davis abstaining) on July 21, 2011, to approve their version of the 10-year agreement. This action irritated many players because what the owners approved included some language to which the players had not yet agreed. As a result, the player representatives delayed their vote in order to have a chance to peruse the deal. They approved the tentative agreement on July 25, 2011, after 4½ months of lockout, the longest work stoppage in league history.

In some respects, the new agreement is similar to the old one. The regular season continues to be 16 games (with a possible increase to 18 games in 2013, if the players agree). Teams continue to equally share about 80 percent of all revenue that the league collects. The free agency system remains essentially the same, with players eligible to change teams after 4 years in the league. The player draft still has seven rounds, and the commissioner retains complete authority to discipline players for inappropriate off-field conduct.

Major changes occurred in the economics of the agreement. In the previous contract, players received about 59 percent of the designated revenue pool. The new agreement is restructured based on a threefold suggestion NFL treasurer Joe Siclare put forth: (1) players receive 55 percent of the league's broadcast revenue, (2) 45 percent of merchandise sales and promotions from NFL Ventures, and (3) 40 percent of local club revenue, mainly from tickets.<sup>24</sup> Based on this scenario, the overall players' share is estimated to drop from about 51 percent under the old agreement to 47 percent under the new one.<sup>25</sup> The salary cap, limiting team payrolls, was set at \$120 million in 2011, with clubs having to spend at least 89 percent of the cap.

A rookie salary cap was established that will dramatically reduce the rookies' pay. A limit is set on the total amount a team can spend on draft choices, based on the number of picks and the round in which they were selected. A ceiling as well as a floor is set on what the highest-drafted players can earn. First-round draft choices must sign 4-year contracts that include a fifth-year team option for the club on first-round picks.

The impact of the rookie salary cap is illustrated by the contract of quarterback Sam Bradford, the overall number one pick in 2010 by the St. Louis Rams. Bradford signed a 6-year package estimated to be worth as much as \$78

million, with \$50 million guaranteed.<sup>26</sup> In contrast, the highest overall draft choice in 2011, quarterback Cam Newton, is expected to receive \$28 million in a 4-year contract with the Carolina Panthers.<sup>27</sup> The money saved on rookie contracts will be redistributed to veteran players who have proven their talent and worth.

In Major League Baseball (MLB), the NBA, and the NHL, player contracts typically are guaranteed. Most player contracts in the NFL are not guaranteed. However, in the new agreement, a player with multiple years on his contract who has a season-ending injury is protected. An injury-protection benefit of up to \$1 million is payable for the first year after the injury and up to \$500,000 for the second year after the injury.<sup>28</sup>

The University of Michigan's Institute for Social Research recently found that former NFL players are 19 times more likely to develop Alzheimer's or related diseases than other men between the ages of 30 and 50.<sup>29</sup> Medical research has also shown that multiple contact practices contribute to injuries and shorten careers.<sup>30</sup> As a result, the new agreement eliminates two-a-day padded practices and limits full-contact practices.<sup>31</sup> Current players have an opportunity to remain in the medical plan for life, and \$50 million is to be set aside for medical research, healthcare programs, and charities. Over the next decade, between \$900 million and \$1 billion will be made available for retiree benefits.

Although player representatives for the 32 teams earlier approved the financial details of the collective bargaining agreement, thus ending the lockout (July 25, 2011), on August 4 all league players voted to ratify the entire agreement, officially beginning the league year.

An added feature in the final agreement is blood testing for human growth hormone (HGH), a performance-enhancing drug. The NFL is the first major American sports league to agree to test for HGH, although in 2010, MLB imposed this testing on minor league players and also agreed with its union, later in 2011, to test major league players. The goal of the NFL was to begin testing by the first week of the 2011 season, but this did not happen. A technical dispute arose among the league, NFLPA, and the World Anti-Doping Agency (WADA). Although WADA provided information to the parties on the false-positive rate (that the test is 99.99 percent accurate), the union preferred to prove the false-positive rate through independent scientists examining raw data.<sup>32</sup>

LOOKING BACK AT THE DEBACLE of the 1987 players' strike and the 5 ensuing years of impasse, the 2011 deal is the first time the union held its ground in a work stoppage. Games were not really threatened, because the

parties realized they simply had too much to lose in a protracted dispute that cut into the regular season.

What made a big difference is the intense communication between DeMaurice Smith and the 1,900 players. Communication was also a major part of the success of legendary baseball union head Marvin Miller, who understood the importance of keeping players informed of what their leadership was thinking and what was going on at the bargaining table. The negotiations between the NFL and NFLPA were conducted in the new age of email, Twitter, and text messaging that made keeping everyone

informed easier. In addition, the players had no significant disagreement, which gave them good solidarity, in sharp contrast to the 1987 strike.

The leadership of Commissioner Roger Goodell was also effective. Goodell seems to have learned well from his predecessor, commissioner Tagliabue, that the league can thrive in a partnership with the union. The new collective bargaining agreement, which runs through the 2020 season, including the 2021 draft, takes this partnership to a higher level by promoting player health and safety in this inherently violent sport. □

## Notes

ACKNOWLEDGMENTS: I am grateful to Erin Casey from the NFL, Mark S. Levin from the NFLPA, and Charlotte M. Irby from the Bureau of Labor Statistics (BLS).

<sup>1</sup> Matthew Futterman, “Blocking the Ball: What’s at Issue,” *Wall Street Journal*, March 4, 2011, p. B5.

<sup>2</sup> The 136 days are based on the time from the beginning of the lockout (March 12, 2011) to the day it ended (July 25, 2011). Because BLS reports on work stoppages only count workdays, its statistics would reflect a shorter number of days for any given work stoppage.

<sup>3</sup> Richard O’Brien and Adam Duerson, eds., “The Gross Football Product,” *Sports Illustrated*, March 14, 2011, p. 17.

<sup>4</sup> Average team attendance was 67,755 in 2007, falling to 66,625 in 2008 and 65,043 in 2009—data the NFL provided the author. The average ticket price in 2009 was \$74.99—from Gwen Knapp, “Recession Unlikely to End NFL Blackouts,” *San Francisco Chronicle*, September 20, 2009, p. B11.

<sup>5</sup> *Radovich v. NFL*, 352 U.S. 907 (1957).

<sup>6</sup> These early work stoppages are discussed in Paul D. Staudohar, *Playing for Dollars: Labor Relations and the Sports Business* (Ithaca, NY: Cornell University Press, 1996), pp. 71–73.

<sup>7</sup> *Ibid.*

<sup>8</sup> Paul D. Staudohar, “The Football Strike of 1987: The Question of Free Agency,” *Monthly Labor Review*, August 1988, pp. 26–31.

<sup>9</sup> *Ibid.*

<sup>10</sup> The U.S. Court of Appeals reached this conclusion in *Powell v. National Football League*, 930 F.2d 1293 (1989), and the U.S. Supreme Court reinforced it in *Brown v. Pro Football, Inc.*, 116 S.Ct. 2116 (1996). The *Powell* and *Brown* cases are reviewed in Paul D. Staudohar, “The Scope of Pro Football’s Antitrust Exemption,” *Labor Law Journal*, March 1999, pp. 34–42.

<sup>11</sup> *McNeil v. National Football League*, 764 F.Supp. 1351 (1992). This decision is discussed in Paul D. Staudohar, “McNeil and Football’s Antitrust Quagmire,” *Journal of Sport and Social Issues*, December 1992, pp. 103–110.

<sup>12</sup> Sam Schechner and Shira Ovide, “Record Draw for Super Bowl,” *Wall Street Journal*, February 9, 2010, p. B6.

<sup>13</sup> Sam Schechner, “Super Bowl Sets Viewing Record as Pro Football Defies TV Trend,” *Wall Street Journal*, February 8, 2011, p. B7.

<sup>14</sup> This relationship is further explained in Paul D. Staudohar, “Football Labor Relations: From Conflict to Working Harmony,” *Journal of Individual Employment Rights*, vol. 7, no. 2, 1998, pp. 91–100.

<sup>15</sup> Sean Gregory, “Time Out?” *Time Magazine*, March 7, 2011, p. 101.

<sup>16</sup> A good discussion of the danger to players from head injuries is in Ben McGrath, “Does Football Have a Future?” *New Yorker*, January 30, 2011, pp. 40–51.

<sup>17</sup> The poll was taken by *Sports Illustrated* and reported in “SI players NFL Poll—How Do You Feel about an 18-Game Season?” *Sports Illustrated*, December 13, 2010, p. 15.

<sup>18</sup> Pat Borzi and Richard Sandomir, “Players Union Attempts to Keep TV Money from N.F.L.,” *New York Times*, February 25, 2011, p. B12; and Matthew Futterman, “Judge Backs Players’ Union in TV-Revenue Dispute,” *Wall Street Journal*, March 2, 2011, p. A6.

<sup>19</sup> Judy Battista, “Reply from N.F.L. Asks Court to Wait for Labor Board’s Ruling,” *New York Times*, March 22, 2011, p. B12.

<sup>20</sup> Judy Battista, “Judge Returns Players and N.F.L. to Mediation,” *New York Times*, April 12, 2011, p. B12.

<sup>21</sup> Quotation from Matthew Futterman, “Judge Rules Lockout’s End,” *Wall Street Journal*, April 26, 2011, p. B3.

<sup>22</sup> John Schwartz, “In the N.F.L.’s Appeal, Anything is Possible,” *New York Times*, April 27, 2011, p. B11, quoting William B. Gould, IV, professor emeritus at Stanford University Law School.

<sup>23</sup> Judy Battista, “Labor Talks Bog Down Over Rookie Wage Scale,” *New York Times*, July 11, 2011, p. D8; and Jim Trotter, “Where They Stand,” *Sports Illustrated*, February 21, 2011, p. 33.

<sup>24</sup> Peter King, “Key to the Deal,” *Sports Illustrated*, August 1, 2011, p. 41.

<sup>25</sup> Matthew Futterman and Lauren A. E. Schuker, “NFL and Players Agree on New Deal,” *Wall Street Journal*, July 26, 2011, p. A1.

<sup>26</sup> William C. Rhoden, “Veterans Sold Out Rookies in Deal,” *New York Times*, July 29, 2011, p. B12.

<sup>27</sup> Jim Trotter, “Deal Point: The Rookie Contract,” *Sports Illustrated*, August 1, 2011, p. 35.

<sup>28</sup> Judy Battista, “As the Lockout Ends, the Scrambling Begins,” *New York Times*, July 26, 2011, p. B10.

<sup>29</sup> Allen Barra, “The NFL’s Standardized Concussion Tests,” *Wall Street Journal*, March 9, 2011, p. B5.

<sup>30</sup> Ben McGrath, “Does Football Have a Future?”

<sup>31</sup> Judy Battista, “As the Lockout Ends, the Scrambling Begins,” p. B10.

<sup>32</sup> Judy Battista, “Deal Ratified by N.F.L. Players,” *New York Times*, August 5, 2011, p. B10; and Juliet Macur, “N.F.L. Says Union Delays H.G.H. Testing,” *New York Times*, September 29, 2011, pp. B11, B14.