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Dave Zirin

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Meet the Lockout Lawyers Destroying Sports

Dave Zirin on October 15, 2012 - 5:37 PM ET

Currently the sports world is suffering its fourth lockout in the past fourteen months. On four occasions since August 2011, pro sports owners have locked their publicly subsidized stadium doors, sent stadium workers home and stopped play as usual. This is not coincidence or happenstance. It's a coordinated management offensive that has reverberations far beyond the playing field. Let's look at the facts.

Last fall it was NFL and NBA players locked out of their jobs. This off-season, we first had the NFL referees, who make a pittance relative to the league's revenue, watching scab refs stumble for three weeks. Now we have the ongoing lockout of National Hockey League players. NHL owners are coming off a year in which they made a record \$3.3 billion in revenue. League owners have responded to this success by locking out the players, demanding massive concessions, canceling eighty-two games and squandering reservoirs of good will among fans.

I'm sure this must seem like a wild coincidence: four lockouts in fourteen months, affecting three of the four major professional sports leagues of this country. What are the odds? Actually, they're very good. This is not merely a case of four sets of labor negotiations that have tragically broken down. This is a conscious, industry-wide strategy. A law firm called Proskauer Rose is now representing management in all four major men's sports leagues, the [first time in history](#) one firm has been hired to play such a unified role. In practice, this has meant that in four sets of negotiations with four very different economic issues at play, we get the same results: lockouts and a stack of union complaints with the National Labor Relations Board. It's been great for owners and awful for players, fans, stadium workers and tax payers.

Proskauer Rose partner Howard Ganz represents the NBA and Major League Baseball, and fellow-partner Bob Batterman has led negotiations for the NFL and the NHL. As *Sports Business Daily* [reported](#), "Batterman and Ganz provide advice on strategy, as well as on issues that can emerge during talks, such as the legality of using replacement players."

In other words, they are the people who scuttle collective bargaining and give word when to bring on the scabs. It was the now-infamous Batterman who was lead negotiator when NHL owners locked out the players in 2005 and canceled the entire season. Ian Pulver, counsel for the NHL Players Association in 2005, said of the lawyer, "Bob Batterman is a hard-nosed, smart management attorney who leaves no stone unturned. He will do his best to attempt to execute the orders of his clients including, but not limited to, breaking unions if necessary." When Batterman was told of Pulver's words he said, "I would be proud to have that on my epitaph."

Proskauer Rose's love affair with corporate power is not confined to representing professional sports owners. They [boast on their website](#) of having "one of the world's pre-eminent private equity practices." They are Bain, if Bain was smart enough to remain in the shadows. The firm's other prize clients are a Murderers Row of Big Oil titans, including BP America, Chevron, and ExxonMobil. Incidentally, this culture of representing polluters and union busters with pride and without societal concern seems reflected in the firm's internal culture. Proskauer Rose is [now being sued](#) by their former Chief Financial Officer Elly Rosenthal, who accused the law firm of firing her following sixteen years as CFO after she took leave for breast cancer treatment. (Remember Elly Rosenthal the next time you see the NFL festooning its players in pink for Breast Cancer Awareness Month.)

Perhaps it's time we start viewing sports leagues less like family fun and more along the lines of highly scrutinized institutions such as BP, Chevron, and ExxonMobil. They have more in common than just their lawyers. Like big oil bosses, pro sports owners love corporate welfare, right-wing politicians and are deeply hostile to union workplaces and collective bargaining. Just as what's good for ExxonMobil's stock value—price gouging at the pump, lax environmental enforcement, war in the Middle East—is bad for America; what's good for pro sports owners is bad for fans, stadium workers and especially taxpayers.

Given the context, today's news that the NHL has [hired republican guru of sophistry](#) Frank "let's call global warming climate change" Luntz to help with their messaging, makes perfect sense. This is a Frank Luntz crowd, and its agenda reaches far beyond the world of sports. The number of lockouts, once the third rail of collective bargaining, has doubled since 2010. But you need more than cash reserves to make this the new norm. For management to win a lockout they need to convince the public—and transform the culture—into thinking that lockouts (starving out your workers) is an acceptable practice. No NHL players are starving, of course, but this is about exploiting sports to enforce a new national labor paradigm.

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Muser

Sports fans do not care one way or the other what the owners do to workers of any kind. The referee thing was an outlying exception because it was starting to tilt and throw games.

12 hours ago

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I agree with you for the most part Muser , but as a sports fan and a union member I do care a lot . I always tell people it's not the stars that the unions help it's the player that plays maybe one season and gets cut or hurt .

9 hours ago in reply to Muser

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Muser

Good for you. It's good for me to be reminded that not all the sports fans are viewing from skyboxes. And you're right about the players' unions.

7 hours ago in reply to Harlan County

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