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**ANTITRUST EXEMPTION VITAL FOR MINOR LEAGUE SURVIVAL:
MLB & PARENT CLUBS MUST PUT MONEY BEHIND
1991 STADIUM STANDARDS**

Jeff Friedman

INTRODUCTION

Professional Baseball's antitrust exemption allows Major League Baseball (MLB) to control the location of major and minor league franchises. For minor league relocation, the exemption preserves teams' territorial rights. This prevents competition between clubs that may negatively impact business operations. MLB has no control over the location of independent teams that play in leagues that are not part of Minor League Baseball. Therefore, such teams can relocate as they wish and compete for fans with Minor League clubs.

The background will describe the relationship between MLB and Minor League Baseball and the MLB rules pertaining to minor league franchise relocation. The analysis will focus on how these rules and relationships interact with the antitrust exemption, offer an original view of the situation, and offer solutions. Finally, the conclusion will summarize the important points.

Professional Baseball's antitrust exemption allows minor league franchises to relocate in the best interests of the minor league team's business operations and the player development of minor league players. These two objectives are the goals of the relationship between MLB, which wants to produce the best players on the field, and Minor League Baseball, which wants to maximize revenue and make each of its franchises a successful business. MLB has a successful minor league system. However, the Baseball Facility Standards, which MLB issued in 1991, contain no financial backing for minor league teams' compliance. Therefore, in the interest of maximizing the number of baseball fans in the country, MLB should look at ways to financially aid minor league clubs with sound business operations to renovate their stadiums and help prevent further relocation.

II. BACKGROUND

The U.S. Supreme Court granted professional baseball an antitrust exemption in 1922. [EN 1] This exemption gave MLB control over the relocation of its minor league teams. In 1962, MLB passed the Player Development Plan, which guaranteed working agreements for at least 100 minor league teams with MLB clubs. In 1997, MLB reached an agreement with Minor League Baseball for a 10-year Player Development Contract (PDC) for its 160 minor league teams. [EN 2] This represented MLB's commitment to its farm system and its continued funding of player salaries, travel, and equipment for its players and coaches.

In 1991, MLB implemented Baseball Facility Standards for minor league stadiums. Teams had to comply with these standards through renovations or building new stadiums. [EN 3] These standards were designed to improve minor league business operations and player development. However, neither MLB nor its clubs provided funding for stadium improvements. MLB Rules 53(b) and 53 (j) apply to minor league franchise relocation. First, the minor league team must secure the support of its league, such as the International League. Each league has its own application process. Also, the team must solicit the support of its Major League Club. [EN 4] The MLB club does not have to approve. However, it can revoke the PDC if it does not

approve. This effectively precludes relocation unless the team can secure a PDC from another MLB club. [EN 5]

Second, the minor league team must notify the MLB Commissioner of the proposed relocation and file an application with Minor League Baseball at least eighteen months in advance. If Minor League Baseball approves, the MLB Commissioner has the final say. If Minor League Baseball does not approve, that decision is final. Criteria for relocation include improved business operations/playing facilities and/or improved player development. [EN 6]

Minor League Baseball's relocation application is extensive. Franchises must show advance planning and potential for success. For example, the application requires a proposed stadium lease, stadium specifications, an architect's certificate showing compliance with MLB standards, projected attendance, and possibilities for concession contracts. This is all required at least eighteen months prior to the proposed opening day at the new stadium. [EN 7]

The antitrust exemption is crucial to Minor League Baseball's existence. While Congress has considered several pieces of legislation regarding modifying baseball's exemption, only one modification has taken place. This was the Curt Flood Act (CFA) of 1998. The CFA gave MLB players the same rights under antitrust laws as other athletes in terms of labor. [EN 8] However, MLB did not consult Minor League Baseball before lobbying Congress. Minor League Baseball did not approve of the CFA. Any modification that did not make it explicitly clear that the minor leagues maintained the exemption could be deadly for the minors. [EN 9]

Without MLB's support in terms of player salaries, travel, and equipment costs, people in small towns across the country may no longer have access to live professional baseball. The exemption also preserves the reserve clause, which allows MLB clubs to maintain control over players for six years after they sign. During this time, the players cannot sign with other clubs. Without the exemption, the reserve clause may not exist and minor league players could bargain for better salaries with other teams. If this were the case, MLB clubs may be unwilling to subsidize Minor League Baseball because their investment in the player draft may not be financially protected. [EN 10]

III. ANALYSIS

Even though both MLB and Minor League Baseball are protected under the antitrust exemption, there has been much more relocation for minor league clubs than MLB clubs. The last MLB relocation took place almost thirty years ago when the Washington Senators moved to Texas. From 1991 to 2001, fifty-nine minor league teams relocated and seventy-one new stadiums were built. [EN 11] The Baseball Facility Standards probably increased the large number of new stadiums.

However, the impact is not clear because the records of new stadiums built before this time was not available from Minor League Baseball. What is clear, unofficially, is that there were sixty-five relocations in the minors between 1980 and 1990. [EN 12] This means that more teams relocated in the decade prior to the new facility standards than the decade after the standards were released. However, there were also twenty-eight expansion teams between 1980 and 1990. The minors grew as a whole. Some of these expansion teams may have required new stadiums.

The great disparity in the number of relocations between the majors and the minors has to do with the needs of the clubs to meet business and player development goals. In some small markets, teams have trouble selling enough advertising and tickets to make the business succeed.

In other cities, the teams lease stadiums from communities that are unwilling to assist financially in upgrading stadiums and facilities. This makes it necessary for the minor league teams to move because the goals of a successful business venture and developing MLB caliber talent cannot be met.

While relocation has been rampant in the minors, some leagues experience relocation less than others. Randy Mobley, President of Minor League Baseball's Class AAA-International League, has not had a team relocate since 1989, when the Maine Guides relocated to Scranton, Pennsylvania. Before 1989, there were only two relocations since 1977. [EN 13] Such a small amount of relocation is rare in the minors. It is even more shocking that such little relocation has occurred since the 1991 Baseball Facility Standards.

One reason Mobley points to for the lack of relocation in the International League is that some of the teams are community owned. When a community owns a team, they are likely to invest the money to build new stadiums and keep the team. The only way the team would relocate is if the community sold the team. [EN 14] Of the fourteen teams in the International League, four are community owned. MLB's Atlanta Braves owns its affiliate in the league. Seven of the fourteen stadiums in the league were built after 1991. [EN 15] Three of the four community owned teams play in ballparks built in the last decade; the other plays in a recently renovated facility. For the privately owned teams, stability in ownership has contributed to the lack of relocation. [EN 16]

Despite the success and stability of International League teams, MLB does not encourage a certain type of minor league ownership. While community ownership may make a team less likely to move, it is not always beneficial. A community might not agree to sell a team and relocate it even if such a move would be in MLB's best interest. [EN 17] MLB would lose some control over the location of its franchises. Private owners would be more likely to adopt the goals of business success and player development. Community owners would want to keep their teams, regardless of lagging attendance or poor facilities. While communities might contribute to improve business operations and player development, this is not guaranteed. In certain communities, it is not possible for business operations and facilities to meet MLB standards.

Stan Brand, Vice President of Minor League Baseball, believes that some communities do not want their teams. If they were interested in baseball, they would contribute financially to keep their teams. [EN 18] Therefore, communities rarely sue teams when they relocate because there was not an effort to keep them. While lawsuits might be possible, they rarely materialize when teams relocate. In order for a suit to materialize, there must be money, motive, and ability. [EN 19] A community that did not want to pay to keep their team will be unlikely to pay to sue. Therefore, the money will probably not be there. Since the claim will most likely fail due to the antitrust exemption, the ability to prevail on the claim is improbable. Therefore, there would not be a motive to pursue a suit that lacked financial backing and probable success.

Tom Ostertag, MLB's Senior Vice President and General Counsel, feels that the antitrust exemption allows minor league baseball teams to exist. First, there are standard player contracts. Second, there are standard PDCs between MLB clubs and their affiliates. If minor league teams were permitted to negotiate with all MLB clubs until they found the best agreement, there would be fewer minor league teams. Both the standard player contracts and PDCs allow MLB teams to subsidize player salaries, travel, and equipment costs. [EN 20] Without the exemption's protection, MLB clubs may not have the money for subsidies because player salaries may increase along with the cost of securing an affiliate.

Since Independent leagues have no relationship to MLB, they need no approval to relocate. Franchise owners and independent league presidents can decide when to relocate. This may infringe on MLB's designated franchise territories, but there is nothing MLB can do. MLB is not concerned with the Independent Leagues. Similarly, there is not fierce competition between MLB and Minor League Baseball. MLB supports increased minor league attendance because fan interest in any type of baseball increases interest for the sport as a whole. For example, when the Giants left New York for San Francisco, the Yankees attendance decreased. [EN 21] Having teams in close proximity does not necessarily take fans away from one team. Instead, it may increase the baseball fans in the area. The antitrust exemption allows MLB to make an educated judgment on a proposed relocation. Without the exemption, franchise owners could decide where to move based on potential profits. This would probably lead to the failure of several teams and a decreased interest in baseball altogether.

According to Sandy Alderson, MLB's Executive Vice President of Baseball Operations, the current minor league system has worked well. [EN 22] The exemption allows MLB to make proper decisions on minor league relocation and encourages financially sound ownership. Therefore there is no need to change minor league baseball's structure to that of new leagues like the National Basketball Developmental League (NBDL). The NBA owns each NBDL team. The NBDL began as the NBA's minor league in November of 2001. Players signed contracts with the NBDL as opposed to with specific teams. Alderson said there has been some discussion of a professional draft as opposed to an amateur draft for baseball. MLB clubs would not draft players until they first played in some type of minor league setting. Currently, MLB owns the Arizona Fall League, a developmental league created to enhance player development. MLB's ownership in this league is not to experiment with programs for a new minor league system. [EN 23]

IV. CRITIQUE TO EXISTING SITUATION AND PROPOSED SOLUTION

MLB has the right goals: promoting sound business operations and player development. However, there is a difference in relocating a team because of a lack of potential revenue and relocating a team due to lack of proper stadium facilities. Companies shutting down and/or a dwindling fan base can hit business operations so hard that a team must move. However, the 1991 Baseball Facility Standards inevitably force some teams to relocate that should not have to. These teams were not aware of these standards until they were issued and had no advance financial planning to prepare for them. There is no requirement that MLB or its individual franchises must contribute financially to these minor league affiliates to help them comply with the stadium standards.

Sylvia Lind, MLB's Senior Manager of Minor League Operations, explained that it is up to the stadium's leaseholder, which is usually the city, to provide funding for stadium renovation. MLB's requirements have worked well as a bargaining chip for minor league clubs to say that they need these renovations or otherwise must relocate. If the city wants baseball, the city will contribute financially. Minor League clubs get all the revenue that comes out of a new facility, so it benefits them to convince the city to contribute. MLB benefits from improved player development. [EN 24]

However, there are some communities that cannot convince the city to help fund renovations. It may be a better business decision to relocate the franchise to a community that will support baseball financially, but it remains to be seen if fans' interest in baseball will

diminish due to relocation. Many people that live in Butte, Montana never get to see MLB clubs and might never travel to see another minor league club. For these fans, their experience watching live baseball ends when their minor league team moves. Therefore, MLB should evaluate relocation with the following criteria in mind: if the franchise can succeed in its business operations, and the only stumbling block is new facilities and renovations, MLB should consult with the parent club regarding supplying some funding for its affiliate. This would help keep baseball alive for the fans of small town America.

V. CONCLUSION

The antitrust exemption protects Minor League Baseball. Franchise relocation in the minors is more prevalent than in the majors because of the need for financially stable franchises and superior player development facilities. MLB has the right goals in mind and runs a successful farm system. However, MLB should not have issued new stadium standards without coming up with money to back them up. While leaving it up to communities to fund new facilities has worked in some areas, it has not worked in others. In every small town where a minor league team is lost, another baseball fan is lost. MLB should investigate the possibility of aiding minor league clubs with strong business operations that cannot convince communities to renovate their stadiums.

[EN 1] Federal Baseball Club of Baltimore v. National League, 259 U.S. 200 (1922).

[EN 2] The Official Page of Minor League Baseball, *Minor League Baseball Timeline: A Century of Memories*, at <http://www.minorleaguebaseball.com> (2001).

[EN 3] The Official Page of Minor League Baseball, *Minor League Baseball Timeline: A Century of Memories*, at <http://www.minorleaguebaseball.com> (2001).

[EN 4] Major League Baseball Rules. MLR 53(b) and 53 (j), 119. (1999).

[EN 5] Telephone Interview with Sylvia Lind, Senior Manager of Minor League Operations, Major League Baseball (Aug. 23, 2001).

[EN 6] Major League Baseball Rules. MLR 53(b) and 53 (j), 119. (1999).

[EN 7] Office of the President of the National Association of Professional Baseball Leagues, Inc. Application for Relocation, 1-4. (1997).

[EN 8] Stanley M. Brand, *The Case for the Minor League Baseball Antitrust Exemption*, ABA J. VOL. 14. No.2 (2000).

[EN 9] *Id.*

[EN 10] *Id.*

[EN 11] Telephone Interview with Steve Densa, Assistant Director of Media Relations, Minor League Baseball (Aug. 23, 2001).

[EN 12] E-Mail from Sandra Olmsted, Esquire, Assistant to the General Counsel, Minor League Baseball to Jeff Friedman, student, DePaul University College of Law (Aug. 23, 2001).

[EN 13] Telephone Interview with Randy Mobley, President, Class AAA-International League (Aug. 15, 2001).

[EN 14] *Id.*

[EN 15] THE BASEBALL BLUEBOOK: 2001 TRAVEL EDITION 77-84 (John Montague ed., Sportssource Inc. April 2001).

[EN 16] Telephone Interview with Randy Mobley, President, Class AAA-International League (Aug. 15, 2001).

[EN 17] Interview with Tom Ostertag, Senior Vice President and General Counsel, Major League Baseball, in New York, NY (Aug. 16, 2001).

[EN 18] Telephone Interview with Stan Brand, Vice President, Minor League Baseball (Jul. 20, 2001).

[EN 19] *Id.*

[EN 20] Interview with Tom Ostertag, Senior Vice President and General Counsel, Major League Baseball, in New York, NY (Aug. 16, 2001).

[EN 21] *Id.*

[EN 22] Telephone Interview with Sandy Alderson, Executive Vice President of Baseball Operations, Major League Baseball (Aug. 23, 2001).

[EN 23] *Id.*

[EN 24] Telephone Interview with Sylvia Lind, Senior Manager of Minor League Operations, Major League Baseball (Aug. 23, 2001).