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## COVID-19'S LASTING IMPACT ON THE SPORTS INDUSTRY: FINANCIAL, LEGAL, AND INNOVATION

Maureen A. Weston\*

*The COVID-19 pandemic has wrought unprecedented havoc across the globe. Every sector of society has been impacted and forced to change business as usual, to re-evaluate priorities and systems, and to innovate amid the unknown and possible lasting impacts of this threat to public health and commerce. Sports worldwide are also profoundly impacted. Since the World Health Organization declared COVID-19 a pandemic on March 11, 2020, nearly all competitive sports have been suspended, postponed, or cancelled, raising significant questions about how to deal with the severe financial impacts and legal issues, and when and how to resume play safely amid continued uncertainty. Like other sectors, the impact on sports is likely to far outlast the pandemic. Sports have been, and will continue to be, forced to pivot, innovate, and remain vigilant to survive as an industry and to ensure player, personnel, and spectator health, safety, and security. Recognizing that the crisis is not yet over and the impact of COVID-19 on the global sports industry is at the nascent stage, this article nonetheless seeks to examine the impact of COVID-19 on major competitive sports, from a financial, legal, and problem-solving perspective. The article contends that, while many financial, legal, and practical outcomes remain pending and unresolved, the rules for operating sports as we knew it have changed. To survive, sport must put safety first, anticipate and plan for this and future crises, innovate, and find common ground, despite technical force majeure rights that could pose a disparate impact on one party, to preserve industry and the very sports we revere. The challenges and lessons that can be learned from this crisis will have a lasting impact on and throughout the sports industry.*

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## TABLE OF CONTENTS

I. Introduction .....	122
II. Financial and Legal Impacts of COVID-19 on Sport .....	125
A. Rippling Financial Impacts .....	126
1. College Sports .....	126
2. Professional Sports.....	129
3. Tokyo 2020 Olympic and Paralympic Games .....	131
III. Legal Impacts—Force Majeure Debates, Pandemic Planning, and Playing in an Uncertain Field.....	136
A. Force Majeure Debates .....	136
B. Risks of Activating Force Majeure in Sports Contracts ..	139
C. Foregoing Fault & Pro-Active Planning Sports in a Pandemic.....	142
1. NBA’s Disney “Bubble” Restart Plan .....	142
2. NHL .....	143
3. MLB & Players Interim Season Deal and Return to Play Dispute .....	144
4. NFL .....	148
D. Safety Measures and Empty Stadiums.....	149
IV. Sport Using Innovation to Meet the Challenge.....	151
A. Reprogramming .....	151
B. Player Altruism and Stepping Up for Affected Workers.	152
C. Signs of Hope.....	155
D. Opportunity for Racial Injustice Awareness.....	155
V. Conclusion: Sport in the Time of COVID-19 .....	157

## I. INTRODUCTION

March is typically a convergence of sporting event celebrations. In March 2020, however, on the precipice of the NCAA’s Men’s College Basketball Championships, the National Basketball Association (NBA) and National Hockey League (NHL) playoffs, Major League Baseball (MLB) Spring Training, and a multitude of other upcoming sports championships and events, sports and much of society came to an abrupt and dystopian halt. March Madness erupted like we never imagined.

On Sunday, March 8, 2020, the “fifth major” BNP Paribas Open professional tennis tournament in Indian Wells, California, announced cancelation the day before play was to start.<sup>1</sup> Meanwhile, the NCAA’s

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1. Danielle Rossingh, *Cancellation Of ‘Fifth Tennis Major’ Indian Wells Is A Blow For Players, Fans And Local Economy*, FORBES (Mar. 9, 2020, 10:54 AM), <https://www.forbes.com/sites/daniellerossingh/2020/03/09/cancellation-of-fifth-tennis-major-indian-wells-blow-for-players-fans-and-local-economy/#2ebfb3a740c7>. While not an

Division I Men's Basketball Championship tournament was ready to launch in fourteen cities, with tickets sold, banners up, with teams, fans, and broadcasters ready for action.<sup>2</sup> Conference tournament games were ready for tipoff; in fact, the PAC-12 tournament having commenced its first-round games in Las Vegas with thousands of fans in attendance.<sup>3</sup> On Tuesday, March 10th, the NCAA Selection Committee was in New York City for its annual meeting to select the sixty-eight teams and create the popular tournament brackets.<sup>4</sup> Instead, the meeting turned to consider whether the tournament could be played at all, and if so, how.<sup>5</sup> While universities were closing campuses, the NCAA, on March 11th, announced that its annual championship tournament would be held without fan attendance, limiting access to family members, essential staff, and media personnel; otherwise, the men's and women's games would go on.<sup>6</sup> In a media briefing prior to an NBA game on Monday, March 9th, against the Detroit Pistons, Utah Jazz player Rudy Gobert, in

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official "Grand Slam," the BNP Paribas Open is often considered an unofficial "Fifth Major" because it welcomes "high-profile field of male and female tennis stars, as well as some 450,000 spectators, and offers a combined prize money pot of \$17 million." *Id.* The prestigious four Grand Slam tennis tournaments are Wimbledon, French Open, US Open, and Australian Open. *Grand Slams*, TENNIS, <https://www.tennis.com.au/news-and-events/pro-tournaments/grand-slams> (last visited Oct. 24, 2020).

2. See Matt Norlander, *The end of March Madness: Behind the scenes in the hours that led to the cancellation of the NCAA Tournament*, CBS SPORTS (Mar. 16, 2020, 11:13 AM), <https://www.cbssports.com/college-basketball/news/the-end-of-march-madness-behind-the-scenes-in-the-hours-that-led-to-the-cancellation-of-the-ncaa-tournament/>. The cancellation and rescheduling of the live sporting events prompted requests for refunds. Ticketmaster initially refused to refund tickets but later announced it would honor refunds for events canceled due to pandemic. Bruce Haring, *Ticketmaster Will Offer Refunds On Shows And Events Canceled By Pandemic*, DEADLINE (Apr. 19, 2020, 10:07 AM), <https://deadline.com/2020/04/ticketmaster-refunds-on-pandemic-canceled-shows-1202912031/>. Following Ticketmaster's initial refusal to refund tickets, a proposed class-action lawsuit was filed alleging a sum greater than \$1 billion in consumer capital was tied up in pre-booked tickets to games. Class Action Complaint Jury Trial Demanded at 2-3, *Ajzenman v. Office of the Comm'r of Baseball*, No. 2:20-cv-03643 (C.D. Cal. Apr. 20, 2020). The case was dismissed after the consumers received full refunds or credits. See Joyce Hanson, *MLB Scores Double Win in Ticketbuyers COVID-19 Suits*, LAW360 (Oct. 7, 2020), <https://www.law360.com/articles/1317551> (ruling also that the court lacked personal jurisdiction over out-of-state MLB teams).

3. Norlander, *supra* note 2; Nathan Fenno, *No shining moments: NCAA basketball tournaments are canceled for the first time*, L.A. TIMES (Mar. 12, 2020, 6:45 PM), <https://www.latimes.com/sports/story/2020-03-12/march-madness-ncaa-tournament-canceled-coronavirus>; Billy Witz, *Where the Coronavirus is Not Stopping Sports: Las Vegas*, N.Y. TIMES (Mar. 11, 2020), <https://www.nytimes.com/2020/03/11/sports/conference-tournaments-basketball-coronavirus.html>.

4. Norlander, *supra* note 2.

5. *Id.*

6. Staff and Wire Reports, *Coronavirus prompts suspension of NBA season, NCAA Tournament fans ban*, ROANOKE TIMES (Mar. 11, 2020), [https://roanoke.com/sports/college/coronavirus-prompts-suspension-of-nba-season-ncaa-tournament-fans-ban/article\\_95d1bfe9-030b-57e8-9702-b11c3ed969bb.html](https://roanoke.com/sports/college/coronavirus-prompts-suspension-of-nba-season-ncaa-tournament-fans-ban/article_95d1bfe9-030b-57e8-9702-b11c3ed969bb.html).

reaction to questions about his thoughts on coronavirus, defiantly placed his hands all over microphones.<sup>7</sup> On Wednesday, March 11th, as the World Health Organization (WHO) declared the COVID-19 “coronavirus” to be a global pandemic,<sup>8</sup> Gobert was announced as the first NBA player to test positive for COVID-19,<sup>9</sup> with teammate Donovan Mitchell and several other players following.<sup>10</sup> NBA Commissioner Adam Silver promptly declared the season suspended.<sup>11</sup> Imminently thereafter, every other sport, from youth to professional leagues, even the Tokyo 2020 Olympic Games, followed suit.<sup>12</sup> Although news had been replete with concerns of the coronavirus public health threat, the stark reality of the crisis hit home for many once sports shut down.

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7. Sam Quinn, *Rudy Gobert touched every microphone at Jazz media availability Monday, now reportedly has coronavirus*, CBS SPORTS (Mar. 12, 2020, 12:46 AM), <https://www.cbssports.com/nba/news/rudy-gobert-touched-every-microphone-at-jazz-media-availability-monday-now-reportedly-has-coronavirus/>; NBA Twitter and media reports, *Jazz stars Donovan Mitchell, Rudy Gobert test positive for coronavirus*, NBA (Mar. 12, 2020, 2:46 PM), <https://www.nba.com/article/2020/03/11/nba-suspends-season-virus-outbreak-ap>.

8. COVID-19 is novel coronavirus viral disease which the World Health Organization (WHO) has announced as a serious global threat pandemic. *Frequently Asked Questions*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Coronavirus-Disease-2019-Basics> (last updated Oct. 21, 2020); *Timeline: WHO’s COVID-19 response*, WHO, <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/interactive-timeline#!> (last visited Oct. 24, 2020).

9. See Alex Reimer, *Rudy Gobert Testing Positive for Coronavirus Finally Propelled Sports Leagues To Take Pandemic Seriously*, FORBES (Mar. 12, 2020, 2:34 PM), <https://www.forbes.com/sites/alexreimer/2020/03/12/rudy-gobert-testing-positive-for-coronavirus-finally-propelled-sports-leagues-to-take-pandemic-seriously/#7591d8433764>; Quinn, *supra* note 7.

10. See *NBA players who have tested positive for coronavirus*, USA TODAY (Mar. 26, 2020, 4:57 PM), <https://www.usatoday.com/story/sports/nba/2020/03/19/coronavirus-nba-players-who-have-tested-positive-covid-19/2882123001/>; NBA Twitter and media reports, *supra* note 7.

11. See Reimer, *supra* note 9. See also Steve Aschburner, *Coronavirus pandemic causes NBA to suspend season after player tests positive*, NBA (Mar. 12, 2020, 3:23 PM), [www.nba.com/article/2020/03/11/coronavirus-pandemic-causes-nba-suspend-season](http://www.nba.com/article/2020/03/11/coronavirus-pandemic-causes-nba-suspend-season); see also NBA Communications, *NBA to suspend season following tonight’s games*, NBA (Mar. 11, 2020), <https://pr.nba.com/nba-to-suspend-season-following-tonights-games/>; see also ESPN News Services, *NBA suspends season until further notice after player tests positive for the coronavirus*, ESPN (Mar. 11, 2020), [https://www.espn.com/nba/story/\\_/id/28887560/nba-suspends-season-further-notice-player-tests-positive-coronavirus](https://www.espn.com/nba/story/_/id/28887560/nba-suspends-season-further-notice-player-tests-positive-coronavirus).

12. Mark Schlabach, *Mark Emmert: Rudy Gobert’s positive test was ‘exclamation point’ for NCAA tourney hopes*, ESPN (Mar. 15, 2020), [https://www.espn.com/mens-college-basketball/story/\\_/id/28908241/mark-emmert-rudy-gobert-positive-test-was-exclamation-point-ncaa-tourney-hopes](https://www.espn.com/mens-college-basketball/story/_/id/28908241/mark-emmert-rudy-gobert-positive-test-was-exclamation-point-ncaa-tourney-hopes); see also Dr. Karissa L. Niehoff, *The NFHS Voice: March Was Maddening Last Week in High School Sports*, NFHS (Mar. 18, 2020), <https://www.nfhs.org/articles/the-nfhs-voice-march-was-maddening-last-week-in-high-school-sports/>; see also *Joint Statement From The International Olympic Committee And The Tokyo 2020 Organising Committee*, OLYMPIC (Mar. 24, 2020), <https://www.olympic.org/news/joint-statement-from-the-international-olympic-committee-and-the-tokyo-2020-organising-committee>.

The COVID-19 pandemic has wrought unprecedented havoc across the globe. Every sector of society has been impacted and forced to change business as usual, to re-evaluate priorities and systems, and to innovate amid the unknown and possible lasting impacts of this threat to public health and commerce. Sports worldwide are also profoundly impacted.<sup>13</sup> Since the WHO declaration, nearly all competitive sports were suspended, postponed, or cancelled, which raised significant questions about how to deal with the severe financial impacts, legal issues, and when and how to resume play safely amid continued uncertainty.<sup>14</sup> Like other sectors, the impact on sports is likely to far outlast the pandemic. Sports has been, and will continue to be, forced to pivot, innovate, and remain vigilant to survive as an industry and to ensure player, personnel, and spectator health, safety, and security. Recognizing that the crisis is not yet over and the impact COVID-19 on the global sports industry is the nascent stage, this article nonetheless seeks to examine the impact of COVID-19 on competitive sport leagues, from a financial, legal, and problem-solving perspective. The article contends that, while many financial, legal, and practical outcomes remain pending and unresolved, the rules for operating sports as we knew it have changed. Yet, the challenges and lessons that can be learned from this crisis will have a lasting impact on and throughout the sports industry. To survive, sports must put safety first, anticipate and plan for this and future crises, innovate, and find common ground, despite force majeure rights that could pose a disparate impact on one party, to preserve tradition and the very sports we revere.

## II. FINANCIAL AND LEGAL IMPACTS OF COVID-19 ON SPORT

The financial repercussions of COVID-19 in sports alone are astounding and compounding, as sports also grappled with when and how it will be safe to resume. *The World Economic Forum* reported that

[t]he global value of the sports industry was estimated to be \$471 [billion] in 2018—an increase of forty-five percent since 2011—and before coronavirus stopped play, the only trajectory seemed to be upwards. Now, every part of the sporting value chain has been

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13. See Matthew Futterman, et. al., *The Financial Blow of the Coronavirus on Sports*, N.Y. TIMES (Mar. 14, 2020), <https://www.nytimes.com/2020/03/14/sports/sports-coronavirus-impact.html>.

14. See, e.g., Todd Dybas, *Nationals players trying to navigate Opening Day without fans*, NBC (July 23, 2020), <https://www.nbcsports.com/washington/nationals/nationals-players-trying-navigate-opening-day-without-fans>.

affected, from athletes, teams and leagues, to the media that broadcast and cover games.<sup>15</sup>

Strategies for financial survival, legal responsibility, and problem-solving for the uncertainties in resuming play are needed both now and along the way. The following addresses the response and impact on major sports in the United States resulting from the crisis.

### *A. Rippling Financial Impacts*

The pandemic has presented existential health, financial, and social challenges across the globe. The abrupt shutdown on sports similarly rippled a wave of economic tremors upon the many sectors that comprise the sports industry. This following section discusses some of the far-reaching financial implications of the pandemic on college sports, professional sports, and the Olympics.

#### *1. College Sports*

The National Collegiate Athletic Association (NCAA) is the primary governing body for inter-collegiate sports in the United States, whose membership includes 102 conferences comprised of 1,098 colleges and universities.<sup>16</sup> In 2019, the NCAA reported revenues of \$933 million, with \$771 million from its broadcasting and media rights contract with CBS/Turner Broadcast, “and the rest from ticket sales, corporate sponsorships, championships.”<sup>17</sup> Nearly seventy-five percent of the NCAA’s budget comes from the Men’s Division I Basketball “March Madness” tournament.<sup>18</sup> From this, the NCAA distributes money to member schools to fund athletic programs non-revenue generating

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15. Stefan Hall, *This is how COVID-19 is affecting the world of sports*, WORLD ECON. F. (Apr. 9, 2020), <https://www.weforum.org/agenda/2020/04/sports-covid19-coronavirus-exercise-spectators-media-coverage/>.

16. *What is the NCAA?*, NCAA, <http://www.ncaa.org/about/resources/media-center/ncaa-101/what-ncaa> (last visited Nov. 4, 2020). See *In re NCAA Athletic Grant-in-Aid Cap Antitrust Litig.*, 375 F. Supp. 3d 1058, 1062-65 (N.D. Cal. 2019) (discussing Division I conferences as NCAA members who generate their own income from regular-season basketball and regular/post-season FBS season).

17. Guardian Sport, *March Madness, college basketball's \$933m jewel, will be played without fans*, GUARDIAN (Mar. 11, 2020, 5:57 PM), <https://www.theguardian.com/sport/2020/mar/11/ncaa-tournament-coronavirus-empty-stadiums>; see also Mike Ozanian, *March Madness Is Most Profitable Postseason TV Deal In Sports*, FORBES (Mar. 19, 2019, 9:24 AM), <https://www.forbes.com/sites/sportsmoney/2019/03/19/march-madness-is-most-profitable-postseason-tv-deal-in-sports/#686d99cf1795> (agreement between CBS/Turner Broadcasting and NCAA averages \$771 million a year).

18. Ozanian, *supra* note 17; see also Darren Geeter, *March Madness makes enough money to nearly fund the entire NCAA—here's how*, CNBC (Mar. 22, 2019, 2:45 PM), <https://www.cnbc.com/2019/03/22/ncaa-march-madness-tournament-basketball.html>.

sports.<sup>19</sup> As a result, the tournament's cancelation and this loss of revenue has reverberated to all conferences and schools.<sup>20</sup> Rather than the \$600 million budgeted for distribution to member schools, the NCAA announced it would distribute \$225 million to Division I schools from an expected \$270 million insurance policy.<sup>21</sup> Revenues from the lucrative College Football Playoffs are governed through athletic conferences, rather than the NCAA.<sup>22</sup> The delays and cancelation of fall season sports, and in particular, a complete alteration of the big-time football competition, could pose an estimated \$2.5-4 billion loss in revenue that

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19. See *Where Does The Money Go?*, NCAA, <http://www.ncaa.org/about/where-does-money-go> (last visited Oct. 28, 2020).

20. See Laine Higgins, *The Big Bill for Canceling March Madness Has Arrived at the NCAA*, WALL ST. J. (Mar. 26, 2020, 4:59 PM), <https://www.wsj.com/articles/ncaa-schools-to-see-fewer-funds-next-year-11585256379> (expecting \$270 million event cancellation insurance policy to cover the remaining distribution); see also Brian Burnsed, *The NCAA Canceled Its Cash Cow. Now, How Bad Could This Get?*, SPORTS ILLUSTRATED (Mar. 13, 2020), <https://www.si.com/college/2020/03/13/ncaa-cancels-march-madness-money-revenue> (discussing the impact of tournament cancelation and stating that "the overwhelming majority" of the broadcasting revenue money goes to the NCAA's other eighty-nine championships and other programs like scholarships for athletes going to grad school, and the student-assistance fund, which offers money to students in need). The author notes the alarming news that the NCAA, in the last public tax filing in 2018, listed \$425 million in net assets, down from \$700 million in 2014, while also reporting annual expenses over \$1 billion. *Id.* This has a significant impact on schools such as Dayton, which would have gotten increased enrollment, donations, etc. See *id.*

21. *NCAA presidents set revised financial distribution to support college athletes*, NCAA (Mar. 26, 2020, 1:23 PM), <http://www.ncaa.org/about/resources/media-center/news/ncaa-presidents-set-revised-financial-distribution-support-college-athletes>; see also J. Brady McCollough, *NCAA announces huge reduction in revenue payout after cancellation of March Madness*, L.A. TIMES (Mar. 26, 2020, 4:42 PM), <https://www.latimes.com/sports/story/2020-03-26/ncaa-huge-reduction-revenue-distribution-march-madness-cancellation> (noting this revised distribution is \$375 million less than the \$600 million that was originally budgeted; Division II schools will get \$13.9 million, \$30 million less than last year; and Division III schools will get \$10.7 million, \$22 million less than last year).

22. B. David Ridpath, *The College Football Playoff And Other NCAA Revenues Are An Exposé Of Selfish Interest*, FORBES (Jan. 17, 2017, 1:13 PM), <https://www.forbes.com/sites/bdavidridpath/2017/01/17/college-football-playoff-and-other-ncaa-revenues-is-an-expose-of-selfish-interest/#37772fa4e1af> ("The monetary value of the new four-team College Football Playoff is in excess of \$600 million per year, and it is owned jointly by all FBS conferences plus Notre Dame, rather than by the NCAA"). See J. Brady McCollough, *'We all need each other': Inside college football's plan to play on versus COVID-19*, L.A. TIMES (May 15, 2020, 11:00 AM), <https://www.latimes.com/sports/story/2020-05-15/inside-college-football-plan-to-play-on-testing-coronavirus>. See also *Alston v. NCAA (In re NCAA Ath. Grant-In-Aid Cap Antitrust Litig.)*, 958 F.3d 1239, 1245 (9th Cir. 2020) ("In the 2015-16 academic year, [NCAA Division I Men's Basketball and FBS football] programs generated \$4.3 billion in revenue (a \$300 million increase from the previous year) for the Power Five. And in 2016, the NCAA negotiated an eight-year extension (until 2032) of its multimedia contract for the broadcasting rights to March Madness, the annual D1 men's basketball tournament. Under that agreement, the NCAA will receive \$1.1 billion per year (an annual increase of over \$325 million).").

is usually earned and distributed among major collegiate football conferences.<sup>23</sup> The loss in game day revenue and reduced distributions to member schools results in financial hits to their respective athletic programs and, in some cases, general funds.<sup>24</sup>

The fate and resumption of collegiate sports has been in a state of flux since its shutdown. NCAA President Mark Emmert initially stated that fall sports would resume only if campuses were re-opened.<sup>25</sup> Yet by mid-May, some campuses, including the California State University system, announced that its fall classes will remain fully online, although not specifying whether sports programs would continue.<sup>26</sup> On July 8th, the Ivy Leagues postponed all sports for the fall 2020 season,<sup>27</sup> followed shortly thereafter by the Big Ten and the Pac-12 canceling non-conference games, only to later announcing start dates after the formidable Southeastern Athletic Conference (SEC) proceeded to hold its scheduled games.<sup>28</sup> The uncertainty of whether, when, or how, athletic programs

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23. Mark Schlabach & Paula Lavigne, *Financial toll of coronavirus could cost football at least \$4 billion*, ESPN (May 21, 2020), [https://www.espn.com/college-sports/story/\\_/id/29198526/college-football-return-key-athletic-departments-deal-financial-wreckage-due-coronavirus-pandemic](https://www.espn.com/college-sports/story/_/id/29198526/college-football-return-key-athletic-departments-deal-financial-wreckage-due-coronavirus-pandemic). See also Tom Goldman, *Colleges Worry If Sporting Event Shutdowns Will Affect The Big Moneymaker: Football*, NPR (Apr. 12, 2020, 7:00 AM), <https://www.npr.org/2020/04/12/832230443/colleges-worry-if-sporting-event-shutdowns-will-affect-the-big-moneymaker-football> (reporting that schools stand to lose \$2.5 billion (notably generated by the twenty-five most valuable football teams) if fall football season cancels and impacts general fund and support of non-generating revenue sports).

24. See Joe Nocera, *Joe Nocera: COVID-19 has the power to break the sports world*, PITTSBURGH POST GAZETTE (July 24, 2020, 9:00 PM), <https://www.post-gazette.com/opinion/Op-Ed/2020/07/25/Joe-Nocera-COVID-19-crisis-sports-world-college-professional/stories/202007250008> (“Without its March Madness revenue, the NCAA had to reduce its distribution to university athletic departments by two-thirds. That has resulted in the elimination of dozens of “minor” sports like tennis, gymnastics and wrestling at many schools. Except those sports weren’t minor to athletes who lost their chance to compete for a college team. High school baseball seniors hoping to be recruited by colleges—or just wanting to play one last year—were also hurt. So were college baseball players hoping to be drafted. And . . . TV networks? The legacy networks like CBS and NBC lost out on billions of dollars in ad revenue. ESPN, which depends on pro basketball and baseball this time of year, was reduced to promoting UFC fights, which shut down only briefly.”).

25. Heather Dinich, *Mark Emmert: No NCAA championships this fall due to coronavirus pandemic*, ESPN (Aug. 30, 2020), [https://www.espn.com/college-sports/story/\\_/id/29656816/no-ncaa-championships-fall-due-coronavirus-pandemic](https://www.espn.com/college-sports/story/_/id/29656816/no-ncaa-championships-fall-due-coronavirus-pandemic).

26. Sean Hubler, *Fearing a Second Wave, Cal State Will Keep Classes Online in the Fall*, N.Y. TIMES (May 12, 2020), <https://www.nytimes.com/2020/05/12/us/cal-state-online-classes.html>.

27. Billy Witz, *Ivy League Places All Sports on Hold Until January*, N.Y. TIMES (July 8, 2020), <https://www.nytimes.com/2020/07/08/sports/ncaaf-football/ivy-league-fall-sports-football-coronavirus.html>. The Ivy League also canceled winter sports, including basketball, hockey, and swimming. Gillian R. Brassil, *Ivy League Cancels Winter Sports and Stalls Spring Sports Over Coronavirus*, N.Y. TIMES (Nov. 12, 2020), <https://www.nytimes.com/2020/11/12/sports/ivy-league-winter-spring-sports-coronavirus.html>.

28. Laine Higgins & Rachel Bachman, *College Football Season in Jeopardy as Big Ten Begins Canceling Games*, WALL ST. J. (July 9, 2020, 5:40 PM),

will operate in the near future, combined with the certainty of diminished revenues, has resulted in schools canceling or eliminating some sport teams altogether.<sup>29</sup>

The pandemic has also caused disruption to player recruitment. On March 30th, the NCAA voted to permit member schools to extend another year of eligibility to 2020 spring-sport athletes whose season was cut short.<sup>30</sup> This potential benefit to affected college senior athletes at schools that elect to extend eligibility, however, may come at the expense of restricting playing time for prospective high school recruits.<sup>31</sup> Opportunities for high school and player recruitment, through traditional means of campus visits, showcasing by spring/summer competitions or camps, has also been limited.<sup>32</sup>

## 2. Professional Sports

The National Basketball Association (NBA) and the National Hockey League (NHL) typically gear up for their respective playoffs in March, when NBA Commissioner Adam Silver took an early aggressive stance to postpone the season once Gobert had tested positive. Silver stated that the league fully intended to resume the remainder of the

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<https://www.wsj.com/articles/college-football-season-in-jeopardy-as-big-ten-begins-canceling-games-11594330799?mod=searchresults&page=1&pos=1>; Pac-12 Conference, *Pac-12 announces resumption of football, basketball & winter sports seasons*, PAC-12 (Sept. 24, 2020), <https://pac-12.com/article/2020/09/24/pac-12-announcement>.

29. Ross Dellenger & Pat Forde, *A Collegiate Model in Crisis: The Crippling Impact of Schools Cutting Sports*, SPORTS ILLUSTRATED (June 11, 2020), <https://www.si.com/college/2020/06/11/college-sports-program-cuts-ncaa-olympics> (noting the elimination of thirty sports teams in Division I in two months because of the pandemic). Due to economic shortfall resulting from the pandemic, Stanford cut eleven Division I sports, and others are expected to follow. Patrick Rishe, *As Stanford Cuts 11 Sports From Their Program, Expect Other Power 5 Schools To Follow Suit*, FORBES (July 8, 2020), <https://www.forbes.com/sites/prishe/2020/07/08/as-stanford-cuts-11-sports-from-their-program-expect-other-power-5-schools-to-follow-suit/#1de7f5385f83>. See also Greta Anderson, *Pandemic Hits College Sports*, INSIDE HIGHER ED. (Apr. 24, 2020), <https://www.insidehighered.com/news/2020/04/24/financial-crisis-related-coronavirus-hits-athletic-departments>.

30. Michelle Brutlag Hosick, *Division I Council extends eligibility for student-athletes impacted by COVID-19*, NCAA (Mar. 30, 2020, 6:50 PM), <https://www.ncaa.org/about/resources/media-center/news/division-i-council-extends-eligibility-student-athletes-impacted-covid-19>.

31. Billy Witz, *N.C.A.A. Allows Extra Year of Eligibility for Athletes in Curtailed Spring Sports*, N.Y. TIMES (Mar. 30, 2020), <https://www.nytimes.com/2020/03/30/sports/ncaa-spring-sports-eligibility.html>.

32. Ross Dellenger, *Inside the Upside-Down World of College Football Recruiting During a Pandemic*, SPORTS ILLUSTRATED (Apr. 17, 2020), <https://www.si.com/college/2020/04/17/college-football-recruiting-ncaa-coronavirus>; Vincent Nguyen, *Athletes, coaches facing challenges with college recruiting during coronavirus*, L.A. TIMES (Apr. 9, 2020, 12:30 PM), <https://www.latimes.com/socal/glendale-news-press/https://www.latimes.com/socal/burbank-leader/sports/story/2020-04-09/athletes-coaches-facing-challenges-with-college-recruitment-during-pandemic>.

season whenever possible; the looming question, however, is when and how.<sup>33</sup> The NBA is typically an \$8 billion a year organization, yet its largest revenue streams—broadcasting and ticket sales—are both hit by the stoppage.<sup>34</sup> The league’s nine-year, \$24 billion broadcasting deal with ESPN and Turner Sports, yields the league \$2.6 billion each year.<sup>35</sup> A reduction in games results in a commensurate loss from the network contracts.<sup>36</sup> Until play resumed,<sup>37</sup> the NBA faced an estimated \$1.0-1.7 billion in lost ticket revenue, concession sales, media rights, and merchandising for the 2020 season.<sup>38</sup> The NBA lost roughly \$695 million from the 258 lost games in the 2020 season, primarily from the TV rights deal.<sup>39</sup> However, the NBA also saved \$1.5 billion in losses from playing the 172 games it did in the bubble.<sup>40</sup>

The NHL also paused its season and continued to pay players as it determined a plan to return to play.<sup>41</sup> Prior to the shutdown, the NHL

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33. Kurt Helin, *NBA playoffs, Finals schedule 2020: Date, time, matchup for every game*, YAHOO! SPORTS (Oct. 6, 2020, 10:02 PM), <https://sports.yahoo.com/nba-playoffs-schedule-2020-first-015351427.html>.

34. Nathan Reiff, *How The NBA Makes Money*, INVESTOPEDIA (Sept. 18, 2020), <https://www.investopedia.com/articles/personal-finance/071415/how-nba-makes-money.asp#>.

35. SI Wire, *NBA announces 9-year TV deal with ESPN, Turner Sports*, SPORTS ILLUSTRATED (Oct. 5, 2014), <https://www.si.com/nba/2014/10/06/new-nba-tv-deal-worth-24-billion>.

36. See Bryan Toporek, *NBA Must Prepare For Possibility Of Huge Revenue Drop In 2020-21*, FORBES (Apr. 13, 2020, 10:00 AM), <https://www.forbes.com/sites/bryantoporek/2020/04/13/nba-must-prepare-for-possibility-of-huge-revenue-drop-in-2020-21/#40635d2ccc85> (projecting nearly \$1 billion in revenue losses and noting uncertainty of whether and when games can resume).

37. See Tyler Cowen, *The NBA’s Reopening Is a Warning Sign for the U.S. Economy*, BLOOMBERG OP. (July 4, 2020, 9:05 AM), <https://www.bloomberg.com/opinion/articles/2020-07-04/nba-reopening-is-a-warning-sign-for-the-u-s-economy> (suggesting current plans increasingly point towards a fragmented regular season with many key players MIA given the reluctance to act as test subjects for NBA closed game rules or to shield sick family members such as the L.A. Laker’s star Avery Bradley whose son suffers from respiratory issues).

38. See Motez Bishara, *The NBA could lose billions this season. Who will eat that loss?*, CNN SPORTS (Mar. 31, 2020, 5:58 AM), <https://www.cnn.com/2020/03/31/sport/nba-coronavirus-cost-on-season-spt-intl/index.html>.

39. Tommy Beer, *Report: NBA’s Bubble Prevented \$1.5 Billion In Losses* (Oct. 20, 2020, 3:12 PM), <https://www.forbes.com/sites/tommybeer/2020/10/20/report-nbas-bubble-prevented-15-billion-in-losses/?sh=38bd93213823>.

40. *Id.*

41. Greg Wyshynski, *NHL players will be paid final 3 checks through end of season*, ESPN (Mar. 13, 2020), [https://www.espn.com/nhl/story/\\_/id/28899889/nhl-players-paid-final-3-checks-end-season](https://www.espn.com/nhl/story/_/id/28899889/nhl-players-paid-final-3-checks-end-season); Mike Chambers, *If NHL season resumes, should players have the option of not playing? “This is serious stuff,” Brian Engblom says*, DENV. POST (May 19, 2020, 3:10 PM), <https://www.denverpost.com/2020/05/19/nhl-season-update-players-option/>.

was projected to make \$5 billion in revenue for the first time;<sup>42</sup> since then, NHL teams stand to lose an estimated \$1.3 million per game from ticketing, concessions, and advertising revenue.<sup>43</sup> Without such revenue, the NHL is proposing further pay cuts.<sup>44</sup>

The effects of lost ticket and concession sales are even more pronounced for individual sport athletes and other sports that do not have as substantial media deals. Women's professional sports, for example, may be more adversely impacted, as they often lack comparable reserves as major men's professional sports leagues.<sup>45</sup> Individual sport athletes do not have the protection of a team paycheck or union advocate. With tournaments canceled, players lose out on prize money and sponsorships while events suffer from lost broadcast and streaming revenue.

### 3. Tokyo 2020 Olympic and Paralympic Games

Sports leagues already in season had little choice but to postpone or cancel the remainder of their games after the March 11th pandemic declaration.<sup>46</sup> Yet the world's premier international sporting event—the Olympic Games, followed by the Paralympics Games—were months away from the Opening Ceremonies, set to start July 24, 2020, in Tokyo, Japan.<sup>47</sup> Japan's Prime Minister Shinzo Abe and the International

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42. Emily Kaplan & Greg Wyshynski, *Why the NHL hit the pause button on the 2019-20 season, and what comes next*, ESPN (Mar. 12, 2020), [https://www.espn.com/nhl/story/\\_/id/28893110/why-nhl-hit-pause-button-2019-20-season-comes-next](https://www.espn.com/nhl/story/_/id/28893110/why-nhl-hit-pause-button-2019-20-season-comes-next).

43. *Estimated potential loss of revenue for NHL teams per home game due to the coronavirus (COVID-19) pandemic as of March 2020*, STATISTA, <https://www.statista.com/statistics/1104159/coronavirus-revenue-loss-nhl/> (last visited Nov. 4, 2020).

44. As part of the July 2020 negotiations to resume the 2019-20 NHL season with a twenty-four team playoff, the players agreed to a four year extension of the current CBA and a twenty percent escrow and ten percent reduction in salaries; however, the league is proposing more cuts due to the financial shortfall in ticket revenue. Eric Macramall, *NHL Is Trying To Update Its Brand—New Deal to Cut Player Salaries—And Its Proposal Does Make Sense*, FORBES (Nov. 28, 2020), <https://www.forbes.com/sites/ericmacramalla/2020/11/28/with-nhl-and-nhlpa-facing-off-on-salaries-the-leagues-proposal-does-makes-sense/?sh=6b6da1707fbc>.

45. See Juliet Macur, *Coronavirus Compounds Financial Concerns in Women's Sports*, N.Y. TIMES (Mar. 21, 2020), <https://www.nytimes.com/2020/03/21/sports/coronavirus-womens-sports.html>; see also Ben Pickman, *How COVID-19 is Affecting Female Athletes, Women's Sports Leagues*, SPORTS ILLUSTRATED (Mar. 26, 2020), <https://www.si.com/sports-illustrated/2020/03/26/coronavirus-impact-women-sports-leagues>.

46. Jamie Ducharme, *World Health Organization Declares COVID-19 a 'Pandemic.' Here's What That Means*, TIME (Mar. 11, 2020, 12:39 PM), <https://time.com/5791661/who-coronavirus-pandemic-declaration/>.

47. Ahiza García-Hodges, Yuliya Talmazan & Arata Yamamoto, *Tokyo 2020 Olympics postponed over coronavirus concerns*, NBC NEWS (Mar. 24, 2020, 7:03 AM), <https://www.nbcnews.com/news/world/tokyo-2020-olympics-postponed-over-coronavirus-concerns-n1165046>.

Olympic Committee (IOC) initially insisted that the Games would go on; yet, the pressure to postpone or cancel began to mount.<sup>48</sup> Despite the millions of dollars and enormous logistical questions at stake in the decision, public safety concerns overwhelmed.<sup>49</sup> On March 24th, the IOC and the Tokyo 2020 Organising Committee announced the Games would be postponed, and a week later, set new dates for July 2021.<sup>50</sup>

The postponement, a first ever for the Olympic Games,<sup>51</sup> involves enormous financial and logistic impacts to all aspects of the event production.<sup>52</sup> The postponement, is reported to add \$2.7 billion to the cost of the Games, which was already announced to be at \$12.6 billion (although other reports estimate the actual costs before postponement to be in the range of \$22-\$28 billion).<sup>53</sup> Olympic media rights holder NBCUniversal is expected to lose an estimated \$1.2 billion in advertising revenue due to the postponement.<sup>54</sup> Compounding the enormous financial

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48. *Id.*; Athletes, sport federations, and national Olympic Committees joined in the calls for postponement due to coronavirus concerns. See also Andrew Keh et al., *An Olympic Showdown: The Rising Clamor to Postpone the Tokyo Summer Games*, N.Y. TIMES (July 17, 2020), <https://www.nytimes.com/2020/03/21/sports/olympics/tokyo-olympics-coronavirus-cancel.html>.

49. Keh et al., *supra* note 48; Motoko Rich, Mathew Futterman, Tariq Panja., *I.O.C and Japan Agree to Postpone Tokyo Olympics*, N.Y. TIMES (Mar. 25, 2020), <https://www.nytimes.com/2020/03/24/sports/olympics/coronavirus-summer-olympics-postponed.html>.

50. *Joint Statement From the International Olympic Committee and the Tokyo 2020 Organising Committee*, OLYMPIC (Mar. 24, 2020), <https://www.olympic.org/news/joint-statement-from-the-international-olympic-committee-and-the-tokyo-2020-organising-committee> (officially announcing the Games will be postponed beyond 2020 but not later than summer 2021); see also *IOC, IPC, Tokyo 2020 Organising Committee And Tokyo Metropolitan Government Announce New Dates For The Olympic And Paralympic Games Tokyo 2020*, OLYMPIC (Mar. 30, 2020), <https://www.olympic.org/news/ioc-ipc-tokyo-2020-organising-committee-and-tokyo-metropolitan-government-announce-new-dates-for-the-olympic-and-paralympic-games-tokyo-2020> (announcing Tokyo 2020 Games will open July 23, 2021).

51. Tokyo 2020 is the first postponement of the Olympic Games; however, the Games have been canceled four times in its history: in 1916 Berlin, 1940 Tokyo and 1944 London, and a temporary suspension of the Games in Munich 1972. *The Modern Games Caught In The Upheavals Of History*, OLYMPIC (Mar. 26, 2020), <https://www.olympic.org/news/the-modern-games-caught-in-the-upheavals-of-history>.

52. Christopher Cole et al., *Tokyo Olympics Move May Spark Wave Of Contract Litigation*, LAW360 (Mar. 30, 2020, 5:18 PM), <https://www.law360.com/articles/1258105/tokyo-olympics-move-may-spark-wave-of-contract-litigation> (listing impacts of postponement and likely disputes from impacted advertisers, sponsors, service providers, lost media rights).

53. Mike Ozanian, *Postponement Of Tokyo Olympics Expected To Increase Games' Cost By \$2.7 Billion*, FORBES (Mar. 25, 2020, 8:35 AM), <https://www.forbes.com/sites/mikeozanian/2020/03/25/postponement-of-tokyo-olympics-expected-to-increase-its-cost-by-27-billion/#6369877c1b7c>. Olympic officials have insisted that the Tokyo Games will proceed in 2021, and are working on COVID-19 safety measures. David K. Li, *Tokyo officials vow Olympics will go on 'at any cost,' even if coronavirus remains in 2021*, NBC NEWS (Sept. 9, 2020, 10:51 AM), <https://www.nbcnews.com/news/world/tokyo-officials-vow-olympics-will-go-any-cost-even-if-n1239635>.

54. Alex Reimer, *Tokyo Olympics Postponement Will Have Devastating Impact On Sports TV Revenue, Experts Say*, FORBES (Mar. 25, 2020, 3:02 PM),

costs include numerous questions involving logistics, commercial contracts, international sport competitions, and, importantly, the eligibility of and impact on the athletes. For instance, most apartments in the Olympic Village, which were set to house thousands of athletes during the Games, were already sold with people due to move in after the originally scheduled Games.<sup>55</sup> Notwithstanding, the IOC and Tokyo Organizing Committee have announced that the Olympics will happen in 2021 and that officials are working on Covid-19 safety measures.<sup>56</sup>

The postponement of the Olympic Games has significantly impacted the National Olympic Committees (NOCs), sports federations, commercial sponsors, other international sporting events, and certainly the athletes.<sup>57</sup> Under the basic funding structure for the Olympics, the IOC sells worldwide television broadcasting and sponsorship rights (TOP Programme), then makes contributions to the Organizing Committee for the Olympic Games (here, Tokyo 2020), the sport federations, and NOC's based on those revenues.<sup>58</sup> These agreements and corresponding payments are often tied to the start of the Olympic Games, resulting in the contributions being delayed.<sup>59</sup> For example,

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<https://www.forbes.com/sites/alexreimer/2020/03/25/tokyo-olympics-postponement-will-have-crippling-impact-on-sports-tv-revenue-experts-say/#7ef4d75c6b3a> (discussing NBC's expected loss and lack of ability to make it up during 2020); *see also* Ahiza Garcia, *NBC's \$12 billion investment in the Olympics is looking riskier*, CNN BUS. (Feb. 24, 2018, 10:45 AM), <https://money.cnn.com/2018/02/24/media/nbc-olympics-ratings-12-billion-rights/index.html> (describing NBC's financial situation as it continues in a multi-year contract to air the Olympics as viewership falls).

55. James Leggate, *No Olympic Village in 2021? Athletes' homes are already sold*, FOX BUS. (Mar. 25, 2020), <https://www.foxbusiness.com/real-estate/olympic-village-2021-athletes-homes-sold> (noting that the site of the Olympic Village had already been sold to developers for \$172 million).

56. David K. Li, *Tokyo officials vow Olympics will go on 'at any cost,' even if coronavirus remains in 2021*, NBC NEWS (Sept. 9, 2020), <https://www.nbcnews.com/news/world/tokyo-officials-vow-olympics-will-go-any-cost-even-if-n1239635>.

57. Jonathan Roussel, *Tokyo 2020 Olympic Games: Financial Impact of COVID-19*, LEGAL READER (June 19, 2020), <https://www.legalreader.com/tokyo-2020-olympic-games-financial-impact-of-covid-19/>. Roussel notes that

[t]here are 15,000 athletes and other competitors participating in the 2020 Tokyo Olympics games in 33 different sporting activities in more than 40 sporting venues. This results in selling about 7.8 million tickets, out of which 4.5 million tickets have been sold already. This is a great loss to the sporting venue because they have to refund the money.

*Id.*

58. *See* INT'L OLYMPIC COMMITTEE, OLYMPIC MARKETING FACT FILE 2020 EDITION (2020), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/IOC-Marketing-and-Broadcasting-General-Files/Olympic-Marketing-Fact-File.pdf>.

59. *See* Andrew Keh & Matthew Futterman, *The \$200 Million the Olympic Postponement Took From Team U.S.A.*, N.Y. TIMES (Apr. 4, 2020), <https://www.nytimes.com/2020/04/04/sports/olympics/coronavirus-olympics-athletes-funding.html>.

NBCUniversal's contractual obligation to pay \$1.2 billion payment to IOC for media rights is not due until shortly before the Games begin.<sup>60</sup>

Given the financial interdependence of the various members of Olympic Movement on the funding provided by IOC, the delay leaves sport federations, NOCs, and athletes in a financial crisis.<sup>61</sup> Nearly \$200 million in funding for Team USA athletes' training and development is in abeyance,<sup>62</sup> and the USOPC agreed on further budget cuts.<sup>63</sup> The IOC carries an approximate \$800 million in insurance coverage prior to each Olympic Games in case of cancelation.<sup>64</sup> However, that policy does not necessarily apply to postponement as the IOC is currently seeking.<sup>65</sup> The IOC announced it would provide a \$150 million aid package to the sport federations and National Olympic Committees, and IOC-recognized organizations, as well as set aside \$650 million to cover other postponement-related costs.<sup>66</sup>

Many athletes acknowledged the decision to postpone was heart-breaking but necessary.<sup>67</sup> Athlete eligibility, selection, and qualification decisions are in flux. The USOPC had yet to name its full Olympic delegation, as many of the international qualifying competitions were also suspended, and the few athletes or teams named for 2020 does not

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60. *Id.*

61. *See id.*; Press Release, International Olympic Committee, IOC Has Already Provided Around USD 100 Million of Financial Support to Olympic Movement (July 15, 2020), <https://www.olympic.org/news/ioc-has-already-provided-usd-100-million-of-financial-support-to-olympic-movement>. IF's requested advance on the funding (e.g. WAF, UCI) they expected to receive due to cash flow challenges and that the IOC has established a fund of up to \$150 million to be made available to support IFs, National Olympic Committees and IOC-recognized organizations. *Id.*

62. Keh & Futterman, *supra* note 59.

63. Michael Pavitt, *USOPC to make budget cuts over coronavirus as marketing and communications officer leaves*, INSIDE THE GAMES (Apr. 22, 2020), <https://www.insidethegames.biz/articles/1093477/usopc-budget-cuts-coronavirus-pandemic>.

64. Noor Zainab Hussain & Carolyn Cohn, *Insurers could lose billions if coronavirus prompts Olympics cancelation*, REUTERS (Feb. 28, 2020, 5:04 AM), <https://www.reuters.com/article/us-olympics-2020-coronavirus-insurance/insurers-could-lose-billions-if-coronavirus-prompts-olympics-cancelation-idUSKCN20M1YD>.

65. Associated Press, *IOC seeks insurance compensation for delayed Tokyo Olympics*, ESPN (June 4, 2020), [https://www.espn.com/olympics/story/\\_id/29266599/ioc-seeks-insurance-compensation-delayed-tokyo-olympics](https://www.espn.com/olympics/story/_id/29266599/ioc-seeks-insurance-compensation-delayed-tokyo-olympics). *Olympics postponement creates insurance hurdle*, BUS. INS. (June 4, 2020), <https://www.businessinsurance.com/article/20200604/NEWS06/912334958/Summer-Olympics-Tokyo-postponement-creates-insurance-hurdle-COVID-19-coronavirus#>.

66. *IOC Approves Financial Envelope Of Up To USD 800 Million To Address The COVID-19 Crisis*, OLYMPICS (May 14, 2020), <https://www.olympic.org/news/ioc-approves-a-financial-envelope-of-up-to-usd-800-million-to-address-the-covid-19-crisis>.

67. *Athletes React to Postponement of Tokyo Olympic Games*, OLYMPICS (Mar. 24, 2020), <https://www.olympic.org/news/athletes-react-to-postponement-of-tokyo-olympic-games>.

necessarily guarantee 2021 entry.<sup>68</sup> According to the IOC, approximately fifty-seven percent of the qualification places had been secured and the qualification deadline has been extended.<sup>69</sup> But that does not resolve practical selection (or potential de-selection) issues or athlete welfare concerns.<sup>70</sup> Consider that the athletes who were set to compete in 2020 have trained for years, and some athletes, such as gymnasts, have limited time to compete due to variety of factors such as age and physical changes. Some athletes took off time from college or left their paying jobs to commit full time to training. The cancelation of qualifying competitions and the Games pose financial hardships upon athletes who depend on prize and sponsorship money.<sup>71</sup> As four-time Olympian Lauryn Williams said, “[t]hat’s prize money that can’t be earned, funds no one can count on. If you’re not sponsored, you desperately need that money.”<sup>72</sup> Olympic-level athletes such as Monica Aksamit, a fencer who represented the United States in the 2016 Olympics, have had to take up side jobs and set up a GoFundMe page to support herself while

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68. About fifty-seven percent of all of the Games entries have been assigned, though that does not mean that a specific athlete has necessarily been identified. Some athletes/sports have qualified, others still have to qualify, yet all athletes would need to be re-selected by their respective National Olympic Committee for 2021. Karolos Grohmann, *National committees have final say on qualified athletes for Tokyo Games*, REUTERS (Apr. 2, 2020), <https://www.reuters.com/article/us-health-coronavirus-olympics/national-committees-have-final-say-on-qualified-athletes-for-tokyo-games-idUSKBN21K2A9>. Back in March, only seventy-six U.S. athletes had been named, while the majority of the athletes yet to participate in qualifying competitions. The NGBs need to go forward with their process to select athletes. Drew Davison, *With the Olympics postponed should Team USA have athletes re-qualify for 2021?*, FORT WORTH STAR-TELEGRAM (Mar. 24, 2020, 4:00 PM), <https://www.star-telegram.com/sports/olympics/article241460361.html> (noting situation is fluid and decision is with individual governing bodies). See OlympicTalk, *Which athletes are qualified for the U.S. Olympic team?*, NBC SPORTS (Mar. 30, 2020, 11:19 AM), <https://olympics.nbcsports.com/2020/03/30/usa-olympic-team-qualified-athletes/> (noting that only seventy-six athletes had qualified by name prior to postponement decision).

69. Grohmann, *supra* note 68.

70. Law Offices of Howard Jacobs, *Tokyo2021: Navigating the Legal Consequences of Postponing the Summer Olympic Games for Athletes*, ATHLETES LAWYER (Mar. 31, 2020), <https://www.athleteslawyer.com/blog/2020/03/tokyo-2021-navigating-the-legal-consequences-of-postponing-the-summer-olympic-games-for-athletes/> (“One of the major decisions that International Federations had to make is whether those athletes who have already qualified for the Summer Olympics will remain qualified, or if they will have to qualify all over again.”); see ESPN Staff, *The 2020 Olympics are officially postponed, but many more questions remain*, ESPN (Mar. 24, 2020), [https://www.espn.com/olympics/story/\\_/id/28947573/the-2020-olympics-officially-postponed-many-more-questions-answer](https://www.espn.com/olympics/story/_/id/28947573/the-2020-olympics-officially-postponed-many-more-questions-answer).

71. Jill Cornfield, *Olympic hopefuls lose more than medals in Summer Games delay*, CNBC (Mar. 24, 2020, 3:32 PM), <https://www.cnbc.com/2020/03/24/postponing-2020-summer-olympics-takes-financial-toll-on-athletes.html>.

72. *Id.*

continuing to train.<sup>73</sup> The conflict, confusion, and disputes emanating from the postponement, including questions regarding athlete qualification and funding, are percolating and are certain to demand resolution.<sup>74</sup>

### III. LEGAL IMPACTS—FORCE MAJEURE DEBATES, PANDEMIC PLANNING, AND PLAYING IN AN UNCERTAIN FIELD

The suspension of sport competitions and live events results in staggering financial losses. Lost revenues impact all stakeholders whose livelihood depends on the events, commercial partners in the chain, as well as the players, staff, and ticketed fans. This situation inevitably gives rise to questions, and likely disputes, as to the legal rights, responsibilities, and liabilities under various contracts, from venue, player and staff compensation, service time and delayed free agency, sponsorship, broadcasting, ticketing, player eligibility status, and plans for resuming competition.

The cancelations due to the COVID-19 pandemic has prompted a sudden focus on a typically obscure, boilerplate *force majeure* contractual provision and related doctrines of impossibility. Section A below discusses the applicability of force majeure provisions impacting contractual obligations in a pandemic. Section B highlights examples from sports organizations where the parties have worked beyond and despite a force majeure provision and, instead, engaged in problem-solving negotiations, contingent agreements, scenario planning, and identifying creative options to attempt a resolution considerate of stakeholder needs for health and safety, financial security, and mutual interests in determining prospects for returning to play.

#### A. Force Majeure Debates

The pandemic prompted a surge in lawyers scrutinizing contractual force majeure provisions.<sup>75</sup> “Force majeure,” from the French for

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73. *Id.* Although many athletes are financially hurt during this time, their spirit and ambition is a welcoming sign. When asked about waiting another year to compete in the Olympics, Aksamit said, “It’s going to be a struggle[.]” “But I’m not going to stop just because I have another year to go.” *Id.*

74. *Tokyo 2021: Navigating the Legal Consequences of Postponing the Summer Olympic Games for Athletes*, LAW OFFICES OF HOWARD L. JACOBS (Mar. 31, 2020), <https://www.athleteslawyer.com/blog/2020/03/tokyo-2021-navigating-the-legal-consequences-of-postponing-the-summer-olympic-games-for-athletes/>.

75. Steven M. Herman & Amanda Reasoner, *COVID-19 Update: Thoughts on Force Majeure and Impossibility of Performance*, NAT’L. L. REV. (Mar. 26, 2020), <https://www.natlawreview.com/article/covid-19-update-thoughts-force-majeure-and-impossibility-performance>; see also Neal R. Marder & Ali R. Rabbani, *Event cancellations spawn a new wave of COVID-19 consumer class actions*, AKIN GUMP STRAUSS HAUER & FELD

“superior force,”<sup>76</sup> is generally defined as “an event beyond the control of the parties that prevents performance under a contract and may excuse performance.”<sup>77</sup> The purpose of a force majeure clause is to allocate risk by contract and to excuse non-performance under the contract when unforeseen circumstances render it impossible.<sup>78</sup>

Contracts that specifically seek “pandemic” coverage are rare. Wimbledon, governed by the All-England Lawn Tennis Club, was one of the few major sporting events to have taken out specific pandemic insurance coverage.<sup>79</sup> Wimbledon reportedly paid \$2 million a year for the specific pandemic coverage, and the \$34 million paid over seventeen years proved a worthwhile investment and financial protection.<sup>80</sup> By canceling (as opposed to postponing, such as the French Open has done from May to September)<sup>81</sup> the annual tournament due to the pandemic, Wimbledon will reportedly be paid \$141 million in insurance coverage.<sup>82</sup>

Outside of the insurance context, few other event contracts contained explicit pandemic coverage, and such specificity is critically important.<sup>83</sup> General force majeure provisions can be standard boilerplate

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(May 20, 2020), [https://www.akingump.com/a/web/om-NqB512KcpGDPoRZ78E5c/pi\\_marder.pdf](https://www.akingump.com/a/web/om-NqB512KcpGDPoRZ78E5c/pi_marder.pdf).

76. *Force Majeure*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/force%20majeure> (last visited Oct. 19, 2020).

77. Glen Banks, *Force Majeure*, 28A N.Y. PRAC., CONT. L. § 20:13 (Aug. 2020).

78. See Myanna Dellinger, *An “Act of God”? Rethinking Contractual Impracticability in an Era of Anthropogenic Climate Change*, 67 HASTINGS L. J. 1551, 1572 (2016).

79. Darren Rovell, *Pandemic insurance? Wimbledon has it, but most sports businesses don't. So what's their next option?*, N.Y. DAILY NEWS (Apr. 4, 2020), <https://www.nydailynews.com/sports/gambling/sns-actnet-pandemic-insurance-wimbledon-sports-businesses-20200404-t4vz7y2xyrhf3el4bih6at5uua-story.html> (noting interview with lawyer clarifying that business interruption insurance generally covers only property damage; spike in google searches for force majeure).

80. Isabel Togoh, *Report: Wimbledon's Organizers Set For A \$141 Million Payout After Taking Out Pandemic Insurance*, FORBES (Apr. 9, 2020, 7:17 AM), <https://www.forbes.com/sites/isabeltogoh/2020/04/09/report-wimbledons-organizers-set-for-a-141-million-payout-after-taking-out-pandemic-insurance/#36b3d04129f6> (quoting Dick Horsdorff of the German Tennis Federation as saying that “Wimbledon was probably—as the only Grand Slam tournament many years ago predictive enough to insure itself against a worldwide pandemic, so that the financial damage should be minimized there.”).

81. Matthew Futterman & Karen Crouse, *As the French Open Begins, Confusion and Fears About Coronavirus Dominate*, N.Y. TIMES (Sept. 28, 2020), <https://www.nytimes.com/2020/09/26/sports/tennis/coronavirus-french-open.html>.

82. Togoh, *supra* note 80.

83. Brian W. Ledebuhr et al., *COVID-19, Force Majeure Clauses and Contractual Non-performance*, VEDDERPRICE (Mar. 23, 2020), <https://www.vedderprice.com/-/media/files/vedder-thinking/publications/2020/03/covid19-force-majeure-clauses-and-contractual-nonperformance.pdf>.

language in insurance, commercial, and event contracts.<sup>84</sup> For example, a generic provision that simply excuses performance for “Acts of God” or other events that are beyond the reasonable control of either party<sup>85</sup> is susceptible to debate as to the scope and application of a force majeure under the parties’ contract due to the pandemic.<sup>86</sup>

Courts narrowly construe such force majeure provisions. Whether a provision governs a situation, is often a matter of contractual interpretation, factual specifics, and debate. Ironically, a force majeure clause may be invoked to extinguish contractual obligations primarily in circumstances that were either specifically listed and, arguably, unforeseeable and unavoidable at the time of contracting.<sup>87</sup> Where contracts do not contain express force majeure provisions, parties may seek to invoke the related common law doctrine of impossibility to excuse performance.<sup>88</sup> Yet this defense carries an even higher burden to prove essentially that “an Act of God” destroyed the contractual subject matter making performance objectively impossible.<sup>89</sup>

As lawyers are scrutinizing contracts and now seeking to amend contracts to include pandemics/epidemics if not expressly stated, such provisions will heretofore be fiercely negotiated and insurance coverage rare. The legal and financial impact (with respect to clients, insurance

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84. P. Danielle Cortez & Jason B. Sims, *Boilerplate Contract Language Coming to the Forefront: Force Majeure Clauses and COVID-19*, NAT’L L. REV. (Mar. 19, 2020), <https://www.natlawreview.com/article/boilerplate-contract-language-coming-to-forefront-force-majeure-clauses-and-covid-19>.

85. Jennifer Roach & Mathew Ridings, *Force Majeure & Commercial Contracts*, BLOOMBERG LAW (2020), <https://www.bloomberglaw.com/product/health/document/XDBFHDLK000000#:~:text=Force%20Majeure%20Defined,and%20prevents%20or%20delays%20performance> (stating that “[a] force majeure provision is often an afterthought: a careless boilerplate tacked onto the end of an agreement. The disruption to the global markets caused by Covid-19 demonstrates, however, that force majeure provisions are critically important for businesses that are attempting to navigate a catastrophe, and are deserving of more careful consideration.”)

86. Christopher Cole et al., *Tokyo Olympics Move May Spark Wave Of Contract Litigation*, LAW360 (Mar. 30, 2020, 5:18 PM), <https://www.law360.com/articles/1258105/tokyo-olympics-move-may-spark-wave-of-contract-litigation> (stating that “regardless of the wording of the actual provisions at issue, in our experience, parties typically engage in intensive negotiations over whether a force majeure event has occurred.”).

87. *Chamberlain Corporate Update - Force Majeure Clauses and the COVID-19 Pandemic*, CHAMERLAIN HRDLICKA ATT’YS AT L. (Mar. 25, 2020), [https://www.chamberlain-law.com/news-news-force\\_majeure\\_clauses\\_and\\_covid-19\\_pandemic.html](https://www.chamberlain-law.com/news-news-force_majeure_clauses_and_covid-19_pandemic.html).

88. *No Force Majeure Clause? Other Potential Options to Excuse Contractual Performance Under US Law in the Face of COVID-19*, BAKER MCKENZIE (Mar. 6, 2020), <https://www.bakermckenzie.com/en/insight/publications/2020/03/no-force-majeure-clause>.

89. Daniel Eliot Silverman, *COVID-19 Impacts Contracts and Obligations: Performance Excused?*, AVVO (Mar. 20, 2020), <https://www.avvo.com/legal-guides/ugc/covid-19-impacts-contracts-and-obligations-performance-excused-> (“The defense of impossibility should be applied narrowly and only in extreme circumstances because the purpose of contract law is to allocate risks.”).

carriers, venues, leagues, *etc.*) of the hiatus in operations is certain to be considerable.<sup>90</sup>

### *B. Risks of Activating Force Majeure in Sports Contracts*

While Wimbledon was able to collect under its specific pandemic insurance policy,<sup>91</sup> consider the scenario where the parties are in a *partnership* such as a sport league and players. From a strictly legal perspective, a party could arguably invoke a force majeure provision to release them of all responsibilities under the contracts. A force majeure condition could potentially provide a complete out for one party to the contract. However, a strict invocation of force majeure could be shortsighted where it could threaten the economic needs of the other party to the contract as well as the relationship and overall business venture.

Consider the NBA's collective bargaining agreement with the National Basketball Players Association (NBPA) which contains a force majeure clause that ostensibly allows the league to withhold players' salaries and bonuses for future canceled games due to the pandemic.<sup>92</sup> This provision states:

'Force Majeure Event' shall mean the occurrence of any of the following events or conditions, provided that such event or condition either (i) makes it impossible for the NBA to perform its obligations under this Agreement, or (ii) frustrates the underlying purpose of this Agreement, or (iii) makes it economically impracticable for the NBA to perform its obligations under this Agreement: wars or war-like action (whether actual or threatened and whether conventional or other, including, but not limited to, chemical or biological wars or war-like action); sabotage, terrorism or threats of sabotage or terrorism; explosions; *epidemics*; weather or natural disasters, including,

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90. Milandri, Brandon & Meza, *Business Interruption Coverage for the COVID-19 Pandemic: Insurance Industry Fights Biggest Battle Ever Against Difficult Odds*, 42 NO. 10 INS. LIT. REP. (June 19, 2020) (reporting that many insurance companies are denying "business interruption" claims for loss of income, citing a requirement for physical damage or loss due to the pandemic); Lloyd Dixon & Behany Saunders-Medina, *Is It Time for a Federal Pandemic Insurance Program?*, RAND (June 26, 2020), <https://www.rand.org/blog/2020/06/is-it-time-for-a-federal-pandemic-insurance-program.html> (noting that "[t]he wide-ranging effects of COVID-19 almost guarantee that insurers will broaden pandemic exclusions in business-related lines" and discussing proposed federal pandemic risk insurance laws).

91. See Togoh, *supra* note 80. The policy was expensive, and even then, few insurance companies are reportedly willing to write pandemic policies henceforth. Todd C. Frankel, *Insurers knew the damage a viral pandemic could wreak on businesses. So they excluded coverage.*, WASH. POST (Apr. 2, 2020, 10:25 AM), <https://www.washingtonpost.com/business/2020/04/02/insurers-knew-damage-viral-pandemic-could-wreak-businesses-so-they-excluded-coverage/>.

92. Peter Botte, *NBA paycheck battle could be brewing in coronavirus hiatus*, N.Y. POST (Mar. 21, 2020, 10:42 AM), <https://nypost.com/2020/03/21/nba-paycheck-battle-could-be-brewing-in-coronavirus-hiatus/>.

but not limited to, fires, floods, droughts, hurricanes, tornados, storms or earthquakes; and any governmental order or action (civil or military); provided, however, that none of the foregoing enumerated events or conditions is within the reasonable control of the NBA or an NBA Team (emphasis added).<sup>93</sup>

Similarly, the IOC may also have grounds to hold Tokyo responsible for the Summer Olympics under the 2013 Host City Contract. Article 66 of the Tokyo Host City Contract covers incidents that would allow for termination: “the failure to host the Games is one of the specific contingencies that allows the IOC to unilaterally terminate the contract without affecting its rights to claim compensation against Tokyo organizing committee.”<sup>94</sup> Japan had already invested \$12 billion prior to the postponement, and tension overhangs regarding whether the IOC will require Japan to incur the extra costs of postponement and potential cancelation, as the Host City Contract arguably allows the IOC to walk away and leave the enormous bill with Japan.<sup>95</sup>

The NFL stands in contrast to the NBA and the IOC, as the collective bargaining agreement does not contain a specific force majeure provision, leaving to debate the player rights to compensation in a pandemic situation.<sup>96</sup> Some international team players similarly risk the loss of salaries on force majeure grounds.<sup>97</sup>

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93. Mike Florio, *NBA players could soon lose pay; will that happen to NFL players, too?*, NBC SPORTS (Mar. 23, 2020, 1:09 PM), <https://profootballtalk.nbcsports.com/2020/03/23/nba-players-could-soon-lose-pay-will-that-happen-to-nfl-players-too/>.

94. Jack Anderson, *Why the fall-out from postponing the Olympics may not be as bad as we think*, CONVERSATION (Mar. 24, 2020, 2:20 AM), <https://theconversation.com/why-the-fall-out-from-postponing-the-olympics-may-not-be-as-bad-as-we-think-134531>; *Host City Contract*, BUREAU OF OLYMPIC AND PARALYMPIC GAMES TOKYO 2020 PREPARATION, <https://www.2020games.metro.tokyo.lg.jp/hostcitycontract-EN.pdf> (last visited Oct. 26, 2020).

95. Associated Press, *Tokyo organizers, IOC at odds over who pays massive cost for Olympics postponement*, ESPN (Apr. 21, 2020), [https://www.espn.com/olympics/story/\\_/id/29076093/tokyo-ioc-odds-massive-cost-olympics-postponement](https://www.espn.com/olympics/story/_/id/29076093/tokyo-ioc-odds-massive-cost-olympics-postponement).

96. Mike Florio, *NFLPA acknowledges lack of force majeure in CBA*, NBC SPORTS (Apr. 22, 2020, 2:59 PM), <https://profootballtalk.nbcsports.com/2020/04/22/nflpa-acknowledges-lack-of-force-majeure-clause-in-cba/> (reporting that the cancelation provision on page eighty-two of the 2020 NFL CBA states that “[i]f one or more weeks of any NFL season are cancelled or [All Revenue] for any League Year substantially decreases, in either case due to a terrorist or military action, natural disaster, or similar event, the parties shall engage in good faith negotiations to adjust the provisions of this Agreement with respect to the projection of [All Revenue] and the Salary Cap for the following League Year so that [All Revenue] for the following League Year is projected in a fair manner consistent with the changed revenue projection caused by such action.”). Players contend the cancelation provision concerns the 2021 season and the otherwise absence of a force majeure clause entitles the players to full salary in 2020. *Id.*

97. Marcus Mergulhao, *Footballers may not get salaries as clubs initiate force majeure*, TIMES OF INDIA (Apr. 7, 2020, 8:28 AM),

The COVID-19 pandemic may be an event entitling sport leagues or entities such as the IOC to abandon Tokyo, or the NBA to terminate the CBA and cancel its obligations to players.<sup>98</sup> But *should* they? Sport organizations recognize the need to consider the broader implications, relationships, interests, “optics,” and alternatives to disputes on liability.<sup>99</sup> For example, were the IOC to hold Japan responsible for all costs may be technically or legally defensible, but seemingly contrary to the stated principles of the Olympic spirit of solidarity, peace, and cooperation.<sup>100</sup> The optics would likely deter other cities from wanting to host future Olympic Games, and simultaneously frustrate cities already committed to host Games through 2028 (i.e., Beijing, Paris, Milan, and Los Angeles).<sup>101</sup> Leagues activating force majeure, rather than engage in problem-solving negotiations, put the important relationship with players, fans, and brand in peril.

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<https://timesofindia.indiatimes.com/sports/football/top-stories/footballers-may-not-get-salaries-as-clubs-initiate-force-majeure/articleshow/75019730.cms> (“Some clubs have activated the force majeure clause in player contracts . . . which states that ‘failure by a party to fulfill any of its obligations under the agreement shall not be considered to be a breach of, or a default under, the agreement in so far as the inability arises from an event of force majeure.’”).

98. Adrian Wojnarowski, *Sources: NBA, NBPA agree to extend CBA termination deadline through September*, ESPN (May 11, 2020), [https://www.espn.com/nba/story/\\_/id/29161104/nba-nbpa-agree-extend-cba-termination-deadline-september](https://www.espn.com/nba/story/_/id/29161104/nba-nbpa-agree-extend-cba-termination-deadline-september) (“For now, the extension staves off the NBA’s ability to trigger the nuclear option to its economic crisis—terminating the CBA under the force majeure event provision, which it could’ve done within two months of the March 11 shutdown of the league.”).

99. Continuing with the example of a college sports cancellation, creative solutions might be retaining the scholarship but temporarily suspending the sport until more money comes in, reducing a few benefits (special cafeterias/gyms for athletes), looking for other sources of money (boosters, sponsors, etc.). One other possible solution is to reduce scholarships, but allow for NIL compensation (requires NCAA approval—doesn’t present a complete fix as it benefits some more than others). Schools want to encourage students to continue to enroll in school and contribute to student body; students want to receive education/participate in sports. Students make a commitment of four or more years; it’s not just a one-time thing.

100. See Jack Anderson, *Why the fall-out from postponing the Olympics may not be as bad as we think*, CONVERSATION (Mar. 24, 2020, 2:20 AM), <https://theconversation.com/why-the-fall-out-from-postponing-the-olympics-may-not-be-as-bad-as-we-think-134531> (positing that litigation is unlikely, “[w]hile sports lawyers try to interpret these [force majeure] contractual clauses over the next few weeks, we all need to remember the wider context here. If any broadcaster or sponsor tries to engage in legal action at a time when the world is facing its most serious public health emergency in a century, this may not sit well with their viewers or customers. The commercial losses sustained by large corporate sponsors for an event that can be rescheduled will engender little public sympathy at the moment. If the Olympics do go ahead in 2021, it can then be a global celebration of the talent, hard work and resilience of the world’s leading athletes.”).

101. *Tokyo 2020*, OLYMPIC, <https://www.olympic.org/olympic-games> (last visited Oct. 26, 2020).

*C. Foregoing Fault & Pro-Active Planning Sports in a Pandemic*

Sports have not been this seriously suspended since World War II.<sup>102</sup> The COVID-19 crisis has revealed the lack of contingency plans surrounding pandemics. Leagues have been forced to take immediate action and draft contingency plans that align with stringent public health and safety policies. Although some sports leagues could invoke force majeure clauses in major sporting events,<sup>103</sup> where the contract concerns parties in a relationship (such as the league/team and player context), and insurance coverage is not the issue, a broader, innovative and interest-based approach, beyond who bears the risk of loss, can better preserve relationships and the sport itself.

*I. NBA's Disney "Bubble" Restart Plan*

As an example, rather than tap the force majeure "nuclear option," the NBA, like many other sports, engaged in considerable dialogue and strategic scenario planning with players and medical consultants to explore alternatives to finish the season. The NBA and Players Association had reached an interim agreement for teams to continue to pay players through May 1st,<sup>104</sup> and to reduce player salaries by twenty-five percent starting May 15th through December 2020 should the season be canceled.<sup>105</sup>

The logistical challenges and safety considerations of returning to play were considerable. Through negotiations, the NBA and NBPA agreed to amend their CBA to restart the season, with a modified format, on July 31st at the Disney/ESPN's World Wide Sports Complex in

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102. During WWII, the NFL shortened its schedule to ten games. Some teams did not have enough players because many players went to fight in the war. Teams even combined rosters in order to have enough players. Other sports leagues, such as MLB and NHL, faced similar issues, but they did not cancel or suspend any of their games. Sports have been canceled other times, such as during wars, strikes, lockouts, or terrorist attacks. But, due to the Covid-19 pandemic, virtually every sport from youth play to professional has been put on hold or cancelled altogether. See Grant Suneson, *World War I is among the times entire sports leagues were canceled before COVID-19*, USA TODAY (Apr. 12, 2020, 7:21 AM), <https://www.usatoday.com/story/money/2020/04/12/16-times-entire-sports-leagues-were-cancelled-before-coronavirus/111525066/>.

103. See generally Urvasi Naidoo & Zachery O'Brien, *Force Majeure and Sports Events*, 21 SPORT & L. J. 7 (2013).

104. Cassandra Negley, *Coronavirus: NBA players will be paid full checks for April 15 during suspension*, YAHOO! SPORTS (Apr. 9, 2020, 11:13 AM), <https://sports.yahoo.com/coronavirus-nba-players-will-be-paid-full-checks-for-april-15-partial-for-may-1-181333905.html>.

105. Press Release, NBA, NBA and NBPA reach agreement on player pay due to COVID-19 pandemic (Apr. 17, 2020, 5:05 PM), <https://www.nba.com/article/2020/04/17/nba-and-nbpa-reach-agreement-salary-during-pandemic>.

Orlando, Florida.<sup>106</sup> A massive undertaking, that includes stringent health and safety protocols, including guidelines for teams to replace a positive COVID-19 player within seven days of confirmation and a several million-dollar insurance policy for career-ending injuries due to basketball or COVID-19 injuries.<sup>107</sup> And, of course, no fans.<sup>108</sup> Although the bubble plan was successful, NBA Commissioner Adam Silver acknowledged that it still posed risks and that some players were not willing to take that on.<sup>109</sup> Indeed, some players opted out before the restart began.<sup>110</sup> Discussions of using the bubble format for the 2020-21 season were met with opposition from the players.<sup>111</sup>

## 2. NHL

The NHL took a similar approach as the NBA. The NHL had stopped play March 12th, and, as of May 2020, NHL commissioner Gary Bettman stated that cancelling the season before crowning the winner is “not something I’m even contemplating.”<sup>112</sup> The NHL and the Players Association negotiated a return to play plan to occur in four phases, with phase two allowing players to return to home practice facilities in limited workouts and with safety protocols.<sup>113</sup> The plan to resume hockey “in

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106. Lukas Southard, *The NBA hopes to recoup revenue in the “bubble” at Disney World*, MARKETPLACE (June 18, 2020), <https://www.marketplace.org/2020/06/18/the-nba-hopes-to-recoup-revenue-in-the-bubble-at-disney-world/> (noting the bubble planned to accommodate twenty-two teams, totaling around 1,500 people including players, coaches, staff, officials, and media).

107. Steve Dewald, *Union, League Agree to Revised CBA Terms & Added Insurance*, SBINATION (June 23, 2020, 11:27 AM), <https://www.blazersedge.com/2020/6/23/21300740/nba-nbpa-union-league-agree-to-cba-orlando-restart-player-insurance>.

108. Mark Medina, *‘You got to create your own energy here’: How NBA players, coaches have adjusted without fans in bubble*, USA TODAY (July 30, 2020, 10:30 AM), <https://www.usatoday.com/story/sports/nba/2020/07/30/nba-bubble-restart-players-adjust-games-without-fans/5542714002/>.

109. Zach Braziller, *Adam Silver: NBA’s bubble plan ‘should work’ but is still a risk*, N.Y. POST (July 8, 2020, 2:10 AM), <https://nypost.com/2020/07/08/adam-silver-nbas-bubble-plan-should-work-but-is-still-a-risk/>.

110. *Id.*

111. *Id.*

112. Curtis Pashelka, *NHL commissioner: Cancelling season “not something I’m even contemplating,”* MERCURY NEWS (May 12, 2020, 7:36 PM), <https://www.mercurynews.com/2020/05/12/nhl-commissioner-says-cancelling-season-not-something-im-even-contemplating/>.

113. Jordon Hall, *2020 NHL playoffs: Date for training camps set in plan to resume season*, NBC SPORTS (June 11, 2020), <https://www.nbcsports.com/philadelphia/flyers/2020-nhl-playoffs-date-training-camps-phase-3-set-plan-resume-season>. See also Emily Kaplan & Greg Wyshynski, *NHL return-to-play plans: Latest timeline, testing plans, bubble life details*, ESPN (July 6, 2020), [https://www.espn.com/nhl/story/\\_/id/29415646/nhl-return-play-plans-latest-line-testing-plans-bubble-life-details](https://www.espn.com/nhl/story/_/id/29415646/nhl-return-play-plans-latest-line-testing-plans-bubble-life-details) (noting NHL to open the postseason training camps on July 13).

the bubble” looked quite different from other sports organizations.<sup>114</sup> During Phases three and four, a player’s family members could not attend games for the five weeks, each team must submit a list of no more than fifty-two traveling members to the NHL, a six-foot distance policy will be in effect (i.e., one to two hockey sticks in length) regardless of location, face coverings required at all times while playing, single-occupancy hotel rooms, contact-tracing if a player is diagnosed with COVID-19, and mandatory temperature and testing.<sup>115</sup> The penalties for players and teams failing to comply with these requirements may include significant financial penalties, loss of draft picks, and expulsion from the Phase four secure zone.<sup>116</sup> In restructuring the 2019-20 regular season, the NHL announced that it would resume August 1st directly into a twenty-four-team, best-of-five qualifying round playoff format in two hub cities, Toronto and Edmonton, Canada for the Eastern and Western Conferences respectively, with the final four playoff rounds in best of seven.<sup>117</sup> Through the restart negotiations, the NHLPA and NHL also agreed, in record time, to extend the parties’ labor agreement, originally set to expire in 2022, to 2026.<sup>118</sup> Under the revised CBA, players could opt-out of tournaments without penalty.<sup>119</sup> The CBA also reversed the 2018 restriction and authorizes players to participate in the next two Olympic Games, pending agreement with the NHL and IOC.<sup>120</sup>

### 3. *MLB & Players Interim Season Deal and Return to Play Dispute*

Major League Baseball (MLB) had begun spring training in preparation for its thirty teams to open the season when, on March 12th, the MLB suspended play, with no certainty as to when or if the season could

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114. Kaplan & Wyshynski, *supra* note 113.

115. *Id.*

116. *Id.*; Greg Wyshynski, *Are NHL coaches worried about players breaking the postseason bubbles?*, ESPN (July 22, 2020), [https://www.espn.com/nhl/story/\\_/id/29512088/are-nhl-coaches-worried-players-breaking-postseason-bubbles](https://www.espn.com/nhl/story/_/id/29512088/are-nhl-coaches-worried-players-breaking-postseason-bubbles).

117. Kaplan & Wyshynski, *supra* note 113. *See also* Daniel Canova, *NHL finalizes details of playoff format amid coronavirus pandemic*, FOX NEWS (June 4, 2020), <https://www.foxnews.com/sports/nhl-final-details-playoff-format-coronavirus>; Geoff Baker, *As the coronavirus-modified NHL playoffs unfold, the key to success is all in the players’ heads*, SEATTLE TIMES (Aug. 4, 2020, 6:33 PM), <https://www.seattletimes.com/sports/hockey/as-the-coronavirus-modified-nhl-playoffs-unfold-the-key-to-success-is-all-in-the-players-heads/>.

118. *See* Andrew Knoll, *N.H.L. Owners and Players Approve New C.B.A. and Return-to-Play Plan*, N.Y. TIMES (July 11, 2020), <https://www.nytimes.com/2020/07/11/sports/hockey/nhl-season-restart-approved.html>.

119. *Id.*

120. *Id.*

begin.<sup>121</sup> MLB and the MLB Players Association (MLBPA) had initially reached an amicable interim season deal, but negotiations became more contentious in trying to reach a deal to start the 2020 season.<sup>122</sup> Shortly after the shut-down, the League and MLBPA met around the clock to discuss salary, service time, player health and safety, and the myriad of other issues raised by the potential season cancellation.<sup>123</sup> Under the parties' CBA, salaries were paid on a per-game basis.<sup>124</sup> Thus, to the extent games are missed due to COVID-19, MLB could assert that players would not be owed their contractually-agreed upon salaries.<sup>125</sup> Further, player service time and eligibility for free agency and arbitration could also technically be impacted.<sup>126</sup> Perhaps recognizing the uncertain legal landscape at play and the bad optics of litigating over millions in salaries at a time of mass unemployment, the parties came to a swift interim resolution.<sup>127</sup> In an interim agreement, the players agreed to forego any potential suit against the league in exchange for full salaries in the event of a 2020 season cancellation, and the MLB agreed to forward players \$170 million over a two month period for the Players Association to divide among its members.<sup>128</sup>

MLB and the Players Association exchanged proposals from March to July to return to play. At the beginning of negotiations, MLB announced it was "actively considering numerous contingency plans" in the hope to resume play.<sup>129</sup> One such plan was to play all games in the

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121. Dayn Perry, Katherine Acquavella & R.J. Anderson, *Timeline of how the COVID-19 pandemic has impacted the 2020 Major League Baseball seasons*, CBS SPORTS (July 29, 2020, 10:44 AM), <https://www.cbssports.com/mlb/news/timeline-of-how-the-covid-19-pandemic-has-impacted-the-2020-major-league-baseball-season/>.

122. *Id.*; Jeff Passan & Kiley McDaniel, *What the MLB deal with players means for 2020 season and beyond*, ESPN (Mar. 28, 2020), [https://www.espn.com/mlb/story/\\_/id/28964249/what-mlb-deal-players-means-2020-season-beyond](https://www.espn.com/mlb/story/_/id/28964249/what-mlb-deal-players-means-2020-season-beyond).

123. *Id.*

124. Nicholas P. Zalany, *A Season in Flux Due to COVID-19: Major League Baseball Players and Owners Reach Agreement on Player Service-Time and Salary Terms*, NAT'L L. REV. (Apr. 6, 2020), <https://www.natlawreview.com/article/season-flux-due-to-covid-19-major-league-baseball-players-and-owners-reach-agreement>.

125. *Id.*

126. *Id.*

127. See Passan & McDaniel, *supra* note 122.

128. Zalany, *supra* note 124; ESPN, *MLB, MLBPA agree on stipulations for return of 2020 season*, ESPN (Mar. 27, 2020), [https://www.espn.com/mlb/story/\\_/id/28962850/mlb-mlbpa-agree-stipulations-return-2020-season](https://www.espn.com/mlb/story/_/id/28962850/mlb-mlbpa-agree-stipulations-return-2020-season).

129. Ken Rosenthal, *Rosenthal: Some in government support plan for baseball's return; obstacles remain*, ATHLETIC (Apr. 7, 2020), <https://theathletic.com/1729420/2020/04/07/rosenthal-some-in-government-support-plan-for-baseballs-return-obstacles-remain/> ("[T]he sport is indeed discussing quarantining teams and playing in a centralized location . . .").

Phoenix, Arizona area, at least to start the season.<sup>130</sup> The idea was to use the various spring training facilities and Chase Field, home of the Arizona Diamondbacks, as venues for all thirty teams to play games.<sup>131</sup> Players would be “sequestered” at local hotels, only traveling to and from the stadium, but no decision had been made as to whether families would be allowed to stay.<sup>132</sup> Additional measures to maintain “social distancing” include electronic strike zones and having players sit apart from each other in the stands, as opposed to staying in the dugout during the game.<sup>133</sup>

As the season postponement lingered, negotiations became more contentious.<sup>134</sup> MLB owners initially extended a proposed restart plan to the Players Association calling for a July 4th start date, eighty-two game season scheduled with increased intra-division competition and using home stadiums that meet state and local public health approvals, fifty-fifty revenue split, and expanding the number of teams for playoffs from ten to fourteen.<sup>135</sup> The union responded with a proposal for a 114-game season, two years of expanded playoffs, commitment to wear mics on the field, and the ability to opt-out for players who do not want to play.<sup>136</sup> Sticking points on the negotiations included service time for players who opt-out and salaries for players who are in high-risk groups for contracting Covid-19.<sup>137</sup> Other issues involved season length, player financial compensation, and the MLBPA’s ability to file a grievance

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130. Dayn Perry, *Coronavirus: MLB, MLBPA discuss starting 2020 season as soon as May with all games in Arizona, per reports*, CBS SPORTS (Apr. 7, 2020, 4:04 PM), <https://www.cbssports.com/mlb/news/coronavirus-mlb-mlbpa-discuss-starting-2020-season-as-soon-as-may-with-all-games-in-arizona-per-reports/>.

131. *Id.*

132. *Id.*

133. *Id.*

134. R.J. Anderson, et al., *MLB 2020 season: Timeline of how testy negotiations led to Rob Manfred mandating a 60-game schedule*, CBS SPORTS (June 23, 2020, 10:56 PM), <https://www.cbssports.com/mlb/news/mlb-2020-season-timeline-of-how-testy-negotiations-led-to-rob-manfred-mandating-a-60-game-schedule/>.

135. Jeff Passan, *Sources: Owners approve MLB season proposal, plan for July start as players’ union preps to weigh in*, ESPN (May 11, 2020), [https://www.espn.com/mlb/story/\\_/id/29162217/owners-approve-mlb-season-proposal-plan-july-start-players-union-preps-weigh-it](https://www.espn.com/mlb/story/_/id/29162217/owners-approve-mlb-season-proposal-plan-july-start-players-union-preps-weigh-it).

136. R.J. Anderson, *MLBPA proposal for 2020 MLB season includes 144-game season and player opt-out, per report*, CBS SPORTS (June 1, 2020, 3:45 PM), <https://www.cbssports.com/mlb/news/mlbpa-proposal-for-2020-mlb-season-includes-144-game-season-and-player-opt-out-per-report/>; ESPN.com Staff, *MLB 2020 season proposal timeline: Owners’ offers and union counteroffers*, ESPN (June 19, 2020), [https://www.espn.com/mlb/story/\\_/id/29290117/mlb-deal-line-owners-offers-union-counter-offers](https://www.espn.com/mlb/story/_/id/29290117/mlb-deal-line-owners-offers-union-counter-offers).

137. Anderson, *supra* note 136.

against the league.<sup>138</sup> The MLBPA voted to reject the MLB's final return-to-play proposal on June 22nd.<sup>139</sup> The owners responded by unanimously granting Rob Manfred, the MLB Commissioner, the unilateral power to implement a season.<sup>140</sup> MLBPA acceded to terms Manfred had proposed earlier in March 2020 after the owners unanimously decided to proceed under the terms of the March 26th proposal.<sup>141</sup>

Following three months of negotiations, MLB and MLBPA agreed on a sixty-game season set to begin on July 23rd through September 27th.<sup>142</sup> Players returned to spring training on July 1st and agreed to a health and safety proposal while the League acquiesced to the players' demand to better medical and training equipment access.<sup>143</sup> The 2020 season looked radically different with new rules and protocols set in place to protect players and coaches. Teams were to play at least forty games against their divisional opponents (ten games against each opponent), and twenty games "against their interleague opponents in the same geographical area."<sup>144</sup> Teams submitted a sixty-player roster for spring training on June 28th, and could only carry thirty players on their active roster with two-player reduction every two weeks until a maximum of twenty-six players was met.<sup>145</sup> Player trades resumed and continued until August 31st.<sup>146</sup> The National League will use a designated hitter (which is usually only seen in the American League), in extra innings,

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138. R.J. Anderson, *MLB announces 60-game season for 2020; Opening Day will be July 23 or 24*, CBS SPORTS (June 24, 2020, 11:46 AM), <https://www.cbssports.com/mlb/news/mlb-announces-60-game-season-for-2020-opening-day-will-be-july-23-or-24/#:~:text=Sign%20Up-,MLB%20announces%2060%2Dgame%20season%20for%202020%3B%20Opening%20Day%20will,be%20July%2023%20or%2024&text=Major%20League%20Baseball%20is%20set,a%2060%2Dgame%202020%20season>.

139. Gabe Lacques, *MLB rejects union's 114-game proposal, leaving baseball in limbo as other sports gear up for return*, USA TODAY (June 3, 2020, 3:23 PM), <https://www.usatoday.com/story/sports/mlb/2020/06/03/mlb-rejects-players-union-proposal-114-game-2020-season/3136481001/>; ESPN.com Staff, *MLB 2020 season proposal timeline: Owners' offers and union counteroffers*, ESPN (June 19, 2020), [https://www.espn.com/mlb/story/\\_/id/29290117/mlb-deal-line-owners-offers-union-counter-offers](https://www.espn.com/mlb/story/_/id/29290117/mlb-deal-line-owners-offers-union-counter-offers).

140. Anderson, *MLB announces 60-game season*, *supra* note 138.

141. *Id.* (stating that the key impasse concerned season length, the financial compensation players would receive, and the MLBPA's ability to file a grievance against the league; however, after many weeks of back and forth negotiation drama in May and June, the final acceptance by the MLBPA of Manfred's terms occurred on June 22, 2020).

142. Jeff Passan, *MLBPA, owners clear final hurdles; players set to report to camps July 1*, ESPN (June 23, 2020), [https://www.espn.com/mlb/story/\\_/id/29354014/sources-mlbpa-agrees-report-july-1-discussing-health-safety-protocols](https://www.espn.com/mlb/story/_/id/29354014/sources-mlbpa-agrees-report-july-1-discussing-health-safety-protocols).

143. Anderson, *supra* note 136.

144. *Id.*

145. *Id.*

146. *Id.*; Mark Feinsand, *Play Ball: MLB announces 2020 regular season*, MLB.COM (July 6, 2022), <https://www.mlb.com/news/mlb-announces-2020-regular-season>.

teams will start with a runner on second base, and there will be a COVID-19 injured list.<sup>147</sup> The season was largely successful, a championship was awarded, money was saved, and positive cases were relatively few and far between after a slew at the beginning of the season.<sup>148</sup>

#### 4. NFL

The National Football League (NFL) season was still months away when the March 2020 shutdown hit.<sup>149</sup> In one of the few live sports-related broadcasts since the pandemic, on April 23rd through April 25th, the NFL conducted its first-ever virtual draft, streaming the selections of top college athletes, with coaches, GMs, and owners drafting players from their respective homes across the country to a record sports-starved viewership.<sup>150</sup>

Although the league closed club facilities in March, the NFL was able to start its season in September 2020, including allowing full stadiums “until the medical community tells us otherwise,” as Troy Vincent, the NFL’s Executive Vice President of Football Operations, stated.<sup>151</sup> Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, warned that football should not happen unless the players are effectively isolated, tested daily, and play in a bubble.<sup>152</sup> The NFL’s chief medical officer, Dr. Allen Sills was not as dire, and proposed that less stringent, safety, testing and monitoring protocols adaptive to the situation can effectively warrant a return to play.<sup>153</sup> Despite

147. *Id.*

148. For a chronology of developments, see Dayn Perry, Katherine Acquavella & R.J. Anderson, *Timeline of how the COVID-19 pandemic has impacted the 2020 Major League Baseball season*, CBS SPORTS (July 29, 2020, 10:44 AM), <https://www.cbssports.com/mlb/news/timeline-of-how-the-covid-19-pandemic-has-impacted-the-2020-major-league-baseball-season/>.

149. Victor Mather & Joe Ward, *Where the Major Sports Stand Amid the Coronavirus Pandemic*, N.Y. TIMES (May 28, 2020), <https://www.nytimes.com/article/coronavirus-sports-leagues-returning-canceled.html>.

150. *Virtual NFL draft shatters records with 55 million viewers*, ESPN (Apr. 26, 2020), [https://www.espn.com/nfl/story/\\_/id/29101466/virtual-nfl-draft-draws-55-million-viewers-league-says](https://www.espn.com/nfl/story/_/id/29101466/virtual-nfl-draft-draws-55-million-viewers-league-says); *2020 NFL Draft will proceed in fully virtual format*, NFL (Apr. 6, 2020, 7:47 AM), <http://www.nfl.com/news/story/0ap3000001108454/article/2020-nfl-draft-will-proceed-in-fully-virtual-format>.

151. Jeff Kerr, *Troy Vincent: NFL planning for full stadiums ‘until medical community tells us otherwise,’* CBS SPORTS (May 24, 2020, 11:08 AM), [https://www.cbssports.com/nfl/news/troy-vincent-nfl-planning-for-full-stadiums-until-medical-community-tells-us-otherwise/?ftag=SNL-04-10aaa0b&ET\\_CID=129202&ET\\_RID=43390255](https://www.cbssports.com/nfl/news/troy-vincent-nfl-planning-for-full-stadiums-until-medical-community-tells-us-otherwise/?ftag=SNL-04-10aaa0b&ET_CID=129202&ET_RID=43390255).

152. Patrik Walker, *NFL coronavirus: League reportedly optimistic about 2020 season despite rash of positive COVID-19 tests*, CBS SPORTS (June 21, 2020, 11:47 AM), <https://www.cbssports.com/nfl/news/nfl-coronavirus-league-reportedly-optimistic-about-2020-season-despite-rash-of-positive-covid-19/>.

153. *Id.* This, of course, introduces a myriad of possible scenarios that could create potential bedlam at some point of the season and particularly in the playoffs, as players and/or

the multitude of risks to manage, including the health of players, coaches, personnel, and fans have been allowed in some NFL stadiums, primarily dependent upon local governmental directives.<sup>154</sup> As with many other live events, the NFL and other sports leagues still grapple with the many questions and decisions involved in resuming play, such as the safety of the players, coaches, staff, family members, and fans too.

#### *D. Safety Measures and Empty Stadiums*

Days before the formal pandemic declaration, NBA superstar LeBron James was quoted as saying “I ain’t playing if you don’t have the fans in the crowd. That’s who I play for. I play for my teammates, I play for the fans. That’s what it’s all about. So, if I show up to the arena and there ain’t no fans in there? I ain’t playing. So, they can do what they want to do.”<sup>155</sup> The unthinkable prospect of sport competition without live fans in attendance became one of the few realistic options to continue sport competitions due to the glooming health concerns of live large scale events.

On May 16th, Germany brought back its professional football league, Bundesliga, becoming the first major European football league to return.<sup>156</sup> The Bundesliga usually brings in, on average, around 43,300 people per game and has a large television presence.<sup>157</sup> However, its first games back had several noticeable changes, including, virtual press conferences, a one-week quarantine for teams prior to game day, and, of course, an empty stadium.<sup>158</sup>

South Korea’s professional baseball league was also one of the earlier leagues to resume play on May 5, 2020, albeit to an empty stadium,

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coaches potentially test positive for COVID-19 with some of the biggest games on the calendar.

154. Kevin Seifert, *Five big coronavirus concerns for the 2020 NFL season: Guiding principles for navigating COVID-19*, ESPN (June 24, 2020), [https://www.espn.com/nfl/story/\\_/id/29358769/five-big-coronavirus-concerns-2020-nfl-season-guiding-principles-navigating-covid-19](https://www.espn.com/nfl/story/_/id/29358769/five-big-coronavirus-concerns-2020-nfl-season-guiding-principles-navigating-covid-19) (discussing ethical issues and obligations at stake in an NFL 2020 season); Mary Omatiga, *Which NFL stadiums, teams will allow fans at games in Week 16 of the 2020 season?*, NBC SPORTS (Dec. 23, 2020, 9:00 AM), <https://sports.nbc.com/2020/12/23/which-nfl-stadiums-will-allow-fans-in-week-16/>.

155. Tania Ganguli, *LeBron James on games without spectators: ‘I ain’t playing,’* L.A. TIMES (Mar. 7, 2020, 7:00 PM), <https://www.latimes.com/sports/lakers/story/2020-03-07/lebron-james-on-games-without-spectators-i-aint-playing>.

156. Ravi Ubha, *Germany’s Bundesliga marks soccer’s elite return, with changes, during coronavirus pandemic*, CNN (May 16, 2020, 2:24 PM), <https://www.cnn.com/2020/05/16/sport/germany-bundesliga-return-football-spt-intl/index.html>.

157. *Id.*

158. *Id.*

but the league later made intriguing headlines.<sup>159</sup> Initial games had no fans in the stands, cheerleaders wore masks, and players set for physical distancing.<sup>160</sup> The first pitch, instead of being thrown out, was walked to home plate by a nine-year-old in a plastic bubble that looked like a baseball.<sup>161</sup> In later games, the club FC Seoul attempted to “add festivities” when it contracted to place premium mannequins in the stands to simulate fans, later to learn an embarrassing lesson to exercise caution before delving into new ventures.<sup>162</sup>

The prospect of major sport competition without live fan attendance is increasingly seen as one of the few viable options in the short-term to resume play while respecting the physical distancing requirements.<sup>163</sup> The National Women’s Soccer League (NWSL) arranged a return to play for a one-month, twenty-five game tournament in Utah in June to be broadcast by CBS, no fans in the stands.<sup>164</sup> Individual players will have the option to participate.<sup>165</sup> Sports have to consider how to keep players, support personnel, and other staff while allowing sports to return. Play without live spectators seems to be the model for going forward in the near future. The new era of sports will undoubtedly have to consider new forms of delivering the product to fans while maintaining safety protocols.<sup>166</sup> The question of how to resume play and what sport will look like when play resumes is uncharted, complex, and undoubtedly consuming sports lawyers and governing bodies worldwide.

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159. Min Joo Kim, *Baseball resumes in South Korea, bringing innings to a world starved for sports*, WASH. POST (May 5, 2020, 9:32 AM), [https://www.washingtonpost.com/world/asia\\_pacific/south-korea-baseball-coronavirus-opening-day-sports/2020/05/05/31e89406-8ea8-11ea-9322-a29e75effe93\\_story.html](https://www.washingtonpost.com/world/asia_pacific/south-korea-baseball-coronavirus-opening-day-sports/2020/05/05/31e89406-8ea8-11ea-9322-a29e75effe93_story.html).

160. *Id.*

161. *Id.* Even though this is taking place in South Korea, it is a great sign of what is to come. Sports will endure. It just might have a different look and feel when it returns.

162. Choe Sang-Hun, *Yes, Those Were Sex Dolls Cheering On a South Korean Team*, N.Y. TIMES (May 18, 2020), <https://www.nytimes.com/2020/05/18/world/asia/south-korea-sex-dolls-soccer.html?login=smartlock&auth=login-smartlock>.

163. Some leagues view as more of a band-aid solution for 2020 and recognize that they will not be profitable if they cannot have fans. This is not necessarily a lasting solution for future seasons despite how long the pandemic endures. This is particularly true for minor leagues and less prominent professional leagues. Shanna McCarriston, *The future of sports amid pandemic: What games could look like for fans and the importance of the bubble*, CBS SPORTS (Aug. 23, 2020), <https://www.cbssports.com/general/news/the-future-of-sports-amid-pandemic-what-games-could-look-like-for-fans-and-the-importance-of-the-bubble/>.

164. Andrew Das & Andrew Keh, *N.W.S.L. Plans a One-Month Season: 25 Games in Utah*, N.Y. TIMES (May 27, 2020), <https://www.nytimes.com/2020/05/27/sports/soccer/nwsl-season-utah.html>.

165. *Id.*

166. See e.g., *How the NHL Will Look On TV When Play Resumes*, 31 THOUGHTS PODCAST (May 28, 2020), <https://podcast.sportsnet.ca/31-thoughts/> (discussing experimentation with TV broadcast of live sports without fans—music during gameplay, camera angles, sponsorship opportunities, etc.).

## IV. SPORT USING INNOVATION TO MEET THE CHALLENGE

In a joint statement announcing the suspension of tennis, the WTA and ATP stated that “[t]he challenges presented by the COVID-19 pandemic to professional tennis demand greater collaboration than ever from everyone in the tennis community, in order for the sport to move forward collectively in the best interest of players, tournaments and fans.”<sup>167</sup> Collaboration, innovation, and strategic planning are needed to save sports.

## A. Reprogramming

With the inability to hold live events, sports leagues and media partners are exploring options to mitigate lost television revenue, typically the primary source of any given league’s revenue, grant additional rights, and extend existing agreements.<sup>168</sup> The NBA and broadcasting partner Turner Sports removed the paywall, while still benefitting from ads,<sup>169</sup> for their joint streaming service, NBA League Pass, providing public access to archived games and other content.<sup>170</sup> Major League Baseball followed offering archived games for free on MLB.TV and YouTube.<sup>171</sup>

The NBA has also found other creative solutions, such as holding an streamed NBA 2K tournament with several NBA players that was live on ESPN, and expediting the release of *The Last Dance*, an enormously popular ten-part Michael Jordan documentary.<sup>172</sup> In an attempt to keep fans engaged in the pandemic, as mentioned above, the NFL conducted its 2020 draft virtually, with record ratings.<sup>173</sup> Other leagues

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167. WTA Staff, *WTA and ATP announce further suspension of tennis through June 7*, WTA (Mar. 18, 2020), <https://www.wtatennis.com/news/1646646/wta-and-atp-announce-further-suspension-of-tennis-through-june-7>.

168. Alex Sherman, *Media networks have paid billions for sports they won’t receive this year—but the fighting for refunds hasn’t started yet*, CNBC (Apr. 2, 2020, 3:01 PM), <https://www.cnbc.com/2020/04/01/coronavirus-sports-cancellations-set-up-media-fights-over-refunds.html>.

169. Hall, *supra* note 15. Companies are withdrawing ad revenues/sport sponsorships during this time. Shane Schick, *What coronavirus means for sports marketing*, MARKETING DIVE (Mar. 26, 2020), <https://www.marketingdive.com/news/coronavirus-sports-marketing-covid-19/574932/> (noting that NCAA’s Men’s Basketball tournament “generated about \$968 million in advertising revenue” and was on target to generate similar revenue prior to the COVID-related closure and similar sponsorships have dried up, while looking at other venues such as esports and sports gambling).

170. Hall, *supra* note 15.

171. *Id.*

172. *Id.*; NBA Insiders, *How ‘The Last Dance’ changed the way we think about Michael Jordan*, ESPN (May 17, 2020), [https://www.espn.com/nba/story/\\_/id/29180240/how-last-dance-changed-way-think-michael-jordan](https://www.espn.com/nba/story/_/id/29180240/how-last-dance-changed-way-think-michael-jordan).

173. Kevin Seifert, *The 2020 NFL draft is going virtual: How it will work, and what you should know*, ESPN (Apr. 17, 2020), [https://www.espn.com/nfl/draft2020/story/\\_/id/29026049/the-2020-nfl-draft-going-virtual-](https://www.espn.com/nfl/draft2020/story/_/id/29026049/the-2020-nfl-draft-going-virtual-)

have turned to esports.<sup>174</sup> NASCAR and Formula 1 broadcast virtual races in which actual drivers use simulators at home, keeping a camera on drivers during the race so the announcers can check-in and ask questions.<sup>175</sup> Many drivers decked out their computer desks and rooms with sponsorship material so it can be seen throughout the broadcast.<sup>176</sup> Premier League players are set to take part in a huge 128-team FIFA charity tournament, started by Leyton Orient Football Club, a League Two English football team.<sup>177</sup> These ventures do not replace live games but demonstrate efforts to engage fans, while maintaining relationships and driving revenue.

### *B. Player Altruism and Stepping Up for Affected Workers*

Postponed and canceled games have also left thousands of arena staff members without an income for the foreseeable future.<sup>178</sup> Mark Cuban, owner of the NBA's Dallas Mavericks, was the first to announce a plan to compensate hourly employees through the pandemic.<sup>179</sup> Since then, all thirty NBA teams have announced some sort of similar plan, and several athletes have made personal donations to arena staff and

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how-work-should-know; Rick Porter, *TV Ratings: NFL Draft Soars to All-Time High*, HOLLYWOOD REP. (Apr. 24, 2020, 9:05 AM), <https://www.hollywoodreporter.com/live-feed/nfl-draft-will-grace-finale-tv-ratings-thursday-april-23-2020-1291713>.

174. Schick, *supra* note 169.

175. Keith Collantine, *Was F1's Virtual Grand Prix series a success?*, RACEFANS (June 16, 2020, 12:36 PM), <https://www.racefans.net/2020/06/16/was-f1s-virtual-grand-prix-series-a-success/>; Jeff Arnold, *The Best Thing About NASCAR's Virtual Races Might Be the Real Competition*, N.Y. TIMES (Apr. 5, 2020), <https://www.nytimes.com/2020/04/05/sports/autoracing/coronavirus-nascar-racing-earnhardt.html>.

176. While leagues are trying to give fans more access to players, it can backfire, as it did with the NASCAR driver Kyle Larson who used a racial slur during a livestreaming iRacing event and has since been suspended indefinitely. Teams and leagues need to be careful of who they associate with, just like brands do when they sign sponsorship agreements. See Staff Report, *NASCAR suspends Kyle Larson indefinitely*, NASCAR (Apr. 13, 2020, 11:32 AM), <https://www.nascar.com/news-media/2020/04/13/nascar-suspends-kyle-larson-indefinitely/>; see, e.g., Scott Davis, *Kurt Busch says he spent \$7000 on his iRacing setup and had to ask younger NASCAR drivers for help with the technology*, INSIDER (May 12, 2020, 10:40 AM), <https://www.insider.com/kurt-busch-iracing-setup-cost-7000-nascar-return-2020-5>.

177. Jay Massaad, *Traditional sports relying upon esports during COVID-19 crisis*, ESPORTS INSIDER (Mar. 23, 2020), <https://esportsinsider.com/2020/03/sports-esports-content-covid-19/>; Annabel Rackham, *Coronavirus: Premier League players join charity FIFA 20 tournament*, BBC (Mar. 19, 2020), <https://www.bbc.com/news/newsbeat-51950136>.

178. See Sam Yip, *'Everything went to hell': stadium workers on the US sports shutdown*, GUARDIAN (Mar. 24, 2020, 5:00 AM), <https://www.theguardian.com/sport/2020/mar/24/arena-stadium-workers-coronavirus-covid-19-outbreak-sports-shutdown>.

179. Jasmyn Wimbish, *Coronavirus: How sports teams, players are helping arena, stadium workers affected by COVID-19 outbreak*, CBS SPORTS (Mar. 28, 2020, 12:52 PM), <https://www.cbssports.com/nba/news/coronavirus-how-sports-teams-players-are-helping-arena-stadium-workers-affected-by-covid-19-outbreak/>.

local charities.<sup>180</sup> Expectedly, teams were quick to announce their plans and ensure it received the media attention it deserved, garnering well-earned praise from people all over social media.<sup>181</sup> These types of proactive, socially-conscious moves not only exhibit social responsibility to care for those in need when called upon to do so, it garners positive media attention during a time when a team is unable to hold live events and thus is good business as well.<sup>182</sup>

Athletes are also stepping up to help where they can. A number of players have donated money and masks to coronavirus relief.<sup>183</sup> Soccer star Lionel Messi and his Barcelona teammates donated seventy percent of their paychecks to arena staff.<sup>184</sup> Turner Sports presented a live

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180. *Id.*; Tyler Lauletta, *Players around the NBA were quick to support the league's hourly workers in response to the coronavirus and brought the rest of the league along with them*, INSIDER (Mar. 19, 2020, 11:59 AM), <https://www.insider.com/how-giannis-zion-influenced-nbas-response-to-the-coronavirus>; Dean Straka, *Oklahoma City Thunder announces financial aid for arena workers*, 247SPORTS (Mar. 20, 2020, 2:27 PM), <https://247sports.com/Article/oklahoma-city-thunder-financial-aid-nba-arena-workers-coronavirus-145235410/>.

181. Lauletta, *supra* note 180.

182. Compare these examples of good business and humanitarian efforts with the Boston Bruins owner Jeremy Jacobs who refused to pay employees, even drawing the attention of the Massachusetts Attorney General. *Bruins Owner Jeremy Jacobs Facing Intense Scrutiny For Handling Of Employees During Coronavirus Shutdown*, CBS BOS. (Mar. 26, 2020, 10:15 AM), <https://boston.cbslocal.com/2020/03/26/bruins-owner-jeremy-jacobs-intense-scrutiny-paying-employees-coronavirus-shutdown/>.

183. NBA's Kevin Love (\$100k), Zion Williamson (covering salary for Smoothie King Arena staff), JJ Watt (\$350k to Houston food bank), Russell Wilson (one million meals in Seattle). Dan Cancian, *Every Sports Star Who Has Donated Money to Combat Coronavirus Around the World*, NEWSWEEK (Mar. 25, 2020, 11:31 AM), <https://www.newsweek.com/coronavirus-athletes-donation-nba-players-roger-federer-premier-league-1494236>; Tyler Sullivan, *Saints QB Drew Brees and his wife donate \$5 million to Louisiana for coronavirus relief*, CBS SPORTS (Mar. 26, 2020, 6:25 PM), <https://www.cbssports.com/nfl/news/saints-qb-drew-brees-and-his-wife-donate-5-million-to-louisiana-for-coronavirus-relief/>; Karen Price, *18k Pounds of Food Was Prepped For Tokyo To Feed U.S. Athletes. Now It's With A Colorado Food Bank*, TEAM USA (Apr. 7, 2020, 3:23 PM), <https://www.teamusa.org/News/2020/April/07/18K-Pounds-Of-Food-Was-Prepped-For-Tokyo-To-Feed-US-Athletes-Now-Its-With-A-Colorado-Food-Bank>; Alain Poupart, *Bobrovsky to donate \$100K to help part-time workers at BB&T Center*, NHL.COM (Mar. 13, 2020), <https://www.nhl.com/news/florida-panthers-sergei-bobrovsky-donates-to-help-bbt-center-workers/c-316167706>; Pat Pickens, *Lundqvist to donate \$100,000 to New York food bank*, NHL.COM (Mar. 25, 2020), <https://www.nhl.com/news/henrik-lundqvist-donation-during-coronavirus-pandemic/c-316290976>; *Blackhawks Captain Jonathan Toews To Donate \$100K To Coronavirus Relief*, CBS CHICAGO (Mar. 26, 2020, 11:39 AM), <https://chicago.cbslocal.com/2020/03/26/jonathan-toews-coronavirus-covid-19-donate-100k-blackhawks-captain/>; Reuters, *Rangers' Panarin, others donate N95 masks to hospitals*, YAHOO! NEWS (Apr. 5, 2020), <https://news.yahoo.com/rangers-panarin-others-donate-n95-163951526.html?guccounter=1>.

184. Associated Press, *Lionel Messi says Barcelona players will take pay cut amid coronavirus shutdown*, L.A. TIMES (Mar. 30, 2020, 8:51 AM), <https://www.latimes.com/sports/soccer/story/2020-03-30/lionel-messi-says-barcelona-players-will-take-pay-cut-amid-coronavirus-shutdown>.

broadcast of a golf competition involving golf legends Tiger Woods and Phil Mickelson, paired with NFL icons Tom Brady and Peyton Manning, in “*Capital One’s The Match: Champions for Charity*,”<sup>185</sup> respectively, to raise \$20 million in charitable contributions for coronavirus relief.<sup>186</sup> The popular coverage featured the players with live mics, providing entertaining banter among the athletes, side bets for charity, designer carts, and commentary by Charles Barkley and Justin Thomas.<sup>187</sup> Coincidentally, this match also provided food for sportsbooks wagering.<sup>188</sup>

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185. Turner Sports presents ‘*Capital One’s The Match: Champions for Charity*’ with Woods, Mickelson, Manning and Brady, PGA TOUR (May 7, 2020), <https://www.pgatour.com/news/2020/05/07/tiger-woods-phil-mickelson-peyton-manning-tom-brady-charity-golf-event-coronavirus-covid-19.html>.

186. Turner Sports presents ‘*Capital One’s The Match: Champions for Charity*’ with Woods, Mickelson, Manning and Brady, PGA TOUR (May 7, 2020), <https://www.pgatour.com/news/2020/05/07/tiger-woods-phil-mickelson-peyton-manning-tom-brady-charity-golf-event-coronavirus-covid-19.html>; Press Release, Capital One, Capital One Helps Raise \$20 million for COVID-19 Relief (May 29, 2020), <https://www.capitalone.com/about/newsroom/capital-one-helps-raise-usd20-million-for-covid-19-relief/>; Kyle Porter, *Tiger Woods vs Phil Mickelson match score, results: \$20M raised as Woods, Peyton Manning beat Lefty, Tom Brady*, CBS SPORTS (May 24, 2020, 9:16 PM), [https://www.cbssports.com/golf/news/tiger-woods-vs-phil-mickelson-match-score-results-20m-raised-as-woods-peyton-manning-beat-lefty-tom-brady/live/?ftag=SNL-04-10aaa0b&ET\\_CID=129202&ET\\_RID=43390255](https://www.cbssports.com/golf/news/tiger-woods-vs-phil-mickelson-match-score-results-20m-raised-as-woods-peyton-manning-beat-lefty-tom-brady/live/?ftag=SNL-04-10aaa0b&ET_CID=129202&ET_RID=43390255) [hereinafter Porter, *Tiger Woods vs Phil Mickelson*].

187. Porter, *Tiger Woods vs Phil Mickelson*, *supra* note 186; Mike Chiari, *Capital One’s ‘The Match’ with Manning, Brady: Date, TV, Live-Stream Info, More*, BLEACHER REP. (May 7, 2020), <https://bleacherreport.com/articles/2890625-tiger-phil-the-match-with-manning-brady-date-tv-live-stream-info-more>.

188. Porter, *Tiger Woods vs Phil Mickelson*, *supra* note 186. A number of sport icons also participated in the “All in Challenge,” where 100 percent of the proceeds go to Meals on Wheels, No Kid Hungry, America’s Food Fund, Feeding America, and World Central Kitchen. For example, someone donated \$800,000 to go to the Tampa Bay home opener and go to dinner with Tom Brady. Someone else donated \$525,000 to play golf and have dinner with Peyton Manning. See All In Challenge, *Charity Partner Videos*, FANATICS, <https://www.fanatics.com/all-in-beneficiaries/x-34026543+z-858329-3331279723> (last visited Oct. 14, 2020). The All In Challenge raised almost \$60 million for these charities. All In Challenge, *Our Partners*, FANATICS, <https://www.fanatics.com/all-in-challenge/x-12589906+z-9713580-3838082054> (last visited Oct. 14, 2020). Megan Armstrong, *Peyton Manning Golf and Dinner Sells for \$525K at All In Challenge Auction*, BLEACHER REP. (Apr. 28, 2020), <https://bleacherreport.com/articles/2889117-peyton-manning-golf-and-dinner-sells-for-525k-at-all-in-challenge-auction>; Shanna McCarriston, *Person with the \$800,000 winning bid for Tom Brady’s All In Challenge is a 25-year-old YouTube millionaire*, CBS SPORTS (May 12, 2020, 6:27 PM), <https://www.cbssports.com/nfl/news/person-with-the-800000-winning-bid-for-tom-bradys-all-in-challenge-is-a-25-year-old-youtube-millionaire/>. CBS Sports Staff, *Woods, Manning vs. Mickelson, Brady odds: Predictions, prop bets, optimal picks from top golf expert*, CBS SPORTS (May 24, 2020, 12:55 PM), <https://www.cbssports.com/golf/news/woods-manning-vs-mickelson-brady-odds-predictions-prop-bets-best-picks-from-golf-expert/>.

### C. Signs of Hope

Positive signs that the sports world is opening up are emerging. NASCAR returned mid-May to Darlington Stadium in South Carolina after a ten-week hiatus.<sup>189</sup> The event was called “The Real Heroes 400,” which dedicated the race to front-line health care workers battling the coronavirus.<sup>190</sup> This event did not resemble an ordinary NASCAR race. Grandstands were empty, drivers and pit crew were wearing masks and followed social distancing guidelines, and team members had their temperature checked before entering the stadium.<sup>191</sup> Formula 1’s July restart race changes similarly included fully-closed stadiums, teams in bubbles, no tire changes, remote briefings, no driver parade or podium, and, of course, masks.<sup>192</sup>

### D. Opportunity for Racial Injustice Awareness

The world changed dramatically in the first half of 2020, not only because of COVID-19. Again, the world was jolted, this time to confront the persistent problem of racism after witnessing via video the May 25th death of George Floyd at the hands of a Minneapolis police officer.<sup>193</sup> In the midst of the pandemic, thousands of people gathered in city streets nationwide to protest racial injustice and support the Black Lives Matter Movement. Many athletes joined the protests and spoke out, also creating a groundswell for change in sports.<sup>194</sup>

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189. Jerry Bonkowski, *After 71 days, NASCAR returns; Kevin Harvick earns 50th career Cup win*, NBC SPORTS (May 17, 2020, 7:32 PM), <https://nascar.nbcsports.com/2020/05/17/kevin-harvick-alex-bowman-jimmie-johnson-chase-elliott-denny-hamlin-real-heroes-400-darlington-raceway/>.

190. Press Release, NASCAR, *NASCAR honors healthcare workers in first race back with The Real Heroes 400 at Darlington Raceway* (May 14, 2020), <https://www.nascar.com/news-media/2020/05/14/nascar-honors-healthcare-workers-in-first-race-back-with-the-real-heroes-400-at-darlington-raceway/>.

191. Associated Press, *Kevin Harvick wins his 50th career race as NASCAR returns at Darlington*, ESPN (May 17, 2020), [https://www.espn.com/racing/nascar/cup/story/\\_/id/29187697/kevin-harvick-wins-50th-career-race-nascar-returns-darlington](https://www.espn.com/racing/nascar/cup/story/_/id/29187697/kevin-harvick-wins-50th-career-race-nascar-returns-darlington) (“This was a 400-mile drive unlike any other in modern day NASCAR.”).

192. Jonathan Noble, *How F1 will cope with the new coronavirus protocols, including podiums and grid procedure*, AUTOSPORT (June 25, 2020), <https://www.autosport.com/f1/news/150160/how-f1-will-cope-with-the-new-coronavirus-protocols>.

193. Elliott C. McLaughlin, *Three videos piece together the final moments of George Floyd’s life*, CNN (June 23, 2020, 9:14 AM), <https://www.cnn.com/2020/06/01/us/george-floyd-three-videos-minneapolis/index.html>.

194. Sopan Deb, *As Protests Spur Posts From Athletes, N.B.A. Players Take to the Streets*, N.Y. TIMES (June 1, 2020), <https://www.nytimes.com/2020/06/01/sports/basketball/george-floyd-nba-protests.html>; see also Jori Epstein, Jeff Zillgitt & Aria Gerson, *Fear, despair, outrage, hope: Athletes open up on why they joined protests*, USA TODAY (June 6, 2020, 8:00 AM), <https://www.usatoday.com/story/sports/nfl/2020/06/06/athletes-protests-george-floyd-death/3147154001/>.

Sports has not been immune to the problem of racism.<sup>195</sup> After kneeling in protest of police brutality of Black lives during the national anthem at NFL games in 2016, former quarterback Colin Kaepernick was ostracized from the league and has not played a game since that season.<sup>196</sup> As the 2020 Black Lives Matter movement gained epic public support, corporate America, including sports leagues and teams, issued solidarity statements.<sup>197</sup> Without mentioning Kaepernick by name, NFL Commissioner Roger Goodell also released a statement admitting the NFL was wrong for not listening to players earlier on race matters.<sup>198</sup> Despite winning legal battles to retain team nicknames considered offensive by some, owners of the Washington Redskins and Cleveland Indians also announced that they are considering changing names, particularly as corporate sponsors have canceled their contracts.<sup>199</sup> On July 13th, Washington announced it would change its name and logo and is presently the Washington Football Team pending a further naming announcement.<sup>200</sup>

Athletes both represent and are in a position to lead a multi-cultural community and to inspire on and off the field. Notably, when the

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195. Paul M. Anderson, *Racism in Sports: A Question of Ethics*, 6 MARQ. SPORTS L.J. 357 (1996); Faraz Shahlaei, *Soccer Stadiums, Where International Law, Culture and Racism Collide*, 7 ARIZ. ST. SPORTS & ENT. L.J. 291, 300 (2018).

196. Tadd Haislop, *Colin Kaepernick kneeling timeline: How protests during the national anthem started a movement in the NFL*, SPORTING NEWS (Sept. 12, 2020), <https://www.sportingnews.com/us/nfl/news/colin-kaepernick-kneeling-protest-timeline/xktu6ka4diva1s5jxaylrcsse>; see also Victor Mather, *How Sports Leagues Regulate Athlete Activism*, N.Y. TIMES (June 10, 2020), <https://www.nytimes.com/2020/06/10/sports/national-anthem-policies.html>.

197. CNN World, *In photos: The sports world has been taking a stand*, CNN, <https://www.cnn.com/2020/08/27/world/gallery/sports-protests/index.html> (last updated Oct. 1, 2020, 12:53 PM); Richard Feloni & Yusuf George, *These Are the Corporate Responses to the George Floyd Protests That Stand Out*, JUST CAP. (June 30, 2020), <https://justcapital.com/news/notable-corporate-responses-to-the-george-floyd-protests/>.

198. Sebastian Tong, *NFL Apologizes for Not Listening to Players Earlier on Racism*, BLOOMBERG (June 6, 2020, 5:02 PM), <https://www.bloombergquint.com/onweb/nfl-apologizes-for-not-listening-to-players-earlier-on-racism>; see also Adrian Walker, *How Roger Goodell decided 'Black Lives Matter,'* BOS. GLOBE (June 12, 2020, 11:53 AM), <https://www.bostonglobe.com/2020/06/12/metro/how-roger-goodell-decided-black-lives-matter/>.

199. Andrew Beaton, *Redskins, Indians and the Long Push to Drop Native American Mascots*, WALL ST. J. (July 5, 2020, 11:02 AM), <https://www.wsj.com/articles/redskins-indians-and-the-long-push-to-drop-native-american-mascots-11593961353?mod=searchresults&page=1&pos=3>; Andrew Beaton & Louise Radnofsky, *Washington's NFL Team to Undertake a 'Thorough Review' of Redskins Name*, WALL ST. J. (July 3, 2020, 4:40 PM), <https://www.wsj.com/articles/washingtons-nfl-team-to-undertake-thorough-review-of-redskins-name-11593792083?mod=searchresults&page=1&pos=5>.

200. Ken Belson & Kevin Draper, *Washington N.F.L. Team to Drop Name*, N.Y. TIMES (Sept. 10, 2020), <https://www.nytimes.com/2020/07/13/sports/football/washington-redskins-new-name.html>; Allen Kim & Wayne Sterling, *Washington's football team to call itself Washington Football Team until it settles or new name*, CNN (July 23, 2020, 2:27 PM), <https://www.cnn.com/2020/07/23/us/washington-football-team-spt-trnd/index.html>.

Premier League returned to play and live broadcasts after its 100-day hiatus, player names on jerseys were replaced with “Black Lives Matter.”<sup>201</sup>

#### V. CONCLUSION: SPORT IN THE TIME OF COVID-19

The COVID-19 pandemic profoundly impacts the world and sport. The crisis has forced attention to health and safety practices, changed how we engage and gather as a society, and prompted re-examination of what we value and what we miss.<sup>202</sup> The economic ravage is undeniable. Certainly, stakeholders affected by the closing of sports throughout most of the world include not only highly-paid athletes, but also thousands of support workers in concession, maintenance, ticketing, medical teams, supply chains, sponsors, broadcasters, hospitality, and restaurants, to name a few. Each of these groups and individuals are as important to the infrastructure of modern sport as the athletes themselves.

The pandemic has triggered a range of business, legal, and, frankly, existential questions to sports and society.<sup>203</sup> Sports have an essential and important impact on society. Sport is not “just a game.” Sports can provide community, much needed distraction, and spirited competition. Sport brings people from all walks of life and geography together, which unfortunately is the opposite of what the social-distancing rules dictate at this time. Presently, when live public events are largely non-existent, the need for community and hope is even stronger. These lessons must be instilled to help affect long-term reform and awareness for safety, crisis management, and appreciation for sport.

Through the commitment, ingenuity, and expertise of all those connected with the sport industry, particularly the medical, technical, legal, business, media, sponsors, and logistic specialist teams, with, of course, the athletes and fans, socially-distanced or via a screen, sports will return. Once live events return, the fans will decide when to return,

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201. *The Premier League returns - all you need to know*, BBC (June 16, 2020), <https://www.bbc.com/sport/football/53009593> (noting safety measures, empty stadiums in the return to play).

202. Hayes Gardner, *What long-term impacts will the coronavirus have on sports? 'Dr. Fandom' weighs in*, USA TODAY (Apr. 27, 2020, 6:24 PM), <https://www.usatoday.com/story/sports/2020/04/27/how-covid-19-pandemic-impact-sports-long-term/3036825001/> (“Following the terrorist attacks of Sept. 11, 2001, the NFL saw a slight and temporary drop in attendance as some considered large gatherings to be potential targets. According to a 2010 study, MLB saw as much as a 12% decrease in attendance during terror alerts in 2002 and 2003. As time passed, though, terror alerts became less of a factor on attendance, and in 2006, the league set an all-time attendance record.”).

203. *The impact of COVID-19 on sport, physical activity and well-being and its effects on social development*, UNITED NATIONS (May 15, 2020), <https://www.un.org/development/desa/dspd/2020/05/covid-19-sport/>.

although some might be hesitant to pack the stadiums once again. As time passes, fan-less games will be remembered as a temporary event and the live experience more cherished. The crisis has forced sport and society to stop, reflect, reconsider, re-negotiate, and innovate. The need for scenario planning, risk management, strategizing, flexibility, and vigilance to ensure the health, safety, and ability to continue sport for all must be an enduring lesson. We've all certainly learned how much sports are missed, and eagerly await the games to return safely once again.