

Written by Pete Toms
Monday, 01 June 2009 06:12



Last Week In Bizball by Pete Toms

This week, did Supreme Court nominee Sonia Sotomayer save baseball? Is the sale of the Cubs stalled or will this summer see Thomas Ricketts' group in control of the franchise? Also, new rumours that Commissioner Selig has not abandoned his strategy of imposing "slotting recommendations" in the June Rule IV draft. And difficult times for one of minor league baseball's crown jewels. **DID JUDGE SONIA SOTOMAYER SAVE**

BASEBALL?

"Some say that Judge Sotomayer saved baseball." So said President Obama upon announcing Judge Sonia Sotomayer as his nominee for the Supreme Court. LWIB Judge Sotomayer received widespread praise amongst the baseball media and bloggers for ending the work stoppage that both cancelled the 1994 World Series and threatened the use of replacement players for the 1995 season. Judge Sotomayer also forced owners and players back to the bargaining table and a new CBA was agreed to in November 1996. To what degree Judge Sotomayer's injunction against the owners has contributed to the subsequent uninterrupted labor peace in MLB remains debated. LWIB reviews some of the opinion and reflection on Judge Sotomayer's historic decision.

[Richard Sandomir](#) :

Sotomayer, then a federal district court judge in Manhattan, was faced with a petition filed by the National Labor Relations Board seeking a finding of unfair labor practices by baseball owners. The players had struck over the likelihood that owners would impose a salary cap, which they did. After withdrawing the cap in early 1995, owners tried a new strategy: they abolished salary arbitration, centralized player negotiations with the commissioner's office and ended an agreement not to collude on salaries, leading to the complaint by the N.L.R.B.

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Sotomayer agreed with the N.L.R.B. that the owners could not willy-nilly institute their 1950s-style version of labor relations. If she did not issue an injunction, she wrote, "the harm to the players is the very one the owners' unfair labor practices sought to achieve, i.e., an alteration of free-agency rights and a skewing of their worth."

Sotomayer's ruling restored the terms of the previous labor agreement so the season could go forward. Randy Levine, who became the owners' chief labor negotiator five months after Sotomayer's injunction, said her decision "gave both sides an opportunity to take a breath, to take stock of where they were." Levine, now the Yankees' president, added, "It led to the good-faith bargaining that produced revenue sharing, the luxury tax and interleague play."

Executive Director of the MLBPA, Donald Fehr is quoted in the same piece from Mr. Sandomir:

"Her ruling did not produce an agreement, but it gave the parties time to get on with normal business and get back to the bargaining table and produce an agreement," he said. "If it hadn't ended when she ended it, it would have gone on for some time and it would have gotten uglier and uglier."

[Ronald Blum](#) :

Bud Selig, acting baseball commissioner at the time, said then her decision was "disappointing and may represent a step backward in our negotiations for a meaningful agreement with the players' union."

Elected commissioner in 1998 and still on the job, Selig refused comment Tuesday on Sotomayer, spokesman Rich Levin said.

[Murray Chass](#) :

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Judge Sotomayer became an instant hero to baseball fans. The labor dispute between the players and the owners had gone on for nearly eight months, had forced cancellation of the 1994 World Series and had become the longest work stoppage in United States professional sports history.

AND

Just as Sotomayer is a beneficiary of the presence of a Democratic president in the White House, the baseball union was the beneficiary of the presence of a Democratic president in the White House.

The National Labor Relations Board is a political animal. Its makeup is determined by the party in the White House, and its decisions are usually determined by the political views of its members. Had a Republican been president in 1995 and the labor board reflected his views, it would have been highly unlikely to have taken the baseball case to court.

As it was, the Republican members of the board tried diligently to keep the board out of court. The vote to authorize the general counsel to seek an injunction was 3-2, with the three Democrats voting yes and the two Republicans voting no. One of the Republicans, Charles Cohen, took a step rare for the board, writing a dissenting opinion in which he disagreed with the authorization and said the case had no merit.

When Cohen left the board, he went to work for Morgan Lewis & Bockius, the law firm that represented the owners. Chuck O'Connor, the clubs' chief labor negotiator, who devised the implementation of work rules that Sotomayer would find illegal, was a Morgan Lewis lawyer.

[Peter Gammons](#) ;

She didn't necessarily save baseball; she saved the owners from themselves. The people who tried to rig the system with collusion, pay-for-performance and the artificial attempt to implement

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their own labor system were, as usual, ill-advised and leaderless. When Sotomayer forced the game to resume and charged that they bargain in real faith, baseball under Selig went from a \$1.3 billion to \$7.5 billion business.

[Mike Lupica](#) ;

So now the legend of Sonia Sotomayer is that a female U.S. District Judge from the [South Bronx](#), the first of [Puerto Rican](#) descent to be appointed to the federal bench in this city, someone who made the city proud Tuesday, practically saved the national pastime all by herself.

Only she didn't.

There is a difference between saving a season - and a union - and saving a sport.

AND

But in doing so, what she really rescued at the time was an economic system in baseball that desperately needed changing, one that would not really begin to change until later, when revenue sharing and a luxury tax on the big spenders like the [Yankees](#) finally began to take effect, and commissioner [Bud Selig](#)'s new system did a lot more for baseball than Judge Sotomayer ever did.

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The tremendous growth baseball has experienced in this decade didn't really begin until the end of the work rules that Sotomayer preserved with the ruling that ended the strike once and for all. It doesn't mean her decision was wrong at the time, or that she was looking to prop up [Don Fehr](#) or [Gene Orza](#) or their union. Or that it was her job to change the work rules in baseball. It just means that her place in baseball history isn't suddenly enhanced because she is much more famous now.

Lastly, technically not from LWIB or germane to a discussion on Judge Sotomayer's decision, but nonetheless some timely perspective from Andrew Zimbalist on the impact of MLB's last work stoppage. From "[May the Best Team Win](#)".

Baseball took a powerful initial hit from the 1994-95 strike. Average game attendance fell from 31,612 in 1994 to 25,021 in 1995, a drop of 20.9 percent. Serendipitously for baseball, the magic of Cal Ripken's streak of consecutive games, the sustained economic and stock market expansion in the country, and the new stadium construction boom, followed by the home run heroics of Mark McGwire, Sammy Sosa, and Barry Bonds, led to a gradual recovery in attendance (which reached 30,050 in 2001) and to a rapid growth in industry revenues (which doubled between 1996 and 2001).

Select [Read More](#) to see details on the sale of the Cubs, Rule IV Draft slotting, and debt service problems for the Memphis Redbirds

CUBS SALE

LWIB saw mixed messages in the Chicago media on the state of the Cubs sale from Tribune Co. to the Thomas Ricketts group. On May 29, Sam Zell was quoted in one of his newspapers (the Chicago Tribune) speculating that the deal could fall apart. On the same day, Crain's Chicago Business reported that a much rumoured disagreement between the parties concerning the value of the Cubs broadcast deal with WGN (also owned by Tribune Co.) was nearing resolution and the finalizing of the deal was imminent. Also contributing to the slower than anticipated closing of the deal has been the Ricketts group challenge of acquiring financing in a (perhaps thawing) frozen credit market.

First, [The Chicago Tribune](#) on the state of the Cubs sale:

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Sam Zell, chairman and chief executive of Chicago Tribune parent Tribune Co., indicated Thursday that the sale of the Chicago Cubs baseball team to the Ricketts family is not a sure thing.

"We've made it very public that the Cubs don't fit into the long-term picture of the Tribune," he said in an interview with Bloomberg Television. "So if the Ricketts deal doesn't get done, I'm sure there will be other ones."

On the same day, [Crain's Chicago Business](#) reported:

[Thomas Ricketts](#), who is leading his family's bid to buy the Chicago Cubs from [Tribune Co.](#), is closer to sealing the deal than recent reports suggest.

As recently as two weeks ago, disagreement over the terms of the team's broadcast contract with Tribune's WGN network left the two sides as much as \$50 million apart on the nearly \$900-million deal.

Sources now tell Crain's that both sides have made concessions on some of the key sticking points, bringing them near the conclusion of a sale process that's dragged on for Tribune more than two years. The family, led by Mr. Ricketts, has been in exclusive talks with TribCo on the Cubs sale since January

On May 20 [Ed Sherman](#), at Crain's Chicago Business, commented on the importance of the Cubs broadcast rights to the Ricketts group.

If I'm Tom Ricketts, I probably don't want to accept a broadcast deal that was essentially an in-house negotiation. Especially if it might be as much as a 10-year deal, as has been speculated.

The Cubs' television and radio rights probably rank behind only the Yankees, Mets and Boston Red Sox in terms of value. Again, it is hard to pin a number on the TV side because of the

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various complexities, but safe to say it is in the \$50-million neighborhood.

That neighborhood is upwardly mobile. Perhaps if you're Mr. Ricketts, you want to take some of those WGN-TV games and move them to Comcast SportsNet, a channel in which you're a co-owner. There's a double revenue stream on cable with advertising and subscriber fees. It would make fiscal sense for Mr. Ricketts to increase CSN's inventory of the Cubs from 80 to 100-110 games. (LWIB note: the Ricketts group agreement to purchase the Cubs includes a 25 percent stake in Comcast SportsNet Chicago)

It certainly can be used as a bargaining chip with WGN.

Also, if Mr. Ricketts is thinking of launching a Cubs cable station down the line, would it be in his best interests to have games tied up with a long-term deal with WGN? I would think not.

The completion of the sale has also been stalled by challenges the Ricketts group face in acquiring financing during the credit crisis. [The Biz of Baseball](#) quoted the Chicago Tribune in early May:

Sources blamed the slow pace of negotiations on several factors. The double whammy of a recession and a financial-sector meltdown has made it difficult for the Ricketts to secure financing. The family raised \$400 million for the deal by selling personal stock holdings and planned to borrow the rest.

Mid-May, [The SportsBusiness Journal](#) reported that the Ricketts group had all but finalized \$450 million in financing, perhaps leading to a closing of the sale in July.

Chicago Cubs buyer Tom Ricketts is close to lining up three banks to arrange the \$450 million financing necessary to complete his acquisition of the team, financial sources said, positioning him to clear a substantial hurdle in the long-running sale of the club.

JPMorgan Chase, Citigroup and Bank of America are set to commit to the deal as soon as the end of this week, the sources said. That commitment would allow Ricketts to submit his \$900 million bid to the court that's overseeing the bankruptcy filing of current Cubs owner Tribune Co. The court likely then would take 30 to 45 days to process the offer, one source said, leaving a potential closing ready by July.

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Mr. Ricketts has also been searching for private investors to finance his group's purchase of the Cubs. Amongst the individuals he has approached are Cubs celebrity fans, [Bill Murray](#), John Cusack and Jim Belushi. From

[Bloomberg](#)

; "Ricketts, the chairman of Chicago-based Incapital LLC, is seeking to raise \$100 million or more through the sale of preferred stock to avoid borrowing from banks to finance the deal, Crain's said. The shares would entitle investors to a 6.5 percent dividend and represent a non-voting stake in the team..." The aforementioned report in The Sports Business Journal was skeptical if this approach is viable. "Ricketts has been trying to sell preferred notes in the team to raise another \$50 million. These so-called "perk notes" would give the individual lenders special access to games, team executives and spring training. The notes would be repaid after 15 years. Sources differed on whether Ricketts would succeed in selling the notes, with some saying there was interest and others describing it as a hopeless cause."

COMMISSIONER SELIG NOT ABANDONING "SLOTING" STRATEGY IN RULE IV DRAFT

LWIB was surprised to read reports that Commissioner Selig had announced during the recently concluded quarterly owners meeting (May 20-21) that he would continue his attempts to enforce "slotting recommendations" in the June Rule IV amateur draft. After a concerted effort to enforce "slotting" in the 07 draft, Commissioner Selig had largely abandoned the strategy in 08. Perhaps the record amount of signing bonuses awarded drafted amateurs last year has renewed Mr. Selig's convictions. The [Biz of Baseball](#) reported in November:

The current CBA – which took effect in December 2006 – included an earlier signing deadline of August 15 for players chosen in the Rule IV / aka June draft. Combined with another change that awards compensation in the following year's draft for teams failing to sign their pick, management was to be better positioned in negotiations with drafted amateurs. In addition, prior to the 2007 draft, Commissioner Selig exerted pressure on clubs to adhere to recommended "draft slot" bonuses that were set 10% lower than the previous year. Some clubs complied, but the overall impact of the rule changes and "slot recommendations" was negligible.

Baseball America reported, "There were 184 picks in the first five rounds in 2007, and 171 of them signed, receiving an average bonus of \$685,328. Last year, 179 of the first 184 picks agreed to terms, getting an average bonus of \$662,531. So despite the 10 percent reduction in slots, the bonuses rose 3 percent." Sports Business Journal reported, "Overall average signing bonuses for 2007 first-round draft picks hit their highest mark in five years, at nearly \$2.1

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million..."

Commissioner Selig relaxed his efforts to control spending in the 08 draft and an increased amount of dollars were awarded to drafted players. In August, Forbes reporter Tom Van Riper wrote, "The league made a concerted effort to change things this year, encouraging small-market teams picking near the top to draft the best talent and pay out expensive bonuses." In October, Baseball America reported, "Teams combined to spend \$186.5 million on draft bonuses in 2008, an amount believed to be a record and up 23 percent from the \$151.8 million they shelled out in 2007."

[Murray Chass](#) reported LWIB:

The commissioner told the owners that his office planned to roll back the recommended signing bonuses for the June 9 amateur draft by 10 percent.

The rollback might be immaterial because most clubs ignore the numbers anyway, but Selig is trying

AND

The clubs will get their rolled back numbers this week. The slotting system is confidential, and clubs aren't supposed to know what figures other clubs are allotted.

Selig can't order clubs to stick to the numbers because the slotting system has not been negotiated with the union. If Selig tried to impose the numbers on the clubs, the union would challenge the system and the owners might lose it altogether.

[Peter Gammons](#) also reported on the "slotting" announcement to the owners. Mr Gammons

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chided owners who have complied with past slotting recommendations and praised those who have ignored them.

There were reports Wednesday that Bud Selig has warned owners that he is going to try to force them to cut back bonuses by 10 percent after the June 9 draft because of the economy.

Ilitch is more loyal to his neighbors in Detroit than he is to Selig, which is why a 20-year-old kid named [Rick Porcello](#) won his fifth straight start Wednesday afternoon. If Selig had been able to muscle Ilitch into overruling general manager Dave Dombrowski and his esteemed scouting director David Chadd, Porcello would be pitching for the University of North Carolina on Friday against Dartmouth in the NCAA regionals.

Instead, Porcello has six wins and a 1.50 ERA in his past five starts. With manager Jim Leyland's careful monitoring of Porcello's 85-95 pitch limit, the youngster is on a pace to win somewhere between 17 and 21 wins; for some perspective, over the past 50 years, the only pitchers under 21 years old to win 17 games were Doc Gooden (17 at 19, 24 at 20), Wally Bunker (19 at 19) and CC Sabathia (17 at 20).

Porcello is smart, and he comes from a family that wanted him to go to college. Ilitch had to OK more than \$8 million to get him to forget about a dorm room in Chapel Hill, N.C. Ilitch took Selig's calls and allowed Chadd to go above Selig's price-fixing "slot" and sign [Cameron Maybin](#) and [Andrew Miller](#), who in turn gave Dombrowski the chips to trade for [Miguel Cabrera](#), one of the best hitters in the game.

So the Tigers have Cabrera, at 26 a potential Hall of Famer. They have Porcello. They have [Ryan Perry](#), Chadd's No. 1 from last year, throwing 97 in middle relief.

In Houston, Astros fans must realize that owner Drayton McLane cares more about Selig's favor than his fans. He forces his scouting people to adhere to "slot." Hence, in 2005, they were not

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allowed to draft [Michael Bowden](#) or go \$30,000 above slot for Josh Lindblom, and today Bowden and Lindblom would be Houston's Nos. 3-4 starters. No wonder the Astros are such a dysfunctional team.

In Pittsburgh, the signing of [Pedro Alvarez](#) last summer proved that ownership cares about the fans, not the favor of the commissioner. Pirates fans were used to ownership forcing [Bryan Bullington](#) and slot players on them instead of the best talent available.

As Mr. Chass notes, the "slotting recommendations" will have little to nothing in common with Scott Boras' demands for consensus No. 1 pick Stephen Strasburg. Given the poor attendance in Washington (particularly for a second year ballpark), their awful on field performance thus far in 09, and the [Jim Bowden / "Esmailyn Gonzalez"](#) fiasco, there will great pressure from fans and local media to sign Strasburg. [Jeff Blair](#) adds his voice to the chorus calling for MLB to allow the trading of draft picks.

The more I watch the Washington Nationals flounder, the more I realize how senseless it is that major-league teams are not allowed to trade draft picks. The Nationals are god-awful and consensus No. 1 pick, pitcher Stephen Strasburg, is ready to be this year's David Price. My guess is the Nationals could parlay this pick into multiple major-league-ready talent.

See the aforementioned [Biz of Baseball](#) report for a quote from Keith Law arguing the benefits of allowing the trading of draft choices.

DEBT SERVICING PROBLEMS FOR MEMPHIS REDBIRDS

[Josh Leventhal](#) at Baseball America reported LWIB that one of MiLB's most admired franchises is facing some challenges servicing their debt. The Memphis Redbirds, consistently amongst the attendance leaders across all of minor league baseball, defaulted on a March 1 bond payment of \$1.625 million.

An asterisk could have been included when we named Memphis' Auto Zone Park the No. 1

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ballpark in the minors this spring. After all, the bells and whistles featured throughout the downtown facility are unmatched in the minors — unfortunately so is its price tag.

No ballpark has matched Memphis' \$80.5 million cost since it was built in 2000. And that cost has finally caught up with the Redbirds, as the club was unable to make a \$1.625 million bond payment on the ballpark in March, forcing the team to go in default on the facility and tap a reserve fund for the first time.

[Memphis Commercial Appeal](#) reported last week:

Years of struggling to make their bond payments finally caught up with the Memphis Redbirds Baseball Foundation, owners of the Redbirds and AutoZone Park.

For the first time since issuing \$72 million in bonds in 1998 to cover the cost of buying the team and building the stadium, the foundation was in default of its March 1 payment of \$1.625 million to US Bank, the trustee for the bonds.

The foundation was forced to dip into its debt reserve fund to make the payment. Redbirds president Dave Chase said Thursday the money must be replaced in the reserve fund account, but there is no timetable for doing so.

"Technically it's in default, but the reserve fund is there for this occurrence," Chase said. "It's the first time we've had to use the reserve fund. We've been openly talking to the bondholders about how we go forward from here."

Difficulty in making the annual \$5.4 million in bond payments, which are broken into March 1, Sept. 1 and Nov. 1 installments, is the primary reason the team and AutoZone Park are for sale. The heavy stadium debt, however, has made it difficult to attract suitors -- a situation that could improve if the Redbirds are able to restructure their financial terms.

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In [January](#) , the same publication reported that the St. Louis Cardinals (current and long time parent club of the Redbirds) had backed away from an agreement to purchase the AAA club over concerns about the debt load combined with the \$365 million debt on the new Busch Stadium. In January, the [Biz of Baseball](#) reported on the increasing number of MLB franchises acquiring and moving their minor league affiliates.

BUSINESS OF SPORTS NETWORK FEATURE ARTICLE:

[Jim Balsillie Unveils Plans to Renovate Copps Coliseum](#) - **The Biz of Hockey**

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