# THE COBRA’S CONTRACT: REVISITING DAVE PARKER’S 1979 CONTRACT WITH THE PITTSBURGH PIRATES

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<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTRODUCTION</td>
<td>189</td>
</tr>
<tr>
<td>I. ATMOSPHERE SURROUNDING THE NEGOTIATIONS</td>
<td>189</td>
</tr>
<tr>
<td>II. FIRST MILLION DOLLAR MAN?</td>
<td>194</td>
</tr>
<tr>
<td>III. ISSUES RELATED TO THE DEFERRED COMPENSATION</td>
<td>197</td>
</tr>
<tr>
<td>IV. PARKER’S PERFORMANCE DURING THE CONTACT</td>
<td>199</td>
</tr>
<tr>
<td>V. PITTSBURGH COCAINE TRIALS</td>
<td>201</td>
</tr>
<tr>
<td>VI. PITTSBURGH ASSOCIATES V. PARKER</td>
<td>203</td>
</tr>
<tr>
<td>VII. LEAGUE SANCTIONS &amp; DISCIPLINARY ARBITRATION</td>
<td>208</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>208</td>
</tr>
</tbody>
</table>

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INTRODUCTION

Re-examining Dave Parker’s 1979 contract negotiations is valuable because it provides an excellent representative case study reflecting the shifting power dynamic that was occurring between the owners and players in Major League Baseball during a period of critical change within the league. In addition, there were a number of distinctive facets to the contract itself, as well as several unique aspects related to the performance of the contract by the parties, that have given the contract great historical significance and make it a compelling topic for review and analysis.

This article is unique in that it addresses all the issues related to Parker’s 1979 contract, from the negotiations and formation of the contract, to the various legal issues related to the parties’ performance under the contract. Also, this article provides a distinctive approach of the subject by relying heavily upon source documents, such as original court records, the player contract that was executed by the parties and approved by the league, correspondence between the principle players involved in the contract negotiation and formation, and official team and league internal communications. Because prior published accounts related to this topic tended to rely mostly on secondary or tertiary sources, those versions sometimes contained factual inaccuracies, which in turn may have resulted in misleading conclusions in certain circumstances. One of the main contributions of this article is the presentation of accurate information from reliable source documents on the various legal issues related to Parker’s 1979 contract. In particular, this article primarily focuses on the unique nature of Parker’s deferred compensation scheme, and the contractual implications of his use of cocaine.

I. ATMOSPHERE SURROUNDING THE NEGOTIATIONS

During 1977, in the middle of a three-year pact with the Pirates, Dave Parker sought to renegotiate his existing deal with the team. In March of that year, Parker expressed his dissatisfaction with his existing contract to Pirates General Manager Harding “Pete” Peterson.1 Parker requested that the no-trade clause in his contract be eliminated, indicating that he

would accept a trade to any National League club.\(^2\) His initial stance was curious since it contradicts the general perception that a no-trade clause would be considered a desirable provision from a player’s perspective. Apparently, Parker’s request was a negotiating strategy intended to increase his bargaining leverage with the club.

Club President Dan Galbreath did not receive Parker’s request favorably. Galbreath took the stance that contracts between clubs and players should not be subject to renegotiation, and that players should honor commitments they have made in good faith.\(^3\) Galbreath also did not believe in public negotiations, and Parker had been voicing his feelings in public regarding a desire to revise his existing agreement with the Bucs.\(^4\)

At the same time, Galbreath did not want to disenfranchise his rising superstar. “The Pirates had to sign Parker or risk losing him to the free agent market at the end of the 1979 season,” and receiving no compensation in return.\(^5\) Free agency, which was still in its infancy, had been the by-product of the landmark \emph{Messersmith-McNally} arbitration decision in 1975.\(^6\) The arbitration of certain disputes within Major League Baseball was included in the 1970 basic agreement between the players association and owners.\(^7\) Marvin Miller, who was elected to lead the players union in 1966, used his experience as a tough negotiator for the steelworker’s union to transform the baseball players union into a unified force that eventually would come to have an equal voice, along with the owners, in issues related to the governance of the game.\(^8\) From Miller’s perspective, the establishment of neutral, third-party arbitration of certain disputes was the first step in that process.\(^9\)

The Pirates could have chosen to acquiesce to Parker’s request to have the no-trade clause removed from his existing contract, and then try to trade Parker to another club, but Galbreath and the Pirates management did not want to pursue that option.

\(^2\) \textit{Id.}

\(^3\) \textit{Id.}

\(^4\) \textit{Id.}


\(^8\) \textit{See} KORR, supra note 6, at 36, 67.

\(^9\) MILLER, supra note 7, at 97.
They viewed Parker as the cornerstone of the franchise for years to come, a role not unlike the ones previously played by Roberto Clemente and Willie Stargell.\(^\text{10}\)

Following the 1977 season, a year in which Parker captured his first National League batting crown, Parker changed his negotiating tactics. Rather than seeking to renegotiate his existing contract, Parker was now campaigning for a new long-term deal with the Pirates that would extend beyond the life of his existing contract. Parker publicly expressed, “I hope we can come to some kind of contract. I’d like to stay in Pittsburgh. I love the personnel and the city.”\(^\text{11}\)

Yet, “[a]t $200,000 per season, Parker believed that he was vastly underpaid. ‘I feel I’m one of the best talents in baseball and I want to be paid like one of the best,’ [Parker] said.”\(^\text{12}\) Despite Galbreath’s dislike for public negotiations, Parker argued his case to the press. Brash and outspoken, he raised the prospect of free agency. “How would I look in a Philadelphia uniform?” he asked reporters, “I’d like to come back to Pittsburgh and tear the stadium down with base hits.”\(^\text{13}\) He was openly critical of the Pirates’ management. “A lot of guys have been unhappy with management,” he said.\(^\text{14}\) “I think it’s the club’s responsibility to keep its players, you know, happy. There’s been something of a problem in that area here.”\(^\text{15}\) Amidst the torrent of public rhetoric, Parker’s agent, Tom Reich, worked to negotiate a long-term deal that would secure his client’s future financial stability.\(^\text{16}\)

Like free agency, the use of player agents was also new to the major leagues, having first begun to slowly emerge in the mid-1960s, through agents like Bob Woolf.\(^\text{17}\) The use of player agents by baseball players rapidly gained acceptance despite the grudging resistance of the owners, but in the late 1970s, sports agency was still a burgeoning field that was still very much in the process of defining itself.\(^\text{18}\) Player agents were navigating

\(^{10}\) Sahadi, supra note 5, at 35, 57.


\(^{12}\) Id.

\(^{13}\) Id.

\(^{14}\) Id.

\(^{15}\) Id.

\(^{16}\) Sahadi, supra note 5.


\(^{18}\) See generally id. at 10–13 (explaining the development of the sports agency
uncharted waters in their dealings with the owners, who were used to exercising complete autocratic authority over the game and those who played it. Previously unheard of provisions, such as long-term guaranteed contracts and no-trade and incentive clauses, began to creep into the terms and conditions of addenda attached to the standardized Uniform Player Contract that was developed by the owners.  

By the end of the 1978 season, right fielder Dave Parker of the Pittsburgh Pirates was widely recognized as one of the best players in Major League Baseball; he had just been awarded the Most Valuable Player Award in the National League, winning his second straight league batting title during the regular season with an average of .334. His lightening quick bat earned him the moniker “The Cobra.” His prowess in the field had earned him his second consecutive Gold Glove Award. “During the summer of 1978, a newspaper poll of baseball’s general managers revealed that Parker was the player they most coveted.”

Perhaps most impressively, Parker earned the respect of many by continuing to play during the 1978 season wearing a specially constructed batting helmet with a football mask to protect a broken cheekbone suffered during a collision at home plate with Mets’ catcher John Stearns. The injury forced Parker to miss the All-Star game, despite having been elected to the National League squad. Not only did he continue to play in 1978, he played spectacularly. The Pirates final game of the 1978 regular season was played at home. During that game, after Parker had taken his position at the start of an inning, Pirates manager Chuck Tanner replaced Parker in right field, an extremely uncommon occurrence in baseball, to allow Parker to receive

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19 See id. at 10–11.  
21 Joseph Durso, Parker is Symbol of Pirates’ Plight: Parker is Symbolic of Pirates’ Problems, N.Y. TIMES, Sept. 11, 1981, at D21 (adding that the stadium organist would delight fans by playing snake charmer’s music whenever Parker strode to the plate).  
22 Dave Parker Statistics and History, supra note 20.  
23 SAHADI, supra note 5, at 35.  
25 SAHADI, supra note 5, at 39.
appreciation of the Pittsburgh fans for his outstanding season.\textsuperscript{26}

From the standpoint of bargaining leverage, Dave Parker’s career was ideally positioned. By the late 1970s, Parker’s career was just starting to blossom, enabling him to maximize his value in the now-competitive marketplace for the top professional baseball talent. His outstanding play on the field, combined with the rise to prominence of the players union under Miller and the newly created status of free agency, and the emergence of player agents who were able to negotiate provisions into their clients’ contracts that were previously unheard of, all helped give Parker the dominant position in his negotiations with the Pirates.

Parker made it clear to the club that he wanted his contract negotiations to be concluded prior to the start of spring training in 1979, asserting he did not want prolonged negotiations to create a distraction that might negatively impact his play.\textsuperscript{27} The negotiation process was not smooth. Tensions between Parker’s agent, Reich, and the club reached a peak during the off season when the Pirates took an open and active interest in the bidding wars for Reds star, Pete Rose.\textsuperscript{28} Thirty-eight year old Rose, who was chasing Ty Cobb’s all-time career hits record, possessed a competitive fire and reputation as an established leader and proven winner.\textsuperscript{29} And yet, while Rose was approaching the twilight of his career, he still was not the player Parker was in 1979.\textsuperscript{30} Rose’s eventual contract with the Phillies (a reported $3.4 million over four years)\textsuperscript{31} established the benchmark at which Parker’s negotiations would begin.

In a letter to Galbreath dated January 4, 1979, Reich “attribute[d] the present deteriorated state of negotiations [vis-a-vis Parker] primarily to the Galbreath family’s involvement in the Rose auction,” which Reich felt “contradicted critical positions previously taken and policies previously espoused” during Parker’s negotiations with the club, causing Parker and other Pirate players to become “highly incensed.”\textsuperscript{32} As a result, Reich

\textsuperscript{26} Id. at 33.
\textsuperscript{27} Id.
\textsuperscript{28} See generally Letter from Thomas M. Reich to Daniel M. Galbreath (Jan. 4, 1979) [hereinafter Letter from Reich] (on file with author) (illustrating what agent Reich wrote to Galbreath, “I am willing to pledge my best efforts to continue to negotiate in good faith with you for Dave’s future services.”).
\textsuperscript{29} O’TOOLE, supra note 11.
\textsuperscript{30} Id.
\textsuperscript{31} Id.
\textsuperscript{32} Letter from Reich, supra note 28.
withdrew the prior proposals made to the Pirates on December 20 and 27, 1978, and rejected the Pirates counter-offer on December 30.\textsuperscript{33}

From the Galbreath’s perspective, the club had an agreement with Parker that was undermined by the Pirates efforts to sign Rose. In a letter to Commissioner Bowie Kuhn, Galbreath wrote:

We literally had an agreement signed by a partner in Tom Reich’s law firm, who specifically indicated he had a Power of Attorney. That was before the Pete Rose incident occurred. The only thing that kept that original agreement from being legally binding was the fact that a check did not exchange hands and the fact the contract called ultimately for Dave’s personal signature. Morally and perhaps even more than that, we had an agreement.\textsuperscript{34}

Galbreath described Reich’s perception (that outside sources were used in the Rose negotiation) as causing the parties in the Parker discussions to literally have to start all over again.\textsuperscript{35}

Two years of posturing and public speculation came to a climax on January 26, 1979, when the parties announced that they had reached a verbal agreement.\textsuperscript{36} Parker commented, “It’s a great honor and it gives me a lot of freedom.”\textsuperscript{37} In what would eventually turn out to be an eerily ironic remark, given what was to subsequently transpire, he added, “The investments have secured me for life.”\textsuperscript{38} Reich echoed Parker’s sentiments saying, “When I structured the package there was a two-fold objective—one, the end of the contract would leave him a young player in the prime of his career and two, to set him up for life. Everybody isn’t Parker and everybody can’t have what he’s got.”\textsuperscript{39}

II. FIRST MILLION DOLLAR MAN?

The terms of Parker’s agreement with the Pirates were

\textsuperscript{33} Id.
\textsuperscript{34} Letter from Daniel M. Galbreath to Bowie K. Kuhn, Comm’r, Major League Baseball (Apr. 3, 1979) [hereinafter Galbreath Letter] (on file with author).
\textsuperscript{35} Id.
\textsuperscript{36} O’TOOLE, supra note 11.
\textsuperscript{37} Parker Prediction on His Value True, TITUSVILLE HERALD (Pa.), Mar. 14, 1979, at 12.
\textsuperscript{38} Id.
\textsuperscript{39} Steve Serby, Parker Pact Full of Incentives, N.Y. Post, Feb. 6, 1979. This account was the most accurate contemporary rendition of the terms of Parker’s contract that the author was able to find in print. The article notes that Reich and the Pirates’ owner Dan Galbreath agreed not to divulge the terms of Parker’s contract. Id. The article quotes Reich as stating, “How it got out I don’t know.” Id.
confidential. However, there was considerable speculation about the value of Parker’s contract in the press, and several conflicting reports were published regarding the compensation he was to receive. One source reported that Parker’s contract was worth $5 million.\textsuperscript{40} Another claimed that the agreement was valued at the “equivalent” of $5,073,120 a year.\textsuperscript{41}

One debate that continues to rage on the internet is who was the first major league player to earn over a million dollars a year? The answer is Parker.\textsuperscript{42} However, he was not the first player to be paid $1 million a year. That distinction belongs to Nolan Ryan.\textsuperscript{43} What is the difference between “earning” a million dollars a year and “being paid” a million dollars a year?

Upon entering his agreement with the Pirates in 1979, Dave Parker became the first major league player to sign a contract with a club that specified that he was to receive a million dollars or more for each year of service.\textsuperscript{44} He was not, however, paid one million dollars or more per year, each year, from 1979 to 1983. Nor was the total compensation paid to him over that five-year period equal to $5 million or more. Rather, most of his earnings were in the form of deferred compensation.

Specifically, Parker’s base salary under the terms of his 1979 contract was $300,000 per year from 1979 to 1983, payable in equal semi-monthly installments commencing in January 1979, and ending in December 1983, totaling $1.5 million for the five-year period.\textsuperscript{45} In addition, in consideration for entering into the contract, the Pirates paid Parker a signing bonus of $625,000, of which $325,000 was paid upon the execution and approval of the contract, and the remaining $300,000 was payable in January of 1980.\textsuperscript{46}

In addition to the $2.125 million he received for his base salary

\textsuperscript{40} Derek A. Reveron, \textit{Dave Parker: Big Man, Big Bat and Baseball’s Biggest Salary: Pittsburgh Pirates Outfielder is a $-Million-A-Year Superstar}, EUROB, Oct. 1979, at 84.

\textsuperscript{41} \textit{Parker’s $5 Million Pact Says He’s Baseball’s Best}, JET, Feb. 22, 1979, at 48.

\textsuperscript{42} See infra notes 45–48.


\textsuperscript{44} See infra notes 45–48.

\textsuperscript{45} Unif. Player’s Contract between Pittsburgh Athletic Co., Inc. and David G. Parker, add. 1 (July 19, 1979) [hereinafter Player’s Contract] (on file with author).

\textsuperscript{46} Id.
and signing bonuses, Parker was to receive approximately $5.625 million in deferred payments for his services to Pirates from 1979 to 1983, starting in 1988 and continuing through 2008.\textsuperscript{47} More specifically, his deferred payments were to be paid in the following installments: $1 million in January 1988, and $20,833.33 each month for 222 consecutive months commencing in January 1989.\textsuperscript{48} Together with his base salary and signing bonuses, this made his total “guaranteed” compensation under the 1979 contract approximately $7.75 million.

At first blush, the distinction between “earning” a million dollars a year and “being paid” a million dollars a year may seem trivial. But as described in detail later in this article, this subtle nuance took on great significance later when the Pirates attempted to avoid paying Parker his deferred income.

In addition to his “guaranteed” income, a number of performance incentives were included in Parker’s deal with the Pirates. The first incentive clause was a bonus, to be paid by the club, for every time he finished among the top six in the balloting for National League Most Valuable Player from 1979 to 1983.\textsuperscript{49} Being selected to receive the award would garner him a $100,000 bonus.\textsuperscript{50} Finishing second in the balloting would earn Parker $75,000; third, $50,000; and $25,000 for finishing fourth through sixth in the balloting.\textsuperscript{51} He did not earn any of these bonuses.\textsuperscript{52} The contract also contained an incentive clause of $15,000 for each year that Parker was awarded a Golden Glove Award from

\textsuperscript{47} See generally id. add. 2 (stating that the contracted installments to be $1 million in January 1988, and $20,833.33 each month for 222 consecutive months, which equates to approximately $5.625 million). In published reports that followed the Pirates’ lawsuit against Parker in 1986, this figure was erroneously reported as being $5.5 million. David Parker, Pirates, in Contract Settlement, JET, Jan. 9, 1989, at 50; Bob Hertzel, Pirates, Parker Reach Out-of-Court Settlement, SPORTING NEWS, Jan. 2, 1989. Please note, Hertzel’s article in The Sporting News also inaccurately reports that the deferred payments were to end in 2007, but the contract indicates the payments were to continue through part of 2008. Players Contract, supra note 45, add. 2. See also Gary A. Hengstler, Pirates v. Parker: Drug Testimony Sparks Lawsuit, A.B.A. J., July 1, 1986, at 28. Hengstler’s article in the ABA Journal mistakenly indicates the total value of Parker’s contact as $7.4 million (it was actually closer to $7.75 million, not including incentives) and the compensation received other than deferred payments as $2 million (it was $2.125 million). Id.

\textsuperscript{48} Players Contract, supra note 45, add. 2.

\textsuperscript{49} Id. add. 1.

\textsuperscript{50} Id.

\textsuperscript{51} Id.

\textsuperscript{52} Dave Parker Statistics and History, supra note 20.
1979 to 1983, which he would have received in 1979.\footnote{53}{Player’s Contract, supra note 45, add. 1.}

Parker’s 1979 contract with the Pirates also contained an attendance bonus that required the club to pay him a bonus each time the team reached certain shared home-paid admissions figures from 1979–1983.\footnote{54}{Id.} For each season where the paid home attendance was 1,500,000–1,699,999 customers, Parker would receive $50,000; 1,700,000–1,999,999, the Pirates would pay a $100,000 bonus; and if it exceeded 2 million customers, he would receive a $150,000 bonus.\footnote{55}{Id.} According to published records, he would have received a $50,000 bonus in 1980, when the Pirates attendance was over 1.5 million, and narrowly missed receiving the same bonus for 1979.\footnote{56}{Attendance, Stadiums, and Park Factors: Pittsburgh Pirates, BASEBALL-REFERENCE.COM, http://www.baseball-reference.com/teams/PIT/attend.shtml (last visited Oct. 7, 2011).} Therefore, in terms of these incentives provisions, Parker would have made an additional $65,000.

III. ISSUES RELATED TO THE DEFERRED COMPENSATION SCHEME

During Reich’s initial negotiations with the Pirates, the club indicated that it was unable to commit any resources beyond the Pittsburgh Athletic Company, the group that owned the Pirates at that time, to secure the contract.\footnote{57}{Galbreath Letter, supra note 34.} Subsequently, during the Pete Rose negotiations, the Pirates included in their negotiations with Rose “as . . . part of [the] compensation, thoroughbred horses of breeding age.”\footnote{58}{Id.} Galbreath explained to Kuhn that upon learning of this, Reich became furious, claiming that during the Parker negotiations the club maintained that league rules prohibited them from using outside sources during contract negotiations with players.\footnote{59}{Id.} These circumstances, coupled with the fact that a significant amount of Parker’s compensation was to be deferred, led to Reich’s insistence that Parker’s contract be guaranteed through an outside source.\footnote{60}{Id.} Reich indicated to the club that he believed this was needed to provide “Dave Parker with the necessary protection.”\footnote{61}{Letter from Thomas M. Reich to Douglas G. McCormick (Mar. 27, 1979) (on file with author).}
These concerns led to Columbus Center, the principal asset of Galbreath’s Pittsburgh-based real estate company, 100 East Broad Street Corporation, to be put up as a surety to guarantee Parker’s deferred compensation from the Pirates.\textsuperscript{62} Financial statements, lease agreements, and an auditor’s evaluation of the value of the properties were provided as a part of the surety process.\textsuperscript{63} The shareholders of 100 East Broad Street Corporation approved the surety, and conveyed the guaranty to Parker in a letter dated July 19, 1979.\textsuperscript{64}

After the terms of Parker’s contract had been verbally agreed upon in January 1979, Commissioner Bowie Kuhn expressed his reservations to Galbreath about “having the Parker contract personally guaranteed by your [Galbreath’s] family.”\textsuperscript{65} In his response to Kuhn, Galbreath argued that Parker’s contract was not being personally guaranteed by the club owners, but instead was being guaranteed through one of their corporations, which had as its major asset, an office building, which was being pledged to support Parker’s contract.\textsuperscript{66} While noting that this distinction may have merely been a “technical difference,” Galbreath’s position was that this was a single corporate guaranty and not a personal guarantee.\textsuperscript{67}

Kuhn subsequently sent a bulletin to the chief executives and general managers of all the major league clubs in which he expressed his concern over “instances in which the performance of a Club commitment under a player contract has been guaranteed by the promise of an entity other than the Club itself, as, for example, when the contract is guaranteed by a separate corporation controlled by Club ownership, or directly by the owner himself.”\textsuperscript{68} In Kuhn’s judgment, such arrangements posed

\begin{itemize}
  \item\textsuperscript{62} Letter from C. E. Turley to Douglas G. McCormick (Mar. 9, 1979) (on file with author).
  \item\textsuperscript{64} Letter from 100 East Broad Corp. to David G. Parker (July 19, 1979) (on file with author).
  \item\textsuperscript{65} Letter from Bowie K. Kuhn, Comm’r, Major League Baseball, to Daniel M. Galbreath (Mar. 26, 1979) (on file with author).
  \item\textsuperscript{66} Galbreath Letter, \textit{supra} note 34, at 2.
  \item\textsuperscript{67} \textit{Id}.
  \item\textsuperscript{68} Bulletin from Bowie K. Kuhn, Comm’r, Major League Baseball, to all Chief
“substantial problems,” not least of which “would arise in the event the contract of such a player were to be assigned to another Club.”

Kuhn saw this as a clear conflict of interest, and a violation of major league Rule 20(b), which provided, “No Club or owner, stockholder . . . of a Club, shall, directly or indirectly . . . become . . . guarantor for a player of any other Club in either Major League.” Consequently, Kuhn declared, “henceforth all guarantees of Club performance under a Uniform Player Contract must be limited strictly to those of the Club itself.”

Despite the Commissioner’s edict in an inter-club communication to Galbreath, Pete Peterson speculated “the Parker deal, since it was made verbally prior to this bulletin, will still be approved by the National League.” Peterson’s conjecture proved to be accurate. Shortly after Parker’s contract was signed by the parties, it was approved by National League President, Chub Feeney.

IV. PARKER’S PERFORMANCE DURING THE CONTACT

During the first year of his new contract with the Pirates, Parker enjoyed another outstanding season. At the start of the year, Parker and Red Sox slugger Jim Rice graced the cover of Sports Illustrated magazine. The cover asked, “Who’s the best?” A man of enormous stature, Parker towered over Rice as they stood back-to-back. As Rice looked up at him with a bemused smirk, Parker smiled broadly with his index finger held up, indicating he was number one.

Parker’s defensive prowess, which was already renowned among fans and those within the baseball community, achieved near-legendary status following the 1979 All-Star game. His two electrifying throws from right field during the mid-summer classic, which gunned down American League base runners Jim Rice and Brian Downing, helped him secure the game’s Most

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69 Id.
70 Id.
71 Id.
72 Letter from Harding Peterson to Daniel M. Galbreath (May 17, 1979) (on file with author).
73 Players Contract, supra note 45, at 6.
74 O’TOOLE, supra note 11, at 109.
75 Id.
76 Id. at 110.
Valuable Player honors.\(^{77}\) He was awarded another Gold Glove Award in 1979, and hit .310 with 25 home runs and 94 RBI for regular season.\(^{78}\) In the postseason, he hit over .300 in both the National League Championship Series against the Reds, and the World Series against the Orioles, helping lead the Bucs to the 1979 World Series title. \(^{79}\) Parker finished tenth in the 1979 National League Most Valuable Player voting.\(^{80}\)

Despite his outstanding season that year, in a precursor of things to come, Parker “did not bother to attend the victory parade in downtown Pittsburgh following the [World] Series victory.”\(^{81}\) He asked, “Why should I? . . . [J]ust last season some people were throwing garbage at me.”\(^{82}\)

Matters did not continue to progress as well for Parker on the field following the 1979 season. His relationship with the Pirate fans, the front office, and the local media quickly began to deteriorate. In 1980, Parker’s batting average fell below .300 for the first time in five years, and his production continued to steadily decline through 1983.\(^{83}\) At the same time, Parker suffered a series of nagging injuries. In 1980, his prior knee injury resurfaced and he played the entire season with fluid in his knee.\(^{84}\) During a 1981 game against the Houston Astros, Parker ruptured ligaments in his right wrist while trying to check his swing on a Nolan Ryan pitch.\(^{85}\) During a 1982 contest with the Philadelphia Phillies, he jammed his thumb sliding into second base.\(^{86}\) Throughout the 1983 campaign, he suffered from a sore Achilles tendon.\(^{87}\)

During this dark stage of his career, in addition to verbal taunts from the crowd, Parker became the frequent target of a wide variety of projectiles thrown at him from the stands. The

\(^{77}\) Sahadi, supra note 5, at 40–43.


\(^{81}\) O’Toole, supra note 11, at 113.

\(^{82}\) Id.

\(^{83}\) Id.

\(^{84}\) BASEBALL: THE BIOGRAPHICAL ENCYCLOPEDIA 866 (David Pietrusza, Matthew Silverman & Michael Gershman eds., 2000).

\(^{85}\) Id.

\(^{86}\) Id.

\(^{87}\) Id.
objects hurled at Parker ranged from fruit to batteries and nuts and bolts. Teammate Kent Tekulve stated, “I saw the whole disgusting thing . . . . On bat day, I saw a father take his kid’s bat away and throw it at Parker.”

By the end of his five-year contract, the relationship between Parker and the Pirates eroded to the point where it was impossible to salvage. The man who was to be the face of the Pirates for a generation had departed in disgrace via free agency to his hometown of Cincinnati. On December 7, 1983, Parker signed a two-year deal with the Cincinnati Reds. Parker immediately responded with two very strong seasons with the Reds. During his first season, Parker led the Reds in virtually every offensive category. In 1985, his stellar performance with the club resulted in Parker finishing second in the National League Most Valuable Player voting.

Parker described himself as a “grossly misunderstood man.” It is also possible that Parker’s outspoken, arrogant egotism disenfranchised him from the organization and the Pirates’ fans. Perhaps Parker’s career in Pittsburgh was best summed up by Bob Smizik, of the Pittsburgh Press, who said, “The town has never understood the man. The man has never understood the town. It’s a pity.”

V. PITTSBURGH COCAINE TRIALS

In the mid-1980s, the baseball world was rocked when news of widespread cocaine use among players began to surface in the media. Some of baseball’s biggest names, including Keith Hernandez and Dave Parker, surfaced during the course of the investigation that ensued. The Pittsburgh Pirates were at the center of the scandal, and the allegations, which related to Parker’s tenure as a Pirate, included former teammates Rod Scurry, John Milner, and Dale Berra, among others, as well as former Pirates’ mascot, Kevin Koch, also known as the Pirate.
Parrot.\footnote{Skirboll, supra note 94, at 46, 155, 173.} Parker’s main cocaine connection was Shelby Greer, whom Parker had met during an airplane flight.\footnote{Id. at 27–28; David Ivanovich, Parker Blamed for Pirates’ Drug Problems, CINCINNATI POST, Sept. 12, 1985, at 1C.} Another one of the central figures accused in the distribution of cocaine to players was Curtis Strong.\footnote{See Ivanovich, supra note 97.} 

In the fall of 1985, a media frenzy surrounding the criminal trial of United States v. Curtis Strong\footnote{775 F.2d 504 (3d Cir. 1985).} gripped the baseball world. Numerous players, under grants of immunity, testified for the prosecution in the case against Strong. In one of the more poignant moments of the trials, a shaken Keith Hernandez recounted waking up one morning shaking and with a bloody nose.\footnote{Skirboll, supra note 94, at 172.} “I threw a gram away, down the toilet. . . . [Cocaine] was a like a demon [to] me,” Hernandez testified.\footnote{Id.} He then stunned spectators with what would become the catch phrase of the Pittsburgh Cocaine Trials, describing the relationship between baseball and the drug as a “love affair.”\footnote{Id. at 175; Ivanovich, supra note 97, at 4C.}

Parker, who was also granted immunity, testified before a packed courtroom.\footnote{O’Toole, supra note 11, at 123; Ivanovich, supra note 97, at 4C.} He testified that, “[Cocaine was] ‘becoming vastly popular in society and it was constantly available because of who I was.’”\footnote{Ivanovich, supra note 97.} He also testified that he had introduced the drug to his former Pirate teammates to Shelby Greer—a man who had subsequently been charged with ten counts of conspiring to sell cocaine.\footnote{Id. at 4C.} Parker also admitted to buying cocaine from Strong on several occasions.\footnote{Id.} Upon direct examination from the U.S. attorney, in words that would later come back to haunt him, Parker described how he was able to kick his cocaine habit. “I felt like my game was more important than cocaine . . . . I wanted to get married, and that was more important than cocaine. It was not a priority in my case.”\footnote{Skirball, supra note 94, at 176.} Parker further testified that he stopped using cocaine in 1982 because he felt his “game was slipping.”\footnote{O’Toole, supra note 11, at 120.}
During cross-examination, Strong’s flamboyant defense attorney, Adam O. Renfroe, Jr., attempted to place the blame for the decline of the Pirates’ organization squarely and entirely on Parker’s shoulders.109 Speaking before a Pittsburgh jury that was less than sympathetic to Parker, Renfroe inquired:

“As a result of your introduction of Shelby Greer, the Pirates went from the world championship to the bottom of the National League. Isn’t that right Mr. Parker?” “That’s a pretty strong statement, Mr. Renfroe,” Parker responded. “How do you carry that burden,” asked Renfroe, “knowing because of you the Pirates went from the world championship to being the worst in the National League?” [Parker answered,] “I don’t carry that burden because I don’t take responsibility for what adults do. Those relationships are ones that adults conduct with one another.”

VI. PITTSBURGH ASSOCIATES V. PARKER111

On April 21, 1986, the new owners of the Pirates filed an action against Parker in the Court of Common Pleas of Allegheny County, Pennsylvania, seeking a declaratory judgment relieving the organization from having to make the deferred payments specified in Parker’s 1979 contract.112 The lawsuit enumerated four causes of action including fraudulent concealment, fraudulent inducement, fraudulent misrepresentation, and material failure of consideration.113

The claims stemmed from Parker’s testimony and admissions during the cocaine trials. While Parker’s contract with the Pirates contained no specific language regarding the consequences of drug use, the club maintained that Parker’s use of cocaine, and his concealment of his drug use from the club, constituted a violation of section 4-(b) of the Uniform Player Contract, which states, “The Player represents that he has no physical or mental defect known to him and unknown to the appropriate representative of the Club which would prevent or impair performance of his services.”

The suit was conceived of by Pirates’ attorney Carl Barger, who

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109 SKIRBOLL, supra note 94, at 177.
110 Id.
113 Id. at 5–9.
114 Player’s Contract, supra note 45, at 2; see also Greg Hoard, Pirates Seek to Stop Parker’s Deferred Pay, CINCINNATI ENQUIRER, Apr. 22, 1986, at C-4.
subsequently became the club’s president in 1987.115 Regarding the club’s rationale for the lawsuit, Barger explained, “We believe . . . we have a legal duty to test the legitimacy of whether we owe Dave Parker $5 million.”116 Malcolm Prine, president and chief executive of the Pirates at the time the lawsuit was brought, added, “[Parker] was using cocaine . . . . That negatively affected his ability to perform . . . The Pittsburgh Pirates were deprived of that which he promised to provide.”117 The position of the Pirates, however, was not without its share of legal challenges.

Parker’s legal team petitioned to have the case removed to the U.S. District Court for the Western District of Pennsylvania.118 A week later, with the assistance of the MLBPA, Parker filed a motion to dismiss, or in the alternative, to stay the suit and compel arbitration, on the grounds that contractual matters between clubs and players were required to be handled through arbitration pursuant the collective bargaining agreement between the clubs and players.119 In response to Parker’s motion, the Pirates argued that since the nature of its claims against Parker, if successful, would render the contract null and void from its inception, the matter did not have to go to arbitration under the collective bargaining agreement.120 Parker contended that the matter was simply a breach of contract claim, and that by filing the lawsuit, the Pirates were attempting to circumvent arbitration of the dispute, as collectively bargained between the clubs and the players.121

The district court agreed with the Pirates and denied Parker’s motion to dismiss, holding that the Pirates’ lawsuit against Parker revolved around whether a contract was ever validly formed, and therefore, the matter was appropriate for judicial review and did not have to be submitted to arbitration under the terms and conditions of the collective bargaining agreement.122 In the final opinion written by Judge Mencer, the court held,

[B]ecause the causes of action stated by the Pirates only pertain to

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115 Hoard, supra note 114. See, e.g., O’TOOLE, supra note 11, at 125 (stating Barger was president in 1988).
116 Id.
117 See, e.g., supra note 11, at 125 (stating Barger was president in 1988).
119 Id. at *1–2.
120 Id. at *1.
121 Id. at *3.
122 Id. at *12.
the formation and the existence of the UPC (Uniform Player Contract), they are outside of the grievance procedure. The arbitrators would be without jurisdiction to hear or to resolve such causes of action since their resolution would not concern interpretation, application or a determination of compliance with the provisions of the UPC. Furthermore, the events upon which the Pirates base its claims, Parker’s use of cocaine prior to the execution of the UPC and his failure to disclose that fact to the Pirates, preceded the formation of the contract and do not concern the terms of the UPC.123

In direct response to the court’s holding in this matter, to avoid this situation from recurring, the collective bargaining agreement was amended in 1990 to include that all matters related to the formation of a player’s contract with a team must also be resolved through arbitration.124

In addition to the unsuccessful claim Parker made that the dispute should be arbitrated and not litigated, the Pirates’ claims against him had other shortcomings. As Reich observed, Parker admitted to using cocaine. The Pirates maintained in the complaint that Parker had been “at least an intermittent user” of cocaine prior to the execution of his contract in 1979.125 It would have been challenging to prove that any use of cocaine prior to 1979 had negatively impacted Parker’s playing ability, in light of Parker’s statistics prior to 1979, which were previously detailed in the section of this article dealing with Parker’s 1979 contract negotiations.

The Pirates may have attempted to distinguish the facts by claiming that Parker’s play only began to decline after he became a “heavy user” of cocaine, but that position also had shortcomings. The Pirates had alleged that “Parker had been a heavy user of the illegal drug cocaine at the time of the execution of the 1979 Contract . . . .”126 However, it is difficult to reconcile that claim given the season Parker had with the Pirates in 1979. The overwhelming evidence that he was still one of the top players in baseball at that time makes it difficult to conclude that his “heavy” use of cocaine diminished his skills as a baseball player that season.

The Pirates’ allegations against Parker also faced causation

123 Id. at *11.
124 E-mail from Gene Orza, Assoc. Gen. Counsel, MLBPA, to David Snyder (Aug. 1, 2011) [hereinafter Orza E-mail] (on file with author).
125 Complaint, supra note 112, at 5.
126 Id.
issues. Despite the admissions made by Parker during the cocaine trials regarding the negative impact of cocaine use on his performance as a player, it would be difficult to establish that cocaine use was the cause of Parker’s decline in performance during the early 1980s. There was ample evidence to indicate that Parker suffered numerous injuries and frequently played hurt during the course of his five-year contract with the Pirates.\textsuperscript{127} Tying these injuries to his cocaine use would be challenging. Parker’s former manager with the Pirates, Chuck Tanner, was on Parker’s witness list in the case brought against Parker by the Pirates.\textsuperscript{128} Commenting on the case, Tanner exclaimed, “You’re damn right I’ll defend him . . . . He played hard every day. I don’t know anything about cocaine, but I know he played hurt.”\textsuperscript{129}

But perhaps the strongest threat the Pirates’ ownership faced were challenges to their assertions that they did not know that Parker and other players were using cocaine. In the complaint, the Pirates averred that it was not until about September 1985 that they first became aware that Parker had been using cocaine.\textsuperscript{130} The defense team planned to allege, in rather dramatic fashion, that the owners knew about the widespread use of cocaine and other illegal substances by major league players and failed to do anything to address the situation. Tom Reich promised that if the case went to trial, “It will involve the history of cocaine in baseball over the last ten years, and that history is fairly extensive.”\textsuperscript{131} In a lengthy pretrial statement, defense attorney Louis Willenken stated,

By 1981, it became general knowledge that many players were using cocaine to one extent or another, and the Pirates certainly knew Dave, as well as others, had used cocaine. The Pirates could have but chose not to do something at that time . . . . The Pirates inaction is not surprising; they had a history in the 1970s and early 1980s of knowing about but ignoring drug use and substance abuse.\textsuperscript{132}

Willenken went on in his statement to indict the entire league by claiming it had knowledge of widespread substance abuse by

\textsuperscript{127} O’TOOLE, supra note 11, at 116.
\textsuperscript{128} SKIRBOLL, supra note 94, at 220.
\textsuperscript{129} Id.
\textsuperscript{130} Complaint, supra note 112, at 5.
\textsuperscript{131} SKIRBOLL, supra note 94, at 219.
\textsuperscript{132} Id. at 220.
players and failed to address the situation. It was clear that one of the primary tactics the defense planned to employ was to put the owners and all of Major League Baseball on trial. As former Pirates pitcher Dock Ellis observed, “The overwhelming majority of major league baseball players in both leagues were substance abusers, and the symptoms were evident and ignored by management.”

The parties ultimately reached an out-of-court settlement. Following the announcement of the settlement, Reich indicated that the most compelling reason for the settlement was that he did not feel that Parker would have received a fair trial in Pittsburgh, where Parker was not well-liked. Reich stated, “The jury trial in Pittsburgh was far more compelling (for settlement) than the merits of the claim.” The trial would have been another excruciating experience for Parker and others.

The details of the settlement were confidential. However, representatives from the Pirates expressed their satisfaction with its terms. Barger commented that the Pirates’ payment to Parker would be “significantly less” and that it would be paid in one lump sum instead of installments as originally provided for in the contract. “We said all along this wasn’t a personal vendetta against Dave Parker,” he said. “It was a matter of principle and economics.”

Even when Parker was in the twilight of his career playing with the Milwaukee Brewers, years after the case settled, he still expressed bitterness over the lawsuit initiated by the Pirates. Parker said,

When you speak in terms of Pittsburgh, I hate what they tried to do in their lawsuit . . . . I hate the fact that they tried to say they didn’t get their money’s worth out of me when I was considered the best player in baseball for six of the 10 years I was there . . . . So I have nothing but malice and hate for the organization in Pittsburgh.

\[133 \text{ Id.} \\
\text{134 Id.} \\
\text{135 Id.} \\
\text{136 O’Toole, supra note 11, at 125 (stating that settling was in Parker’s best interest).} \\
\text{137 Id.} \\
\text{138 Id.} \\
\text{139 Hertzel, supra note 47.} \\
\text{140 Id.} \\
\text{141 Id.} \\
\text{142 Fred Mitchell, Sweet Brewer Still Bitter: Parker Laughs Through Pain,} \]
VII. LEAGUE SANCTIONS & DISCIPLINARY ARBITRATION

In addition to the legal action taken by the Pirates against Parker, Parker and the other players who testified during the Pittsburgh Cocaine Trials had disciplinary actions imposed against them by Peter Ueberroth, who was commissioner of Major League Baseball at the time. Parker and six other players received the harshest penalties and would face a one-year suspension, unless they agreed to several conditions, including: donating ten percent of their salaries to drug prevention programs, submitting to drug testing for the duration of their playing careers, and performing 100 hours of community service.

Parker and the other players responded by filing a disciplinary grievance challenging Ueberroth’s actions. Parker commented on Ueberroth’s decision by saying, “My use of cocaine ended five years ago. Isn’t there a five-year statute of limitations on everything except murder?” The disciplinary grievance was never resolved.

CONCLUSION

The contract represented a milestone in professional baseball as it was the first contract in which a player earned over one million dollars a year, breaking a psychological barrier in terms of player salaries. To achieve this end, the contract was structured such that the majority of Parker’s compensation would be paid after his five years of service to the team was completed. The unique nature of the deferred payments, and the surety arrangements securing them, raised concerns within the Commissioner’s Office that ultimately led to league rules prohibiting such arrangements in the future.

In the aftermath of the Pittsburgh Cocaine Trials in the mid-1980s, the innovative claim initiated by the Pirates against Parker for fraudulent inducement was the first lawsuit of its...
kind. The outcome of a motion filed by Parker in the case ultimately served as the impetus for a modification to the collective bargaining agreement between the clubs and the players.

It is intriguing that Parker was the only former player that the Pirates sued for fraudulent inducement. Indeed, he was the only player to have testified in the Pittsburgh Cocaine Trials to be sued subsequently by his former club.\textsuperscript{149} Perhaps this is easily explained by the unique nature of Parker’s deferred compensation scheme, coupled with the financial woes of the new ownership in Pittsburgh. But one has to wonder what role, if any, Parker’s bombastic, arrogant nature, or perhaps even his race, may have played in the Pirates’ decision to pursue a legal action against him.

Another curious dimension of the Parker contract saga is the fact that the players who were subjected to discipline by Commissioner Ueberroth following their participation in the Cocaine Trials failed to follow through on the disciplinary grievance they filed with the arbitrator.

These singular aspects related to Dave Parker’s 1979 contract have given it a lasting significance that has extended well beyond the playing field.

\textsuperscript{149} O’Toole, supra note 11, at 124.