THE DEATH OF THE RESERVE CLAUSE, 50 YEARS ON

Written by Dan Lawton

Last November, Shohei Ohtani, Yoshinobu Yamamoto, Freddie Freeman, and the rest of the Los Angeles Dodgers celebrated an epic come-from-behind World Series championship. The images of the happy blue-clad victors jumping up and down with joy after the third out in the eleventh inning were perennial and timeless to any baseball fan. In a game that has undergone so many changes in the last 50 years, some things were still the same. If you hunt for images of World Series champions who celebrated their own victories in the long-ago, you will find them much the same as those of the Dodgers on the field in Toronto on November 1, 2025.

Fifty years earlier, Andy Messersmith, a starting pitcher, also wore Dodger blue. Messersmith was 29 years old. Though few predicted it at the time, he and a fellow player, Dave McNally, would notch a legal victory that year that forever changed the game for everyone who touches or experiences it, from fans to television networks. In legal and economic terms, that victory eclipsed the Dodgers' triumph of November 2025 by many orders of magnitude. Its after-effects are felt today, by everybody from the richest club owner down to the fan who sits in the bleachers at Chavez Ravine on a summer evening.

InMessersmith's heyday, lawyers in the private bar moved from one firm to another less than they do today. If you practiced at a firm then, you probably joined it expecting you would stay, make partner someday, and earn lockstep compensation until your retirement. Though no law or rule restricted lateral movement of lawyers, the practice was rare. (See Hillman, *Law Firms and their Partners Revisited: Reflections on Three Decades of Lawyer Mobility* (2018) 96 Tex. L.Rev. 787.) Today, of course, lawyers switch firms as frequently as MLB players switch clubs. (See National Association for Law Placement, "U.S. Lateral Hiring Market Rebounds in 2024, Driven by Growth in Associate Hiring" (Apr.2025).)

But imagine this scenario. You join a law firm, sign an employment contract for a fixed term, work there for a while, and eventually covet greener pastures elsewhere. You screw up your professional courage, walk into your managing partner's office, and break the news to him: you're leaving to accept an offer of employment at a competing firm at a higher salary and with better benefits. He hears you out, then produces a copy of your contract and points out a clause, one you forgot was there. You stand in front of his desk and read these words to yourself:

> On or before February 15 of the year next following the last year covered by this contract, the Firm may tender to the Lawyer

> a contract for the term of that year by mailing the same to the Lawyer at his address. If prior to March 1 next succeeding said February 15, the Lawyer and the Firm have not agreed upon the terms of such contract, then the Firm shall have the right to renew this contract for the period of one year on the same terms, except that the amount of salary shall be such as the Firm shall fix.

As you stand there, your face slowly reddening, the commercial reality dawns on you: the firm owns you. You can retire or quit. You're highly paid, but chattel nonetheless. You can't go to another law firm, however more-lucrative the move would be, lest your firm sue you for breach of contract and sideline you with an injunction, one your managing partner promises to seek should you decide to walk.

"But that's crazy," you might say. "This is America. I've got the right to sell my services to the highest bidder and seek the highest and best use of my professional talents. Duh."

You'd be right. But if you'd been an MLB player before December 24, 1975, you'd have been wrong, and everybody would have known it.

The clause above, tweaked slightly for the lawyer-lateral-move hypothetical, was MLB's "reserve clause." Every player's contract recited it. Aided by the best lawyers their money could buy, the club owners enforced it without exception. The economic and human results were what you would expect. Club owners were running a monopoly in which they tightly controlled player salaries and the lateral movement of players between clubs. The pretax earnings of Vida Blue, the American League's Most Valuable Player in 1971, were $14,500 – about $110,790, adjusted for inflation, in today's dollars, and only $2,500 above the MLB minimum at the time. Pretty good, but not enough to make any player a millionaire or free him from having to work a second job in the offseason in order to support a family. Unless their owners traded them or they elected to retire early, players were bound to their clubs for life.

The one player who dared to challenge this feudal system in the courts was an outfielder, Curt Flood. He took his case all the way to the U.S. Supreme Court, in 1972, challenging the reserve clause as a violation of the antitrust laws. But he lost, thanks to longstanding precedent affording baseball an exemption from those laws. Along the way, his fellow players, fearful of retaliation from their club owner-masters, blackballed him. Flood died, broke and alone, in 1977, at age 59.

The owners hoped that was the end of it, but, to their chagrin, it wasn't. In 1975, two players, McNally and Messersmith, pursued a legal strategy that called for bypassing the courts and challenging the reserve clause in arbitration, the forum for resolution of player grievances provided by a collective bargaining agreement struck in 1970. Rather than the failed antitrust theory pursued by Flood at the Supreme Court, they chose a theory grounded in the good old-fashioned canons of contract construction.

Messersmith, a 30-year-old pitcher from New Jersey, was coming off back-to-back seasons as an All-Star for the Dodgers. At the advice of the union's counsel, Marvin Miller, he refused to sign the contract which the Dodgers tendered to him at the end of the 1975 season, and filed a grievance, citing the Dodgers' refusal to agree to a no-trade clause in the tendered contract. Miller recruited McNally, a 33-year-old pitcher who had just retired due to an arm injury and a "good union man," to join the case. (Banner, The Baseball Trust: A History of Baseball's Antitrust Exemption (Oxford University Press 2013), p. 225.)

Peter Seitz, a seasoned labor arbitrator, was 70 years old. He had ruled against the owners before. But he had their respect, and the owners feared firing him as arbitrator risked bad optics on the eve of arbitration. During November and December 1975, in a conference room at the Barbizon Plaza Hotel in New York City, Seitz heard witness testimony and lawyers' arguments. The players' counsel, Richard Moss, argued that the fair interpretation of the reserve clause was that it lacked the evergreen effect urged by the owners. It meant that clubs could only renew an expired contract for a single year, not year after year – an interpretation shared by arbitrators of professional basketball grievances brought by former NBA players Rick Barry and Billy Cunningham.

Seitz closed the hearing and took the case under submission, but encouraged the parties to settle before he should issue an award which he promised to deliver on Christmas Eve 1975.

I still recall the first arbitration I ever worked on, a dispute between real estate brokers over a $300,000 commission. The arbitrator, Don Worley of San Diego, closed the hearing and promised an award in a week's

time. Then he warned us all that he could see the outcome "going either way." We all knew what that meant. He encouraged us to settle the case before he could issue an award, and we did, splitting the $300,000, plus accrued interest, down the middle, lest one party or the other come away with nothing to show for it but a hefty legal bill.

If such logic occurred to the club owners in December 1975, they dismissed it, telling Seitz they would not be negotiating over the reserve clause.

The result was Seitz's award in favor of McNally and Messersmith. In analogous settings, he reasoned, courts didn't enforce perpetually-renewing contracts except where the evidence clearly showed the parties had specifically intended that. It followed that McNally and Messersmith weren't under contract to anyone. Nor could they be forced to accede to the terms of a new tendered contract. The reserve clause was dead.

McNally and Messersmith were free agents, free to offer their services to any club anywhere, and to commit their talents and services to the employer they thought offered the best fit. Where Flood had failed, they had succeeded.

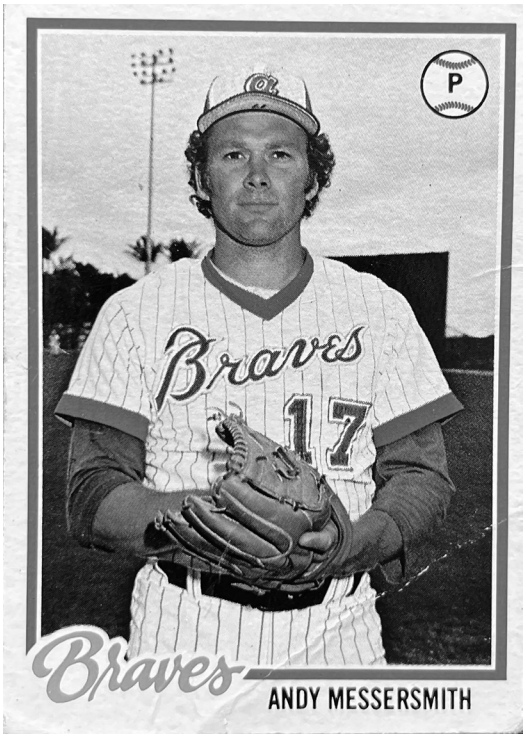
Only a few hours passed between Seitz's transmittal of his award and the club owners' firing of him. The owners, joined by their commissioner, Bowie Kuhn, raged at the ruling, predicting that it would cause irreparable harm to baseball, by allowing the unthinkable – movement of players "at will from team to team." The horror!

Messersmith signed a new, three-year contract with the Atlanta Braves. I compared Messersmith's annual salary with the Braves after 1975, $333,333, to his last salary with the Dodgers ($90,000). Abolishing the reserve clause had meant boosting his pay by nearly 400%. What lawyer, you included, would turn down a raise like that?

Today, the mean MLB player salary is $4.7 million. The "irreparable harm" which the owners envisioned seems not to have materialized. The owners have grown more wealthy, and their clubs more valuable, than ever. Yes, a beer and a hot dog at Petco Park in San Diego will set you back $23. It's too much. But average attendance at San Diego Padres home games last season was over 42,000. That was second-highest in all of MLB, topped only by the Dodgers. Collective attendance at all games in 2025 topped 71 million for the third straight year. Baseball's precious antitrust exemption remains good law, however dumb it seems in light of commercial reality. But it seems safe to say that the game, however glaring its flaws to the fan, is doing something right.

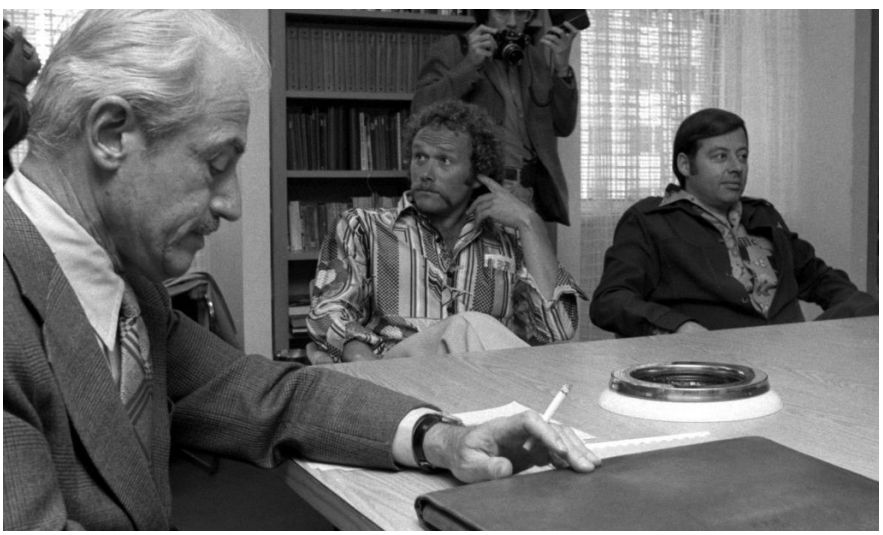
McNally died in Billings, Montana, at age 60, in 2002. Messersmith is 80 years old today. December 2025 marked the 50th anniversary of their arbitral award which changed MLB forever. I tried contacting him for an interview for this essay, and struck out. Afterward I recalled what John Updike once wrote about Ted Williams. It was that gods do not answer letters.

Dan Lawton is a partner of Klinedinst PC, where he practices appellate and intellectual property litigation in the California and federal courts. He dedicates this essay to his late father, Joe Lawton, who took him to see Andy Messersmith pitch at what was then known as Anaheim Stadium on May 6, 1972, when Messersmith pitched all nine innings of what is still the fastest game ever pitched by an Angel, in an hour and thirty-one minutes.



Topps baseball card, Andy Messersmith (1978). As a newly-created free agent who left the Los Angeles Dodgers to sign with the Atlanta Braves, Messersmith saw his annual salary increase over 300% in one year. (Image courtesy of California Litigation's editor-in-chief Ben Shatz from his personal card collection.)

Baltimore Orioles pitcher Dave McNally in 1969. McNally won 20 games, earned All-Star honors, and pitched in the World Series that season. (Getty Images)



From left to right: players' union executive director Marvin Miller, pitcher Andy Messersmith, and agent Herb Osmond at the office of the commissioner of Major League Baseball in New York City, 1976. (Getty Images)