

**Third and Long:
Will Super Bowl Advertisers Make the Big
Play for Workplace Fairness?**

**Paula Brantner, Program Director
Workplace Fairness**

The Kickoff

This Sunday, 90 million Americans, and another 40 million people around the world, will watch **Super Bowl XL**. The Super Bowl is not only American football's biggest game—it is a worldwide cultural event. Television's most expensive, and often most innovative, commercials have become as integral to the broadcast as the competing teams. And while the competition between the teams is sometimes a letdown, the competition between the advertisers always creates a buzz.

Some of the world's largest companies will cough up \$2.4 million for a single 30-second commercial during this year's game. Unfortunately, *too many of these industry-leading companies have already coughed up the ball when it comes to treating their workers—the very source of their success—with fairness.*

In this report, **Workplace Fairness** looks at some of the Super Bowl advertisers, as well as the NFL itself, to expose how their treatment of their workers lags far behind the corporate image they hope their commercials cultivate.

For these industry leaders, it's third and long—and they'll need to make some big plays to reach the goal.

Why Do Advertisers Get In the Game?

Many major corporations see the Super Bowl as the best way each year to reach their audience—the American consumer. Furthermore, many see the Big Game as their prime opportunity to position themselves as industry leaders. Wharton marketing professor David Schmittlein notes, “If you are perceived as the industry leader and you are not in the Super Bowl, people might ask ‘Why not?’”¹

These industry leaders also use their commercials to generate good will within the corporation. Schmittlein reports, “Making your employees feel they are working for the best company in the industry may be better achieved through the Super Bowl than with a longer company newsletter.”² For many of this year's advertisers, however, it's unclear that even the most expensive commercials will advance the ball.

¹ *Super Bowl XL: Learning from the Big Game's Big Advertisers*, in THE UNCLUTTERED COMMUNIQUE, Winter 2006, available online at http://www.unclutteredcom.com/news_issues/article_1.htm.

² *The Super Bowl's Super-expensive Advertising: Does It Work?* Marketing/Wharton, available online at <http://knowledge.wharton.upenn.edu/index.cfm?fa=viewfeature&id=700>.

Working people watching the game around the world deserve to know what's behind the ad campaigns before they rush out to support the companies with the best commercials.

Many of the key advertisers for Super Bowl XL are coming into the game as favored corporate leaders, but let's take a closer look at their record of turnovers and penalties regarding their employees.

Ford Motor Company Workers Go Deep and Take the Hit

It is fitting that we begin with **Ford Motor Company**, as no employer is more synonymous with Detroit, Michigan, where this year's Super Bowl will be played at Ford Field. Rarely will a better opportunity exist for Ford to project a positive corporate image to the world, in the first Super Bowl played in Detroit since 1982. Ford paid \$40 million in 2002 to place its name on the stadium for 20 years, and has an exclusive contract for auto advertising within the stadium.³ Ford will also have one 30-second commercial.⁴

Ford's workers, however, are hardly so thrilled with the national exposure their company received last week. On Monday, January 23, Ford announced a major corporate restructuring, in which the company will shed up to one-quarter of its North American workforce (30,000 jobs) and close 14 plants by 2012.⁵ Although Ford Americas President Mark Fields announced half of the job losses will occur through attrition, the rest will occur via layoffs. This restructuring is the second in four years, after the first plan, in which Ford closed five plants and cut 35,000 jobs, failed to turn the company around.

According to a previous class-action lawsuit that was ultimately settled by Ford for \$10.3 million in 2001, the company used a forced ranking system targeting older workers for termination.⁶ Although refusing to admit liability in the settlement, Ford ultimately abandoned the practice. How will the company go about selecting approximately 15,000 workers for this round of job cuts? Workers will be watching carefully to ensure that discriminatory practices are not a shortcut for difficult decisions.

³ *GM, Ford must share Super Bowl spotlight in the Motor City*, Laura Clark Geist, AUTOWEEK (January 28, 2006), available online at http://www.signonsandiego.com/uniontrib/20060128/news_1z1dd28gm.html.

⁴ *GM, Ford book ads for Super Bowl*, Laura Clark Geist, AUTOMOTIVE NEWS (January 16, 2006), available online at <http://www.autonews.com/apps/pbcs.dll/article?AID=/20060116/SUB/60113056/1018/MARKETING&refcat=%3Cpbs:categorydescription%3E.com>.

⁵ *Ford Says New Plan Goes Beyond Job Cuts*, Associated Press, NEW YORK TIMES (January 24, 2006), available online at http://www.nytimes.com/aponline/business/AP-Ford.html?_r=1&oref=slogin.

⁶ *Forced Ranking and Age-Related Employment Discrimination*, Tom Osborne and Laurie A. McCann. HUMAN RIGHTS MAGAZINE (Spring 2004), available online at <http://www.abanet.org/irr/hr/spring04/forced.html>.

Mark Gilmore, one of the employees who will be affected by the plant closures, speaks for many Ford employees when he says, "It's a shame when you can give your whole life to something and then it crumbles right in front of you."⁷ Danny Sparks, who is chairman of the local union representing Ford workers at the Hapeville, Georgia plant that will close under the restructuring, pleads, "This work force deserves some attention to this. They have done everything Ford has asked of them." During Ford's 30-second commercial, and each time the Goodyear blimp's cameras train on Ford Field, some of the attention directed at Ford Motor Company should also be focused on Ford's workers. *Ford's workers will ultimately take the hit for Ford's moment of glory.*

General Motors MVP for Cutting Employee Jobs and Benefits

Ford will not be the only American automaker to advertise at the Super Bowl. Its chief U.S. rival, **General Motors (GM)**, has already spent millions to make Cadillac the official vehicle of this year's Super Bowl, and the Super Bowl Most Valuable Player will be presented with a 2007 Cadillac Escalade. Under its contract with the NFL, GM is the only automaker that can use the words "Super Bowl" in its advertising. While GM attempted to have the NFL force Ford to remove its advertising from the stadium during the Super Bowl, the league refused, since Ford's advertising contract with the stadium includes the championship game.⁸

Not only will General Motors have to share advertising time with its rival Ford, it shares similar notoriety for massive layoffs announced this year. In November, 2005, GM announced that it would cut 30,000 hourly jobs and close or scale back operations at about a dozen U.S. and Canadian locations. The cuts are 5,000 more than the 25,000 jobs GM had said it would cut in June, and represent more than 22 percent of its union work force in North America. GM also announced that it would cut around 7 percent of its salaried workforce in North America by the end of 2006.⁹

While GM can currently boast of fewer age discrimination lawsuits against it than Ford, its oldest workers still have much to fear, as the company's cost-cutting measures in recent times have most intensely focused on hacking away at health care benefits promised to its employees for decades. In October 2005, GM announced an agreement with the United Auto Workers union that would force retirees who were promised free lifetime health benefits to begin paying premiums for the first time. In the race to eliminate benefits, GM has become the industry leader, as "[a]nalysts say the GM agreement opens the door for Ford, Daimler-Chrysler and other large companies to cut

⁷ *Ford Workers Upset About Plant Closures*, Harry R. Weber (AP), YAHOO! NEWS, available online at http://news.yahoo.com/s/ap/20060124/ap_on_bi_ge/ford_plants.

⁸ *GM shares Super Bowl stage with Ford*, Laura Clark Geist, AUTOMOTIVE NEWS (January 23, 2006), available online at <http://www.autonews.com/apps/pbcs.dll/article?AID=/20060123/SUB/60120042/1003>.

⁹ *GM's big shakeup*, Chris Isidore, CNN/MONEY (November 21, 2005), available online at http://money.cnn.com/2005/11/21/news/fortune500/gm_cuts/.

their costs by reducing their health-benefits burden for both retirees and current workers.”¹⁰

John J. Hollis Sr., a retiree who worked at GM’s Baltimore plant for almost 42 years, says “I figured I dedicated my life to GM all those years, and now all they’re doing is taking, taking, taking.”¹¹ As the Super Bowl MVP takes it away in his brand new Cadillac Escalade, *just think how many retirees’ co-payments and prescriptions have been taken away by General Motors, as a result of broken promises and dishonored obligations.*

FedEx Corporation

Another Bad Football Cliché: Relax, and You Get Nailed

FedEx Corporation will be making its 16th appearance as an advertiser at this year’s event with a single 30-second spot.¹² FedEx’s Super Bowl commercial is an extension of its season-long NFL advertising campaign, and its affiliation as the NFL’s “official worldwide delivery service sponsor.”¹³ This season, FedEx has a specific website devoted to football, www.fedexfootball.com, prominently featuring Pittsburgh Steelers running back Jerome Bettis, who also appeared in its ad campaign decrying the use of bad football clichés during the season. *While FedEx’s latest advertising tagline is “Relax, It’s FedEx,”¹⁴ it’s clear that FedEx’s workers cannot relax, to use a bad cliché.* Neither can FedEx attorneys, with all the lawsuits the carrier is now facing for discrimination and misclassification of its workers.

Unlike chief competitors United Parcel Service and DHL, which are mostly unionized and represented by the Teamsters and the U.S Postal Service, which is fully unionized, FedEx is essentially a non-union company, with only its pilots represented by a union. It is unlikely that FedEx workers will become union members any time soon, either: FedEx was instrumental in winning passage of a federal law specific to “express carriers” which requires a union to win a vote of all FedEx employees in certain job classifications, such as delivery driver or package sorter, rather than trying to win a series of votes at specific facilities, which is the more typical organizing method.¹⁵

Another tool in FedEx’s fight against unionization is its practice of calling FedEx Ground drivers independent contractors. Employees can vote to form unions, while independent

¹⁰ *Disappearing Retiree Health Benefits*, KIPLINGER’S RETIREMENT REPORT (December 2005), available online at http://www.kiplinger.com/retirementreport/features/Cover_Dec2005_01.html.

¹¹ *GM’s UAW Retirees Face Health Care Costs*, Amy Joyce, WASHINGTON POST (October 21, 2005) available online at http://www.washingtonpost.com/wp-dyn/content/article/2005/10/20/AR2005102002078.html?nav=rss_business.

¹² *Advertisers glide past Super Bowl to Olympics*, Kate Maddox, BTOB ONLINE (Jan 13, 2006), available online at <http://www.btoonline.com/article.cms?articleId=26650>.

¹³ *FedEx and the NFL*: <http://www.fedex.com/us/sports/nfl/?link=4>.

¹⁴ *About FedEx: Advertising*: <http://www.fedex.com/us/about/unitedstates/advertising/>.

¹⁵ *Union power: 8 companies they want now*, Chris Isidore, CNN/MONEY (July 27, 2005), available online at http://money.cnn.com/2005/07/27/news/economy/unions_targets/index.htm.

contractors cannot unionize. Independent contractors can be exploited in other ways as well. Former FedEx driver Frank Cucinotti describes it this way: “They try to paint a picture of partnership, but you are actually an employee – an employee paying all the bills.” Cucinotti is part of a national lawsuit against FedEx’s use of the independent contractor classification for its drivers.¹⁶ In California, a court in December 2005 already rejected the practice and ordered FedEx to pay a group of misclassified workers \$5.3 million for wages and expenses the workers wrongly incurred.¹⁷

FedEx’s workers get no time to relax under the current independent contractor arrangement. New Jersey driver Mike Tofaute says, “If you get to eat lunch, you’re lucky,” and keeps an empty juice bottle in his truck so he does not have to stop to use the bathroom. On one day before the holidays, he had to deliver 167 packages at 134 stops.¹⁸

FedEx’s minority employees can’t relax either, if they’re too busy worrying about their lower pay and poor work evaluations, while being passed over for promotions. In September of 2005, a federal judge certified a class-action discrimination lawsuit based on allegations the delivery service paid thousands of current and former minority employees less than their white counterparts, skipped them for promotions and gave minorities poor work evaluations. The case includes an estimated 10,000 current and former hourly workers and about 1,000 low-level management employees in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming and parts of Texas. An attorney representing the class says that FedEx normally promotes from within, yet three times the number of package handlers and loaders are minorities compared to drivers, who earn more. Attorneys plan to present evidence that twice the number of minorities fail promotional tests than do whites.¹⁹

FedEx’s customers shouldn’t relax, either, not even for the 30 seconds the company will use to reach its worldwide audience. *Who can relax, if workers are absolutely, positively being mistreated this way?*

¹⁶ *Santa's helpers feeling boxed in*, Jane M. Von Bergen, PHILADELPHIA INQUIRER (Dec. 18, 2005), available online at <http://www.philly.com/mld/philly/13431145.htm>.

¹⁷ *Judge Delivers Order to FedEx: Pay Misclassified Drivers*, Petra Pasternak, THE RECORDER (Dec. 30, 2005) <http://www.law.com/jsp/article.jsp?id=1135850708255>

¹⁸ *Santa's helpers feeling boxed in*, Jane M. Von Bergen, PHILADELPHIA INQUIRER (Dec. 18, 2005), available online at <http://www.philly.com/mld/philly/13431145.htm>.

¹⁹ *Judge certifies FedEx discrimination suit*, Associated Press (Sept. 29, 2005), available online at <http://www.showmenews.com/2005/Sep/20050929Busi007.asp>.

Burger King Teen Workers Get the Wrong Kind of Slap On the Back

Burger King returns to the Super Bowl this year after an eleven-year absence, perhaps emboldened by its rival McDonald's choice to forego advertising during the Super Bowl to instead focus on the Winter Olympics.²⁰ Although the theme of Burger King's single 60-second slot has not been released, its NFL advertising during the season featured "The King" running around on the field with NFL players, courtesy of spliced highlight footage from actual football games.

Perhaps The King should do more running around to monitor Burger King's restaurant locations, as the franchise has become known in recent years for problems protecting its female workers, especially its teen employees, from sexual harassment and health and safety hazards.

In December 2004, a Missouri Burger King franchise settled for \$400,000 a sexual harassment lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC) on behalf of seven female employees, six of whom were high school students. The EEOC's lawsuit in that case alleged that when the restaurant manager subjected the female employees to repeated groping, vulgar sexual comments, and demands for sex, no one took action when the young women complained.²¹

In April 2005, a much larger lawsuit against Carrols Corporation, the owner of 330 Burger King restaurants in 13 states, was thrown out by a judge who ruled that the number of harassment complaints, compared to the number of female employees, was not statistically large enough to support the EEOC's pattern and practice case (similar to a class-action case). However, the same judge also ruled that 333 of the 511 women who submitted their complaints of harassment to the court had potentially viable harassment claims.²²

A year ago, a former Burger King worker who was severely burned when a grease machine exploded agreed to a \$4 million settlement of her claim. Brittany Krollman was a teenager working the hamburger line at a Burger King in western New York in June 1997 when a defective grease filter machine exploded and sprayed her with 350-degree cooking oil, forcing her to undergo five surgical procedures and leaving her with permanent scars.²³

²⁰ *Visa, McDonald's Pass on Super Bowl*, Steve McClellan, Adweek and John Consoli, MEDIAWEEK (Dec. 12, 2005), available online at: http://www.mediaweek.com/mw/news/recent_display.jsp?vnu_content_id=1001658164.

²¹ *Burger King Franchise Pays \$400,000 For Alleged Sexual Harassment of Teens*, EEOC Press Release (December 6, 2004) available online at: <http://www.eeoc.gov/press/12-6-04b.html>.

²² *EEOC Charges Dismissed Against Burger King Owner*, Daniel Wise, NEW YORK LAW JOURNAL (Apr. 22, 2005), available online at <http://www.law.com/jsp/article.jsp?id=1114074313109>.

²³ *Western New Yorker Agrees To Settlement From Burger King*, Judy Wichrowski, WGRZ 2 NEWS (Jan. 28, 2005), available online at http://www.wgrz.com/news/news_article.aspx?storyid=26104.

When Burger King says, “Have it your way,” it certainly isn’t referring to its workers. When the King runs down the field, it shouldn’t be evoking images of managers chasing their employees around the restaurant.

Sprint Older Workers on the Farm Team

Sprint, fresh from its merger with Nextel, will be purchasing two 30-second spots as well as sponsoring the Super Bowl halftime show featuring the Rolling Stones.²⁴

While Sprint’s halftime show will feature geriatric rockers, its own older workers have not fared so well, according to several lawsuits currently facing the telecommunications company. Virtually all of Sprint’s reductions-in-force in the last several years has resulted in lawsuits on behalf of its older workers. Unlike Ford, Sprint has remained resolutely loyal to its forced ranking system, which, its workers claim, disproportionately subjected older workers to layoffs.²⁵

Sprint has already sent its older trenchcoat-wearing pitchman out to pasture—perhaps because he didn’t appeal so much to the youth market.²⁶ Is it doing the same with its older workers?

Coca-Cola A Not-So-Surprising Come-From-Behind Win

After an eight-year absence, **Coca-Cola** will return to the Super Bowl, not by advertising during the game itself, but by sponsoring the kickoff show, the final pre-game segment.²⁷ Coke will promote its energy drink Full Throttle in two 15-second commercials and a 60-second commercial costing an estimated \$13 million. *Coke is also moving ahead full throttle when it comes to treating its employees more fairly:* in contrast to the Super Bowl advertisers mentioned in this report thus far, Coca-Cola is an employer whose treatment of its employees has made it a true industry leader. *It took a big-league lawsuit, however, to force Coke’s turnaround.*

In a class-action lawsuit filed in April 1999, four named plaintiffs represented a class of 2200 current and former salaried, African-American employees of Coca-Cola who

²⁴ *Sprint crafts Super Bowl ads*, Theresa Howard, USA TODAY (Jan. 8, 2006), available online at http://www.usatoday.com/money/advertising/adtrack/2006-01-08-sprint-track_x.htm.

²⁵ *New age discrimination suits filed against Sprint*, Diane Stafford, KANSAS CITY STAR (Aug. 16, 2005), available online at <http://www.kansascity.com/mld/kansascity/12397296.htm>.

²⁶ *Tailoring cell pitches to niches*, Jason Gertzen, KANSAS CITY STAR (Jul. 19, 2005), available online at <http://www.kansascity.com/mld/kansascity/business/12168607.htm>.

²⁷ *Full Throttle Energy Drink and Vault Hybrid Energy Soda Roar Into ABC's Pre-Game Show on Super Sunday*, Coca-Cola Press Release (Jan. 19, 2006), available online at http://www2.coca-cola.com/presscenter/nr_20060119_americas_super_sunday.html.

alleged race discrimination in promotions, compensation and evaluations. Among other things, the plaintiffs alleged a substantial difference in pay between African-American and white employees; a "glass ceiling" that kept African-Americans from advancing past entry-level management positions; "glass walls" that channeled African-Americans to management in areas like human resources and away from power centers such as marketing and finance; senior management knowledge of these problems since 1995 and a failure to remedy them.²⁸

In mid-2000, the parties reached one of the largest employment discrimination settlements in history, valued at \$192.5 million, which was also designed to ensure dramatic reform of Coca-Cola's employment practices. The final settlement agreement was officially approved by the Court in June 2001. Since that time, each year, a court-appointed Task Force evaluates Coca-Cola's progress towards a number of diversity goals identified in the settlement, identified as the "Gold Standard." Each year, Coca-Cola has reported significant progress in reforming its human resources practices to ensure equal opportunity for all employees. These practices, which mandate diverse slates of candidates and high-level review of those slates, have been vital to achieving the success to date in diversifying senior management and the pipeline for those positions. Mentoring and career development programs also help boost minority representation in Coke's workforce. The company has also voluntarily agreed to extend the Task Force's monitoring period for an additional year, through 2006, to ensure all of its goals are fully met.²⁹

Those watching this year's Super Bowl can have a Coke and smile knowing that Coca-Cola has made significant strides in improving how its minority employees are treated: Coke's efforts are the real thing. Coke's progress demonstrates how lawsuits can play a significant role in motivating a real turnaround in corporate culture, as the company has now come from behind to take a large lead over some of its advertising competitors in treating its workers fairly.

The National Football League and its Member Teams Even With Forward Progress, The League Falls Short

In discussing the National Football League's showcase event, we would be remiss if we did not also take a look at the NFL and its member teams. Do the NFL's hiring and retention practices for head coaches and front office leadership represent the best that sports has to offer? *Or, even with forward progress, does the league still fall short?*

In 2002, attorneys Cyrus Mehri and the late Johnnie Cochran released *Black Coaches in the National Football League: Superior Performance, Inferior Opportunities*,³⁰ a

²⁸ *Historic Settlement: Ingram vs. Coca-Cola Company*: <http://www.findjustice.com/cases/coke/index.htm>.

²⁹ *Fourth Annual Report of the Task Force* (Dec. 1, 2005): http://www2.coca-cola.com/ourcompany/task_force_report_2005.pdf.

³⁰ *Black Coaches in the National Football League: Superior Performance, Inferior Opportunities*, Johnnie L. Cochran, Jr. and Cyrus Mehri (2002), available online at <http://www.findjustice.com/nfl/indextext.html>.

groundbreaking report which revealed that black NFL head coaches were held to a higher standard than their white counterparts, and were consequently denied a fair chance to compete for head coaching jobs. When the report was released, the NFL immediately took action to improve its teams' hiring practices, leading to the establishment of the "Rooney Rule," named after Pittsburgh Steelers owner Dan Rooney who chaired the league's diversity committee.³¹ The Rooney Rule requires that each team interview at least one minority candidate prior to selecting a head coach.³²

The Fritz Pollard Alliance, created in 2003 and named after the NFL's first black head coach, advocates for policy changes in the NFL hiring practices and works in partnership with the NFL to create opportunities for minority candidates.³³ The Fritz Pollard Alliance reports tremendous progress since the Rooney Rule was adopted three years ago.³⁴ The number of African American head coaches has tripled from two to a record number of six: Romeo Crennel (Browns), Herman Edwards (Chiefs), Tony Dungy (Colts), Marvin Lewis (Bengals), Dennis Green (Cardinals) and Lovie Smith (Bears). There is also a record number of African American offensive coordinators, which helps address the need for qualified coaches in the pipeline. The Rooney Rule now has an enforcement mechanism, as Matt Millen of the Detroit Lions learned to his \$200,000 detriment when he failed to interview a minority candidate for the head coach vacancy filled in 2003 with the hiring of Steve Mariucci.³⁵

During the last three years minorities have also made major progress in the front office ranks: Ozzie Newsome became the first African-American General Manager of an NFL team (Ravens) in late 2002, while James "Shack" Harris (Jaguars), Doug Williams (Buccaneers), Rod Graves (Cardinals), Jerry Reese (Giants), Rick Smith (Broncos), Lawrence McCutcheon (Rams), Jimmy Raye (Chargers), Will Lewis (Seahawks), Martin Mayhew (Lions), and Kevin Warren (Minneapolis) have all joined the ranks of front office executives. In the league front office, Art Shell (Senior Vice President of Football Operations and Development, formerly the league's first black head coach in modern times), Gene Washington (Director of Football Operations), Harold Henderson (Executive Vice President for Labor Relations and Chairman of the NFL Management Council Executive Committee), and Michael Haynes (Vice President of Player and Employee Development) all wield significant power as African-American executives.³⁶

However, *the hiring process at the end of the 2005 season was tackled at the line of scrimmage*, as few significant gains can be reported, especially considering the unusually high number of vacancies. Of the eight NFL head coach openings already filled this year (the Raiders have not yet selected a new head coach), all eight were filled with non-minority candidates, despite a record number of minority candidates interviewed—over

³¹ *Brief History of the Fritz Pollard Alliance*: <http://www.fpal.org/history.php>.

³² *Rooney Rule*, WIKIPEDIA: http://en.wikipedia.org/wiki/Rooney_Rule.

³³ *Fritz Pollard Alliance*, www.fpal.org.

³⁴ *Brief History of the Fritz Pollard Alliance*: <http://www.fpal.org/history.php>.

³⁵ *Lions' Millen fined \$200K for not interviewing minority candidates*, CBS SPORTSLINE, available online at <http://cbs.sportslines.com/nfl/story/6498949>.

³⁶ *Outside the lines in the NFL: African-Americans tackle key roles in the front office*, Shirley Henderson, EBONY (Jan. 2005), http://www.findarticles.com/p/articles/mi_m1077/is_3_60/ai_n8706795

25. Although Herman Edwards was the first minority coach who was ever the subject of a trade (from the Jets to the Chiefs), there has been no net gain this year in the overall number of minority football coaches.³⁷

If success is ultimately what matters most in the NFL, it's hard to argue with the success of the league's African-American coaches. Fifty percent of the league's African-American coaches (Dungy, Smith and Lewis) took their teams to the playoffs, while only 38% of the league's white coaches did so. Dungy, Smith and Lewis were all leading candidates for Coach of the Year, an accolade ultimately won by Lovie Smith. As one analyst describes the 2005 season, "[t]hree of the best stories in football this year—Cincinnati's rise, Indianapolis' flirtation with perfection and the Bears' return to bruising prominence—were authored by black head coaches."³⁸

Yet despite all this proven success already in the league, African-American coaches still face the same double standard they faced when the 2002 report was released: the pool of minority candidates appeared to be stronger and more experienced than those white candidates who were ultimately hired for the head coaching positions. Says attorney Mehri, "Each team could say what their justifications were, but if you look at it collectively, it still shows that there's an uphill battle for African-American coaches."³⁹ ESPN analyst Michael Smith calls it this way: "Bottom line: Minorities have been issued a different dues-paying schedule. The double standard—be twice as good, and often that isn't good enough—is something minorities, African-Americans especially, are just burdened with."⁴⁰

Change must come from both above *and* below. Although NCAA teams are the key pipeline for the NFL player ranks, the system is broken if we hope to use this same pipeline to increase the number of qualified minority candidates, as the dearth of minority coaches is even more severe in the college ranks. According to a NCAA report released last week, there were only three black head football coaches of Division I teams (Karl Dorrell at UCLA; Sylvester Croom at Mississippi State; and Tyrone Willingham at Washington), the least since the early 1990s, although this number has increased slightly (1.7%) with the postseason hires of Ron Prince (Kansas State) and Turner Gill (Buffalo). The college athletic leadership ranks are similarly devoid of minority candidates. Despite a 3.4 percent jump in minority athletic directors over the past year, 89 percent (106 of

³⁷ *Stopped for No Gains*, Sam Farmer, LOS ANGELES TIMES (Jan. 22, 2006), available online at <http://www.latimes.com/sports/football/nfl/la-sp-nflcoach22jan22,1,1061535.story?coll=la-headlines-sports-nfl>.

³⁸ *Rooney Rule not working like it should*, John P. Lopez, Houston Chronicle (Jan. 21, 2006), available online at <http://www.chron.com/disp/story.mpl/sports/lopez/3602466.html>.

³⁹ *Despite lots of openings, no new black NFL head coaches have been hired this offseason*, Joseph White (AP), SAN DIEGO UNION-TRIBUNE (Jan. 24, 2006), available online at <http://www.signonsandiego.com/sports/nfl/20060124-1208-fbn-coaches-diversity.html>.

⁴⁰ *Race an issue, but networking is still the key*, Michael Smith, ESPN.com (Jan. 24, 2006), available online at http://sports.espn.go.com/nfl/columns/story?columnist=smith_michael&id=2304091.

119) are white, with just 10 black men, three Latino men and five women - all white - holding the job.⁴¹

For change from the top to happen, there must be more minorities who are part of the "inner circle of decision makers" within teams—the people who surround the team owners and help choose the coaches. None of the 32 teams has a minority as its controlling owner. As Michael Haynes of the NFL said in a recent forum on minority coaches in the NFL, "I think that would make a huge difference, if we had, say, four African-American or minority owners. The fact that we have none, I think that's a big problem."⁴²

If just a fraction of the 90 million football fans watching the Super Bowl were to let their favorite team's owner know that increased diversity in the coaching and leadership ranks was an important consideration for them, we could expect real forward progress.

Before spending so many dollars supporting teams through game attendance and merchandise sales, fans should know just what their team's coaching staff and front office looks like. When the NFL learned in 2002 that nationally-renowned attorneys were paying attention to their coaching decisions, there was swift, significant progress. Fans paying attention will result in even more forward progress, until the coaching ranks and the front offices begin to look more like the diverse picture represented on the playing field.

Post-Game Show

For more information about the issues raised by this report, please visit the Workplace Fairness website, www.workplacefairness.org. For the most comprehensive information about your legal rights in the workplace—free of legal jargon—please visit our site's "**Your Rights**" area. In our feature series *Short-Changed*, we present a comprehensive view of today's most important workplace issues, like the widening income gap, crises in healthcare and retirement, work-family imbalance, and a justice system that is closing its doors on workers. Our free e-newsletters, **In the News** (daily) and **Workplace Week** (weekly) provide the most current information available on the cutting-edge issues that affect working people and their advocates. By visiting our **Action Center**, you can make your voice heard immediately on the workplace issues you care about most.

⁴¹ Study: Little diversity in university, athletics leadership, Associated Press (Jan. 25, 2006), available online at <http://sports.espn.go.com/ncaa/news/story?id=2305589&campaign=rss&source=ESPNHeadlines>.

⁴² Coaching carousel includes no black coaches, Associated Press (Jan. 24, 2006), available online at <http://msnbc.msn.com/id/11009455/>.

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Workplace Fairness is a non-profit organization that promotes workplace policies and practices that work for everyone. Through our website at www.workplacefairness.org, we provide information, education and assistance to individual workers and their advocates nationwide and promote public policies that advance employee rights. We are allied with the National Employment Lawyers Association, the nation's largest association of advocates for workplace rights. Our goal is to bring together workers, employers, advocates and policymakers to achieve fairness in the workplace.

Questions? Contact **Paula Brantner** at paula@workplacefairness.org or **415-362-7373**.

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