

How NBA Lawyers Can Save the NBA's Sucky "No Star" Dunk Contest

By [Aaron Bloom](#) on February 29, 2012



For most NBA basketball fans, the highlight of All-Star Weekend used to be the slam dunk contest. Julius Erving (a.k.a. "Dr. J") participated in, and won, the first dunk contest in 1976, electrifying the crowd with a [dunk from just inside the free throw line](#). Nobody had ever seen anything like it. Other past dunk champions include Michael Jordan, Dominique Wilkins, Kobe Bryant, Vince Carter, and Dwight Howard. These A-list stars flew through the air, captivated our imagination, and became legends. Who can forget [Michael Jordan and Dominique Wilkins squaring off](#) in the 1985 dunk contest or their amazing rematch in 1988? We thought it couldn't get any better...until we watched [Vince Carter's performance in the 2000 dunk contest](#).

Now, virtually nobody watches the dunk contest. It has devolved into a snooze-fest featuring players we have never heard of and whom we will quickly forget. Commenting on the field of nobodies in this year's slam dunk contest, one sportswriter aptly tweeted, "If the NBA held this event in your driveway, would you open drapes to watch?"

Whereas the dunk contest used to be an NBA star's fast-track to a richer shoe deal and more posters on their fans' walls (or just a way to treat NBA fans to something special), today's NBA elite — with the exception of [Blake Griffin in last year's contest](#) — are now too scared of losing to even compete. That did not used to be the case. NBA legend Clyde "the Glide" Drexler competed in 5 slam dunk contests and never won. Hall of Famer Scottie Pippen competed in the dunk contest knowing the odds were against him. Heck, even three-point specialist Ray Allen competed in a dunk contest.

Following a thunderous dunk by LeBron James in this year's All-Star game, NBA commentator and [Feringi look-a-like Reggie Miller](#) said what we have all known for years — guys like LeBron James need to compete in the dunk contest. (And Miller is not throwing stones from a glass house, either — Miller participated in 4 NBA three-point contests, never winning a single one, but *never* chickening out.)

In 2009, LeBron James "preliminarily" agreed to compete in the 2010 dunk contest, before, of course, chickening out. This weekend, [LeBron said he would reconsider competing in the dunk contest if there were a \\$1 million prize](#).



Screw that! Instead, I've got an idea for how the NBA's lawyers can save the dunk contest — even if LeBron isn't going to like it.

First, though, let's talk about why this \$1 million prize idea is bogus. Even if the NBA agreed to a \$1 million prize for the dunk contest winner, LeBron James would probably still find a way to back out of participating — though he would likely first try to force us all to watch a two-hour TV special about his latest bad “decision.” More importantly, LeBron James and the NBA's other stars always say that NBA All-Star Weekend is “all about the fans,” and that they want to put on a good show for the millions of NBA fans around the world. Of course, if they all really felt that way, then the most gifted dunkers would put their egos aside, risk the possibility of losing, and compete in the dunk contest even if there is no pot of gold at the end of the rainbow — just like their predecessors did.

That said, LeBron may have been right about using monetary incentives to get the NBA's stars back in the dunk contest. However, instead of talking about what additional money they could make by participating, we should be talking about what they should lose by sitting out.

As you may have heard during the NBA lockout, the NBA and its players have a collective bargaining agreement (the “CBA”). Most people focus on the CBA provisions relating to how the NBA owners and players divide up the NBA's wheelbarrows of million dollar bills.

However, the CBA also contains provisions relating to conduct and discipline. For example, each time a player misses a practice, he is subject to escalating fines. A player loses a percentage of his salary if he misses an exhibition, regular season or playoff game. Players can even get fined for missing a promotional appearance — and it's hard to imagine a bigger promotional appearance than All-Star Weekend.

So here is my idea: the NBA lawyers should put a provision in the next CBA relating to the dunk contest. The NBA fans should get to vote on who appears in the dunk contest (and the actual judging of the dunks should once again be done by past dunking legends, such as Michael Jordan and Dominique Wilkins). If a player is selected to appear in the dunk contest, then that player must participate or a sizable chunk of his salary will disappear (and go to a worthy charity). We could use legalese and call the fine something official sounding, like the “scaredy cat” fine.

There can, and should, be an “opt out” for players who are over a certain age or who have already participated in at least three dunk contests. Such a provision would protect NBA stars who have already been good sports, as well as keeping NBA stars who are past their prime from embarrassing themselves.



There could also be a provision to protect (legitimately) injured players from being fined. Now, you might be asking yourself, “Wouldn’t the LeBrons — err, I mean, players of questionable honor — of the world just fake injuries and get away with chickening out?” For a few reasons, I think not (even if we don’t require them to bring a doctor’s note).

First, the average NBA star has a huge ego (which is the real reason bigger stadiums have been built — their egos grew too big to fit in the old arenas) and some level of obsession with their own legacy (and, on a good day, they will probably admit as much). (Does anybody doubt that Kobe Bryant knew that he [needed 19 points this past Sunday to pass Michael Jordan as the all-time leading scorer in All-Star game history](#)? Of course not.) So, if a player — for example, just to throw a name out there, let’s say LeBron James — were to fake an injury to avoid the dunk contest, then the dunk contest clause in the CBA should prevent him from competing in any All-Star Weekend event, including the All-Star game itself (and, worse yet, ban him from any NBA parties that weekend unless he is accompanied by his wife). That last part alone should provide adequate incentive for most players not to claim they have fake injuries.

Second, the law inserts into every contract an implied covenant of good faith and fair dealing. This implied covenant means that parties to a contract must deal with each other honestly, fairly, and in good faith, so as to not destroy the right of the other parties to receive the benefits of the contract. A collective bargaining agreement is no different. Accordingly, if a player were to fake an injury in a misguided effort to avoid both the dunk contest and the associated “scaredy cat” fine, then that player would be in breach of the CBA and subject to much harsher penalties. (I’m personally voting for forcing the injury-faker to donate 50% of his salary to charity and making him sit outside the arena hosting All-Star Weekend, in a “dunk tank” open to fan participation.) I have no doubt that this idea will quickly gain fan support.

Of course, the NBA’s high-flying stars — many of whom will undoubtedly hate the idea of being fined for skipping the dunk contest — have between now and 2017 (when the current CBA’s opt-out clause will inevitably be triggered) to [take Kevin Durant’s advice](#) and enter the dunk contest voluntarily. If they do not, then the NBA can remedy this injustice by inserting my proposed dunk contest clause into the next CBA. In the meantime, now that Congress has shown a willingness to regulate professional sports (e.g., baseball’s doping scandal), maybe we should start lobbying to finally see some useful legislation from Capitol Hill. Who’s up for the NBA Dunk Contest Reform Act of 2012? (And an equally importantly road trip to D.C.)