

THE ONGOING BATTLE TO END THE GENDER PAY GAP IN THE WORLD OF PROFESSIONAL TENNIS, BASKETBALL, AND SOCCER AND HOW THE MEDIA REMAINS THE UNDERLYING ISSUE

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Abstract

If you were to Google the following question, “Which tennis player spent the most time ranked number one?” You would be presented with a list of articles highlighting Novak Djokovic’s tennis career and crowning him with the title of longest time spent at the number one position in professional tennis. As of the end of February 2023, Novak Djokovic has held the number one position for 377 consecutive weeks.¹ Interestingly enough, if you were to also Google “How many weeks was Steffi Graf ranked number one?” You would find that during Steffi Graf’s professional tennis career, she also held the number one position in professional tennis for 377 consecutive weeks—a title that Djokovic has only recently accomplished. If you were to Google, again, “Which soccer teams have won the most world cups?” You would be presented with articles only referencing men’s soccer. In fact, you would have to conduct an entirely separate Google search including the words “female” or “women” to find any articles on women’s soccer.

None of the above search questions involved any reference to male sports or athletes, yet Google first fed the searcher information directed solely to the male gender. This is a prime example of how the media remains the underlying issue for the gender disparities within professional athletics.

This Note addresses the impact that male-domination in the sports and media industries has on the financial opportunities available to female professional athletes. Specifically, this Note provides a thorough analysis of how the media continues to widen the gender pay gap in professional tennis, basketball, and soccer by promoting outdated gender norms that ultimately hinder female athletes’ ability to gain equal opportunities for media coverage, sponsorships, endorsements, and more. The lack of

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1. *See Most Weeks at ATP No. 1*, ULTIMATE TENNIS STATS. (2023), <https://www.ultimate-tennisstatistics.com/record?recordId=WeeksAtATPNo1> [<https://perma.cc/FP6K-8MQG>].

gender equity within the sports and media industries has serious consequences for female professional athletes, and there is a call for major policy changes as a result. This Note not only provides an explanation of the legal remedies available to female athletes facing discrimination, but also proposes a policy change that could help narrow the pay gap by providing female athletes with more opportunities for media coverage.

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INTRODUCTION

Gender inequality remains an ongoing battle within the professional sports industry. There are evident disparities between male and female professional athletes, and this sex discrimination manifests itself most predominantly in the “pay gaps between men and women,” consistent with many other industries throughout today’s society.² A large gender pay gap exists amongst professional athletes, specifically in the sports of tennis, basketball, and soccer. This wage inequality is apparent in the differences in compensations and sponsorship opportunities available to

2. Pat K. Chew, *Hiding Sexual Harassment: Myths and Realities*, 21 NEV. L.J., 1223, 1226 (2021).

the players. While there are a multitude of factors that have contributed and still contribute to this persistent issue, the gender pay gap within the professional sports industry primarily stems from the lack of media coverage available for female athletes and sports teams, as well as the ongoing gender norms that were established centuries ago and still continue to influence modern society. Allowing this disparity in gender pay to remain unsolved could continue to limit the opportunities for young, aspiring female athletes and ultimately discourage women from pursuing any career as a professional athlete.

This Note analyzes the gender pay gap between male and female professional athletes in tennis, basketball, and soccer. It first addresses how the media continues to promote outdated gender norms that negatively affect the opportunities available for female professional athletes. Next, it explains the governing law and legal remedies available to female athletes facing discrimination. It then discusses how the professional tennis, basketball, and soccer industries function before exploring the gender pay gap within each of those industries. Finally, this Note concludes by addressing the possible implications of an unchanged gender gap in the sports industry and proposes a policy change that uses the media's power to provide more equal financial opportunities and treatment amongst genders in professional athletics.

I. GENDER BARRIERS WITHIN THE SPORTS AND MEDIA INDUSTRIES

A. *Learning Gender Norms Through the Media*

The gender norms currently influencing the gender pay gap in sports trace all the way back to 1896, when female participation in the first Olympic Games was not permitted because it was considered “inappropriate.”³ Four years later, in 1900, women made their first appearance in the Olympic Games; however, women were only permitted to compete in two events, while men were allowed to compete in ninety-three male-only events and two additional mixed gender events (where both men and women were able to compete in that single event), making up a total of ninety-five events available to men.⁴ One century later, in 2000, men were able to compete in 180 male-only events—sixty more than were available to women.⁵ Finally, almost two decades later, at the 2016 Rio Olympic Games, men could still compete in 161 male-only

3. Kuang Keng Kuek Ser, *See 120 Years of Struggle for Gender Equality at the Olympics*, THE WORLD (Aug. 17, 2016, 4:15 PM), <https://theworld.org/stories/2016-08-17/see-120-years-struggle-gender-equality-olympics> [<https://perma.cc/L79D-ZDDE>].

4. *Id.*

5. *Id.*

events (and 145 mixed events), while women were limited to participation in the 145 women and mixed events.⁶

Again, while a small improvement has occurred over hundreds of years, sufficient evidence exists to conclude that gender norms, which established that women are not “‘cut out to sustain certain shocks,’” have drastically influenced society’s preferences when watching sports and cheering for sports teams, favoring men.⁷ This learning curve is known as “social learning.”⁸ Psychologist Albert Bandura established the “social learning theory” to explain the way in which behaviors are learned by observing, watching, and imitating others.⁹ Through this type of learning, “[t]he learner is not a passive recipient of information,” as learners are consciously observing new things every day. Over the years, social media, in all its forms, has become a “social learning tool” that allows people from all over the world to engage, collaborate, connect, and imitate one another’s behaviors.¹⁰ As a result, the gender norms, which show greater preference for watching and supporting men’s sports than women’s, remain prevalent issues today and contribute significantly to the gender pay gap in professional tennis, basketball, and soccer.

B. *Male Domination Within the Industries and Its Impact on the Producer/Consumer Relationship*

Over the last several years, the sports industry has continued to gain popularity, evolving significantly and adapting to advancements in technology, media, and viewership. These advancements permit a deeper look into which sports and sports teams attract the most viewers, and therefore gain the largest profit. It is widely known that the sports industry is a multi-billion-dollar industry.¹¹ However, when people think of the “sports industry,” it is often male-dominated sports that come to mind. In the last decade, watching men’s sports has become significantly more popular and preferred than watching women’s sports; as of 2020, forty-nine individual sports teams were each valued at a billion dollars or

6. *Id.*

7. *Id.* (quoting *Women, Gender Equality and Sport*, WOMEN 200 AND BEYOND (2007)), <https://www.un.org/womenwatch/daw/public/Women%20and%20Sport.pdf> [<https://perma.cc/XEX3-XYES>].

8. Elizelle Juanee Cilliers, *Reflecting on Social Learning Tools to Enhance the Teaching-Learning Experience of Generation Z Learners*, FRONTIERS (Jan. 11, 2021), [https://www.frontiersin.org/articles/10.3389/feduc.2020.606533/full#:~:text=The%20social%20learning%20theory%20\(Bandura,the%20behavior%20of%20learners%20accordingly](https://www.frontiersin.org/articles/10.3389/feduc.2020.606533/full#:~:text=The%20social%20learning%20theory%20(Bandura,the%20behavior%20of%20learners%20accordingly) [<https://perma.cc/T7M4-YFMT>].

9. *See id.*

10. *See id.*

11. *See* Kurt Badenhausen, *The World’s Most Valuable Sports Teams 2020*, FORBES (July 31, 2020, 6:30 AM), <https://www.forbes.com/sites/kurtbadenhausen/2020/07/31/the-worlds-most-valuable-sports-teams-2020/> [<https://perma.cc/9D5B-6364>].

more.¹² However, every single one of those sports teams are men's teams.¹³

Consequently, despite progress towards gender equity, statistics demonstrate that persistent gender norms are ingrained into society and refuse to go away, regardless of women's constant efforts. To make any true progress toward gender equity within the sports industry, one must pinpoint the nucleus of the problem: the media. Although all three sports have various ways to disperse money to their players, the impact of the media, sponsorship and endorsement opportunities, and audience feedback all play major roles in determining how much money an athlete can make. As the professional sports industry continues to grow, so does its overall importance in the media.¹⁴ The media determines which sports teams and individual athletes secure the most attention. This exposure is ultimately what allows an athlete to hold bargaining power to negotiate deals and earn the most income.

The problem for female athletes arises because both the producer and consumer markets within the sports media industry are heavily male-dominated and continue to promote the outdated gender norms. The 2021 Sports Media Racial and Gender Report Card: Associated Press Sports Editors (APSE), revealed the sports media industry remains heavily male-dominated.¹⁵ The APSE analyzed certain professions within the industry, including, but not limited to, sports editors, reporters, columnists, web specialists, and copy editors.¹⁶ Within each of those professions, the percentage of male employees surpassed 70%, proving once again, men dominate the industry from all perspectives.¹⁷ Flipping the lens from producer to consumer, as of 2023, 4.9 billion of the 8 billion people in the world are actively using different forms of social media.¹⁸ Of all the active media users worldwide, 54% of users are men and 46% are women.¹⁹ Thus, if the producers and consumers within these industries are conditioned to accept the gender norms and prefer watching and supporting men's sports, then each market will continue to feed off the

12. *See id.*

13. *See id.*

14. *See* Taylor Kennedy Gersch, *The Gender Pay Gap: Seeking Fairness for Women in Professional Sports*, 22 OR. REV. INT'L L. 147 (2021).

15. Richard Lapchick, *Sports Media Remains Overwhelmingly White and Male, Study Finds*, ESPN (Sept. 22, 2021), https://www.espn.com/espn/story/_id/32254145/sports-media-remains-overwhelmingly-white-male-study-finds [<https://perma.cc/4WM2-3MKY>].

16. *Id.*

17. *Id.*

18. Daniel Ruby, *Social Media Users — How Many People Use Social Media In 2023*, DEMANDSAGE (Jan. 4, 2023), <https://www.demandsage.com/social-media-users/> [<https://perma.cc/8RGZ-CJYQ>].

19. *Id.*

other and never seek to challenge the norms, which is why women continue to face obstacles like the gender pay gap.

As of 2021, a study determined that over 90% of all television coverage and ESPN highlights favored showing and covering men's sports in 2019.²⁰ Furthermore, "other research has found that the media tends to perpetuate gender stereotypes in their coverage of women's sports."²¹ The result of this is drastic for athletes because television and media exposure has become a crucial point of revenue for them. This "lack of authentic coverage" women receive in the media greatly contributes to the number of sponsorships and endorsement deals they receive, which are considered "primary sources of revenue for most leagues."²²

Like any other money-making entity, the media must prioritize the teams, players, and sports the audience prefers most. However, the statistics above show the media holds the power here because if it continually feeds its viewers male-dominated content, viewers will continue to innately prefer male sports, and thus, will drive media outlets to focus their time away from female programs. It then becomes difficult for the media to incorporate female presence into any program without creating an uproar amongst viewers. For example, take the introduction of the U.S. Women's National Soccer Team to the International Federation of Association Football (FIFA). Prior to 2015, the FIFA soccer video games only featured the U.S. Men's National Soccer Team. However, 2015 was the first-year women became a prime feature of the game, and the audience engagement and feedback on the topic highlighted the challenging gender norms that still hold women back today. Following the release of the EA Sports trailer on YouTube that revealed popular female soccer stars would be incorporated into FIFA 16, YouTube users flooded the comments with discriminatory and sexist remarks about the decision, stating that women should not play sports because they "belong in the kitchen" and making stereotypical jokes about female menstruation, asking if the female avatars' morale "go

20. Katana Dumont, *A Breakdown of the Gender Pay Gap in the WNBA and the NBA*, YAHOO! (July 11, 2022), https://www.yahoo.com/video/breakdown-gender-pay-gap-wnba-121314531.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guc_e_referrer_sig=AQAAAL73vUY80QFXMkhqFKclkJ0REQWOzgM-xDdbb7fPEOF7VsN340AWLd_4UGYZbpPcYSJUf6Lg6KZYr90whniIgzV2oLmcCGfi9nU49uTB05JRKdbVoY2dqbegYjQ2UhRlat-XQPyfnUbH2gPUIVHQ5b0DHI7VVAc0QzX08G8hNcH#:~:text=The%20pay%20disparity%20between%20WNBA,the%20average%20WNBA%20player%20makes [https://perma.cc/SJ5K-ANHU].

21. *Id.*

22. *Id.*

down every month suddenly?”²³ Other comments included mentions of pregnancy, the comparison of the female athlete’s introduction to the game being as out of the ordinary as introducing animals or aliens to the game, and direct statements saying, “[w]e don’t want Women.”²⁴

This blatant online abuse of female athletes is still visible today as a World Athletics study revealed that female participants in the 2020 Olympics were subject to an overwhelming amount of online abuse from viewers, “including sexist, racist, homophobic and transphobic posts.”²⁵ According to the study, which observed the Twitter accounts of 161 Olympic participants during the span of the 2020 Olympic Games, the female athletes were the targets of abuse in 40% more online posts than their male counterparts.²⁶ The study also revealed 87% of all the hate posts displayed online about the 2020 Olympics targeted women.²⁷ Of these posts, most comments aligned with stereotypical gender norms and “stemmed from overt sexism; criticizing athletes and berating their skill-set.”²⁸

II. UNDERSTANDING EQUAL PAY AND THE LAW

Before analyzing the gender pay gap in professional tennis, basketball, and soccer, it is important to first identify the relevant laws and policies that govern them. The two primary legal remedies that exist for one to sue based on gender discrimination are: (1) The Equal Pay Act of 1963 (EPA) and (2) Title VII of the Civil Rights Act of 1964 (Title VII).

The EPA prohibits employers from discriminating on the basis of sex in terms of wages or benefits between men and women employees who are performing similar jobs that require similar skills or efforts and working under the same working conditions.²⁹ To establish a *prima facie* case of an equal pay violation under the EPA, an employee “must show

23. Victoria Turk, *Here are Some Internet Comments about 'FIFA 16' Adding Women*, VICE (May 28, 2015, 1:30 PM), <https://www.vice.com/en/article/qkv5p5/here-are-some-internet-comments-about-fifa-2016-adding-women> [https://perma.cc/ZHQ6-4NTE].

24. *Id.*

25. Dan Palmer, *World Athletics abuse study finds "disturbing" posts with women usually targeted*, INSIDETHEGAMES (Nov. 25, 2021), <https://www.insidethegames.biz/articles/1115944/world-athletics-online-abuse-survey> [https://perma.cc/6WTB-SXMK].

26. *Id.*

27. Saumya Kalia, *Women Athletes Faced 'Disturbing Level' of Online Abuse During Tokyo Olympics: Survey*, THE SWADDLE (Nov. 26, 2021), <https://theswaddle.com/women-athletes-faced-disturbing-level-of-online-abuse-during-tokyo-olympics-survey/> [https://perma.cc/UT9G-6AXG].

28. *Id.*

29. *See The Equal Pay Act of 1963*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/statutes/equal-pay-act-1963#:~:text=To%20prohibit%20discrimination%20on%20account,Equal%20Pay%20Act%20of%201963.%22> [https://perma.cc/6TLP-U4EK] (last visited Dec. 1, 2022).

that an employer pays different wages to employees of opposite sexes ‘for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.’”³⁰ Once the employee demonstrates this, the burden of proof shifts to the employer to show that the difference in pay is justified under one of the EPA’s four exceptions:³¹ (1) a seniority system; (2) a merit system; (3) a system that measures earnings by production quantity or quality; or (4) any other differential factor besides sex.³² One can file suit under the EPA for up to two years following the violation.³³ Further, the statute of limitations may be extended three years if the court deems the employer’s act is willful.³⁴

Created a year later, Title VII of the Civil Rights Act of 1964 prohibits any compensation discrimination relating to sex, race, color, religion, or sexual orientation in relation to employment.³⁵ To establish a *prima facie* wage discrimination case under Title VII, “an employee must show that she is paid less than a similarly situated male employee who is ‘directly comparable in all material respects.’”³⁶ Once the employee establishes these elements, the burden shifts to the employer to provide a justifiable and nondiscriminatory explanation for the differences in compensation.³⁷ Title VII also allows the employer to use the same four exceptions employed by the EPA, as mentioned above, when filing a claim.³⁸ The statute of limitations for an employee filing a wage discrimination claim under Title VII is either 180 days or 300 days of the discriminatory practice.³⁹ During President Obama’s presidency, he signed into law the Lilly Ledbetter Fair Pay Act.⁴⁰ This Act changed the statute of limitations

30. *Corning Glass Works v. Brennan*, 417 U.S. 188, 195 (1974).

31. *Id.* at 196.

32. 29 U.S.C. § 206(d)(1).

33. Patricia J. Martin, Denise M. Visconti & Corrin Jackson, *Minding the Pay Gap: What Employers Need to Know as Pay Equity Protections Widen*, LITTLER, at 5 (Aug. 1, 2019), <https://www.littler.com/publication-press/publication/minding-pay-gap-what-employers-need-know-pay-equity-protections-widen> [https://perma.cc/UF3R-QDSS].

34. *Id.*

35. *See Title VII of the Civil Rights Act of 1964*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964> [https://perma.cc/NM8Q-HY4T] (last visited Dec. 1, 2022).

36. Amy Steketee Fox, *U.S. Women's Soccer Team's EEOC Charge Spotlights Wage Discrimination Issues*, HR DAILY ADVISOR (Aug. 18, 2018), <https://hrdailyadvisor.blr.com/2016/06/19/u-s-womens-soccer-teams-eEOC-charge-spotlights-wage-discrimination-issues/> [https://perma.cc/BDU5-3XF5].

37. *See* Martin, Visconti & Jackson, *supra* note 33, at 7.

38. *Id.* at 12.

39. 42 U.S.C. § 2000e–5(e)(1).

40. Megan Slack, *From the Archives: President Obama Signs the Lilly Ledbetter Fair Pay Act*, THE WHITE HOUSE PRESIDENT BARACK OBAMA (Jan. 30, 2012), <https://obamawhitehouse.archives.gov/blog/2012/01/30/archives-president-obama-signs-lilly-led-better-fair-pay-act> [https://perma.cc/4X9P-HU6V].

for those wishing to file equal-pay lawsuits, allowing the clock to restart every time an unequal paycheck is issued, rather than leaving it at the original 180 days from the time the first paycheck was issued.⁴¹ This Act was based on the decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, where a female employee sued her former employer because she did not receive the same pay as her male coworkers who worked at the same level that she did.⁴² In defense, the employer argued that the employee's claims were time-barred because she failed to bring the Title VII suit within the necessary 180 days before filing a claim with the EEOC.⁴³ After a 5-4 decision in the employer's favor, and strong dissents from female Justices, Congress drafted several bills of the Lilly Ledbetter Fair Pay Act and President Obama ultimately signed it into law.⁴⁴

The main distinction between a Title VII claim for pay disparity and an EPA claim is that when filing suit under Title VII, the plaintiff bears the burden of proof, which is not the case when filing suit under the EPA.⁴⁵ This means "an employee filing an EPA lawsuit is not required to demonstrate that the employer intended to discriminate."⁴⁶ Thus, liability under the EPA may not always equate to liability under Title VII.⁴⁷

Despite having these two legal remedies available, there is no explicit law or policy requiring that men and women receive the same compensation, even when the women are achieving the same or greater levels of success than the men. So, while women may feel *comfort* knowing they may file suit, it has not provided any significant remedy to the gender pay gap problem.

III. THE GENDER PAY GAP IN PROFESSIONAL TENNIS, BASKETBALL, AND SOCCER

Professional athletes' incomes supposedly depend on various factors, including the level of the sport's popularity, level of athletic performance and achievement, length of an athlete's career, and much more.⁴⁸ However, nearly all of these factors are out of athletes' control, and instead lie in the hands of the media to help gain name recognition, which

41. See 42 U.S.C. § 2000e – 5(e)(1).

42. *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007).

43. *Id.* at 622.

44. See Joanna L. Grossman, *The Lilly Ledbetter Fair Pay Act of 2009: President Obama's First Signed Bill Restores Essential Protection Against Pay Discrimination*, FINDLAW (Feb. 13, 2009), <https://supreme.findlaw.com/legal-commentary/the-lilly-ledbetter-fair-pay-act-of-2009.html> [https://perma.cc/9EKD-28K8].

45. *Id.*

46. Fox, *supra* note 36.

47. Martin, Visconti & Jackson, *supra* note 33, at 10.

48. Mary McMahon, *What Factors Affect Professional Athlete Salaries?*, PRACTICALADULTINSIGHTS (Feb. 11, 2022), <https://www.practicaladultinsights.com/what-factors-affect-professional-athlete-salaries.htm> [https://perma.cc/YJ8D-56H8].

leads to endorsements, appearance opportunities, sponsorships, and leverage for negotiating contracts.⁴⁹ One of the only factors that *is* in an athlete's control is the level of athletic performance and achievement, yet that will prove to be an irrelevant component in determining a female athlete's salary versus a male athlete's salary.

A. *The Tennis Industry*

The tennis industry consists of four major governing bodies: (1) The International Tennis Federation (ITF); (2) The United States Tennis Association (USTA); (3) The Association of Tennis Professionals (ATP); and (4) The Women's Tennis Association (WTA).

The ITF is the governing body of world tennis, wheelchair tennis, and beach tennis.⁵⁰ This organization organizes the Grand Slam tennis tournaments for professional players and hosts various annual events, including the annual men's team competition (the Davis Cup), the women's team competition (the Billie Jean King Cup), and the wheelchair tennis events at the Summer Olympic and Paralympic Games.⁵¹ In addition, the ITF sanctions the four Grand Slam tennis events, the junior and professional circuit events, and disciplines.⁵² The USTA is the national governing body for United States tennis and hosts a number of professional tournaments, including one of the four major grand slams, the U.S. Open.⁵³ The ATP is the governing body of the men's professional tennis circuits and includes the ATP Tour, the ATP Challenger Tour, and the ATP Champions Tour.⁵⁴ Lastly, the WTA is the governing body of the women's professional tennis circuit and includes *only* the WTA Tour.⁵⁵

Despite the four major Grand Slams (U.S. Open, Australian Open, French Open, and Wimbledon) that host athletes of both genders, men and women players spend the rest of the year competing in separate circuits, governed by their respective associations—the ATP and the WTA. Each individual circuit manages and distributes its prizes.

49. *Id.*

50. *See* ITFTENNIS, <https://www.itftennis.com/en/> [<https://perma.cc/3M8H-MESU>] (last visited Nov. 16, 2022).

51. *See id.*

52. *See id.*

53. *See* USTA, <https://www.usta.com/en/home.html> [<https://perma.cc/2WNC-432Y>] (last visited Nov. 16, 2022).

54. *See The Official Site of Men's Professional Tennis: ATP Tour*, TENNIS ATP TOUR, <https://www.atptour.com/> [<https://perma.cc/3LCF-2XFD>] (last visited Nov. 16, 2022).

55. *See The Official Home of the Women's Tennis Ass'n: WTA tennis*, WOMEN'S TENNIS ASS'N, <https://www.wtatennis.com/> [<https://perma.cc/B6TD-CARR>] (last visited Nov. 16, 2022).

1. The Tennis Pay Gap

The differences in salary between men and women professional tennis players is significant. Although female tennis players are considered some of the highest-paid female athletes in the world, they still experience a drastic pay gap compared to male tennis players, despite achieving the same levels of success or even outperforming their male counterparts.⁵⁶ In addition, although it may appear that the pay gap has diminished in tennis because men and women get awarded the same prize money at each of the four Grand Slam events, that is not the case.

Tennis players earn their money competing in separate circuits (ATP for men and WTA for women) until the four major grand slams, in which both genders compete. Each circuit tournament manages and disperses its own prize money. This means most men and women tennis players' income comes from the fifteen to twenty-five circuit tournaments they play a year, in addition to the grand slams. This becomes a struggle for female tennis players when the WTA prize money available to them is significantly less than the ATP prize money available to men for the same level of tournaments. For example, in the 2015 Western & Southern Open, the ATP awarded Roger Federer \$731,000 for winning the tournament, while the WTA awarded Serena Williams only \$495,000 for winning the same tournament.⁵⁷ Taking this a step further, as of 2022, men's total prize money earning on the ATP tour amounted to 75% more than that of their female counterparts on the WTA.⁵⁸ This is "the widest the gap has been since 2001."⁵⁹

Breaking down the prize money earnings even further, in 2022, the female tennis player to earn the second highest amount in prize money, Venus Williams, with just under forty-three million dollars earned, has not earned as much as even the fifth-highest-earning male tennis player, Pete Sampras, with just over forty-three million dollars earned.⁶⁰ This is the case even though Venus Williams ended her career with a total of 1,000 combined singles and doubles matches won, while Pete Sampras

56. See Danial Hashemi, *Examining the Tennis Pay Gap*, WASHINGTON SQUARE NEWS (Sept. 16, 2019), <https://nyunews.com/sports/2019/09/16/tennis-pay-gap-problem/> [<https://perma.cc/BG2H-KHLP>].

57. *Id.*

58. John Burn-Murdoch, *Don't blame market forces for female tennis stars being short-changed*, FIN. TIMES (June 23, 2022), <https://www.ft.com/content/e4dcb726-3f0c-4dbf-89c4-10dd7f7a725c> [<https://perma.cc/B69T-KLEZ>].

59. *Id.*

60. *WTA tennis players by total career prize money earnings as of 2022*, STATISTA (Dec. 9, 2022), <https://www.statista.com/statistics/807745/wta-tennis-players-by-prize-money-earnings/> [<https://perma.cc/VXY3-VQ4F>] [hereinafter *WTA Career Earnings 2022*]; *ATP tennis players by career prize money earnings as of July 2022*, STATISTA (Jan. 6, 2023), <https://www.statista.com/statistics/277002/tennis-players-worldwide-by-career-prize-money-earnings/> [<https://perma.cc/FTU8-5WHA>] [hereinafter *ATP Career Earnings 2022*].

ended his career with a total of only 826 combined singles and doubles matches won in comparison.⁶¹ This issue also dominates the highest earning position for Serena Williams, who earned a career-high of almost ninety-five million dollars in 2022, but did not even come close to Novak Djokovic's total prize money earning as of 2022, which was more than 159 million dollars.⁶² Like Venus Williams and Pete Sampras, this disparity between Serena Williams and Novak Djokovic is even more shocking considering Serena Williams has won a total of thirty-nine grand slam titles in her career (twenty-three singles titles, fourteen women's doubles titles, and two mixed doubles titles), while Novak Djokovic has only won twenty-one grand slam titles in his career (all men's singles titles).⁶³

If an athlete's income is dependent on the level of performance and achievement, then it would only make sense that tennis players like the Williams sisters, and many more on the WTA Tour, would earn at least a comparable amount to their male counterparts.⁶⁴ This is not the case, which leads to a conclusion that other factors are at play. Therefore, historic gender norms that prioritize the support of male athletes over female athletes are still what remains beneath the surface of the sports industry today, despite what may appear otherwise.

A. *The Basketball Industry*

The National Basketball Association (NBA) was formed in the United States in 1949 when the National Basketball League and the Basketball Association of America merged.⁶⁵ Prior to the merger, these two competing organizations were rivals.⁶⁶ Over twenty years later, in 1976, the American Basketball Association (ABA) disbanded, and the NBA absorbed four more of its teams, making a total of thirty teams.⁶⁷ The

61. *Venus Williams: Player Stats & More – WTA official*, WOMEN'S TENNIS ASS'N, <https://www.wtatennis.com/players/230220/venus-williams#overview> [https://perma.cc/ZD46-DWBQ] (last visited Dec. 2, 2022); *Pete Sampras: Overview*, TENNIS ATP TOUR, <https://www.atptour.com/en/players/pete-sampras/s402/overview> [https://perma.cc/8PE9-D9JX] (last visited Dec. 2, 2022).

62. *WTA Career Earnings 2022*, *supra* note 60; *ATP Career Earnings 2022*, *supra* note 60.

63. *Serena Williams, Player Stats & More – WTA official*, WOMEN'S TENNIS ASS'N, <https://www.wtatennis.com/players/230234/serena-williams#overview> [https://perma.cc/57CQ-E3LR] (last visited Dec. 2, 2022); *ATP Tour, Novak Djokovic: Overview*, ATP TOUR TENNIS, <https://www.atptour.com/en/players/novak-djokovic/d643/overview> [https://perma.cc/4PJZ-64A2] (last visited Dec. 2, 2022).

64. *See* McMahon, *supra* note 48 (“Performance-based pay can be seen with some professional athlete salaries.”); *id.*

65. *National Basketball Association*, ENCYC. BRITANNICA, <https://www.britannica.com/topic/National-Basketball-Association> [https://perma.cc/EL22-NCJ2] (last visited Nov. 16, 2022).

66. *Id.*

67. *Id.*

Women's National Basketball Association (WNBA) was formed in the United States in 1997.⁶⁸ Up until 2002, a male counterpart, the NBA, owned each of the WNBA franchises.⁶⁹ However, the WNBA eventually started to allow franchises to sell to ownership groups in cities where an NBA team was not currently affiliated; therefore, the WNBA became its own association, separate from the NBA.⁷⁰ The WNBA currently has twelve teams.⁷¹

1. The Basketball Pay Gap

The gender gap in basketball is one of the most substantial in all professional sports. Both men's and women's basketball associations each have individual collective bargaining agreements (CBA), which is an agreement between the governing body and its respective players association (National Basketball Players Association for men and Women's National Basketball Players Association for women).⁷² The CBA establishes, among other things, minimum and maximum player salaries, bonus opportunities for players, and promotional appearances for players.⁷³ The NBA recently created a new CBA in 2017 and the WNBA also created a new CBA in 2020.⁷⁴ The minimum annual salary for both the NBA and WNBA are measured in years of service.⁷⁵

Beginning with the NBA's CBA, the minimum salary available for a player with zero years of experience, meaning he has never played in the NBA, is at least \$838,464 in his first year playing.⁷⁶ Alternatively, if the athlete is a returning NBA player, making him a "more experienced player," he would earn a minimum salary that year of at least \$2,564,743.⁷⁷ Neither of these salaries includes bonuses, sponsorships, or promotional appearances. In drastic contrast, the WNBA's CBA provides clear evidence of pay disparity between the two organizations. The minimum salary offered to a player in the WNBA with zero years of

68. *Women's National Basketball Association*, ENCYC. BRITANNICA, <https://www.britannica.com/topic/Womens-National-Basketball-Association> [https://perma.cc/CG7L-BR3W] (last visited Nov. 16, 2022).

69. *Id.*

70. *Id.*

71. *Id.*

72. *See CBA 101*, NAT'L BASKETBALL ASS'N (2018), <https://cdn.nba.com/manage/2021/03/2018-19-CBA.pdf> [https://perma.cc/5A46-MSDP]; Matt Ellentuck, *The WNBA's new CBA, explained*, SBNATION (Jan. 14, 2020, 9:27 PM), <https://www.sbnation.com/wnba/2020/1/14/21062768/wnba-cba-player-salaries-paid-maternity-leave-revenue-sharing> [https://perma.cc/EZ A7-9MK4].

73. *See CBA 101*, NAT'L BASKETBALL ASS'N, *supra* note 72.

74. *See id.*

75. *See id.*

76. *Id.*

77. *Id.*

experience is capped at \$57,000.⁷⁸ In addition, “more experienced players” in the WNBA are offered a minimum salary of only \$68,000.⁷⁹

Again, those salaries are just the minimum available to players in the NBA and WNBA. In reality, the average salary for NBA players is over 7.5 million dollars.⁸⁰ On the other hand, the average salary for WNBA players is around \$75,000.⁸¹ This equates to players in the WNBA making 1% of what their male counterparts make in the NBA.⁸² Like in professional tennis, evidence proves that level of performance and achievement has little to no correlation in making these numbers make sense. For example, in a statistical comparison of NBA player Anthony Davis to WNBA player Natasha Howard, the two athletes appear to perform at the same levels in their respective leagues.⁸³ However, Anthony Davis earns twenty-seven million dollars a year, while Natasha Howard earns \$117,000 a year.⁸⁴

The gender pay gap within the NBA and WNBA further provides evidence that performance and achievement are not highly considered factors when paying athletes. Instead, it is a similar trend to what occurs in the tennis industry, where female athletes are performing the same, if not better than, their male counterparts, yet still barely making even half of what the male athletes make in a year.

B. *The Soccer Industry*

The United States Men's National Soccer Team (USMNT) represents all men's international soccer competitions in the United States.⁸⁵ The USMNT is a member of the FIFA and the Confederation of North, Central American, and Caribbean Association Football (CONCACAF).⁸⁶ In addition, the United States Soccer Federation governs the men's soccer team.⁸⁷ Like the USMNT, United States Women's National Soccer Team (USWNT) represents all international women's soccer competitions.⁸⁸

78. Ellentuck, *supra* note 72.

79. *Id.*

80. Josh Strupp, *Visualizing the Gap*, MEDIUM (Mar. 10, 2021), <https://medium.com/nightingale/visualizing-the-gap-eccb912d75e2> [<https://perma.cc/39S6-UYJX>].

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. See *U.S. Men's National Team*, USSOCCER, <https://www.ussoccer.com/teams/usmnt> [<https://perma.cc/JHA4-2Y8H>] (last visited Dec. 2, 2022).

86. See *Organizational Structure*, USSOCCER, <https://www.ussoccer.com/history/organizational-structure/about> [<https://perma.cc/CM7D-ZQSL>].

87. *Id.*

88. See *U.S. Women's National Team*, USSOCCER, <https://www.ussoccer.com/teams/uswnt> [<https://perma.cc/G9RJ-WC3U>] (last visited Dec. 2, 2022).

The United States Soccer Federation also governs the USWNT and the female team competes in the CONCACAF.⁸⁹

1. The Soccer Pay Gap

Similar to the tennis and basketball industries, the same trend carries over into the world of professional soccer. Despite the USWNT continuously outperforming the men's team, the USWNT has faced a long battle trying to end the pay gap between them and their male counterpart team. As a team, the USMNT has made a total of eleven appearances in FIFA World Cups. However, the team has never won a World Cup, nor has it ever even advanced to the finals of a World Cup series.⁹⁰ In stark comparison, the USWNT is one of the most successful teams in all of international women's soccer.⁹¹ The team has won the World Cup four times (in 1991, 1999, 2015, and 2019), half of the eight World Cups since 1991.⁹² The team still appeared in each World Cup Series, reaching the finals in 2011 and coming in third place in 1995, 2003, and 2007.⁹³

Despite the women's unarguable success, the players still received significantly less than the men's team. From 2002 to 2015, the USWNT doubled the UWMNT's overall win percentage over the span of thirteen years and appeared in half of the World Cup finals, while the men's team appeared in zero.⁹⁴ Taking these performance results and final appearances into account and looking at the possible World Cup bonuses available for each team, women still earned significantly less than men. There are four types of World Cup bonuses available for both the USMNT and the USWNT: (1) roster bonuses; (2) third-place finish bonuses; (3) second-place finish bonuses; and (4) the World Cup win bonus.⁹⁵ The USWNT would make less than the USMNT in every single one of these potential bonuses, with the most drastic gap at the World Cup win bonus (USMNT could earn 9.38 million dollars and USWNT could earn 2.5 million dollars).⁹⁶

89. *See Organizational Structure*, *supra* note 86.

90. Kristen Conti, *Has the US ever won a World Cup?*, NBCSPORTS (Dec. 3, 2022), <https://www.nbcsports.com/chicago/has-us-ever-won-world-cup> [<https://perma.cc/2HNU-PB7U>].

91. *See* Michael Lewis, *A Look Back at All the History the USWNT Made in the World Cup*, TEAM USA (July 10, 2019), <https://www.teamusa.org/News/2019/July/10/A-Look-Back-At-All-The-History-The-USWNT-Made-In-The-World-Cup> [<https://perma.cc/QP7J-4S8N>].

92. *Id.*

93. *Id.*

94. *See* Caitlin Murray, *USWNT, USMNT pay gap explained: Comparing their U.S. soccer contracts as both sides negotiate new CBAs*, ESPN (Feb. 10, 2022), <https://www.espn.com/soccer/united-states-usaw/story/4589310/uswntusmnt-pay-gap-explained-comparing-their-us-soccer-contracts-as-both-sides-negotiate-new-cbas> [<https://perma.cc/9H5P-NNKM>].

95. *Id.*

96. *Id.*

This drastic pay disparity caused uproar in the soccer industry when the women's team finally had enough and decided to take a stand. As of recently, the USWNT reached a settlement for \$24 million with the U.S. Soccer Federation (USSF) after filing an EEOC complaint and suing for unequal pay compared to the USMNT.⁹⁷ In the suit, the USWNT brought forth two claims against the USSF: (1) the USSF violated the EPA and (2) the USSF violated Title VII.⁹⁸ The USWNT's main argument consisted of the fact that if both the men's and women's teams played and won the same amount of games, the difference in pay would be significantly different than what it currently is.⁹⁹ However, that is not the case, and the USWNT still performs increasingly better than the USMNT, yet the men's team is the one bringing in more revenue, so naturally they would get the higher salary.¹⁰⁰ At the end of the day, "[t]he issue isn't the math, it's the lack of creative solutions being brought forward by the governing body to mark and support the women's game equal to the men's."¹⁰¹ This is a problem also being experienced in the WNBA.¹⁰²

Following this settlement, the USSF agreed to pay the USMNT and the USWNT an equal amount in bonuses, tournaments, and World Cup appearances.¹⁰³ The equal-pay lawsuit between the USWNT and the USSF "has exposed just how out of whack performance and pay have become in American soccer, legally or not."¹⁰⁴ Once again, demonstrating that level of performance and achievement truly has no relation to the amount of income a team should receive. Instead, this proves that gender norms ingrained in modern society and the media building on those norms are the deciding factors in determining an athlete's salary.

97. Marlene Lenthang, *U.S. Soccer and Women Soccer Stars Settle Equal Pay Lawsuit for \$24 Million*, NBCNEWS (Feb. 22, 2022, 7:25 PM), <https://www.nbcnews.com/news/us-news/us-soccer-women-soccer-stars-settle-equal-pay-lawsuit-24-million-rcna17138> [<https://perma.cc/XF6C-2BQB>].

98. Alex Morgan, et al. v. United States Soccer Federation, Inc., 445 F. Supp. 3d 635, 640 (C.D. Cal. 2020).

99. See Renata Simril, *Show Her The Money: Why Female Athletes Deserve Higher Pay*, FORBES (June 5, 2019), <https://www.forbes.com/sites/renatasimril/2019/06/05/show-her-the-money/?sh=50256ac56b55> [<https://perma.cc/9UAR-KY9K>].

100. *Id.*

101. *Id.*

102. *Id.*

103. Andrew Das, *U.S. Soccer and Women's Players Agree to Settle Equal Pay Lawsuit*, N.Y. TIMES (Feb. 22, 2022), <https://www.nytimes.com/2022/02/22/sports/soccer/us-womens-soccer-equal-pay.html> [<https://perma.cc/Q6GB-MS67>].

104. Peter Keating, *Analysis: What equal pay in sports really means, as the fight goes on for U.S. women's soccer*, ESPN (May 14, 2020), https://www.espn.com/espnw/story/_/id/28971949/analysis-equal-pay-sports-really-means-fight-goes-us-women-soccer [<https://perma.cc/A2QW-MSWX>].

IV. IMPLICATIONS OF THE PAY GAP AND A POTENTIAL SOLUTION

While there are many implications to the gender pay gap, two main issues will likely result if it goes unchanged. First, there could be a potential decrease in the level of female participation in professional sports. If women continue to see such little progress in this realm, they may become discouraged. It takes a great deal of money to travel and train professionally for any sport, and if female athletes are not able to earn enough money to make up for what they are forced to spend, this may sway them from wanting to pursue a professional athletic career—despite level of skill or talent because it may cost them more than they could ever make.

Women in the workforce are already experiencing increasing levels of burnout. In fact, “[w]omen are even more burned out than they were a year ago, and the gap in burnout between women and men has almost doubled. In the past year, 1 in 3 women has considered leaving the workforce or downshifting their careers.”¹⁰⁵ This statistic demonstrates the struggles women already face in the workforce and continuing down this path could ultimately result in a lack of female participation in the sports industry altogether. Second, there could be a continued trend of unequal coverage for women’s sports in the media due to unchallenged gender norms. A lack of change will keep media coverage where it is, meaning women continue to have little room for growth in the field and no reasonable opportunity to ever reach the spotlight or reach their occupational potential.

To narrow the gender pay gap within professional sports, the media would need to use its power to achieve gender equality through the practice of gender equity. Gender equity is the process of treating men and women with fairness.¹⁰⁶ To successfully achieve this goal, one must consider the “women’s historical and social disadvantages that prevent women and men from otherwise operating on a level playing field” to find the right strategies to use moving forward.¹⁰⁷ Recognizing these past hardships can allow society to proceed with the right strategies to correct gender biases and improve economic outcomes for future female generations; this is how gender equity leads to gender equality.¹⁰⁸ The

105. Alexis Krivkovich et al., *Women in the Workplace 2022*, MCKINSEY & CO. (Oct. 18, 2022), <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace> [<https://perma.cc/WQ9F-AXRM>].

106. UNFPA, *Frequently Asked Questions About Gender Equality*, U.N. POPULATION FUND (2005), <https://www.unfpa.org/resources/frequently-asked-questions-about-gender-equality> [<https://perma.cc/DA5F-E2B5>].

107. *Id.*

108. See Katica Roy, *Why We Need Gender Equity Now*, FORBES (Sept. 14, 2017, 10:44 AM), <https://www.forbes.com/sites/elleivate/2017/09/14/why-we-need-gender-equity-now/?sh=1b3e66d077a2> [<https://perma.cc/9L8A-CTYV>].

overall goal of gender equality is to create a society where men and women are afforded like opportunities, responsibilities, and rights.¹⁰⁹ Combining these two objectives together, “[i]f gender equality is the end, gender equity is the means.”¹¹⁰ Applied here, to achieve gender equality in the sports industry, we must first achieve gender equity, meaning women and men professional athletes are provided the same rights and opportunities for media coverage, sponsorships, endorsements, and financial growth.

Luckily, 2022 marked the media’s first major steps in practicing gender equity. In 2022, the first-ever Women’s Sports Network launched and was created to focus solely on female athletes.¹¹¹ One supporter, Angela Ruggiero, Sports Innovation Lab CEO and co-founder, argued this will play a significant role in narrowing the media coverage gap between male and female athletes because “women’s sports typically go under-invested, under-supported, [and] under-viewed” and “[t]he media ecosystem is still fairly male dominated, and women aren’t getting the ratings.”¹¹² While it is certainly true that any opportunity for female athletes to gain more media coverage is progress, the separation of women’s sports from men’s sports through varying network channels will not ultimately achieve gender equality within the industry and close the pay gap. Instead, it seems to feed into the issue because it will allow viewers to continue to see the male and female sports industries as two separate entities with no common ground, when in reality, the common ground remains in the simple fact that there are highly talented men and women athletes in every sport, and they must all be recognized as such. As Ruggiero stated, this is a male dominated industry, so to bridge the gender gap, the media must engage in more drastic efforts to break down the gender norms.

While it may seem far-fetched, a media policy could be invoked to provide more equal financial opportunities and overall treatment amongst genders within professional athletics. This policy could entail network stations, social media platforms, and cable television networks all increasing the amount of time lent to women’s sports broadcasts on their channels. Because all these organizations and businesses must maintain their own source of income, and society still gravitates towards men’s sports, this policy would not need to require equal coverage of both male and female sports yet. However, any policy that would require a set increase in the amount of coverage that women’s sports receive could

109. *See id.*

110. *Id.*

111. Kaitlin Balasaygun, *Women athletes now have their own sports network*, CNBC (Nov. 7, 2022, 10:44 AM), <https://www.cnbc.com/2022/11/02/women-athletes-now-have-their-own-sports-network.html> [https://perma.cc/333H-6TBF].

112. *Id.*

open many doors for female athletes with sponsorships, promotional opportunities, and more by providing a sense of security to the female sports industry—a security that the male sports industry *already* has.

CONCLUSION

While significant progress has been made in narrowing the gender pay gap in professional sports—such as through the USWNT reaching a settlement with the USSF and men and women tennis players being awarded the same prize money at the four grand slam tournaments—the pay gap continues to exist. Inequalities between men and women professional athletes are evident in their respective salaries, promotional opportunities, and media coverage. Although it may seem most logical that sports teams and athletes would get paid in accordance with their level of performance and achievement, that is very clearly not the case. Instead, media coverage rules the sports industry and ultimately becomes the deciding factor for how many professional athletes today earn their outside sources of income. The problem is that the media gains all its input from its viewers, and the majority of those viewers have been subconsciously trained to adhere to the ongoing gender norms without seeking to challenge the norms. Sports fans all over the world cannot conduct a general internet search and get information on both male and female athletes because they would only be presented with articles on male athletes and male sports relating to their search. So, instead, those sports fans must conduct an entirely separate internet search and specify that they are looking for news on female athletes in the sport. The media then remains a social learning tool that continues to engrain those outdated values into society, making it a never-ending cycle. To spark any change here and help inspire women to join the sports industry rather than discourage them, the media needs to use its unique power to help break down, little by little, the innate gender norms that are buried within today's society.