UFC Wants You to Watch Brawls, Not Its $5 Billion Lawsuit

As it sends fighters to battle through the pandemic, the dominant force in MMA has been fighting allegations it abuses monopoly power

By Josh Eidelson

Bloomberg Businessweek

May 8, 2020, 2:00 AM PDT

To make it to the press conference after his first Ultimate Fighting Championship win, Cung Le needed a wheelchair. The cut above his eye required stitches, and he’d bruised a foot so badly kicking his opponent in the head that he was worried it was broken. As he made his way to his microphone on crutches, he recalls, he already knew his boss was pissed that he looked so obviously hurt. When Dana White, president of the mixed martial arts promoter, saw Le wheeling to the press conference, Le remembers him saying, “What the f---?”

The event that night had drawn 15,000 people to Las Vegas’s MGM Grand Garden Arena, with 900,000 pay-per-view customers watching at home. When a reporter asked Le, who’d won a unanimous decision in one of the main undercard bouts, what he’d do next, the 40-year-old middleweight said he wasn’t sure. In his mind, he says, he was thinking mostly about tending to his throbbing foot. White, whose company had recently acquired the rival promoter Le previously fought under, jumped in with a different response: “What he meant was, ‘I’m going to go back, get back in the gym, and I’d love to fight in China.’ I’m translating for Cung.” The crowd laughed.

Le, who’d arrived in the U.S. as a child refugee from Vietnam—and learned martial arts to defend himself against bullies—managed an awkward smile. Then he did his best to repeat White’s words (“I’m going to go back in the gym and get ready for China”), even though this was the first he’d heard about it. UFC scheduled Le’s next fight for a few months on, just after the 2012 U.S. presidential election. A few weeks later, Le told White and Lorenzo Fertitta, one of the billionaire brothers behind UFC, that he didn’t know if his doctor would clear him to fight again so soon. He was still giving strangers a wide berth, so that no one would step on his foot. But Le says White put his hand on Le’s shoulder, told Le he knew he was a “company man,” and said he needed to “suck it up.” Seated to either side of Le, White and Fertitta told him to do whatever it took to get cleared, leaving him with the strong impression that saying no would derail his career. “They said it very nicely,” Le says.

So he took a bunch of painkillers and told his doctor his injured foot felt fine, even though the pain from stretching was enough to make him sweat. The doctor objected because he had a bone bruise, which can take months to recover from, but Le begged to be cleared. While UFC paid Le a reported $150,000 for the Vegas fight, he says that after taxes and expenses, including lengthy physical rehabilitation, he couldn’t afford to land on White’s enemies list.

Then as now, fighters had little alternative but to obey UFC, Le says. After the doctor ultimately obliged Le, UFC—whose then-owners would go on to make headlines for buying a $125 million boat, hiring
Bruno Mars for a daughter’s $25 million wedding, and importing snow to White’s home in the Las Vegas desert—offered him a ticket to China in coach. Le won that fight in the first round with a one-punch knockout. But a couple years later, in his final, bloody UFC bout, he could tell between rounds how many fingers a doctor was holding up only because his trainer tipped him off with shoulder taps. The match was stopped in the fourth.

UFC contests Le’s account. “If necessary, we will prove in court what Cung Le says is not true,” says attorney William Isaacson. “Dana White never asks an athlete to compete while injured. Normally, the athletes try to hide their injuries so they can compete.”

Many UFC fighters have stories similar to Le’s. Even now, with the Covid-19 pandemic raging, White has often come across as more concerned about the public’s hunger for entertainment than his fighters’ safety. At a moment when pent-up demand for sports has made old footage of Michael Jordan a weekly must-watch for millions of people, the UFC president is promising 12 bouts on May 9, including two world title fights, at the VyStar Veterans Memorial Arena in Jacksonville, Fla., the land that sheltering in place forgot. No spectators will be in attendance, just fighters and staff, but the combatants will be allowed well within 6 feet of one another, because Governor Ron DeSantis, unlike most of his peers, has declared athletics an essential industry.

On May 2, programming-starved ESPN broadcast an 11-hour block of kinda-sorta-sports including sign spinning, cheese rolling, and cherry-pit spitting. Nascar says it will return without fans in the stands on May 17, the PGA Tour is planning to start up in June, and Senate Majority Leader Mitch McConnell is lobbying for baseball to return in either Florida or Arizona around July 4. But UFC will be the first big event to draw the waiting audience of ravenous sports fans. “My team is ready to go, and the fighters are excited to get back in there,” White said in a statement last month. UFC said in an emailed statement that it’s committed to resuming its events safely and responsibly.

Yet even more so than usual, the fighters will assume an outsized portion of risk in exchange for what have long been far stingier rewards than what many of their pro athlete peers earn. Unlike leagues including the NFL, NBA, and Major League Baseball, all of which pay about half their revenue to players, the share of UFC revenue that goes to fighters hovers at or below 20%, according to a report prepared a few years ago by the media company Endeavor. Brandon Ross, an analyst at researcher LightShed Partners, estimates that UFC’s media rights and sponsorship deals for 2020 were worth around $750 million, though that may be contingent on the promoter actually staging the fights it’s promised broadcasters. For one of its roughly 600 fighters (500 men and 100 women), a televised bout can gross as little as $13,500, before taxes and their many medical and training expenses.

Le says that should change. He’s one of a half-dozen former UFC fighters, including a former title contender, behind an audacious $5 billion antitrust lawsuit against Zuffa LLC, the company incorporated to serve as UFC’s parent. The suit, which after five years of legal wrangling could soon be certified as a class action with 1,200 claimants, accuses UFC of leveraging monopoly power against fighters and holding down their pay.
UFC says that it’s the best-paying promoter in MMA and that the lawsuit is baseless and senseless. When companies take risks that pay off like UFC has, they attract competition and “should be encouraged, not villainized,” Isaacson said in an emailed statement. The lawsuit, he said, is “a threat to all companies’ ability to grow and succeed.”

The plaintiffs, and some of the internal documents their lawsuit has unearthed, suggest the opposite: that UFC has relied on predatory tactics to ensure it’s the only real venue for professional fighting men and women and that it’s a very hard place to leave. “There’s no other option,” Le says. “They basically own you.”

UFC isn’t your average face-kicking contest. The fighters behind the antitrust suit say it controls 90% of the market for MMA, a sport it’s worked successfully to turn from punchline into worldwide sensation. (Zuffa contests the percentage but doesn’t offer its own estimate.) UFC claims to be the largest provider of pay-per-view events on Earth, counting some 318 million Nielsen viewers. Its fans include President Trump, an early ally. In November, with the threat of impeachment looming, Trump showed up at New York City’s Madison Square Garden to watch UFC fighters square off for the title of “Baddest Motherf----er,” a term UFC is trying to copyright.

White has continued to run UFC’s day-to-day operations even after he and the Fertitta brothers sold Zuffa for $4 billion to Endeavor and private equity firms Silver Lake Partners and KKR & Co. in 2016. Two years later he signed a five-year, $1.5 billion deal for the TV rights to UFC bouts with ESPN, gaining Walt Disney Co.’s imprimatur in the process.

White’s creation myth is built on sharp turns. As he’s told it to reporters over the years, in the late 1980s, when he was 19 years old, he walked off his job as a hotel valet in Boston to go into the fight business. He spent several years in boxing—managing fighters and gyms, refereeing bouts, giving lessons—then somehow ran afoul of mobster Whitey Bulger. In 1995, when Bulger’s right-hand man called to demand a payoff, White booked a one-way flight to his hometown of Las Vegas, where he started working with MMA fighters as well as boxers.

A few years later, White learned that UFC was in deep financial trouble, so he teamed up with Lorenzo Fertitta, an old school buddy turned casino owner, and Fertitta’s brother, Frank, to buy it in 2001 for $2 million. At the time, UFC was one of a handful of struggling organizers of MMA fights, which had been denounced by Senator John McCain as “human cockfighting” and outlawed in most U.S. states. “We bought a company that wasn’t allowed on pay-per-view,” White told a group of Stanford MBA students in 2013. “Porn is on pay-per-view.”

Hoping to drag MMA from the outer fringes of polite society to the regular fringes, White and Lorenzo, who’d served on Nevada’s athletic commission, negotiated with state regulators around the country to make their events legal again. In Atlantic City, N.J., the Trump Taj Mahal became the first name-brand venue to host one of the new UFC’s bouts. White has called Trump “the first guy who gave us our break.” The UFC team also plowed tens of millions of dollars into image-building efforts aimed at the masses, including a reality show, The Ultimate Fighter. To get the show on Spike TV, the MMA execs
paid the first season’s production costs themselves. At first, most advertisers refused to let their ads run during the show.

Even if face-kicking isn’t your cup of energy drink, it’s easy to see why MMA eventually became such a draw. Rather than a balletic display of martial artistry, a UFC match looks more like a real-world brawl. The combatants start out standing in an octagonal ring, then shift to and from the ground, blending striking and grappling techniques drawn from boxing, kickboxing, wrestling, judo, Brazilian jiujitsu, muay thai, and other disciplines.

In MMA’s early days, competition between promoters meant fighters had more leverage to negotiate. During its first decade under White, though, UFC broke away from its rivals. It wove compelling personal narratives in with extreme displays of locker-room bravado, from thrown shoes and shoutfests to a guy on a leash being dragged on all fours to the Baha Men classic, Who Let the Dogs Out?

And when it came time to negotiate, UFC offered no quarter. Its contracts could require fighters to do autograph sessions and open workouts for free and to let UFC profit from their likenesses in video games and trading cards without going back for permission. (UFC says it compensates featured fighters, and that they can strike their own likeness deals, too, “so long as they do not use the UFC name, brand, or intellectual property.”) Fighters also ate the costs of training, gear, a range of medical bills, and their own payroll taxes, because they were classified as independent contractors, like Uber drivers. Unlike Uber drivers, however, UFC fighters had to submit to surprise drug tests, and agree not to work for competitors.

Under White, UFC signed exclusive contracts with fighters for a certain number of bouts in a given period, with the company retaining the right to extend the deal if they got injured, turned down a matchup set by management, became a champion, or even tried to retire. UFC regularly revisited deals before their terms were up, and in internal emails an executive described getting a fighter to take a pay cut in exchange for not getting terminated mid-contract. UFC said in a statement that people rarely resign for less money.

UFC was also steadily acquiring or chasing off rivals such as Affliction and Pride, allowing White to scoop up popular fighters and eliminate alternatives for those in his stable who were unhappy with their deals. It didn’t hesitate to exercise its leverage: In 2008 White announced he was terminating title contender Jon Fitch and blackballing the crew of fighters training with him over what Fitch says was his reluctance to cede lifelong video game likeness rights without compensation. “Unwilling to sacrifice the careers of my coaches and teammates, and believing I had no choice, I signed the agreement,” Fitch, now a plaintiff in the lawsuit, said in an emailed statement. In its own statement, UFC called the issue “a disagreement that was eventually resolved,” noting that Fitch and the other fighters stayed on.

In 2007, Randy Couture, a former heavyweight champion, announced his resignation from UFC, citing pay disputes with management and a desire to fight Fedor Emelianenko, a Russian grappler widely viewed as the best heavyweight in the world. UFC sued, alleging breach of contract, disparagement, and conspiracy. It won an injunction that restricted Couture from promoting competitors’ events and derailed billionaire Mark Cuban’s attempt to arrange a Couture-Emelianenko bout for his own fledgling
circuit. Couture soon returned to the UFC fold. “They were going to drag it out as long as they could and basically try to bankrupt me,” he later told the news site MMA Junkie, saying he’d already spent $500,000 on legal fees. Cuban’s company abandoned its plans to hold live events and switched to simply broadcasting them.

In 2011, Zuffa acquired UFC’s most prominent remaining competitor—Strikeforce, where Le was fighting. The month before the deal was completed, UFC’s longtime bout matchmaker, Joe Silva, highlighted Zuffa’s control of most of the world’s top fighters in an internal email with the subject line “We Own MMA.”

As UFC’s power has grown, fighters say, the terms of their deals have gotten worse. In the early years they could negotiate their own sponsorships and keep the money. Then UFC started demanding a share. Then it flipped the negotiating process so that it was negotiating an exclusive apparel sponsorship directly with Reebok and could disburse a pool of sponsorship money at its discretion. UFC says its direct negotiations have raised the caliber of sponsors associated with its fighters.

UFC has also been accused of exploiting its control over fights as leverage in contract negotiations. In an internal email, Silva, who worked at UFC from 1995 to 2016, suggested that if a fighter rejected UFC’s contract renewal offer, he’d be matched with “a really tough guy for his last fight.” The fighter would end up staying with UFC. Asked about the email, Isaacson said “it would be inaccurate to say that Joe Silva made any threats.”

UFC says that there’s plenty of competition in MMA (including Bellator, a promoter owned by Viacom) and that it controls less than one-quarter of the world’s ranked MMA fighters. Weighted by revenue, however, UFC’s share of the workforce has for years topped 70%, according to the former fighters seeking restitution.

White, too, has bragged about UFC’s dominance. In 2008 he posted a video on YouTube in which he held a tombstone with the logos of three former rival promoters and declared himself “the Grim Reaper.” In a 2012 tweet he reveled in his acquisition of Pride Fighting Championships: “pride is dead dummy! I killed em!!!” During his 2013 visit to Stanford’s business school, he told the assembled MBA students that keeping fighters hungry for bonuses was key to his success. With boxing, “you get two multimillionaires, right, who step into the ring and do everything they can to avoid a fight,” White said, retreating theatrically across the stage. “We incentivize guys to fight.”

The former UFC fighters filed their suit in federal district court at the end of 2014. They allege that the company “has engaged in an illegal scheme to eliminate competition,” allowing it to pay fighters “a fraction of what they would earn in a competitive marketplace.” The strategy the suit lays out isn’t dissimilar from one used in the octagon: ground and pound.

The uninitiated—including Bloomberg Businessweek, when it first contacted the plaintiffs—might refer for edification to a 2009 match between co-plaintiff Nate Quarry and Jason MacDonald. During a recent screening of the match, Quarry recounts his thought process as he forced his opponent to the floor (the
grounding) and elbowed him in the forehead. “I waited for the blood to hit his eye,” Quarry says. Then, with MacDonald trapped and his vision obstructed, “I just started beating him” (the pounding).

During his final UFC fight the following spring, Quarry carried on with half his face caved in, injuries that would require 13 screws and a titanium mesh. He says UFC paid him roughly $40,000 and called afterward to say that because he’d been injured, his contract had been extended. Two years later, with two fights still left on the contract, Quarry announced his retirement on Spike TV, ending a half-decade career in which he’d fought bouts while brutally injured, sick with the flu, and $25,000 in debt. He says he’s received more money as a spokesman for the company that made the implant in his damaged spine than UFC ever paid him.

Side gigs were common among the plaintiffs. Kyle Kingsbury, a light heavyweight who fought for UFC from 2008 to 2014, spent many of those years living in his mom’s detached garage and moonlighting as a trainer and bartender. He says that in his best year with UFC he made about $100,000, most of which went to pay taxes and work expenses. Other years, he made far less. “There is no job I’ve had, from my early teens until now, that treated me as poorly,” Kingsbury says. “Burger King treated me better.” During one bout he was hit so hard in the head that he couldn’t remember how to get to the locker room. He says he didn’t ask for help, because if UFC knew he’d been injured, it would mean more time before he got paid again.

UFC’s attorney Isaacson says Quarry’s and Kingsbury’s accounts illustrate that “this lawsuit is about individual grievances by fighters no longer with the UFC.”

Even if fighters could have gotten out of their deals, they say, there was nowhere else to go. In charging that UFC limited their opportunities, they’ve tapped into growing sentiment against monopsonies, particularly what’s called monopsony power—the outsize leverage some employers have because they can limit workers’ opportunities elsewhere, from software engineering to fast food to child care.

For much of the past century, academic consensus and judicial precedent have taken as a given that labor markets are competitive, according to Marshall Steinbaum, an economics professor at the University of Utah. But Steinbaum says employers have gained so much power over where and how workers can operate that occasionally a case like the one against UFC emerges with facts too damning to easily dismiss. “If we’re going to see one big labor-antitrust showdown, this is a good place to look for it,” he says. “This case essentially aims a pretty sharp spear directly at the heart of contemporary antitrust law.”

White has said that UFC fighters made their choices and ought to live with them. “Nobody made you sign a UFC contract,” he said during a deposition in 2017. “When you signed the contract, you were thrilled.” UFC is being defended by leading corporate litigator Boies Schiller Flexner LLP, the firm that’s also represented the New York Yankees, Theranos, and Harvey Weinstein. During the most recent round of hearings, held late last year to help Judge Richard Boulware of Nevada determine whether to certify the class action, Isaacson, a Boies Schiller partner, said that what the plaintiffs call monopsony amounts to just “being successful.” A win for the plaintiffs, he said, would “be a shock to antitrust enforcement” in the U.S.
The plaintiffs’ case centers on their argument that UFC can get away with paying them as little as it does, a much lower share of the sport’s revenue than other pro athletes receive, only because it’s a monopoly. Zuffa has said in court filings that mixed martial artists wouldn’t be earning any kind of living without its spending and savvy. If the fighters themselves were all that was for sale, they would “start their own businesses,” company witness Paul Oyer, an economist at Stanford, testified. “They’re no more the product than an Apple engineer who designs an iPhone.”

Boulware is able to work from home while Nevada practices social-distancing measures, so a ruling on whether to certify the case as a class action, which could turbocharge the lawsuit, might come any day now. If the class is certified, workers and bosses in other fields will take notice, says Wayne State University law professor Sanjukta Paul. Despite how hostile U.S. antitrust law is to workers, she says, UFC’s conduct has been egregious enough that the fighters could win.

The judge has signaled that, absent a settlement, he’s expecting the case to drag on for some time. He’s already told the parties that he’s assuming his class-action ruling will get appealed to the U.S. Court of Appeals for the Ninth Circuit, and from there to the U.S. Supreme Court.

Kingsbury says no settlement will be acceptable unless it changes the contracts that keep fighters bound indefinitely to the company. This is the same struggle, he and the other plaintiffs maintain, that pro athletes have consistently faced, from free agency in baseball a half-century ago to the Muhammad Ali Boxing Reform Act passed by Congress in 2000. “Any great sport that comes along,” Kingsbury says, “eventually it comes to this.”

The struggle that appears to be top of mind for White, whose contract expires in 2026, is whether he can outmatch a pandemic. Two months ago, as the global economy shut down, he told ESPN his March 21 fight card would proceed as scheduled, just not in London because, you know, flight bans. “This stuff happens to me every weekend,” he said. (He ultimately had to scratch the event, and a couple more, after the Trump administration told Americans to avoid gathering in groups larger than nine.) By early April, he was telling reporters he was close to relocating UFC fights to a private island or to American Indian tribal land in California that wouldn’t be subject to the state’s shelter-in-place order.

No plan has been announced on either front, though White told ESPN last month that “Fight Island is a real thing” and that “the infrastructure is being built right now.” In the meantime, he’s gearing up for the May 9 fight in Jacksonville. MMA, he promised in an Instagram post, will be “the first sport back.” So far this year, UFC has held seven fights; the Wall Street Journal reported last month that White’s contract with ESPN calls for a total of 42 before the year is out.

Le says White won’t be among the people who have to face the real consequences. Over his years in MMA, he broke his nose four times, cracked ribs, and required five elbow surgeries, three knee surgeries, and more than 100 stitches. His arms don’t bend as far as they’re supposed to.
But for all that, Le’s not boycotting MMA as a whole. Quite the opposite: He’s readying his 15-year-old son for a future in the sport, hoping his legal fight will help transform the industry in the meantime. Each morning, he gives the boy a fistful of vitamins and a workout in the garage. His son already has sponsors and 3,000 Instagram followers. A couple years ago, Le recalls with pride, he got 300,000 views for a video of his son hitting a sparring bar that bounced back and hit him in the face. He says he sometimes worries about his son’s safety, but he figures he could also get hurt walking down the street.

The 15-year-old is already “a natural beast,” Le tells a college admissions consultant who calls during his interview with Businessweek. The kid’s bouts, he says after hanging up the phone, are “going to be savage. I can’t wait.”