

NFLPA upheaval could vex both sides of table, experts say

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News of budding player dissension among the NFLPA's rank and file bodes poorly for resolving a labor dispute in football that was already proving intractable.

An effort to unseat NFLPA Executive Director Gene Upshaw emerged last week, a development that comes as the union and league are staring each other down over the current collective-bargaining agreement.

While the Upshaw tempest could be viewed as an opportunity for the league to exploit divisions within the union, sources close to management argued that they would prefer to have the executive direction retain

a strong position rather than face uncertainty.

"I think this is a bad thing, especially if you are trying to resolve [a labor feud]," said one league source. "How, if you are Upshaw, do you hold onto your power and then recommend some concessions?"

Some industry experts said the amount of damage to the process depends on the size of the player group looking to find a replacement for Upshaw.

ESPN first reported last week of such an effort after it obtained an e-mail written by Baltimore Ravens kicker and player representative Matt Stover about a plan to start looking for an immediate replacement.

Upshaw's contract ends in 2010. Leaks of internal union spats, Upshaw said, hurt not just the players but the prospects for labor peace in the NFL. "You need a strong management and a strong union to get a deal done," he said last week.

The key to successful labor negotiations, Upshaw said, was having one person who could speak for each side. "The owners have to deliver their side and I have to deliver our side. Unless [NFL Commissioner] Roger [Goodell] can deliver his guys and I can deliver my guys, you can't make a deal."

Legal experts agree. "It is very important for a union leadership to have a relationship with management," said Josh Zuckerberg, a

partner in the labor and employment practice at Pryor Cashman. “Generally speaking, you have to know how to grease the wheels and get a deal done. And if he is leaving in the middle of something and a new leader is coming in, that could change the dynamics.”

The owners sized the current extension to the CBA in March 2006, and have been complaining almost ever since about it as too player friendly. They can opt out of the deal by Nov. 8, which would make 2010 the final year of the contract and a season without a salary cap.

In defending himself, Upshaw noted that he had driven such a good deal for the players that owners were whining about the labor pact.

Bill Gould, a Stanford Law School professor and former chairman of the National Labor Relations Board, said the current problems could be a temporary distraction, but could also derail labor talks that lead to a settlement.

“If it is a small group of players who are perceived to be sending out press releases or e-mails to get some publicity, I don’t think

anyone would take it very seriously.” Gould said. But, if the players unhappy with Upshaw are a real faction, he added, “it could create instability that is harmful to the union and to the process itself.”

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“This is really crazy,” Gould added. “After all these years Upshaw was attacked for being too close to management and then he delivers a deal that is really unprecedented and now some of [the players] want to throw him out?”

Leaks of dissent are somewhat unusual at sports unions, because players know how harmful publicized union rifts can be. Many hockey industry experts think the NHL Players’ Association’s resolve to resist a

salary cap during the NHL lockout broke when news leaked that some NHL players were willing to accept a salary cap.

Ian Pulver, an NHL agent who was then NHLPA associate counsel, would not talk about what happened during the lockout, but said last week that a union’s solidarity is key to the union’s success.

“While I believe it is healthy to have differing opinions amongst union members and officials, it is critically important that is done behind closed doors,” Pulver said. “The union staff must be loyal to each other and there should never be back-channel communications with certain players, agents or league officials behind the executive director’s back. It is not proper conduct, and it can damage the union in many serious ways for many years.”