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## MLB's Salary Arbitration: Future Prospects for a Historic ADR Model

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MLB'S SALARY ARBITRATION: FUTURE PROSPECTS FOR A HISTORIC ADR  
MODEL

ELLIOTT DOSETAREH

As the oldest major professional sports league in the country, the MLB's record of salary arbitration has its roots in over 150 years of baseball history.<sup>1</sup> The first Collective Bargaining Agreement or "CBA" was signed by the players union and owners in the early 1970s, creating a process for salary arbitration in which players not yet eligible for free agency would be compensated based upon their seasonal performances.<sup>2</sup>

Arbitration hearings in the MLB are unique compared to other forms of arbitration in professional sports because they are classified as a "final-offer arbitration" (FOA) system, where players and owners both submit a bid to resolve their dispute and present evidence in favor of their valuation.<sup>3</sup> Then, a tripartite panel of arbitrators must decide between the player's offer or the club's offer, without any compromises.<sup>4</sup> The arbitration process enables clubs to retain control of players with less than six years of major league service, while the advantage to the players is that they are able to influence their salaries based upon the market and their performance during the season.<sup>5</sup> One of the key benefits of the process is that it is designed to promote early settlement between players and the clubs without proceeding to a hearing. The vast majority of cases settle

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<sup>1</sup> *Major League Baseball's Salary Arbitration: A Homerun ADR System*, WASEL & WASEL (Mar. 21, 2021), <https://waselandwasel.com/articles/major-league-baseballs-salary-arbitration-a-homerun-adr-system/> [https://perma.cc/8A74-EQLJ].

<sup>2</sup> Bill Gilbert, *Salary Arbitration: Burden or Benefit*, SOCIETY FOR AMERICAN BASEBALL RESEARCH (2006), <https://sabr.org/journal/article/salary-arbitration-burden-or-benefit/> [https://perma.cc/CT5X-GLYM].

<sup>3</sup> Navneet S. Viswanathan, *File and Trial: Examining Valuation and Hearings in MLB Arbitration*, SOCIETY FOR AMERICAN BASEBALL RESEARCH (2019), <https://sabr.org/journal/article/file-and-trial-examining-valuation-and-hearings-in-mlb-arbitration/> [https://perma.cc/V9JA-DKLF].

<sup>4</sup> *Id.*

<sup>5</sup> Gilbert, *supra* note 2.

before reaching a hearing<sup>6</sup> because each party risks losing the entire difference between their salary bids.<sup>7</sup>

Historically, data has shown that the percentage of hearings that players have won has diminished from 45% in 1992 to 31% this past year, with players only winning six out of nineteen cases before the panel.<sup>8</sup> However, despite this decline, the players union still strongly supports the arbitration model, with one union spokesman stating, “salary arbitration is a right that generations of players have fought for despite MLB’s repeated attempts to eliminate it.”<sup>9</sup> However, some prominent players, including Toronto Blue Jays star, Bo Bichette, have voiced disapproval, with Bichette calling arbitration “an incredibly flawed system” for pitting owners against players, leading to division in the clubhouse.<sup>10</sup>

Arbitration eligibility remains one of the largest disputes between players and owners.<sup>11</sup> The players union wants all players with two years of experience to be arbitration eligible, not just the most elite players.<sup>12</sup> To alleviate this issue, the league and the union have agreed upon different mechanisms to get young players paid sooner.<sup>13</sup> Both parties have introduced the notion of a pre-arbitration bonus pool, which essentially provides bonus money from the MLB’s central office to outstanding young players who are not yet eligible for arbitration.<sup>14</sup> Initially, the MLB offered

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<sup>6</sup> Ken Rosenthal, *Rosenthal: Tension Over MLB Arbitration Ruling Could Translate to Another Battle*, THE ATHLETIC (Feb. 20, 2023), <https://theathletic.com/4230583/2023/02/20/mlb-salary-arbitration-cba-tension/> [<https://perma.cc/8TUV-5STV>].

<sup>7</sup> Viswanathan, *supra* note 3.

<sup>8</sup> Gilbert, *supra* note 2.

<sup>9</sup> *Id.* See generally; Rosenthal, *supra* note 6.

<sup>10</sup> *Id.*

<sup>11</sup> Athletic MLB Staff, Let’s Talk About CBA Issues: Arbitration, THE ATHLETIC (Feb. 2, 2022), <https://theathletic.com/3105738/2022/02/02/lets-talk-about-cba-issues-arbitration/> [<https://perma.cc/F6G6>].

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

\$10 million for this program, and the union proposed \$105 million<sup>15</sup>, with the parties settling for \$50 million as part of their latest CBA signed in 2022.<sup>16</sup> Last year, a total of a hundred players received bonuses as a part of the Pre-Arbitration Bonus Pool Program, utilizing advanced analytical metrics of the game to determine prizes.<sup>17</sup>

In 2021, almost a third of the league's players made a salary close to the league minimum, and 62% of all players had salaries under \$1 million.<sup>18</sup> With the average career of an MLB player being 3.71 years, it remains in the teams' best interest to sufficiently compensate their young players in order to build their rosters for the future, and at a more affordable price-tag.<sup>19</sup> With roughly two-thirds of the league falling within pre-arbitration service, the union has focused on this initiative by steadily raising the league minimum to best enrich the majority of players who step onto the field.<sup>20</sup> Last year, the league minimum was raised from \$570,500 to \$700,000.<sup>21</sup>

With progress being made in terms of additional bonuses to young players, as well as the league minimum being raised with every new CBA agreement, the final offer arbitration, although far from perfect, still serves as an important metric for player's autonomy in negotiating their contracts. With the current CBA expiring in 2026, possible changes to the current format, including placing further limitations on the league and union's current ability to unilaterally

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<sup>15</sup> Evan Drellich, *Drellich: Expanding Salary Arbitration Would be an Intense Fight. It Also Might Be Avoided*, THE ATHLETIC (Jan. 26, 2022), <https://theathletic.com/3092983/2022/01/26/drellich-expanding-salary-arbitration-would-be-an-intense-fight-it-also-might-be-avoided/> [<https://perma.cc/9HAL-NK8G>].

<sup>16</sup> Mark Feinsand, *MLB Distributes First Bonuses Through First Pre-Arb Pool Program*, MAJOR LEAGUE BASEBALL NEWS (Dec. 22, 2022), <https://www.mlb.com/news/major-league-baseball-distributes-bonuses-through-pre-arbitration-pool>  
program#:~:text=There%20is%20a%20pool%20of,via%20%E2%80%9CSuper%20Two%E2%80%9D%20status  
[<https://perma.cc/78N3-MTVA>].

<sup>17</sup> *Id.*

<sup>18</sup> Mike Axisa, *Why League's Proposed Salary Increase Isn't as Historic as It May Seem*, CBS SPORTS NEWS (Mar. 6, 2022), <https://www.cbssports.com/mlb/news/mlb-lockout-why-leagues-proposed-minimum-salary-increase-isnt-as-historic-as-it-may-seem/> [<https://perma.cc/X23H-J96N>].

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

replace arbitrators, may be considered as well.<sup>22</sup> This will provide greater stability and consistency in future rulings as well as promoting more experienced arbitrators to oversee hearings.<sup>23</sup> In future CBAs, the league and the union should continue to deal reasonably and in good faith to best compensate their best young talent, which will go a long way building more successful and well-rounded rosters.

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<sup>22</sup> Rosenthal, *supra* note 6.

<sup>23</sup> *Id.*