Inside Baseball's Salary Arbitration Process

Roger I. Abrams
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“Every hitter I face is a man trying to take money out of my pocket”
— Early Wynn

Baseball’s salary arbitration process began modestly in 1974. Dick Woodson, a right-handed pitcher with a 10-8 record for Minnesota in 1973, sought a salary of $30,000. His club, the penurious Twins, offered him $23,000. Woodson prevailed when the salary arbitrator selected his salary demand over the club’s offer. His victory was a harbinger of things to come for those players who would prevail in salary arbitration. On May 4, less than three months after winning his case, the Twins traded Woodson to the Yankees for the remainder of his fifth (and final) season in the major leagues.

Baseball’s version of salary arbitration is unique in American labor relations. Within twenty-four hours of the hearing, salary arbitrators must select either the player’s demand or the club’s offer. There can be no compromise, no explanation and no delay. These essential characteristics are designed to make salary arbitration so risky and the outcome so unpredictable that overwhelmingly the parties settle their disputes privately.

The final-offer baseball salary arbitration process has evolved over twenty-five years, and the “numbers” have changed considerably. In 1998, Bernie Williams demanded $9 million; the Yankees offered $7.5 million. They settled before the hearing for $8.3 million, an increase of three million over the center fielder’s 1997 salary. In 1999, Derek Jeter, the Yankees’ classy shortstop, hit the arbitration jackpot on his first visit. A panel of three arbitrators chose his demand of $5 million over the club’s offer of $3.2 million. Jeter scored the first player victory

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of the 1999 arbitration season after the clubs had swept the first five litigated cases.

Even players who proceed to arbitration and lose, leave as multi-millionaires. Johnny Damon, the Royals' fine young outfielder, lost his case, but upped his salary from $460,000 in 1998 to $2.1 million in 1999, the club's final offer. Damon seems a sure bet to join baseball salary elite if he continues to compile impressive statistics at the plate and in the field, although likely with a club other than the low-revenue Royals. Many other players eligible to file for salary arbitration threaten to use the process to leverage higher pay levels. To avoid salary arbitration, some clubs have offered their junior star performers multi-year contracts at premium rates.

Over the past quarter century, some players have won impressive victories in salary arbitration. Bruce Sutter won the Cy Young Award in 1979 as an ace relief pitcher. The Chicago Cubs closer left arbitration in 1980 with $700,000. In 1982, Fernando Valenzuela, a tremendous gate attraction for the Dodgers and the leader of its staff, won $1 million in salary arbitration following only his second season in the majors. Sutter and Valenzuela set new levels for junior star pitchers that was soon reflected in salary negotiations for both salary arbitration eligible and free agent hurlers.

Baseball's salary arbitration process is driven by the numbers, the players' performance statistics that club and player advocates shape into persuasive arguments. When I hear salary arbitration cases, as I have in 1986, 1998 and 1999, I think of how important each game and each at bat is for the pay level of players who will be eligible for salary arbitration. As Kevin Costner, playing the weathered former major league catcher, said in the movie "Bull Durham," twenty-five hits over a full season of five hundred at bats make the difference between a .250 and a .300 hitter. One hit a week, any kind of hit anytime in a game, converts into millions of dollars and an extended major league career. A few more safeties with men in scoring position and a player might drive in a hundred runs, a very important production plateau. On the other hand, a starting pitcher who throws a few more hanging curves might be relegated to the bullpen for long relief, sent down to the minors, or even given his unconditional release. Each event during a long baseball game season is magnified in salary arbitration.

Early Wynn, the Hall-of-Fame right hander for the Senators, Indians and White Sox who won three hundred games from 1939-1965, was quite perceptive when he said that when he was on the mound he was involved in a contest for money with the hitters he faced. Wynn was also asked if he would throw at his own mother if she were up at bat. He replied: "It would depend on how well she was hitting."

**Origins**

Baseball’s salary arbitration traces its origin back more than a century to the procedures used to resolve labor-management negotiating disputes in unionized
sectors of the economy, such as the coal mining, newspaper, and clothing industries. Unlike arbitrators today whom employers and unions appoint to resolve grievances under the terms of their collective bargaining agreements, in these instances the arbitrators wrote the actual terms of the contracts for the parties. Today's salary arbitrators determine the most important term of a ballplayer's contract, his salary for the coming season.

Baseball first used the term arbitration more than a hundred years ago, although it had a very different connotation. Before its merger with the American League, the National League called its council of owners that administered league policy its "board of arbitration." The league did not intend the board to be neutral, but rather act as the instrument of baseball's management.

In 1908, Pittsburgh Pirates outfielder Tommy Leach also used the term "arbitration" to describe the mechanism he proposed to settle his salary dispute with club management. He suggested appointing a panel of three "arbitrators" from the local business community—one of his choice, the second chosen by the club, and the third selected by the two appointed arbitrators. The panel would then set Leach's salary. Pirates owner Barney Dreyfuss declined to participate in this novel procedure, because he neither had to nor wanted to. Instead, he offered Leach an ultimatum to accept his terms or leave baseball. Leach signed.

Salary arbitration was first used to settle pay disputes in professional sports in the National Hockey League in 1970. Hockey's process uses a single permanent arbitrator who is not limited to the final choices of the parties in setting a player's salary. In fact, he is almost certain to select a compromise compensation figure between the two extremes presented by the parties to the dispute. In addition, the parties expect the arbitrator to submit a detailed written explanation of his reasoning. The hockey collective bargaining agreement specifies the factors the arbitrator must consider, including the player's overall performance, number of games played, length of service in the league and with the club, contribution to the competitive success (or failure) of the club in the preceding season, any special qualities of leadership or public appeal of the player, and the pay of comparable players. In effect, the impartial arbitrator determines the player's market value and orders his club to pay it. Although hockey's salary arbitrator criteria mirror those used in baseball, the procedures used in the two sports are quite different.

Baseball's salary arbitration is a process designed never to be used. Although it has not been totally successful in avoiding all hearings, salary arbitration has substantially achieved its primary goal of private settlement. If the parties cannot settle their differences privately, baseball's salary arbitration provides a quick, informal, and, most importantly, a final resolution of the salary dispute. There are no appeals from arbitrators' decisions, and the ballplayers report to spring training under signed one-year contracts.
Since 1972, baseball club owners and the players association have included a provision in their collective bargaining agreement that specifies the criteria their arbitrators must use to decide disputes in salary arbitration. These are the relevant terms of their economic marketplace. They also list the factors arbitrators may not consider. For the parties, a fair outcome is one consistent with these norms.

The current contract provides that all players with at least three years, but fewer than six years, of major league service are eligible for arbitration. A player with at least two years, but less than three years, of major league service is eligible for salary arbitration if “he has accumulated at least 86 days of service during the immediately prior season” and “he ranks in the top seventeen percent” of the players in the two-year service group in terms of major league service. The eligibility of these “super-two’s,” as the parties call them, is obviously the result of a compromise reached during collective bargaining negotiations between owners and the players association.

The choices the parties made in their collective bargaining agreement and the alternative variables they discarded demonstrate the assumptions that underlie baseball’s salary system. Article VI, Section F(12) provides:

(A) The criteria will be the quality of the Player’s contribution to his Club during the past season (including but not limited to his overall performance, special qualities of leadership and public appeal), the length and consistency of his career contribution, the record of the Player’s past compensation, comparative baseball salaries . . ., the existence of any physical or mental defects on the part of the Player, and the recent performance record of the Club including but not limited to its League standing and attendance as an indication of public acceptance . . .

(B) Evidence of the following shall not be admissible:

(i) The financial position of the Player and the Club;

(ii) Press comments, testimonials or similar material bearing on the performance of either the Player or the Club, except that recognized annual Player awards for playing excellence shall not be excluded;

(iii) Offers made by either Player or Club prior to arbitration;

(iv) The cost to the parties of their representatives, attorneys, etc.;

(v) Salaries in other sports or occupations.

Although this provision specifies the relevant criteria, it does not weigh those factors. The parties direct their arbitrators to assign “such weight to the evidence as shall appear appropriate under the circumstances,” a slippery concept at best.
PLAYER PERFORMANCE

It is foreseeable that an analysis of the salary arbitration criteria will point in
different directions for each player. Normally, an eligible ballplayer files for sal-
ary arbitration after a very good season, known as his “platform year.” His most
recent performance is likely to outshine his career performance, and the player’s
final salary demand is likely to reflect those recent accomplishments. Manage-
ment’s final offer normally gives greater weight to the player’s performance over
his entire career. If the player has just completed a blue-ribbon year, it follows
that his career statistics will not be as impressive.

Article VI, Section F(12), specifies a matching pair of criteria—past season
and career performance—and leaves it to the salary arbitrators the task of decid-
ing how they should be applied in any given case. A player who has a spectacular
platform year may have reached a new plateau of performance. On the other
hand, a career record with fewer stellar performances might suggest the prior
season was an aberration.

In practice, the most important criterion in baseball’s wage system is the salary
paid to other major league ballplayers whose performance was comparable to the
player in salary arbitration. The concept of pay comparability in baseball is quite
revolutionary. Although independent entrepreneurs, club owners are compelled
to “meet the competition” when it comes to paying salaries because of salary
arbitration.

The parties do not expect their salary arbitrators to predict a player’s perform-
ance, but rather to assess his prior experience: What kind of player is this? Is this
a superstar or a journeyman? What is this player worth within baseball’s estab-
lished salary structure? After considering these normally conflicting data, arbitra-
tors choose between the final positions of the player and his club.

THE SUBSIDIARY FACTORS

The collective bargaining agreement lists additional relevant criteria for the
salary arbitration process. One criterion is “the existence of any physical or men-
tal defects on the part of the Player.” In at least one salary arbitration case, this
factor seemed determinative. In 1982, Dodgers’ pitcher Steve Howe filed for
salary arbitration after three solid seasons as a relief pitcher—the first in 1980 as
the National League Rookie of the Year. Howe had become addicted to cocaine,
however, mixing the illegal drug into his alcoholic binges. After the 1982 season,
at the urging of his wife, his agent and his club, Howe went to the Meadows in
Arizona, a well-known rehabilitation center. He then filed for salary arbitration,
not necessarily the smartest move after such a public confirmation of his “physi-
cal or mental defect.” He lost his case before the arbitrator. Players with sub-
stance abuse problems will suffer in the salary negotiation process. Similarly,
players who spend extended periods on the disabled list will likely fail to achieve
all their salary aspirations.
It is difficult to gauge what impact, if any, the other criteria might actually have on salary arbitrators. For example, how would the “recent performance record of the Club, including but not limited to its League standing and attendance as an indication of public acceptance” affected the outcome of a case? Would a player who would otherwise lose his case prevail because his winning club played to sold-out crowds and won the pennant? Because arbitrators decide cases without writing opinions, we may never know if these ancillary criteria are considered at all.

**The Prohibited Factors**

The parties’ collective bargaining agreement prohibits salary arbitrators from considering a series of factors that many would consider relevant to the determination of salary. The arbitrators may not consider the “financial position” of the player and the club. Although an employer’s ability to pay is customarily considered in setting workers’ salaries in other contexts, in baseball that factor lies outside the foul lines of salary arbitration. This prohibition reinforces the parties’ basic understanding that there is one thirty-team market of fungible employers.

The parties also prohibit their arbitrators from considering media comments about players. If a player performed well based on his statistics, that will tell his story, not the columns of local sports writers. Perhaps the parties knew that once the floodgates were opened for press accounts, there would be no stopping point. Press comments tend to come in matching pairs as well: A player who is a bum to some is a Babe to others. There is one exception to this ban: recognized annual player acknowledgments for playing excellence, such as the Golden Glove fielding awards, the new Hank Aaron award for the best hitter, Cy Young pitching awards and other similar performance honors.

As is common in all forms of arbitration, various offers made by either the club or the player prior to arbitration cannot be raised at the hearing. The owners and the players association have created a process designed to encourage settlement. If attempts to settle could later be offered as evidence in arbitration, it would chill that effort at private resolution. Similarly, the parties have banned mention during salary arbitration of the costs of their representatives and attorneys, matters not really relevant to the arbitrator’s task.

Finally, the parties have wisely excluded evidence of salaries in other sports or occupations from salary arbitration. Again, it is not relevant within the closed marketplace of baseball where salaries are supposed to be based on baseball player performance what a basketball player or a movie star earns. There is no way to evaluate what these other entertainers contributed to their enterprises. Salary arbitrators have enough of a challenge trying to measure a baseball player’s contribution to the success of his baseball club.
TIMETABLE AND PROCEDURES

The timetable for arbitration begins right after the World Series ends. Each fall the owners' Player Relations Committee (PRC) and the Major League Baseball Players Association jointly select a roster of about two-dozen salary arbitrators. These arbitrators are experienced neutrals, typically members of the honorary National Academy of Arbitrators, who have resolved labor grievance cases for decades. Most are also veterans of the baseball salary arbitration process. They have proven they can work within the contract's strict protocols. In early November, the parties inform the arbitrators of their selection and request dates each would be willing to reserve to hear cases during the first three weeks of the following February. After salary arbitration eligible players and their clubs invoke arbitration, the PRC and the union inform the arbitrators in late January how many of their offered dates they will need for hearings.

Although they are resolving disputes involving millions of dollars, salary arbitrators are paid a flat fee of $750 for each case scheduled, plus expenses for travel and lodging. In addition, arbitrators are paid up to one day “study time” for each case actually heard. Typically, more than 80% of their scheduled cases will settle after they are scheduled, but before the cases are actually heard in February.

Arbitrators have no idea which players' cases they have been assigned. Perhaps this is to keep the neutrals from doing research about the players before the hearings. The players and the clubs apparently do know who will be their arbitrators. (In my 1999 cases, the names of the arbitrators on the panel were affixed to the parties' written briefs submitted at the hearing but prepared beforehand.)

Following the calendar set out in the collective bargaining agreement, in January the clubs and the eligible players exchange final salary figures for the coming season. The sites for the February hearings alternate annually between the east and west coasts—one year in Tampa or Orlando, the next in Phoenix or Los Angeles. The cases are presented in arbitration by the player's agent (customarily with vigorous assistance from attorney Michael Weiner of the players association) and the management representative, usually outside counsel, assisted by lawyers from the commissioner's office. Increasingly, clubs are turning to attorneys from Morgan, Lewis & Bockius in Washington, D.C., to present their cases in arbitration.

THE SETTLEMENT IMPERATIVE

The final offer design of the arbitration process insures that the clubs and the players will resolve most cases without the actual involvement of the arbitrators. The final offer aspect of baseball salary arbitration pressures the parties to move their positions closer together. Let us use a hypothetical case to explain how this settlement imperative operates.
Assume that during salary negotiations a salary arbitration eligible player demands two million dollars and his club offers him one million. The parties know that in arbitration the panel must decide which position—the player’s or the club’s—is closer to the real market value of the player based on comparisons with other players of similar experience and performance. The mid-point between the parties’ positions in our hypothetical case is $1.5 million, and let us assume that this is close to the real market value of the player’s services. When the arbitration panel hears this player’s case, it must decide whether the player is worth more or less than this “break point” between the two final offers.

It is to the strategic advantage of both parties when they submit their final offer and demand that it to be closer to the real market value than the other party. The final position closer to the real value of the player will prevail in arbitration. The club certainly recognizes the player might be worth more than one million and the player also knows he may be worth less than two million. Long before the arbitration hearing and the submission of final figures, their initial bargaining positions begin to change. Both parties seek to present the more reasonable final position. The club may offer the player $1.2 million, now only $300,000 away from what we have assumed is the player’s real market value. Not to be outdone, the player responds with a demand of $1.7 million, only $200,000 away from the real market value. The club will likely move again closer to the mid-point, as will the player. As the difference between the parties’ positions narrows, the opportunity for settlement increases.

There are many advantages to settling a dispute short of arbitration. First, the arbitration hearing itself imposes costs on the parties. It tends to strain the relationship between the player and his club. Second, if they settle, the parties can be creative in designing a compensation package, including bonuses, for example, or a no-trade clause. They can agree to a multi-year deal. On the other hand, the product of salary arbitration is a standard player contract for a single year at a defined salary. (It does not even guarantee the salary to the player, who, under the collective bargaining agreement, can be released with only thirty to forty-five days of pay.) Finally, a settlement can build the parties’ relationship rather than rupture it. Both parties win to some degree. In salary arbitration, there is always one winner and one loser.

The settlement dynamic operates in baseball salary arbitration because it is based on the final-offer principle. If the arbitrator could select any salary, as in hockey salary arbitration, he is likely to pick some compromise position which he determines is the actual market value of the player. In that case, it would be best strategically for management to decrease its offer and the player to increase his demand. In this way, the arbitrator would have more room to “compromise” toward one side or the other.

By comparison, in final-offer arbitration the best final position is the more reasonable one, the one closer to the real market value, wherever that is. One thing for sure; it is unlikely to be near the parties’ starting positions, and more likely to be somewhere near the middle of their two positions. Parties move their positions because they want to capture through the salary arbitration process the difference between what the player is really worth and what he demands or what
the club offers. Winning means being more reasonable, the key which unlocks the door to settlement.

Obviously, some cases are not settled. A few cases are actually tried in salary arbitration each February. What explains these aberrations? There may be a number of reasons why parties do not settle their disputes without going to a hearing.

1. Some players enter salary arbitration with distinctly mixed profiles. A player who has had a very good season prior to arbitration, his platform year, may have had previous seasons of substantially lesser quality or he may have spent a considerable amount of time on the disabled list accumulating major league service credit. The arbitrators are told to consider both the player's prior year and his entire career, but they are not instructed how to weigh these variables. If they point in very different directions, there may be little indication of the player's real market value. The parties might test the waters of arbitration in these very tough cases rather than settle.

2. Other cases are not resolved prior to arbitration because the club does not think it has the financial resources to pay anything more than it has offered the player. This is no defense in salary arbitration, however. In fact, a club cannot even mention its inability to pay at the hearing. Yet, the opportunity to prevail in salary arbitration at a more affordable salary will encourage management to take a chance and roll the dice. If it loses, it can trade the player, and it often does.

3. Even if management has the resources to pay a particularly accomplished junior player, a voluntary agreement between the club and player has horizontal impacts beyond the case at hand. Club management maintains contracts with twenty-five ball players on the active roster, and a generous voluntary agreement with one player will encourage others to demand more. On the other hand, if the club is ordered to pay a player a high salary as a result of salary arbitration, management can argue to its other players that this salary was imposed; it neither is club policy nor should it be considered a precedent in other negotiations.

4. Finally, and perhaps most importantly, some cases are not settled without a salary arbitration hearing because of the personalities and egos of the participants. A particularly irascible agent may make settlement discussions distasteful and may stretch a player's salary demand beyond market norms. A player may think he is the finest major leaguer since Honus Wagner. A general manager may refuse to pay an uncooperative player what he is really worth. Some obstinate owners will simply refuse to recognize the true market value of their arbitration-eligible players on "principle." Personal chemistry (or lack thereof) at the negotiation table may make a voluntary settlement impossible.
Management has done extremely well in the salary arbitration forum, although it regularly complains about the results of the process. There has been a total of 417 cases heard in salary arbitration since 1974. The clubs have prevailed in 236 of those cases, the players in 181. In only five years (1980, 1981, 1989 1990, and 1996) did players prevail in more cases than their clubs:

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(There was no arbitration in 1976-77)

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Totals 236 181

These figures may indicate that player agents misread the market more often than club representatives. Alternatively, it may show that salary arbitrators are more reluctant to award increasingly high player salaries then they are to grant management a good deal on a young player’s services.
PROCEDURES

Under their current collective bargaining agreement, the parties agreed to phase in a new panel system using three arbitrators to hear cases in lieu of single arbitrators. In 1998, panels heard half the cases, increasing to three-quarters in 1999, and all cases in 2000. Management pressed for this change during the tumultuous 1994-96 labor dispute, believing that three-member panels were less likely to produce clearly erroneous decisions. However, the results from the first two years of panel implementation show no significant difference in outcomes between panels and single arbitrators.

I served as a member of these new three-arbitrator panels in February 1998 and 1999. Comparing the experience with my single arbitrator cases, I found no real difference, other than in the increased transaction costs imposed on the arbitrators to meet after the hearing and review all the evidence together. In each instance, the arbitrators met for hours, reviewing the arguments made by the parties and analyzing the copious data. Sometimes, we reached the conclusion we had all thought was appropriate at the outset. In others, we changed our minds. Although the experience to date suggests there is no difference in outcomes between panels and single arbitrators, the three-member approach diminishes the risk of a misreading statistical materials. In any case, by 2000 the single arbitrator option was history.

PRESENTING A CASE

The owners and the players association designed the salary arbitration process to set the compensation for those players who have already shown the ability to play at the major league level. Under the vestige of baseball's century-old reserve system, club management retains the exclusive right to the player's services until he is eligible for free agency after six years of major league service. The salary for arbitration-eligible players, however, is set by what might be termed the "major league scale." In salary arbitration, the clubs and the players, through their agents, demonstrate to the arbitrators where the player should be situated in the established salary market of major league baseball.

The final-offer protocol of salary arbitration not only avoids compromise decisions by the neutrals; it also focuses the parties' presentations. Each side must explain to the tribunal why the player is worth more (the player) or less (the club) than the mid-point between the final offer and the final demand. The club need not defend its lower offer nor must the player justify his higher demand. It is sufficient to focus on the mid-point.

Although the presentations of the parties are based on the same statistical data, their pictures of reality differ greatly. There normally are fundamental differences between the parties in their perceptions of the player's value to his club. At times, arbitrators may wonder whether the club and the agent are talking about the same ballplayer.
Baseball has always been a game of inventive statistics, but now they convert directly into dollars. With the ready availability of computer data bases, salary arbitration has become a furious battle of statistics. Parties in salary arbitration have customized these data to meet their partisan needs. Afficionados of the game, in particular Bill James, have devised complex formulae within the new discipline of “sabermetrics” to describe a player’s contribution to his club’s success, but parties in salary arbitration devise additional statistical measures if they help their cases, even if they do not always make much baseball sense.

Today’s salary arbitration hearing room table is adorned with laptop computers capable of generating any needed comparison in an instant. Every claim is met with a counterclaim until the arbitrators are left with a huge pile of numbers. Player performance is chopped and diced, particularized and dissected. Anything not easily convertible into numerical terms, such as team leadership, hustle and courage in the face of debilitating injury, seems to play no role.

The time limits for the arbitration hearing set forth in the agreement—one hour for each side followed by a half-hour rebuttal—have been stretched in practice so that each party has a greater opportunity to rebut and clarify. With millions of dollars at stake, arbitrators understandably are loath to make a judgment unless the parties have had a full chance to present their arguments. Some salary arbitrators have been so overwhelmed by the numbers that they would prefer if the parties would supply data long before the hearing so it might be digested. Alternatively, they would want more time after the hearing to review the submissions. Neither alternative seems likely to be adopted.

Hearing a case in salary arbitration is “heavy lifting.” Stats are piled upon stats in rapid fashion. The skilled advocates of the parties seem determined to present their whole case without taking a breath. Lest they omit some salient fact an arbitrator might find probative later that night, the parties err on the side of overkill.

THE RELEVANT STATISTICS

Originally, salary arbitrators were not selected based on their knowledge of the national pastime. There is a story told about a hearing involving a relief pitcher in the 1970s, when, after hours of statistical presentation, the neutral asked: “Now what is a save?” Both sides were dismayed, but carefully explained to the befuddled neutral the nature of a save. In the process, of course, the parties realized their presentation of sophisticated statistics wasted time and energy. Today, virtually all salary arbitrators are veterans of the process and have been schooled in the game’s parameters and statistics.

The winning strategy in salary arbitration is to present in simple, straightforward terms the right class of comparable players focusing on the core characteristics of the player whose case is being adjudicated. Parties would be far better off using a pinpoint approach to the delivery of statistics, rather than a scatter gun. A team wins games by scoring runs. Run production—runs scored and
RBIs—is the key offensive statistic. While batting average is interesting, it does not tell you very much about a player’s contribution to team success. Slugging percentage—total bases divided by times at bat—is a more important measure, although not as useful as total run production. It would be useful to employ even more targeted statistics, such as run production in key game situations. Again, the parties must remember that the core issue is not how well the player performed, but how well he performed compared to other players.

For pitchers, the vital statistic in salary arbitration is not wins and loses because pitchers cannot control their club’s run production. A good pitcher on a bad club should be considered comparable to a good pitcher on a great club, although the latter is likely to have a much better winning percentage. Earned run average is a useful measure, remembering, of course, that ERA is higher in the American League than the National because of the presence of the designated hitter. Opponent’s batting average may be an interesting statistic, but it is far more telling when pinpointed to OBA with men on base or men in scoring position. Walks can hurt and strikeouts can help, but neither area is as important as stopping run production.

Baseball people (as opposed to baseball lawyers) know what on-field performance wins or loses games. They know, for example, that a critical event in an inning is whether the lead-off hitter gets on base, because he is likely to score. They know that a pitcher’s primary responsibility is to keep that first hitter off the base paths. A timely hit or a strikeout is vitally important. Game-winning (or game-losing) events should be the focus of the statistics offered in salary arbitration. A batting average padded in meaningless at bats is not as important as production in run-scoring situations when a game is on the line.

Arbitrators can understand why either the club’s representative or the player’s agent might shy away from these targeted statistics. They might not present what the partisans see as their best case. Nonetheless, these are the important statistics, and the salary arbitrators should not allow other less meaningful numbers affect their deliberations. All statistics are not equal in the arbitration calculus.

It is also possible that some data submitted by the parties in salary arbitration is based on incorrect or questionable assumptions. There is no way that salary arbitrators can independently evaluate the correctness of the data. We must leave it to the opposing parties to analyze the submissions and make those corrections known to the arbitration panel at the hearing.

**A Strategy for Effective Presentation**

Parties in salary arbitration must develop a theory to their case. Instead of focusing on some cohesive theory, parties now spend half their first allotted hour statistically glorifying or demonizing the player. It would be better were an agent to say simply, “This is a case about a shortstop with great range and play-making abilities. His contribution to the club at the plate is not as important as his play in the field. We will compare his performance to the other premier shortstops in the league who are valued for their fielding, and that will justify a salary figure
above the midpoint between his demand and the club's offer." In return, the
cub might say: "This is a case about a good shortstop who is not yet in the class
of premier middle infielders. While we appreciate his fielding abilities, his failure
to perform at the plate, especially in key game situations, has diminished his
overall contribution to the club."

When I start a salary arbitration hearing, I ask myself: "What kind of player is
this?" "What job was this player hired to perform?" Pitchers, for example, fall
into five different categories—starters, closers, set-up men, lefty specialists, and
mop-up men. Some players may be primarily valued for their defensive perform-
ances, such as middle infielders and catchers. Others are adequate fielders, but
are prized for their power and clutch hitting or ability to get on base. Comparing
the performance and salaries of players who perform different roles for a base-
ball team is comparing apples with oranges.

Starting with these categories of the different kinds of players who make up a
major league team, I have a fairly good idea whether the parties' comparables are,
in fact, comparable. I then ask myself: "How well did this player perform the job
he was asked to do?" Within each of the job categories there are different levels
of performance. There are truly outstanding starting pitchers and quite ordinary
starting pitchers. In to which classification does this player fall?

Parties have always put a premium on glossy presentations of charts and
analysis. If they cannot convince the arbitrators on the statistical merits, perhaps
they can dazzle them with their fancy reproductions and bright colors. An organ-
ized presentation is useful, however. Handing over one document at a time to
the panel is likely to get key documents mixed up in the arbitrators' briefcases. A
loose-leaf binder with tabs and an index is particularly helpful.

CURRENT ISSUES IN SALARY ARBITRATION

Salary arbitration remains a battle ground of statistics. The party that con-
structs the better argument on the numbers wins the case. Although owners and
players have had over twenty-five years of experience with the process, there
remains a collection of fundamental issues left unresolved, matters the parties
have left to their neutrals to handle on a case-by-case basis. The way arbitrators
resolve these issues may determine the outcome of many cases.

Regarding the critical variable of the comparables, a player would prefer to be
compared with players with more major league service than he has because it is
likely they would be earning a higher salary. The club would prefer the arbitra-
tors to compare the player with others in his "service group," that is, with the
same number of years of major league service. The relevant language in the sal-
ary arbitration provision of the collective bargaining agreement is particularly
unhelpful. It states:

The arbitrator or arbitration panel shall, except for a Player with five or more
years of Major League service, give particular attention, for comparative salary
purposes, to the contracts of Players with Major League service not exceeding
one annual service group above the Player's annual service group. This shall not limit the ability of a Player or his representative, because of special accomplishment, to argue the equal relevance of salaries of Players without regard to service, and the arbitrator or arbitration panel shall give whatever weight to such argument as is deemed appropriate.

The paragraph is filled with ambiguities which can make an arbitration hearing a free-for-all. Arbitrators are directed to give "particular attention" to the player's service group and one service group above that service group. What does "particular attention" mean? There is escape language in the provision that allows for comparisons without any regard to service because of a player's "special accomplishment." What does that mean?

The service group issue is important because there is a marked difference in compensation between players with different amounts of service. The mean salary figures distributed at the February 1999 arbitration hearings showed as follows:

<table>
<thead>
<tr>
<th>Service Group</th>
<th>Mean Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Three years</td>
<td>$1,052,483</td>
</tr>
<tr>
<td>Four years</td>
<td>$1,626,893</td>
</tr>
<tr>
<td>Five years</td>
<td>$2,476,495</td>
</tr>
</tbody>
</table>

Unless player compensation correlates perfectly with player performance (a claim no one makes), it is likely that two players with about the same level of performance but with different years of service will earn different salaries. When arbitrators reach upwards in service groups to identify comparable players—something the contract clearly authorizes, but does not mandate—the result is to inflate salaries. If the arbitrators stick within a player's service group, particularly good players are penalized.

Arbitrators can probably finesse this issue on a case-by-case basis. A player accumulates a year of major league service with 172 days on a major league roster. In the early years of a player's major league career, it is likely he will spend September on the major league roster after it is expanded from twenty-five to forty players. The following year, the player might start the season in the minors, be called up to fill a particular need on the major league club, and then return to the minors. It may take two or three seasons for a player to accumulate a year of major league service. Some players first qualify for salary arbitration after five or more years of discontinuous play at the major league level. They are seasoned players approaching their peak performance years. It seems to make sense to compare those players with others with more years of major league service.

Years of major league service normally correlate with games played, at bats for field players, and appearances for pitchers. It is possible that a player with three years of service could have accumulated as many games played, at bats, or pitching appearances as players with four years of service. In addition, players in the four-year service group may have spent time on the disabled list where they would still accumulate major league service though they were not playing. Com-
paring players from different service groups with generally the same amount of playing time also seems appropriate.

In any case, players included in the three-year service group include all players with at least three years, but less than the additional 172 days on a major league roster needed to move them on to the four-year category. It makes perfect sense to compare a player with almost four years of service to those with four years of service. (The obverse is also true. It is less appropriate, although not prohibited, to compare a player with barely three years actual playing time to players in the next higher service group.)

Another live issue in salary arbitration involves the use of what the parties call look-back comparables. Assume the player in arbitration is a middle relief pitcher with three or four years of service. The critical statistic for set-up men is a “hold,” defined in general terms as maintaining a club’s lead so as to allow a closer to obtain a save. Either side may introduce as comparables set-up men who now have much more seniority in the league, but then “look back” to the years when they had only three or four years of service. What was their performance then and what was their compensation?

Obviously, using look-back comparables requires caution. If all players are paid more now than they were when those look-back comparables had three or four years of service, the comparison is unfair. One way to evaluate this aspect of the issue is to examine the inflation of player salaries. The average salary figures show as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Three-Years Major League Service</th>
<th>Four-Years Major League Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>$670,930</td>
<td>$1,194,205</td>
</tr>
<tr>
<td>1992</td>
<td>$855,880</td>
<td>$1,275,992</td>
</tr>
<tr>
<td>1993</td>
<td>$906,198</td>
<td>$1,667,404</td>
</tr>
<tr>
<td>1994</td>
<td>$1,092,179</td>
<td>$1,539,654</td>
</tr>
<tr>
<td>1995</td>
<td>$1,082,092</td>
<td>$1,999,746</td>
</tr>
<tr>
<td>1996</td>
<td>$1,042,118</td>
<td>$1,609,511</td>
</tr>
<tr>
<td>1997</td>
<td>$926,033</td>
<td>$1,666,583</td>
</tr>
<tr>
<td>1998</td>
<td>$1,041,025</td>
<td>$1,601,351</td>
</tr>
</tbody>
</table>

These average salary figures show that compensation for players with three and four years of major league service has not increased since 1994. Although the averages increase and decrease over time, there has not been player salary inflation over that period among salary arbitration eligible players. Thus, look-back comparables may have validity.

A third unresolved issue deals with how to value non-compensation provisions commonly included in a negotiated contract, but not included in the standard uniform player contract a player receives after salary arbitration. Comparing compensation figures is easy, but how do you value a no-trade clause? How do
you value bonus provisions? What about a clause which guarantees payment for the full term of the contract?

As with all matters in dispute between labor and management, these issues can be resolved through collective bargaining or by interim agreements during the term of the contract. The parties did address in their current agreement one issue that had divided them for years: How do you account for a contract signing bonus? It is to be allocated evenly across the entire length of a contract.

One procedural issue the parties did resolve in 1999 was the order of presentation at the salary arbitration hearing. The collective bargaining agreement states that each side has one hour to present its case followed by a half hour each for rebuttal, but it says nothing about who proceeds first. It would be to a party’s advantage to have the last say and let his opponent go first. The general practice in salary arbitration has always been for the player’s side to present first. During some 1998 salary arbitration hearings, however, player agents—in particular, the articulate Dick Moss—strongly objected to the practice.

Before the 1999 arbitrations, the players association and the commissioner’s office reached a compromise on this issue. The parties must exchange all written materials they intend to present in arbitration before the hearing begins, thus affording the player agent the opportunity to anticipate the club’s arguments and address them during his case in chief. With the pre-hearing document exchange, the players association agreed to follow the practice of the player’s agent proceeding first.

**THE PLAYER’S ROLE**

The ballplayer always attends his salary arbitration hearing, sitting quietly next to his agent. A decade ago, it was not unusual for the player to say a few words at his hearing, but that no longer appears to be the case. The player’s participation did add a nice touch to the hearing. Now players just sit, even appearing bored at times, listening to their agents extol their virtues and their clubs present a litany of their failures. It would be useful if the player were offered the opportunity to say a few words.

The risks of injury to the relationship between the club and its player from a salary arbitration hearing are immense. It would not hurt a club’s chances for success if its spokesperson explained that the player was a valuable asset to the club, recognizing at the same time that he was not perfect. No one is perfect.

**THE END GAME**

The arbitrators must reach a judgment on their case within twenty-four hours of the hearing. The panel chair then has two ministerial tasks—first to telephone the representatives of the owners and the union to report the outcome and second to fill in the blank in paragraph two of the already-signed standard player
contracts and mail them to the parties. Under the new tripartite panel approach, in March the chair also reports to the parties what the vote was in the case.

Baseball management has criticized salary arbitration since its inception for inflating player salaries. There can be no doubt that players eligible for arbitration earn more than those who have not accumulated the necessary major league service to participate in the process, but few could have thought it would be otherwise. Compensation for players eligible for salary arbitration, however, has remained almost stable over the past six years while free agent salaries have ballooned in the competitive free market. It might be argued that salary arbitration has controlled salary inflation in a way the owners are unable to do themselves.

Unlike the experience in other professional sports, there are no “holdouts” in baseball among players eligible to use the salary arbitration process. Each case is resolved within twenty-four hours of the hearing, and the player reports to spring training under a signed contract with his club. A defining characteristic of salary arbitration is its finality. Management’s understandable concerns about the outcomes of some arbitration cases must be balanced against the value of this certainty. The clubs will have their best talent on the field for the coming season.

Salary arbitration has changed as the parties have learned to work within the system to achieve their goals. Perhaps the most important recent development was the pro-active effort by the commissioner’s office to avoid management losses in salary arbitration. In 1999, baseball officials urged clubs to settle cases which they thought were likely to be decided in the player’s favor in arbitration. Rob Manfred, baseball’s vice president for labor relations told the press: “We set out at the beginning of the year to try and improve the clubs’ level of preparation. We were pleased with the results.” The strategy proved brilliant, at least in terms of the 1999 results in arbitration. Management won nine cases against two losses, its highest winning percentage ever.

What does this resounding management triumph indicate? Over the quarter century of experience, management has consistently won more cases in arbitration each year than it has lost. The 1999 scoreboard was the most lopsided in the history of salary arbitration, however. These results may show that player agents were reaching too high, but why should that have been any different in 1999 then in any previous year? If it is not an aberration and is followed by similar management successes in 2000, it may signal to eligible players that the salary arbitration process is no longer a friendly field in which to play. This, in turn, may result in even more settlements and far fewer, if any, cases actually tried. Like the state under Marxist theory, baseball salary arbitration hearings may just “wither away.”