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Baseball experts reveal ins, outs of arbitration system

Panel discusses how a winner-take-all format induces players, teams to settle

A panel explained on Friday at The John Marshall Law School how Major League Baseball's arbitration system works. The panel (from left to right) included Lester E. Munson Jr., a legal analyst for ESPN; Teddy Werner, senior director of business operations for the Milwaukee Brewers; and sports agent Bob Lisanti. *Paul McGrath*

BY ROY STROM
Law Bulletin staff writer

For the best Major League Baseball players, signing one-year contracts for the first six years of a career, rather than signing a long-term deal, maximizes earning potential.

If a star player takes that risk, a salary arbitration hearing could occur to determine his salary after each of those seasons. Arbitration panels, however, decide less than 10 contracts a year.

That tidbit of baseball contract knowledge comes from a pair of agents, a baseball executive and a sports legal analyst who spoke at a panel put together by two hopeful sports-agents-to-be at The John Marshall Law School on Friday.

The panel discussed baseball's salary arbitration process. The arbitration process decides salaries for some players too young for free agency either by inducing a negotiated settlement or by a winner-take-all decision from a three-person panel of arbitrators.

In interviews after the discussion, the panelists described the event and the arbitration process.

Teddy Werner, a lawyer by trade and senior director of business operations for the Milwaukee Brewers, took part in the panel and said the MLB's "final-offer arbitration" means arbitrators choose a salary suggested by the player or one offered by the team without "splitting the baby."

"The panel of three arbitrators is required to pick one of the two numbers, so it generally means that you're just trying to show that your number is more reasonable," Werner said.

To do that in a one-hour arbitration hearing, agents promote statistics that make their player look more valuable than other players in the same age and talent range. Teams, on the other hand, look to poke holes in those comparisons, said Matt Colleran, an MLB player agent who spoke on Friday's panel.

"You have a mountain of information and you have an hour for each side to present to the salary arbitrators," Colleran said.

He said he uses "the best evidence rule" to cull information and to order a presentation to arbitrators of the most favorable statistical comparisons for his player.

"You find the best comparable (players) to (your client) that have similar Major League service time, similar statistics and similar awards and then keep it simple," Colleran said.

Because arbitrators don't necessarily know much about baseball or its statistics, Colleran said teams and players still use traditional statistics, home runs and batting average, to determine value.

Sabermetrics, the newer, math-based statistics don't often come up in arbitration cases, he said.

"If I want to get a point across to someone who's not in baseball, I'm not going to try and expose them to Sabermetrics because it would just confuse them," he said.

Lester E. Munson Jr., a legal analyst for ESPN who also spoke on the panel, said players can use comments made by the manager or general manager of a team as evidence in an arbitration hearing.

For example, if a general manager said he let Mark Buehrle go because the team has "the best pitcher in the American League" in John Danks, Danks could use that praise as evidence of what the team thinks of him, Munson said.

But a lot must go wrong before ending up in an arbitration hearing, said Bob Lisanti, a sports agent who spoke on Friday.

"Statistically, you have a better chance of becoming a brain surgeon than you do of reaching arbitration as a Major League Baseball player," Lisanti said, adding a round of deadlines exist intended to induce an agreement.

Before considering arbitration, teams and players can agree to a long-term contract, Lisanti said. That represents the first off-ramp on the highway to arbitration.

When negotiating a long-term deal the two sides face a trade-off over who will carry the risk of a player getting hurt or declining in performance, Lisanti said.

If a player signs a one-year contract, he typically gets paid more that year than he would under a long-term deal because the odds are less likely, in a shorter period of time, that the player will get hurt or lose ability, Lisanti said.

"The general principle of a long-term deal is the team will offer you financial security and in exchange the player will give (the team) a slight discount on the value of those (years) as we project them moving forward," Lisanti said.

Without a deal in place, teams and players share the salary they plan to present in the nextstep, he said. Because of the risk involved for both parties in a winner-take-all arbitration hearing, most deals get settled at that point, Lisanti said.

"It's difficult for a player to sit in the arbitration and listen to ownership criticize him and analyze him for two hours and emphasize whatever his shortcomings and mistakes in the past season might have been," Munson said.

Law students Mike Rohde and Barret Arthur, former college baseball players, organized the panel.