

## Alex Rodriguez Will Be Picking His Poison with Biogenesis Suspension

Written by Maury Brown  
Tuesday, 30 July 2013 01:45

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**UPDATE (8:30pm ET, 7/30/13):** In speaking with several of those close the case and those reporting on the possible attempt at MLB using the CBA to suspend Alex Rodriguez immediately, the citing of by more than one report (including ours) lists Article XI (A) (1) (b) under the Grievance Process (the New York Daily News is the source cited below, and that has since propagated across the internet). While this appears to allow the Commissioner powers to do as they may plan in suspending immediately, it has been brought to my attention that an attachment to the CBA—a letter from Bud Selig to MLBPA Executive Director Michael Wiener—puts that clause out of reach. It reads:

*Dear Michael:*

*I understand that the Players Association has expressed concern that the Commissioner might take some action pursuant to Article XI(A)(1)(b) of the Basic Agreement which could negate*

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*rights of Players under the new Basic Agreement. While I have difficulty seeing that this is a real problem, I am quite willing to assure the Association that the Commissioner will take no such action.*

*Sincerely,*

*Allan H. Selig*

*Commissioner of Baseball*

Therefore, it is not that Article that will be used, but Article XII (B)—the overarching “best interest in baseball” clause, which states:

*"Players may be disciplined for just cause for conduct that is materially detrimental or materially prejudicial to the best interests of baseball including, but not limited to, engaging in conduct in violation of federal, state or local law."*

So, note... Article XII (B) could be used by the league to suspend Rodriguez immediately as there are no automatic stays with grievances under the Basic Agreement such as the drug agreement offers. Yes, Fredric Horowitz will still review the grievance under the CBA, but Rodriguez would be sitting at home, and not potentially in uniform. - *Maury Brown*

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With an announcement of Alex Rodriguez' suspension expected before the end of the week, the real question is, how will baseball's highest-paid player decide to take his poison? Numerous reports have swirled that the length announced will be longer than [Ryan Braun](#)'s with a duration of the rest of 2013 and all of 2014 season if the Yankee slugger declares that he will not appeal the case. The reasons for the hefty penalties are [outlined by The Associated Press](#)

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*The Yankees expect Rodriguez to be accused of recruiting other athletes for the clinic, of attempting to obstruct MLB's investigation, and of not being truthful with MLB in the past when he discussed his relationship with Dr. Anthony Galea, who pleaded guilty two years ago to a federal charge of bringing unapproved drugs into the United States from Canada.*

But, indications are that A-Rod will not be going quietly and instead plans to appeal the case. Under the drug agreement between the league and the MLB Players Association, while the appeals process was taking place, Rodriguez would be allowed to continue to play. In a case of the league playing hardball, they've now upped the ante.

Based on [a New York Daily News report](#), if Rodriguez isn't willing to take the suspension without appeal, they'll invoke Article XI, Section A1b of the latest collective bargaining agreement which provides the league power to bypass the grievance process. That passage under the "Grievance Procedure" allows Commissioner Selig to render a decision that "shall constitute full, final and complete disposition of such complaint, and shall have the same effect as a Grievance decision of the Arbitration Panel." Because of that, even if Rodriguez looks to have the standard grievance process under the drug agreement come into play, which most expect to last into the off-season and allow him to continue to collect his salary, by Selig using the CBA under "best interests of baseball," A-Rod would be immediately suspended.

Even at that stage, the appeals process would need to occur with independent arbitrator Fredric Horowitz and there's nothing to say that he won't side with the league on penalties that could far exceed the offer on the table (rest of 2013, and all of 2014).

What seems obvious is that these various is designed as a way to leverage Rodriguez into accepting the offer without going through appeal. Here are the scenarios that could play out.

### **He Accepts the Offer**

Suspended for the remainder of 2013 and all of 2014 without pay. He would still have \$61

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million left on his contract with the Yankees at that stage when he returned to the game after suspension.

### **He Fights the Suspension and Loses Appeal**

Selig could evoke the clause in the CBA and suspend Rodriguez immediately. The offer is off the table and the league looks to ban Rodriguez for life. Horowitz would like mediate something downwards from life, but only he knows what could be negotiated. It seems likely that the league would accept nothing more than a duration longer than the current offer. A-Rod loses more salary off his contract with the Yankees, but amount is unknown.

### **After Losing, He Goes to Court**

No player has yet to go to court over drug suspensions in the league, but since the duration of the suspensions are somewhat arbitrary (the CBA does not specify what lengths non-analytical suspensions should be), Rodriguez could sue the league and potentially the Yankees for back pay and other damages. The matter could rage in the courts for years. Any court case would not be started until all matters of appeals had been exhausted as part of the grievance process. No lawsuit would be filed until Horowitz rules on the matter.

### **He Fights the Suspension and Wins Appeal**

This would be MLB's worst case scenario. It's possible that Selig could still intend on sticking it to Rodriguez based on "best interests of the game". If not, and Rodriguez is reinstated, he would likely begin play at the beginning of 2014.

### **It's All Bad for Rodriguez. Is His Career Now Over?**

In all these cases, Rodriguez' career may ostensibly be over. Two bad hips, and the PED matter hanging over his head, one wonders how the Yankees work to get out from underneath

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his contract. Here's what is known: while Rodriguez is suspended, those games he would normally be paid for now do not count against the Competitive Balance Tax (CBT) otherwise known as the Luxury Tax. If the league succeeds in getting Rodriguez to relent and take the rest of this season and all of 2014, the Yankees would be that much closer to getting under the \$189 million CBT threshold, something that the club has said they are working toward.

Watch beginning today. While the Rodriguez matter has grabbed the headlines, other players will be addressed as part of the Biogenesis case. No later than the end of the week, all suspensions should be addressed as part of the investigation.

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