

CIVIL COURT OF THE CITY OF NEW YORK

ADVISORY NOTICE

Subject: Vacation of Arbitration Award in  
Small and Commercial Claims Cases

Class: AN  
Category: SC 10  
Eff. Date: April 12, 2001

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Small and Commercial Claims cases are decided by judges or by arbitrators. The summons sent to the defendant explains that no appeal is possible in a case heard by an arbitrator because no record is kept of the testimony. At the beginning of the calendar call the Small Claims Clerk also makes an announcement in which s/he explains the role of the arbitrators and informs all the litigants that no appeal is possible from an arbitrator's decision since no record is kept. The hearing procedure calls for the litigants to sign a card giving permission to the arbitrator to hear and determine the issues in the case. The specific language used on the form is the following:

We were informed that the arbitration award is final and that no appeal is permitted.

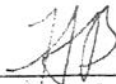
The issue of notice seems to be fairly well covered by the above warnings.

While there are no specific rules, the guidelines for having an arbitration overturned are provided by CPLR Section 7511. The grounds are:

- (i) Corruption, fraud or misconduct in procuring the award; or
- (ii) partiality of an arbitrator appointed as a neutral; except where the award was by confession; or
- (iii) an arbitrator, or agency or person making the award exceeded his power or so imperfectly executed it that a final and definite award upon the subject matter submitted was not made; or
- (iv) failure to follow the procedure of this article, unless the party applying to vacate the award continued with the arbitration with notice of the defect and without objection.

Lately we have been receiving many applications by order to show cause to vacate decisions by arbitrators in Small and Commercial Claims. Given the above, applications to vacate those judgments should be declined unless one or more of the grounds presented above are met. If the application is signed, on the day of the hearing the petitioner must show which of the grounds of CPLR § 7511 apply for vacatur of the judgment. See, Rymer Vlieder, 122 Misc.2d 873 and O'Connor v. Katz, 17 Misc.2d 486.

Date: 4/11/01

  
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Fern Fisher Brandveen, Administrative Judge