



Everything You Always Wanted to Know About Arbitration but Were Afraid to Ask

February 13, 2025



John S. Worden

Partner | + 415.653.3713 | jsworden@Venable.com

VENABLE LLP



Primary Types of Domestic Arbitration

- Commercial
- Construction
- Employment
- Reinsurance
- Securities/FINRA
- UIM

VENABLE_{LLP}



Benefits of Arbitration

- Fast
- Cheap
- Stream-lined
- Final
- Able to address highly-technical subject matter
- Confidential

VENABLE_{LLP}



ARBITRATION v. JURY TRIAL

- Motions to Dismiss



ARBITRATION v. JURY TRIAL

- Discovery
- What rules apply?



ARBITRATION v. JURY TRIAL

- Motion for Summary Judgment

VENABLE_{LLP}

ARBITRATION v. JURY TRIAL

RULES OF EVIDENCE

- “The panel is not required to follow state or federal rules of evidence.”
-- FINRA Rule 13604(a)
- “Strict conformity to the rules of evidence is not required, except that the Arbitrator shall apply applicable law relating to privileges and work product. The Arbitrator shall consider evidence that he or she finds relevant and material to the dispute, giving the evidence such weight as is appropriate.” -- JAMS Rule 22(d)
- “Conformity to legal rules of evidence shall not be necessary.” -- AAA Rule 31(a) (Commercial Arbitration Rules)

VENABLE_{LLP}



ARBITRATION v. JURY TRIAL

- The trier of fact
- Why arbitrator selection is so important
- Interview the Arbitrator?



ARBITRATION v. JURY TRIAL


- Appellate Rights
- “Manifest Disregard”



THE STANDARDS FOR APPELLATE REVIEW OF ARBITRATION AWARDS

- “Not totally unsupported by general legal principles” = acceptable
- Resulted in “substantial injustice” = just fine

VENABLE_{LLP}

- 
- A court “cannot set aside an arbitrator's error of law no matter how egregious”
 - “An arbitration award that incorrectly interprets the law has not manifestly disregarded it. It has simply made a legal mistake. To manifestly disregard the law, one must be conscious of the law and deliberately ignore it.”



REMAINING APPELLATE GROUNDS?

- Where an arbitrator(s) excludes any evidence.
- Conflicts of Interest



Why are these “standards” acceptable?

- “[I]t vindicates the intentions of the parties that the award be final, and ...
- Because an arbitrator is not originally constrained to decide according to the rule of law”

Moncharsh v. Blase 3 Cal. 4th 1 (1992)

VENABLE_{LLP}



VENABLE LLP





ARBITRATORS GONE BAD

VENABLE_{LLP}



ARBITRATION v. JURY TRIAL

- Faster?
- Cheaper?



ARBITRATION v. JURY TRIAL

- When Arbitration Makes Sense Now

VENABLE_{LLP}



OTHER OPTIONS?

- Court Trial
- Waiver of Jury



QUESTIONS?

VENABLE LLP



© 2025 Venable LLP.

This document is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address.

VENABLE_{LLP}