

# Enforcing Arbitration Awards in Minnesota

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A Practice Note explaining how to enforce arbitral awards in Minnesota state and federal courts. This Note explains the procedure for confirming an arbitration award in Minnesota and the grounds on which a party may challenge enforcement under Minnesota and federal law, including the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the Federal Arbitration Act (FAA), and the Minnesota Revised Uniform Arbitration Act (MRUAA). This Note also briefly explains the procedure for vacating, modifying, and correcting an arbitral award in Minnesota.

## SCOPE OF THIS NOTE

The prevailing party in an arbitration may need to ask a court to confirm the award to turn it into an enforceable judgment if the loser fails to pay or comply voluntarily. In the arbitration context, enforcement generally refers to judicial confirmation, modification, or correction of an arbitration award and entry of a judgment on it.

This Note explains how a party may enforce an arbitration award in Minnesota state or federal court. It describes the relevant state and federal statutes, including the Minnesota Revised Uniform Arbitration Act (MRUAA), jurisdictional and venue considerations, the procedure for confirming an award in state and federal court, and the potential challenges to enforcement. This Note also briefly explains the legal standards and procedure for vacating, modifying, correcting, or appealing an arbitration award in Minnesota state or federal court.

This Note does not cover the mechanics of debt collection once a party obtains a judgment. For information about enforcing a federal judgment, see Practice Note, Enforcing Federal Court Judgments: Basic Principles ([1-531-5966](#)).

For more information about enforcing or challenging arbitration awards generally, see Enforcing or Challenging Arbitration Awards in the US Toolkit ([w-002-9420](#)).

## STATUTORY FRAMEWORK

A party seeking to enforce an arbitration award in Minnesota must determine which law governs the confirmation proceeding. There are two possibilities:

- The Federal Arbitration Act (FAA) (see Federal Arbitration Act).
- The Minnesota Revised Uniform Arbitration Act (MRUAA), codified in Minn. Stat. Ann. §§ 572B.01 through 572B.31 (see Minnesota Arbitration Law).

## FEDERAL ARBITRATION ACT

US arbitration law greatly favors the enforcement of arbitration awards, including those rendered outside US territory. The FAA is the federal statute that governs arbitration. The FAA:

- Governs domestic US arbitrations and applies to maritime disputes and contracts involving commerce, which is defined broadly (9 U.S.C. §§ 1 to 16) (Chapter 1).
- Implements the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), subject to reciprocity and commercial reservations (9 U.S.C. §§ 201 to 208) (Chapter 2).
- Implements the Inter-American Convention on International Commercial Arbitration (Panama Convention) (9 U.S.C. §§ 301 to 307) (Chapter 3).

The scope of awards to which the FAA applies is exceedingly broad (see *Citizens Bank v. Alafabco, Inc.*, 539 U.S. 52 (2003)). Together with the New York Convention, the FAA covers the enforcement of most arbitral awards in the US. For more information on the FAA, see Practice Note, Understanding the Federal Arbitration Act ([0-500-9284](#)).

### Domestic Arbitrations Under the FAA

Chapter 1 of the FAA applies to:

- Domestic US arbitrations and awards.
- Maritime arbitrations and awards.
- Arbitrations and awards that:
  - involve foreign or interstate commerce; and
  - the New York Convention does not govern.

For more information on enforcing domestic arbitration awards under Chapter 1 of the FAA, see Practice Note, Enforcing Arbitration Awards in the US: Enforcement of Arbitration Awards Under Chapter 1 of the FAA for Non-New York Convention Awards ([9-500-4550](#)).

### New York Convention

Chapter 2 of the FAA implements the New York Convention and provides federal court jurisdiction for the enforcement of international awards under the New York Convention (9 U.S.C. §§ 201 to 208). It applies to arbitration agreements and awards arising out of a legal commercial relationship, whether or not contractual, including a transaction, contract, or agreement described in Chapter 1 of the FAA (9 U.S.C. § 2). The New York Convention applies to international disputes, meaning disputes that involve non-US parties or property, even if the arbitration is held in the US (see *Bergesen v. Joseph Muller Corp.*, 710 F.2d 928, 932 (2d Cir. 1983) and *Indus. Risk Insurers v. M.A.N. Gutehoffnungshutte GmbH*, 141 F.3d 1434, 1441–42 (11th Cir. 1998)).

The statute does not deem an agreement arising out of a relationship entirely between US citizens to fall under the New York Convention unless that relationship:

- Involves property located abroad.
- Contemplates performance or enforcement abroad.
- Has some other reasonable relation to one or more foreign states. (9 U.S.C. § 202.)

If there is a conflict between the New York Convention and the FAA, the New York Convention applies (9 U.S.C. § 208). An arbitration award issued in a country that is a signatory to the New York Convention is generally enforceable in the US, subject to the New York Convention's provisions for refusal of enforcement and recognition (see Article, Fifty Years of the New York Convention on Arbitral Awards: Success and Controversy ([3-384-4388](#))).

For more information on enforcing international arbitration awards under the New York Convention, see Practice Note, Enforcing Arbitration Awards in the US: Enforcement of Arbitration Awards Under Chapter 2 of the FAA Implementing the New York Convention ([9-500-4550](#)).

### Panama Convention

Chapter 3 of the FAA implements the Panama Convention and provides federal courts with subject matter jurisdiction for the enforcement of arbitration awards that are governed by the Panama Convention (9 U.S.C. §§ 203 and 302). The Panama Convention applies to arbitrations arising from a commercial relationship between citizens of nations that have signed the Panama Convention if, with certain exceptions, the parties are

not all US citizens (9 U.S.C. §§ 301 to 307). Chapter 3 of the FAA incorporates the Panama Convention into US law (9 U.S.C. §§ 203 and 302). If both the Panama Convention and New York Convention apply to an international arbitration, the New York Convention controls unless:

- The parties expressly agree that the Panama Convention applies.
- A majority of the parties to the arbitration agreement are citizens of a nation or nations that:
  - have ratified or acceded to the Panama Convention; and
  - are member states of the Organization of American States. (9 U.S.C. § 305.)

Because parties most often enforce arbitration awards under the New York Convention or the FAA's domestic arbitration provisions, this Note does not contain a detailed analysis of the Panama Convention.

### MINNESOTA ARBITRATION LAW

The Minnesota statutory scheme governing arbitration includes:

- The Minnesota Revised Uniform Arbitration Act (MRUAA), codified at Minn. Stat. Ann. §§ 572B.01 to 572B.31, which went into effect on August 1, 2011.
- The Minnesota Uniform Arbitration Act (MUAA), codified at Minn. Stat. Ann. §§ 572.08 to 572.30, which was repealed on August 1, 2011, but which governs actions that started before August 1, 2011 (Minn. Stat. Ann. § 572B.30; see *Davies v. Waterstone Capital Mgmt., L.P.*, 856 N.W.2d 711, 716 (Minn. App. 2014)).

The MRUAA largely mirrors the FAA and recognizes the validity, enforceability, and irrevocability of an agreement to submit a dispute to arbitration, except on any ground that exists at law or in equity to revoke a contract (Minn. Stat. Ann. § 572B.06(a)).

Recognizing that the MRUAA is Minnesota's version of the Revised Uniform Arbitration Act (RUAA), a uniform act adopted by many states, the MRUAA requires courts to:

- Promote uniformity in its application among states by considering interpretations of the act that other states have adopted.
- Defer to the NAIA if there is a conflict with the No-Fault Automobile Insurance Act, Minn. Stat. Ann. § 65B.41 to 65B.71. (Minn. Stat. Ann. § 572B.29.)

For a list of the states that have adopted the RUAA, see Practice Note, Dispositive Motions in US Arbitration: Revised Uniform Arbitration Act ([w-000-4755](#)).

### INTERPLAY BETWEEN FEDERAL AND MINNESOTA ARBITRATION LAW

Where the FAA and the MRUAA law may each apply, the FAA preempts conflicting substantive provisions of the MRUAA (see *Southland Corp. v. Keating*, 465 U.S. 1, 16 (1984); also *Johnson v. Piper Jaffray, Inc.*, 530 N.W.2d 790, 803 (Minn. 1995) (finding that the FAA preempts any conflicting state law to the extent the state law requires a judicial forum); *Davies*, 856 N.W.2d at 716 (Minnesota courts may apply state law to motions to confirm or vacate arbitration awards unless the FAA preempts state law)).

The FAA governs the construction of an arbitration agreement unless the agreement expressly provides that state law governs (see *ING Fin. Partners v. Johansen*, 446 F.3d 777, 779 (8th Cir. 2006)). Parties that want Minnesota arbitration law to apply to their agreement and enforcement proceedings must write their arbitration agreement to clearly require application of Minnesota arbitration law and preclude application of the FAA (see *UHC Mgmt. Co., Inc. v. Computer Scis. Corp.*, 148 F.3d 992, 997 (8th Cir. 1998); *Dominium Austin Partners, L.L.C. v. Emerson*, 248 F.3d 720, 729 n. 9 (8th Cir. 2001) (noting that a generic choice-of-law clause in a contract does not support an inference that the parties intended for a state arbitration statute to apply)).

## CONFIRMING AWARDS

To confirm an arbitration award under either the FAA or Minnesota arbitration law, a party must file a petition or motion to confirm the award in a court of competent jurisdiction. A confirmation action is intended to be a summary expedited proceeding and is usually faster than a regular lawsuit on the merits, particularly if no party challenges the award.

### CONFIRMING AWARDS UNDER THE FAA

Section 9 of the FAA governs the confirmation of arbitral awards. For the FAA to apply to the enforcement proceedings, the parties' agreement must state that a court may enter judgment on the award (9 U.S.C. § 9).

#### Standard for Confirmation Under the FAA

The scope of a district court's review of an arbitration award is extremely limited (see *Kiernan v. Piper Jaffray Cos., Inc.*, 137 F.3d 588, 594 (8th Cir. 1998); *Exec. Life Ins. Co. v. Alexander Ins. Ltd.*, 999 F.2d 318, 320 (8th Cir. 1993); *Green Tree Fin. Corp. v. ALLTEL Info. Servs., Inc.*, 2002 WL 31163072, at \* 4 (D. Minn. Sept. 26, 2002)). Courts give extraordinary deference to the arbitrator's award (see *SBC Advanced Solutions, Inc. v. Commc'ns Workers of Am., Dist. 6*, 794 F.3d 1020, 1027 (8th Cir. 2015); *Boise Cascade Corp. v. Paper Allied-Indus., Chem. & Energy Workers (PACE), Local 7-0159*, 309 F.3d 1075, 1080 (8th Cir. 2002)).

Under Section 1 of the FAA, the court must confirm a domestic arbitration award unless the court finds grounds to vacate, modify, or correct the award (9 U.S.C. § 9; see *Vacating, Modifying, or Correcting Awards Under the FAA*). For awards governed by the New York Convention, the court must confirm an award unless it finds grounds for refusing to enforce it (9 U.S.C. § 207).

In the District of Minnesota, the court must confirm an arbitration award if it finds all of the following:

- The parties agreed in writing to arbitrate the dispute.
- The agreement provides for arbitration in the territory of the signatory of the New York Convention.
- The agreement arises out of a commercial relationship.
- Either:
  - at least one party to the agreement is not an American citizen; or
  - the parties' commercial relationship has some reasonable relation with one or more foreign states.

(See *Polytek Eng'g Co. v. Jacobson Cos.*, 984 F. Supp. 1238, 1240 (D. Minn. 1997) (citing *Ledee v. Ceramiche Ragno*, 684 F.2d 184, 186-87 (1st Cir. 1982))).

### Federal Court Jurisdiction

Although the FAA creates federal substantive law that requires parties to honor arbitration agreements, Chapter 1 of the FAA does not create any independent federal subject matter jurisdiction (see *Southland Corp. v. Keating*, 465 U.S. 1, 16 n.9 (1984) (citing *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1 (1983))). Before a federal court may enforce awards governed by Chapter 1 of the FAA, the petitioner must establish either:

- Diversity jurisdiction.
- Federal question jurisdiction.

(See *Vaden v. Discover Bank*, 556 U.S. 49, 65-66 (2009).)

Courts are split on whether they may "look through" to the arbitration claims in determining subject matter jurisdiction. Some courts have held that, in light of the reasoning in *Vaden*, courts may look through to the underlying arbitration claims to determine if a petition to confirm, vacate, or modify an arbitration award under §§ 9, 10, or 11 of the FAA presents a federal question (see *Doscher v. Sea Port Grp. Sec., LLC*, 2016 WL 4245427, at \*13 (2d Cir. Aug. 11, 2016)). In other courts, the fact that the underlying arbitration involved federal claims does not confer federal jurisdiction for the petition to confirm or vacate (see *Goldman v. Citigroup Global Markets, Inc.*, 2016 WL 4434401, at \*9-10 (3d Cir. Aug. 22, 2016); *Magruder v. Fid. Brokerage Servs. LLC*, 818 F.3d 285, 288 (7th Cir. 2016)). The US Court of Appeals for the Eighth Circuit has not yet ruled on this issue.

Federal courts have subject matter jurisdiction over enforcement proceedings for arbitration awards governed by the New York Convention or Panama Convention (9 U.S.C. §§ 203 and 302). These conventions provide federal subject matter jurisdiction for international arbitrations even if they occur in the US (see *Indus. Risk Insurers v. M.A.N. Gutehoffnungshutte GmbH*, 141 F.3d 1434, 1441 (11th Cir. 1998)).

To establish personal jurisdiction in cases involving foreign awards, the petitioner may invoke personal jurisdiction, in rem jurisdiction, or quasi-in-rem jurisdiction as applicable if their use under the circumstances also comports with due process standards.

The moving party must serve international parties under FRCP 4, because neither the FAA nor the New York Convention provides direction on how to properly serve international parties. For information on serving international parties, see Practice Note, *International Litigation: US Laws Governing Cross-border Service of Process* ([9-531-3925](#)).

Under the FAA, once the moving party serves a notice of a petition for confirmation on all parties, the federal court in the district where the award was made or in the district specified in the award as the forum for enforcement has personal jurisdiction over the parties as though the parties had appeared generally in the proceeding (9 U.S.C. § 9).

### Federal Venue

Arbitration agreements may contain forum selection clauses specifying the venue for an arbitration award's enforcement. The FAA, the New York Convention, and the Panama Convention

generally give effect to the forum the parties specify (9 U.S.C. §§ 9, 204, and 302).

For domestic arbitrations under Chapter 1 of the FAA, a party seeking enforcement must file the application for judicial confirmation in either:

- The court the parties specified for entering judgment on the award in the arbitration agreement, if any.
- Any court in the district where the arbitrator issued the award, if the arbitration agreement does not identify a particular court for entry of judgment on the award.

(9 U.S.C. § 9.)

If the parties consent to final and binding arbitration and fully participate in the arbitration process, the courts deem their consent and participation to evidence their consent to having a court confirm the resulting award (see *Centurion Air Cargo, Inc. v. United Parcel Serv. Co.*, 420 F.3d 1146, 1150 (11th Cir. 2005)).

Under the New York and Panama Conventions, a party may file a petition for judicial confirmation in either:

- Any court in which the parties may have brought the underlying dispute if there had been no agreement to arbitrate.
- A location specified for arbitration in the arbitration agreement if that location is within the US.

(9 U.S.C. §§ 204 and 302.)

#### Timing Under the FAA

A party seeking to confirm an arbitration award under Chapter 1 of the FAA may apply for an order confirming the award at any time within one year after the arbitrator makes the award (9 U.S.C. § 9). The federal circuit courts of appeal are split on the interpretation of this provision. Some courts, including the US Court of Appeals for the Second Circuit, have interpreted Section 9 as a strictly enforced one-year statute of limitations (see *Photopaint Techs., LLC v. Smartlens Corp.*, 335 F.3d 152 (2d Cir. 2003)). Other circuits, including the US Courts of Appeals for the Eighth Circuit, have relied on the ordinary meaning of “may” to conclude that the one-year limitations period is permissive (see *Val-U Constr. Co. of S.D. v. Rosebud Sioux Tribe*, 146 F.3d 573 (8th Cir. 1993); see also *Sverdrup Corp. v. WHC Constructors, Inc.*, 989 F.2d 148 (4th Cir. 1993)).

For international arbitration awards, any party seeking confirmation of an award under the New York or Panama Conventions must file its application with the court within three years from the date the arbitrator makes the award (9 U.S.C. §§ 207 and 302).

#### Confirmation Procedure in Federal Court

A party applies to confirm an award by serving and filing in the federal district court either:

- **A petition to confirm.** A party uses a petition if there is no lawsuit regarding the arbitration already pending. A petition to confirm an arbitration award allows the petitioner to request that the court confirm an award without first filing a complaint. When a party commences an action in federal court by filing a petition without an accompanying complaint, the court treats the petition as a motion to confirm an arbitration award. (9 U.S.C. § 6; *D.H. Blair & Co. v. Gottdiener*, 462 F.3d 95 (2d Cir. 2006).)

- **A motion to confirm.** If a lawsuit involving the arbitration is already pending (for example, because a party moved to compel or stay arbitration at the start of the case), a party seeking to confirm the arbitration award does not need to start a new proceeding by filing a petition to confirm. The party instead returns to the court where the case is already pending and files a motion to confirm the award.

The party seeking confirmation also must file with the petition or motion:

- The arbitration agreement, including the parties’ agreement, if any, on:
  - selecting an arbitrator; and
  - extensions of time, such as an agreement extending the deadline for the arbitrator to issue the award.
- A copy of the award.
- Any documents a party submitted in connection with any application to modify or correct the award.

The moving party must serve notice of the confirmation application on the adverse party, at which point the court assumes jurisdiction over the adverse party as though the adverse party had appeared generally in the proceeding. If the adverse party is:

- A resident of the district in which the award was made, the moving party must serve either the party or the party’s attorney in the same manner that a party must serve notice of a motion in that court.
- A non-resident of the district, the moving party must serve notice:
  - by the marshal of any district in which the adverse party is found; or
  - in the same way as it serves any other process.

(9 U.S.C. § 9.)

An application to confirm an arbitration award is a summary proceeding. The court may hear argument but does not hold a hearing with witnesses and the parties do not present evidence. The court confirms the arbitration award based on the parties’ submissions and argument, if any. If no party challenges the enforcement and the court finds no grounds for modification or vacatur, the court confirms the award and enters judgment on it (see *Vacating, Modifying, or Correcting Awards Under the FAA*).

For more information on confirming an arbitration award in federal court, see Practice Note, *Enforcing Arbitration Awards in the US: Application by Motion or Petition* (9-500-4550). For a sample petition to confirm an arbitration award in federal court with integrated notes and detailed drafting tips, see Standard Document, *Petition to Confirm Arbitration Award (Federal)* (w-000-5309). For a sample petition to confirm a foreign arbitral award in federal court with integrated notes and drafting tips, see Standard Document, *Petition to Confirm Foreign Arbitration Award (Federal)* (w-000-7469).

#### CONFIRMING AWARDS UNDER MINNESOTA LAW

Like the FAA, the MRUAA requires a party seeking to confirm an arbitration award in Minnesota state court to file a motion to confirm (Minn. Stat. Ann. § 572B.05(b); see *Minnesota Confirmation Procedure*).

The MRUAA also permits a party to ask the court to confirm a pre-award ruling by the arbitrator. To obtain judicial confirmation of a pre-award arbitral ruling, the party seeking confirmation must:

- Ask the arbitrator to incorporate the ruling into an award.
- Move the court for an expedited order to confirm the award.

(Minn. Stat. Ann. § 572B.18.)

### Standard for Confirmation in Minnesota

After a party to the arbitration proceeding receives notice of an award, the party may file a motion for an order confirming the award. The court must grant the motion and issue the order unless the court vacates, modifies, or corrects the award. (Minn. Stat. Ann. § 572B.22; see Vacating, Modifying, or Correcting Awards Under Minnesota Law.)

Likewise, if a party moves for an order confirming a pre-award arbitral ruling, the court must decide the motion summarily and issue an order confirming the award unless the court vacates, modifies, or corrects the award (Minn. Stat. Ann. § 572B.18).

### Minnesota Court Jurisdiction

Under the MRUAA, the court obtains jurisdiction over the claim when the moving party serves notice of the motion on the adverse party. The moving party must serve notice in the same manner as a party serves a summons in a civil action (Minn. Stat. Ann. § 572B.05).

Once the moving party serves notice of the motion to confirm, a Minnesota court may hear the arbitral award dispute if either:

- The court has personal jurisdiction.
- The parties' arbitration agreement provides for arbitration in Minnesota, in which case Minnesota courts have exclusive jurisdiction.

(Minn. Stat. Ann. § 572B.26(a) and (b).)

### Minnesota Venue

A party must apply to confirm an arbitration award in the district court of the county where:

- The arbitration hearing took place.
- The parties provided for the arbitration hearing to take place (for example, if the agreement calls for a hearing in Minneapolis but the parties decide to hold the hearing in another county).
- The adverse party resides or has a place of business.
- Any Minnesota county, if:
  - no adverse party resides or has a place of business in Minnesota;
  - the hearing did not occur in Minnesota; and
  - the parties' agreement does not specify a Minnesota location for the hearing.

(Minn. Stat. Ann. § 572B.27.)

Minnesota law also recognizes the validity of a forum selection clause in an arbitration agreement. Parties that include a Minnesota forum selection clause in their arbitration agreement confer exclusive jurisdiction on the Minnesota courts to enter judgment on the award (Minn. Stat. Ann. § 572B.26(b)).

### Minnesota Confirmation Procedure

Under the MRUAA, a party seeking judicial relief must present the application in the same way that a party submits a motion (Minn. Stat. Ann. § 572B.05(a)). Under the Minnesota rules of civil procedure, a party making a motion must state in writing and with particularity:

- The grounds for the motion.
- The relief the movant seeks.

(Minn. R. Civ. P. 7.01.)

The MRUAA also permits the prevailing party to seek costs and attorneys fees, as follows:

- The court may allow reasonable costs of a motion to confirm, vacate, modify, or correct an award.
- When entering a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award, the court may add to the judgment attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the arbitrator issues the award.

(Minn. Stat. Ann. § 572B.25(b) and (c).)

### Timing Under Minnesota Law

A party may move to confirm an arbitration award any time after the party receives the award (Minn. Stat. Ann. § 572B.22). The MRUAA does not impose a deadline by which a party must move to confirm an arbitration award.

As a practical matter, the court does not decide a motion to confirm in less than 90 days, because the MRUAA gives parties 90 days to move to vacate, modify, or correct an award (Minn. Stat. Ann. §§ 572B.23(b) and 572B.24(a)).

## VACATING, MODIFYING, OR CORRECTING AWARDS

Both the FAA and Minnesota law permit a party to challenge or request modification or correction of an arbitration award.

### VACATING, MODIFYING, OR CORRECTING AWARDS UNDER THE FAA

A party dissatisfied with an arbitration may ask the court to vacate, modify, or correct the award.

For detailed information on vacating, modifying, or correcting arbitration awards in federal court, see Practice Note, *Vacating, Modifying, or Correcting an Arbitration Award in Federal Court* ([w-000-6340](#)). For a sample petition to vacate an arbitration award in federal court with integrated notes and detailed drafting tips, see Standard Document, *Petition to Vacate, Modify, or Correct Arbitration Award* (Federal) ([w-000-5608](#)).

### Standard for Vacatur Under the FAA

Under the FAA, a court may vacate an award on any of the following grounds:

- The prevailing party obtained the award by corruption, fraud, or undue means.
- Any of the arbitrators were partial or corrupt.

- The arbitrators were guilty of misconduct in:
  - refusing to postpone the hearing on sufficient cause shown;
  - refusing to hear evidence pertinent and material to the controversy; or
  - engaging in any other behavior that prejudiced the rights of any party.
- The arbitrators exceeded their powers or so imperfectly executed them that they did not make a mutual, final, and definite award on the matters the parties submitted to arbitration.

(9 U.S.C. § 10.)

Some US courts also have held that courts may vacate arbitral awards governed by the FAA on the common law ground of manifest disregard of the law. However, the continued viability of this holding as a ground for vacatur is uncertain after the US Supreme Court's decision in *Hall St. Assocs. LLC v. Mattel, Inc.*, 552 U.S. 576, 586 (2008), which held that:

- The FAA lists the exclusive grounds for refusing to enforce an award and it does not list manifest disregard of the law as one of the grounds.
- Parties may not agree to expand the scope of judicial review of arbitral awards.

The federal courts of appeals are split on whether manifest disregard remains a proper ground for vacatur after *Hall Street*. The Court of Appeals for the Eighth Circuit no longer recognizes manifest disregard of law as a ground for vacatur after *Hall Street* (see *Air Line Pilots Ass'n Int'l v. Trans States Airlines, LLC*, 638 F.3d 572, 578 (8th Cir. 2011)).

Although the New York Convention does not expressly provide for vacating awards, it provides grounds for opposing the enforcement of awards. These grounds include challenges to the validity of:

- The award.
- The arbitral panel.
- The arbitration agreement.
- The arbitration process.

(New York Convention, Art. V(1) and (2).)

For information on opposing enforcement of awards under the New York Convention, see Practice Note, Enforcing Arbitration Awards in the US: Defending Against Enforcement ([9-500-4550](#)).

### Procedure to Vacate Under the FAA

Under the FAA, a party seeking to vacate an arbitral award must serve a petition or motion to vacate on the adverse party or its attorney within three months after the filing or delivery of the award (9 U.S.C. § 12).

If a party previously filed a lawsuit relating to the arbitration, such as an application to compel arbitration or confirm the award, the party seeking to vacate the award must bring the vacatur application as a motion in the same court (see *IDS Life Ins. Co. v. Royal All. Assocs., Inc.*, 266 F.3d 645, 653 (7th Cir. 2001)).

If there is no lawsuit already pending involving the arbitration, a party seeking to vacate, modify, or correct an arbitration award must start an action by filing a petition (see Confirmation Procedure

in Federal Court). The same rules about jurisdiction and venue for confirmation applications apply (see Federal Court Jurisdiction and Federal Venue).

The application to vacate is a summary proceeding. The court may hear oral argument but does not hold a hearing. The court decides the application on the parties' submissions and argument, if any. If the court finds sufficient grounds for *vacatur* and the time within which the agreement requires issuance of the award has not yet expired, the court may vacate the award and direct a rehearing by the same arbitrators (9 U.S.C. § 10(b)).

### Standard to Modify or Correct Under the FAA

A court may modify or correct an arbitration award under Chapter 1 of the FAA if either:

- The award contains an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property.
- The arbitrators awarded on a matter not submitted to them, unless it is a matter not affecting the merits of the decision on the matter submitted.
- The award is imperfect in matter of form not affecting the merits of the controversy.

(9 U.S.C. § 11.)

The FAA also provides that the court may modify or correct an award to effect the intent of the award and promote justice between the parties (9 U.S.C. § 11).

Neither the New York Convention nor the Panama Convention identifies any grounds for modifying or correcting an award. One court noted that there may be some leeway to do so under the New York Convention but that leeway is "very small and is available only in limited circumstances so as not to interfere with the New York Convention's clear preference for confirmation of awards" (*Admart AG v. Stephen & Mary Birch Found., Inc.*, 457 F.3d 302, 309 (3d Cir. 2006)).

### Procedure to Modify or Correct Under the FAA

A party seeking to modify or correct an arbitration award must serve a petition or motion on the adverse party or its attorney within three months after the arbitrator or arbitral institution delivers or files the award (9 U.S.C. § 12).

## VACATING, MODIFYING, OR CORRECTING AWARDS UNDER MINNESOTA LAW

### Standard for Vacating

Under the MRUAA, as with the FAA, courts may vacate an award if:

- The prevailing party obtained the award by corruption, fraud, or undue means.
- Any of the arbitrators were partial or corrupt.
- The arbitrators were guilty of misconduct in:
  - refusing to postpone the hearing on sufficient cause shown;
  - refusing to hear evidence pertinent and material to the controversy; or
  - engaging in any other behavior that prejudiced the rights of any party.

- The arbitrators exceeded their powers or so imperfectly executed them that they did not make a mutual, final, and definite award on the matters the parties submitted to arbitration.
- The parties did not have an agreement to arbitrate.
- The arbitration took place without proper notice so that it substantially prejudiced the rights of a party.

(Minn. Stat. Ann. § 572B.23(a).)

Minnesota courts impose a high standard for vacating an arbitration award (*Hilltop Const., Inc. v. Lou Park Apartments*, 324 N.W.2d 236, 239 (Minn. 1982)).

### Procedure to Vacate

A party that wishes to vacate an arbitration award under the MRUAA has 90 days to file a motion to vacate (Minn. Stat. Ann. § 572B.23(b)). There are three methods of calculating the accrual and tolling of this 90-day period:

- Within 90 days after the movant receives notice of the award in a record.
- Within 90 days after the movant receives notice of an arbitrator's award in a record on a motion to modify or correct an award, unless the basis of the motion is that the prevailing party procured the award by fraud, corruption, or other undue means.
- Within 90 days after the movant learns of the grounds for moving to vacate based on fraud, corruption, or other undue means, or should have learned of the grounds from the exercise of reasonable care.

(Minn. Stat. Ann. § 572B.23(b).)

This 90-day period is a mandatory, not permissive, time restriction on bringing a motion to vacate (*Wacker v. Allstate Ins. Co.*, 251 N.W.2d 346, 349-50 (Minn. 1977)).

Unless the court vacates the award on the ground that there is no arbitration agreement, the court vacating an arbitration award may order a rehearing before a new arbitrator (Minn. Stat. § 572B.23(c)). The party that succeeds in vacating an arbitration award may also seek costs and attorneys' fees (Minn. Stat. Ann. § 572B.25(b) and (c); see Minnesota Confirmation Procedure).

### Standard for Modifying or Correcting

The MRUAA mirrors the FAA's grounds for modifying or correcting an award (see Standard to Modify or Correct Under the FAA). A court may modify or correct an arbitration award if:

- The award contains an evident mathematical miscalculation of figures or an evident mistake in the description of any person, thing, or property.
- The arbitrator awarded on a claim not submitted to the arbitrator, unless it is a matter not affecting the merits of the decision on the claim submitted.
- The award is imperfect in matter of form not affecting the merits of the claim the parties submitted to arbitration.

(Minn. Stat. Ann. § 572B.24.)

Courts may modify an award only on the grounds of miscalculation or mistake based on irregularities in the award and technical errors that do not affect the merits (see *Int'l Union of Elec. and Machine*

*Workers of Am., Local No. 1140 v. Portec, Inc.*, 228 N.W.2d 239, 243 (Minn. 1975)). An evident miscalculation is an error that:

- Is obvious on the face of the award.
- May be corrected without requiring the court to go outside of the four corners of the award.

(*All Metro Supply, Inc. v. Warner*, 707 N.W.2d 1, 6 (Minn. App. 2005).)

Examples of an evident miscalculation include:

- An obvious mechanical error.
- A mistake in identifying the wrong year or serial number of a vehicle that is the subject of an award.

(*All Metro Supply*, 707 N.W.2d at 6.)

### Procedure for Modifying or Correcting

A party that seeks modification or correction of an arbitration award in court must file a motion within 90 days of receiving notice of the award (Minn. Stat. Ann. § 572B.24).

In deciding a motion to modify or correct, a court may resubmit the award to the arbitrator for clarification (Minn. Stat. Ann. § 572B.20(d)). However, the statute requires anyone seeking clarification of an award from the arbitrator to submit the request to the arbitrator within 20 days of receiving notice of the award (Minn. Stat. Ann. § 572B.20(b)). After that time, the court lacks jurisdiction over the case. Therefore, the court lacks the authority to submit an award to the arbitrator for clarification after the 20-day statutory time limit expires (*All Metro Supply*, 707 N.W.2d at 4).

## AWARDS AND ORDERS SUBJECT TO APPEAL

Both the FAA and the MRUAA permit a party to appeal certain arbitration orders, including:

- An order:
  - confirming an award or denying a summary action to confirm an award;
  - modifying or correcting an award; or
  - vacating an award without directing a rehearing.
- A judgment or decree a court entered under the FAA or MRUAA, as applicable.

(Minn. Stat. Ann. 572B.28; 9 U.S.C. § 16.)

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