

A2503 Weinstein (MS) Same as [S 565](#) HOYLMAN

Civil Practice Law and Rules

TITLE....Authorizes the vacating of an arbitration award on the basis of arbitrator disregard of the law

01/19/21 referred to judiciary

03/02/21 reported

03/04/21 advanced to third reading cal.141

03/10/21 passed assembly

03/10/21 delivered to senate

03/10/21 REFERRED TO JUDICIARY

WEINSTEIN, DINOWITZ, SEAWRIGHT, STECK, ENGLEBRIGHT, GOTTFRIED, ZEBROWSKI, TAYLOR;

M-S: Cahill, Simon

Amd §7511, CPLR

Authorizes the vacating of an arbitration award on the basis of arbitrator disregard of the law.

STATE OF NEW YORK

2503

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. WEINSTEIN, DINOWITZ, SEAWRIGHT, STECK, ENGLE-
BRIGHT, GOTTFRIED, ZEBROWSKI, TAYLOR -- Multi-Sponsored by -- M. of A.
CAHILL, SIMON -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to vacat-
ing arbitration awards on the basis of arbitrator disregard of the law

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

- 1 Section 1. Subparagraph (iv) of paragraph 1 of subdivision (b) of
2 section 7511 of the civil practice law and rules is amended and a new
3 subparagraph (v) is added to read as follows:
4 (iv) failure to follow the procedure of this article, unless the party
5 applying to vacate the award continued with the arbitration with notice
6 of the defect and without objection~~[-]~~; or
7 (v) the arbitrator evidenced a manifest disregard of the law in
8 rendering the award.
9 § 2. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
~~[-]~~ is old law to be omitted.

LBD00009-01-1

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A2503

SPONSOR: Weinstein (MS)

TITLE OF BILL:

An act to amend the civil practice law and rules, in relation to vacating arbitration awards on the basis of arbitrator disregard of the law

PURPOSE OF BILL:

To permit an arbitration award to be vacated as a result of an arbitrator's manifest disregard of the law.

SUMMARY OF PROVISIONS OF BILL:

This bill would add a new subdivision to CPLR 7511, which would permit an arbitration award to be vacated due to arbitral manifest disregard of law.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

This bill would provide needed clarification to CPLR 7511 and the limited circumstances under which an arbitration award may be vacated.

JUSTIFICATION:

Under existing law, an arbitration award can be vacated if "completely irrational", a high standard for the losing arbitral litigant to overcome. As noted by Professor Siegel, even an arbitrator's "manifest disregard of the law" is not a basis for vacating an award in New York State. New York Practice, Forth Edition, Sec. 602. While arbitration can be a useful tool for persons to settle disputes in a more timely and cost-effective way, such resolutions should not be totally divorced from applicable standards of law.

Thus, a measured and prudent way in which arbitrators should be required to reasonably follow applicable legal standards in resolving disputes would be permit awards to be vacated if arbitrators evidence a "manifest disregard of the law".

This standard has been used in federal practice for many years as a basis to vacate arbitration awards. In fact, the Circuit Court of Appeals, Second Circuit has well-honed this standard as follows: "...first, whether the governing law alleged to have been ignored by the arbitrators was well defined, explicit, and clearly applicable, and, second, whether the arbitrator knew about the existence of a clearly governing legal principle but decided to ignore it or pay no attention to it". Internal citations omitted *Schwartz v. Merrill Lynch & Co., Inc.*, 665 F. 3d 444 (2011).

In setting such a clear standard of law for the vacating of arbitration awards, this bill would provide greater clarity to the Courts in determining whether an award would be subject to vacatur due to failure to follow applicable law. Such a standard would also compel arbitrators to make a good faith and reasonable attempt to follow provisions of substantive law, which they presently are not required to do.

LEGISLATIVE HISTORY:

2019-20: A.5610/S.2396 -PA/S.Judi
2017-18: A.1370/S.6050 - PA/S.Codes
2016: A.9993 - PA

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

None.

EFFECTIVE DATE:

This bill shall take effect on the one hundred eightieth day after it shall become law