

# Enforcing Arbitration Awards in New Jersey

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

## SCOPE OF THIS NOTE

The prevailing party in an arbitration may need to enforce the arbitration award if the losing party fails to pay or voluntarily comply. 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 New Jersey federal or state court. It describes the relevant state and federal statutes, 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, or correcting an arbitration award in New Jersey state or federal court.

Except where noted, this Note does not cover:

- The New Jersey Alternative Procedure for Dispute Resolution Act (APDRA), which provides a fast dispute resolution procedure with no right to appeal (N.J. Stat. Ann. §§ 2A:23A-1 to 2A:23A-19).

- The provisions for court-mandated arbitration of negligence and personal injury actions (N.J. R. 4:21A-1 to 4:21A-6).

This Note also 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](#)).

## STATUTORY FRAMEWORK

To enforce an arbitration award in New Jersey, a party must first determine whether federal or state law governs the enforcement procedure. In New Jersey, there are two possibilities:

- The Federal Arbitration Act (FAA) (see Federal Arbitration Act).
- The New Jersey Uniform Arbitration Act (NJUAA) (see New Jersey 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:

- In Chapter 1, governs domestic US arbitrations and applies to maritime disputes and contracts “involving commerce” (9 U.S.C. §§ 1-16).
- In Chapter 2, 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. §§ 201-208).
- In Chapter 3, implements the Inter-American Convention on International Commercial Arbitration (Panama Convention) (9 U.S.C. §§ 301-307).

The FAA applies to a broad range of arbitration awards (see *Citizens Bank v. Alafabco, Inc.*, 539 U.S. 52 (2003)). Together with the New York Convention, the FAA governs 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 FAA Chapter 1

The FAA's domestic arbitration provisions appear in Chapter 1 of the FAA. Chapter 1 applies to maritime awards or foreign or interstate commerce awards not governed by the New York Convention (see New York Convention). 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. The New York Convention 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). However, an arbitration based on an agreement arising out of a relationship entirely between US citizens does not fall under the New York Convention unless that relationship either:

- 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 the New York Convention and the FAA conflict, 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](#)).

### The Panama Convention

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. §§ 301-307). 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 the 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 provide a detailed analysis of the Panama Convention.

## NEW JERSEY ARBITRATION LAW

New Jersey law favors arbitration, and New Jersey courts liberally interpret arbitration agreements in favor of arbitration (see *Garfinkel v. Morristown Obstetrics & Gynecology Assocs., P.A.*, 773 A.2d 665, 670 (N.J. 2001)). Courts presume that a dispute is arbitrable unless the arbitration agreement cannot be interpreted to cover the dispute (*Griffin v. Burlington Volkswagen, Inc.*, 988 A.2d 101 (N.J. Super. Ct. App. Div. 2010)).

New Jersey's arbitration law is governed by the NJUAA, set out in Chapter 23B of the New Jersey Statutes Annotated. The NJUAA sets out the details of the arbitration procedure that applies unless varied or waived by contract, including:

- The method for initiating the arbitration.
- The conduct of the arbitration process itself.
- The arbitrator's issuance of the award.
- The standards for confirming, vacating, and modifying the award.

(*Fawzy v. Fawzy*, 973 A.2d 347, 355 (2009).)

The NJUAA allows parties to modify or supplement the standard terms and conditions of arbitrations under the statute, except for certain provisions that are non-waivable (*Petersburg Regency, L.L.C. v. Selective Way Ins. Co.*, 2013 WL 1919556, at \*4 (N.J. Super. Ct. App. Div. May 10, 2013)). The non-waivable provisions include:

- The manner in which a party may seek judicial assistance in aid of arbitration (N.J. Stat. Ann. § 2A:23B-5(a)).
- The jurisdiction of New Jersey courts to enforce arbitration agreements and enter judgments on awards (N.J. Stat. Ann. § 2A:23B-26).
- The right of a party to appeal:
  - an order confirming or denying confirmation of an award;
  - an order modifying or correcting an award;
  - an order vacating an award without directing a rehearing (see *Awards and Orders Subject to Appeal*); and
  - a final judgment entered on a confirmed award. (N.J. Stat. Ann. § 2A:23B-28.)

(N.J. Stat. Ann. § 2A:23B-4.)

The NJUAA governs all arbitration agreements except for agreements between an employer and a duly elected representative of employees under a collective bargaining agreement or collectively negotiated agreement (N.J. Stat. Ann. § 2A:23B-3(c)). The NJUAA also does not apply to the substance and procedure of APDRA arbitrations or to arbitrations involving either:

- Personal injury claims governed by:
  - P.L.1987, c. 329 (N.J. Stat. Ann. §§ 2A:23A-20 to 2A:23A-30); or
  - P.L.1998, c. 21, § 24 (N.J. Stat. Ann. § 39:6A-5.1).
- Automobile accident tort claims governed by P.L.1983, c. 358 (N.J. Stat. Ann. §§ 39:6A-24 to 39:6A-35). (N.J. Stat. Ann. § 2A:23B-32.)

## INTERPLAY BETWEEN FEDERAL AND NEW JERSEY ARBITRATION LAW

Most arbitration agreements and awards fall under the FAA. However, parties that enter into an arbitration agreement may choose the terms

under which they will arbitrate a dispute (*ERG Renovation & Constr., LLC v. Delric Constr. Co.*, 2014 WL 7506759, at \*5 (N.J. Super. Ct. App. Div. Jan. 12, 2015)). Therefore, courts generally enforce a choice of law provision electing New Jersey as the controlling law, even where the dispute involves commerce. However, the FAA preempts state laws that render arbitration agreements unenforceable (*Volt Info. Scis., Inc. v. Bd. of Trs.*, 489 U.S. 468, 472 (1989)).

The NJUAA grants exclusive jurisdiction to New Jersey state courts to enter judgment on an award where the agreement provides for arbitration in New Jersey under the NJUAA (N.J. Stat. Ann. § 2A:23B-26; see *ERG*, 2014 WL 7506759, at \*5). However, despite this statute, a federal court may still have jurisdiction over a confirmation proceeding under the NJUAA because a state statute purporting to confer exclusive jurisdiction on the state court cannot divest a federal court of subject matter jurisdiction (see *Bell v. Township of Quinton*, 2014 WL 7205336, at \*4 (D.N.J. Dec. 17, 2014); *Marshall v. Marshall*, 547 U.S. 293, 314 (2006)).

Where an arbitration agreement does not contain a choice of law provision, the FAA preempts state arbitration law for contracts involving interstate commerce (which means commerce among different states or with foreign nations) (*Yale Materials Handling Corp. v. White Storage & Retrieval Sys., Inc.*, 573 A.2d 484, 487 (N.J. Super. Ct. App. Div. 1990); *Morgan v. Sanford Brown Inst.*, 2014 WL 4388343, at \*3 (N.J. Super. Ct. App. Div. Sept. 8, 2014); 9 U.S.C. § 1).

State courts cannot apply state statutes that invalidate arbitration agreements. However, the FAA specifically permits states to regulate contracts, including arbitration clauses, under general contract law principles. Therefore, state courts may invalidate an arbitration clause on any ground that exists at law or in equity for the revocation of any contract. (*Singer v. Commodities Corp. (U.S.A.)*, 678 A.2d 1165, 1171 (N.J. Super. Ct. App. Div. 1996).)

## CONFIRMING AWARDS

To confirm an arbitration award under either the FAA or the NJUAA, a party must file a proceeding requesting confirmation of the award in a court of competent jurisdiction. The type of proceeding depends on whether the application is in state or federal court. In both state and federal court, the proceeding is an expedited case rather than a regular lawsuit (9 U.S.C. § 9; N.J. Stat. Ann. § 2A:23B-22).

### CONFIRMING AWARDS UNDER THE FAA

Section 9 of the FAA governs confirmation of arbitral awards. For the FAA to apply to enforcement proceedings, the parties' agreement must:

- State that a court may enter judgment on the award.
- Specify the court (see Federal Venue).

If the parties' agreement satisfies both requirements, any party may apply to the specified court within one year after issuance of the arbitration award to confirm the award (9 U.S.C. § 9).

### Standard for Confirmation Under the FAA

A court must confirm an arbitration award unless it finds grounds to vacate, modify, or correct the award (9 U.S.C. §§ 10 and 11; see Vacating, Modifying, or Correcting an Award). Courts begin with the presumption that an award is enforceable, and may vacate it only under the "exceedingly narrow circumstances" listed in Section 10(a)

of the FAA (*Freeman v. Pittsburgh Glass Works, LLC*, 709 F.3d 240, 251 (3d Cir. 2013)).

### 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 question 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 under Chapter 1 of the FAA, the petitioner therefore must show that the court has either:

- Diversity jurisdiction.
- Federal question jurisdiction.

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

By contrast, the FAA grants federal courts subject matter jurisdiction to enforce awards under the New York Convention and Panama Convention (9 U.S.C. §§ 203 and 302). The New York Convention applies to international disputes even when the arbitration is held in the US (see *Bergesen v. Joseph Muller Corp.*, 710 F.2d 928, 932 (2d Cir. 1983); *Indus. Risk Insurers v. M.A.N. Gutehoffnungshütte GmbH*, 141 F.3d 1434, 1441-42 (11th Cir. 1998)).

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 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; see Confirmation Procedure Under the FAA).

### Federal Venue

Arbitration agreements may contain forum selection clauses that specify the forum for enforcement of an arbitral award. The FAA, the New York Convention, and the Panama Convention generally give effect to the forum the parties specified (9 U.S.C. §§ 9, 204, and 302).

Under Chapter 1 of the FAA, if the arbitration agreement provides that a particular court enter judgment on the award, the party seeking enforcement must file the application for judicial confirmation in that court. If the agreement does not identify a particular court for entry of judgment on the award, the party may file the application in any court in the district where the arbitrator issued the award. (9 U.S.C. § 9.)

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

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

(9 U.S.C. §§ 204 and 302.)

### Timing

A party to the arbitration may apply for an order confirming the award within one year after the arbitrator makes the award (9 U.S.C. § 9). The federal courts of appeals are split on whether this time limitation is mandatory. The US Court of Appeals for the Third Circuit has not addressed this issue. 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 courts, including the US Courts of Appeals for the Fourth and Eighth Circuits, have relied on the ordinary meaning of “may” to conclude that the one-year limitations period is permissive (*Sverdrup Corp. v. WHC Constructors, Inc.*, 989 F.2d 148 (4th Cir. 1993); *Val-U Constr. Co. of S.D. v. Rosebud Sioux Tribe*, 146 F.3d 573 (8th Cir. 1998)).

Under Sections 207 and 302 of the FAA, any party seeking confirmation of an arbitral award governed by the New York or Panama Conventions must apply within three years from when the arbitrator makes the award (9 U.S.C. §§ 207 and 302).

### Confirmation Procedure Under the FAA

A party seeks confirmation of an arbitration award by serving and filing in the federal district court either:

- A petition to confirm.
- A motion to confirm.

A petition to confirm an arbitration award enables a petitioner to request that a 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 confirmation proceeding is usually faster than a regular lawsuit on the merits, especially if no party challenges the award.

If a lawsuit involving the arbitration is already pending (for example, because a party previously moved to compel or stay arbitration), a party does not need to start a new proceeding by filing a petition to confirm. The party instead files a motion to confirm the award in the pending action.

The party seeking enforcement must serve and file with the petition or motion:

- The arbitration agreement, including:
  - any party agreement on selecting an arbitrator; and
  - any party agreement for an extension 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.

(9 U.S.C. § 9.)

The moving party must serve notice of the confirmation application on the adverse party, which gives the court personal jurisdiction over the adverse party as though he had appeared generally in the proceeding. If the adverse party resides in the district where the award was made, the moving party must serve either the party or its attorney in the same manner that a party serves notice of a motion in that court. (9 U.S.C. § 9.) If the adverse party does not reside in the district, the moving party may serve notice either:

- By the marshal of any district in which the adverse party is found.

- In the same way as it serves any other process of court. (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, and 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 an Award Under the FAA*).

For more information on confirming an arbitration award in federal court, see Practice Note, *Enforcing Arbitration Awards in the US: General Confirmation Procedure: Application by Motion or Petition* (9-500-4550). For a sample petition to confirm an arbitration award in federal court, see Standard Document, *Petition to Confirm Arbitration Award (Federal)* (w-000-5309). For a sample petition to enforce an international award under the New York Convention, see Standard Document, *Petition to Confirm Foreign Arbitration Award (Federal)* (w-000-7469).

### CONFIRMING AWARDS UNDER THE NJUAA

Under the NJUAA, once a party to an arbitration proceeding receives notice of an award, the party may file a summary action with the court for an order confirming the award. After the party files the summary action, the court issues a confirming order unless the court vacates, modifies, or corrects the award (N.J. Stat. Ann. § 2A:23B-22).

### Standard for Confirmation Under the NJUAA

The court issues a confirming order unless the court vacates, modifies, or corrects the award (N.J. Stat. Ann. § 2A:23B-22).

### New Jersey Court Jurisdiction

An arbitration agreement that provides for arbitration in New Jersey confers exclusive jurisdiction on the New Jersey courts to enter judgment on the award (N.J. Stat. Ann. § 2A:23B-26).

### New Jersey Venue

New Jersey courts enforce forum selection clauses unless contrary to general principles of state contract law (*Allen v. World Inspection Network Int'l, Inc.*, 911 A.2d 484, 492 (N.J. Super. Ct. App. Div. 2006)).

Under the NJUAA, a party must commence a summary proceeding to enforce an arbitral award in a court in the county either:

- That would have venue if the underlying dispute in the matter were subject to Superior Court rules in civil actions.
- Where the parties’ arbitration agreement specifies the arbitration hearing must be held.
- Where the arbitration hearing occurred.

(N.J. Stat. Ann. § 2A:23B-27.)

### Time Limits

The NJUAA does not provide a specific time limit for a party to start a summary action to confirm an arbitration award.

### Confirmation Procedure Under the NJUAA

A party confirms an arbitration award under the NJUAA by filing a summary action for confirmation in either the state law or chancery court (N.J. Stat. Ann. § 2A:23B-22). The language regarding a summary action is merely permissive, however, and the court will confirm an award even if a party files the confirmation application as a motion (see *ERS Constr. Co. v. Gerace*, 2011 WL 6122 (N.J. Super. App. Div. Apr. 23, 2010); *Devils Arena Entm't, LLC v. Volume Servs., Inc.*, 2014 WL 4450428, at \*2 (N.J. Super. Ct. App. Div. Sept. 11, 2014)).

Summary actions in New Jersey have the dual purposes of:

- Swiftly and effectively disposing of matters that lend themselves to summary treatment.
- When the plaintiff makes the application, giving the defendant an opportunity to be heard on the issue of whether summary disposition is appropriate.

(Pressler, Current New Jersey Court Rules, Comment R. 4:67.)

A summary action to confirm an arbitration award proceeds as follows:

- A party files a complaint, verified by affidavit, which the party may present to the court *ex parte* (N.J. R. 4:67-2(a)).
  - If the court is satisfied with the sufficiency of the application, it orders the defendant to show cause why the court should not render a final judgment confirming the award (N.J. R. 4:67-2(a)).
  - If the defendant objects to the court rendering final judgment, it must serve and file an answer or answering affidavit by three days before the return date (N.J. R. 4:67-4).
  - On or after the return date, if:
    - no party objects, the court may render final judgment confirming the award; or
    - any party objects, the court hears the evidence and renders final judgment.
- (N.J. R. 4:67-5.)

For more information on commencing an action in New Jersey, see State Q&A, Commencing an Action: New Jersey ([4-577-6225](#)).

### VACATING, MODIFYING, OR CORRECTING AN AWARD

Both the FAA and the NJUAA permit a party to challenge or request modification or correction of an arbitration 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, see Standard Document, Petition to Vacate, Modify, or Correct Arbitration Award (Federal) ([w-000-5608](#)).

#### VACATING AN AWARD UNDER THE FAA

##### Standard for Vacating Under the FAA

Under the FAA, a court may vacate an award because:

- The award was obtained by corruption, fraud, or undue means.
- The arbitrator was partial or corrupt.

- The arbitrator engaged in misconduct by:
  - refusing to postpone the hearing on sufficient cause shown;
  - refusing to hear evidence pertinent and material to the controversy; or
  - any other behavior that has prejudiced the rights of any party.
- The arbitrator exceeded his powers or so imperfectly executed them that he did not make a mutual, final, and definite award on the matters the parties submitted to arbitration. (9 U.S.C. § 10.)

The Third Circuit sets “an extremely high bar” for vacating an arbitration award on the grounds of arbitrator misconduct (9 U.S.C. §10(a)(3); see *BSC-C & C JV v. Louis Berger Grp., Inc.*, 2014 WL 3516246, at \*4 (D.N.J. July 15, 2014)). Courts will not vacate an award on the grounds of the arbitrator exceeding his powers unless the arbitrator:

- Decides an issue not submitted to arbitration.
- Grants relief in a form that cannot be rationally derived from the parties’ arbitration agreement and submissions.
- Issues an award that is so completely irrational that it lacks support altogether.

(*BSC-C & C JV*, 2014 WL 3516246, at \*4.)

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 continuing viability of the manifest disregard of the law ground for vacatur is uncertain in light of *Hall Street Associates v. Mattel, Inc.*, where the US Supreme Court held that the grounds for refusal listed in the FAA are exclusive and parties may not supplement them by agreeing to any expanded scope for judicial review of arbitral awards in their arbitration agreement (552 U.S. 576, 586 (2008)). The federal courts of appeal are split on whether manifest disregard remains a proper ground for vacatur after *Hall Street*. The Third Circuit expressly declined to decide this issue (see *Whitehead v. Pullman Grp., LLC*, 811 F.3d 116, 120 (3d Cir. 2016)).

#### Procedure to Vacate Under the FAA

Under the FAA, a party seeking to vacate an arbitral award must serve an application 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, then 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 commence an action by filing a petition (see Confirmation Procedure Under the FAA).

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 required the award has not yet expired, the court may direct a rehearing by the same arbitrators (9 U.S.C. § 10(b)).

### VACATING AN AWARD UNDER THE NJUAA

#### Standard for Vacating Under the NJUAA

The NJUAA permits a court to vacate an arbitration award on the same grounds as those available under the FAA (N.J. Stat. Ann. § 2A:23B-23; see Standard for Vacating Under the FAA). The NJUAA also permits vacatur if the court finds:

- There was no agreement to arbitrate.
- A party suffered substantial prejudice because the arbitrator conducted the proceedings without proper notice.

(N.J. Stat. Ann. § 2A:23B-23.)

New Jersey common law also allows courts to vacate awards for public policy reasons, but only in rare circumstances. The courts will not vacate an award due to a mistake of law, even a "grossly mistaken legal premise." (*Borough of East Rutherford v. E. Rutherford PBA Local 275*, 61 A.3d 941, 949 (N.J. 2013).) New Jersey courts do not expressly recognize the "manifest disregard of law" doctrine (see Standard for Vacating Under the FAA). However, courts may vacate an arbitration award that manifestly disregards the plain terms of a contract and leads to an unjust result (see *State Judiciary v. Prob. Ass'n of N.J.*, 2015 WL 10322010, at \*4 (N.J. Super. Ct. App. Div. Feb. 22, 2016)).

Judicial review of an arbitration award is narrow (*Fawzy*, 973 A.2d at 356). If a court denies an application to vacate the award, the court must confirm the award unless there is an application to modify or correct the award pending (N.J. Stat. Ann. § 2A:23B-23(d)). If a court vacates an award on a ground other than a lack of agreement to arbitrate, the court may order a rehearing before either:

- A new arbitrator, if the court vacates the award due to fraud or partiality by the previous arbitrator.
- The same arbitrator.

(N.J. Stat. Ann. § 2A:23B-23(c).)

#### Procedure to Vacate Under the NJUAA

A party applies to vacate an arbitration award as a summary action in the same way that a party files a summary action to confirm an award (see Confirmation Procedure Under the NJUAA).

The aggrieved party must file a summary action to vacate an award within 120 days after receiving notice of either:

- The award.
- A modified or corrected award (see Modifying or Correcting Awards Under the NJUAA).

If the grounds for vacating the award is corruption, fraud, or undue means, the aggrieved party must start the summary action within 120 days after the party knows or should know of the grounds. (N.J. Stat. Ann. § 2A:23B-23(b).)

### MODIFYING OR CORRECTING AWARDS UNDER THE FAA

#### Standard for Modifying or Correcting Under the FAA

A court may modify or correct an award under the FAA where:

- There was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referenced in the award.
- The arbitrator entered an award on a matter that the parties did not submit, unless it does not affect the merits of the decision on the matter submitted.
- The award is imperfect in a matter of form not affecting the merits of the controversy.

(9 U.S.C. § 11.)

The FAA also authorizes courts to modify or correct an award to effect the award's intent 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. Courts may have some leeway to do so under the New York Convention, but that leeway is available only where modification or correction would not interfere with the New York Convention's clear preference for confirming 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 award must serve an application on the adverse party or its attorney within three months after the filing or delivery of the award (9 U.S.C. § 12). The proceedings are substantially similar to the proceedings on an application to vacate (see Procedure to Vacate Under the FAA).

### MODIFYING OR CORRECTING AWARDS UNDER THE NJUAA

#### Standard for Modifying or Correcting Under the NJUAA

The NJUAA permits a court to modify or correct an arbitration award on the same grounds as under the FAA (N.J. Stat. Ann. § 2A:23B-24; see Standard for Modifying or Correcting Under the FAA). A court may also modify or correct an award where the arbitrator either:

- Has not made a final and definite award on a claim submitted by the parties to the proceeding.
- Determines a correction or modification is necessary to clarify the award.

(N.J. Stat. Ann. § 2A:23B-20.)

#### Procedure for Modifying or Correcting Under the NJUAA

A party applies to modify or correct an arbitration award under the NJUAA as a summary action in the same way that a party files a summary action to confirm an award (see Confirmation Procedure Under the NJUAA).

The party seeking to modify or correct an award must file the summary action within 120 days of receiving notice of the award (N.J. Stat. Ann. § 2A:23B-24(a)). In the same filing, the party may also ask the court in the alternative to vacate the award (N.J. Stat. Ann. § 2A:23B-24(c)).

## AWARDS AND ORDERS SUBJECT TO APPEAL

Both the FAA and the NJUAA permit the appeal of certain arbitration orders, including:

- An order:
  - confirming 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 entered under the NJUAA.

(N.J. Stat. Ann. § 2A:23B-28; 9 U.S.C. § 16.)

One of the primary differences between an arbitration under the NJUAA and an expedited arbitration under the APDRA is that a party in an APDRA arbitration may not:

- Appeal the order granting or denying confirmation of the award.
- Seek further review of the award.

(N.J. Stat. Ann. § 2A:23A-2.)

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