

Reader raps our coverage of arbitration appeals

Your coverage of the *Cohen v. A.G. Edwards* case ("[Case shows risk in arbitration appeals](#)," July 17) was too one-sided. You did not effectively balance the opinion expressed by Raymond L. Moss (counsel for the prevailing party) that more state judges will issue rulings similar to that of Judge Ural D.L. Glanville (dismissing the appeal and awarding fees) in the Cohen case.

Moss' opinion is disturbing on many levels.

First, the idea implicit in Moss' opinion, that judges should just start dismissing arbitration appeals no matter their merit, contrasts starkly with the mission of any judge, which is to weigh each case on its individual merits.

Second, statistics regarding who the prevailing party tends to be strongly question the neutrality of the "captive" arbitrators—those who hear consumer disputes as an example—and indicate that some degree of review of arbitration awards is a necessity. The consumer almost never has a say in the selection of the arbitrator. And it is this counsel's experience, and that of many of his colleagues, that arbitration awards reflect stark favoritism towards the parties that draft these contracts of adhesion.

Third, it should have given the reporter pause to consider that in 2003, the Georgia Legislature passed new legislation in the form of HB 792 (effective July 1, 2003) adding "manifest disregard of the law" as a statutory ground for vacatur of arbitration awards. (Under the Federal Arbitration Act, this still is a decades-old judicial ground for review that has neither been affirmed nor reversed by Congress.)

If the courts are seeing more challenges to arbitration awards, perhaps this is just a natural and predictable result of the legislature's broadening the grounds for reviewing them.

This clear legislative intent that arbitration awards not be rubber-stamped by reviewing courts indicates that appealing arbitration awards is part and parcel of arbitration. If a particular appeal is frivolous, then there are certainly provisions by which a court can award attorney's fees and even interest to the awards for a frivolous appeal.

However, the tone of your article wrongly equated challenges to arbitration awards with ambulance-chasing-type frivolous litigation. Other voices and opinions should have been expressed.

—*Richard S. Alembik*

Decatur

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