

## Excerpt from the California **CODE OF CIVIL PROCEDURE** Section 1285 - 1288.8

### **§ 1285. Filing Petition for Court Review of Award**

Any party to an arbitration in which an award has been made may petition the court to confirm, correct or vacate the award. The petition shall name as respondents all parties to the arbitration and may name as respondents any other persons bound by the arbitration award.

### **§ 1285.2. Response to Petition**

A response to a petition under this chapter may request the court to dismiss the petition or to confirm, correct or vacate the award.

### **§ 1285.4. Content of Petition**

A petition under this chapter shall:

- (a) Set forth the substance of or have attached a copy of the agreement to arbitrate unless the petitioner denies the existence of such an agreement.
- (b) Set forth names of the arbitrators.
- (c) Set forth or have attached a copy of the award and the written opinion of the arbitrators, if any.

### **§ 1285.6. Contents of Response**

Unless a copy thereof is set forth in or attached to the petition, a response to a petition under this chapter shall:

- (a) Set forth the substance of or have attached a copy of the agreement to arbitrate unless the respondent denies the existence of such an agreement.
- (b) Set forth the names of the arbitrators.
- (c) Set forth or have attached a copy of the award and the written opinion of the arbitrators, if any.

### **§ 1285.8. Grounds on Request to Vacate or Correct**

A petition to correct or vacate an award, or a response requesting such relief, shall set forth the grounds on which the request for such relief is based.

### **§ 1286. Action by Court**

If a petition or response under this chapter is duly served and filed, the court shall confirm the award as made, whether rendered in this state or another state, unless in accordance with this chapter it corrects the award and confirms it as corrected, vacates the award or dismisses the proceedings.

### **§ 1286.2. Grounds for Vacating Award**

- (a) Subject to Section 1286.4, the court shall vacate the award if the court determines any of the following:
  - (1) The award was procured by corruption, fraud or other undue means.
  - (2) There was corruption in any of the arbitrators.
  - (3) The rights of the party were substantially prejudiced by misconduct of a neutral arbitrator.
  - (4) The arbitrators exceeded their powers and the award cannot be corrected without affecting the merits of the decision upon the controversy submitted.
  - (5) The rights of the party were substantially prejudiced by the refusal of the arbitrators to postpone the hearing upon sufficient cause being shown therefore or by the refusal of the arbitrators to hear evidence material to the controversy or by other conduct of the arbitrators contrary to the provisions of this title.
  - (6) An arbitrator making the award either: (A) failed to disclose within the time required for disclosure a ground for disqualification of which the arbitrator was then aware; or (B) was subject to disqualification upon grounds specified in Section 1281.91 but failed upon receipt of timely demand to disqualify himself or herself as required by that provision. However, this subdivision does not apply to arbitration proceedings conducted under a collective bargaining agreement between employers and employees or between their respective representatives.
- (b) Petitions to vacate an arbitration award pursuant to Section 1285 are subject to the provisions of Section 128.7.

### **§ 1286.4. Requisites for Vacating Award**

The court may not vacate an award unless:

- (a) A petition or response requesting that the award be vacated has been duly served and filed; or
- (b) A petition or response requesting that the award be corrected has been duly served and filed and:
  - (1) All petitioners and respondents are before the court; or
  - (2) All petitioners and respondents have been given reasonable notice that the court will be requested at the hearing to vacate the award or that the court on its own motion has determined to vacate the award and all petitioners and respondents have been given an opportunity to show why the award should not be vacated.

### **§ 1286.6. Grounds for Correcting Award**

Subject to Section 1286.8, the court, unless it vacates the award pursuant to Section 1286.2, shall correct the award and confirm it as corrected if the court determines that:

- (a) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;
- (b) The arbitrators exceeded their powers but the award may be corrected without affecting the merits of the decision upon the controversy submitted; or
- (c) The award is imperfect in a matter of form, not affecting the merits of the controversy.

#### **§ 1286.8. Requisites for Correcting Award**

The court may not correct an award unless:

- (a) A petition or response requesting that the award be corrected has been duly served and filed; or
- (b) A petition or response requesting that the award be vacated has been duly served and filed and:
  - (1) All petitioners and respondents are before the court; or
  - (2) All petitioners and respondents have been given reasonable notice that the court will be requested at the hearing to correct the award or that the court on its own motion has determined to correct the award and all petitioners and respondents have been given an opportunity to show why the award should not be corrected.

#### **§ 1287. Order for Rehearing**

If the award is vacated, the court may order a rehearing before new arbitrators. If the award is vacated on the grounds set forth in subdivision (d) or (e) of Section 1286.2, the court with the consent of the parties to the court proceeding may order a rehearing before the original arbitrators.

If the arbitration agreement requires that the award be made within a specified period of time, the rehearing may nevertheless be held and the award made within an equal period of time beginning with the date of the order for rehearing but only if the court determines that the purpose of the time limit agreed upon by the parties to the arbitration agreement will not be frustrated by the application of this provision.

#### **§ 1287.2. Dismissal of Proceedings**

The court shall dismiss the proceeding under this chapter as to any person named as a respondent if the court determines that such person was not bound by the arbitration award and was not a party to the arbitration.

#### **§ 1287.4. Judgment Confirming Award**

If an award is confirmed, judgment shall be entered in conformity therewith. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action of the same jurisdictional classification; and it may be enforced like any other judgment of the court in which it is entered, in an action of the same jurisdictional classification.

#### **§ 1287.6. Effect of Unconfirmed or Unvacated Award**

An award that has not been confirmed or vacated has the same force and effect as a contract in writing between the parties to the arbitration.

#### **§ 1288. Time to File Petition for Court Review**

A petition to confirm an award shall be served and filed not later than four years after the date of service of a signed copy of the award on the petitioner. A petition to vacate an award or to correct an award shall be served and filed not later than 100 days after the date of the service of a signed copy of the award on the petitioner.

#### **§ 1288.2. Time for Filing Response**

A response requesting that an award be vacated or that an award be corrected shall be served and filed not later than 100 days after the date of service of a signed copy of the award upon:

- (a) The respondent if he was a party to the arbitration; or
- (b) The respondent's representative if the respondent was not a party to the arbitration.

#### **§ 1288.4. Petition at Least Ten Days After Service of Award**

No petition may be served and filed under this chapter until at least 10 days after service of the signed copy of the award upon the petitioner.

#### **§ 1288.6. No Filing While Petition for Correction Pending**

If an application is made to the arbitrators for correction of the award, a petition may not be served and filed under this chapter until the determination of that application.

#### **§ 1288.8. Date of Service of Award When Petition for Correction Filed**

If an application is made to the arbitrators for correction of the award, the date of the service of the award for the purposes of this article shall be deemed to be whichever of the following dates is the earlier:

- (a) The date of service upon the petitioner of a signed copy of the correction of the award or of the denial of the application.
- (b) The date that such application is deemed to be denied under Section 1284.