
**Federal Court Report**

**Million-Dollar Arbitral Award Upheld**

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When an employer could not meet the exceedingly difficult burden of demonstrating an arbitrator acted with manifest disregard of the law, an employee who alleged wrongful termination was permitted to receive an arbitral award in excess of $1.1 million, despite working and filing a claim in an at-will employment state.

In the context of the Financial Industry Regulatory Authority (FINRA), and its unique provisions, brokers may have their terminations arbitrated with a just cause requirement. This is not the case in all professions but is often present in highly regulated industries.

In this case, a securities broker claimed wrongful termination without just cause against his former employer and a related corporation. Under financial industry regulations, the parties were subject to FINRA, which required arbitration to resolve the dispute.

Although having worked in an at-will employment state, the employee argued that the arbitration requirement implied that he could be fired only for cause. The arbitrator agreed and awarded the employee more than $1.18 million in compensatory damages.

The district court granted the employer's motion to vacate the award on grounds that were raised for the first time on appeal; namely, that the at-will employment doctrine precluded the employee's claim. The 4th U.S. Circuit Court of Appeals reversed and upheld the employee's award.

The 4th Circuit emphasized that the employer could have satisfied its burden by presenting the arbitrator with binding precedent that demonstrated a required outcome in the case. Instead, the employer relied upon caselaw that emphasized the presumption of at-will employment in the state. The precedent, however, did not expressly address the specific issue of whether at-will employment precluded the no-cause termination claim.

By contrast, the employee presented caselaw from other circuits that held the presence of an arbitrability clause governing FINRA disputes implied that employees are protected only from termination for cause, even in states that presume at-will employment.

Without commenting on whether either standard was the law in that jurisdiction, the 4th Circuit emphasized that the mere presence of the conflicting positions suggested legal uncertainty and it was the employer's burden to make its case. The court went so far as to say that because the employer did not raise its specific arguments to the arbitrator, the employee needed only to show a good-faith basis to support the arbitrator's decision. Absent that, the court concluded that no clearly defined law existed. The court ruled that even if either party had presented clear law, no evidence suggested the arbitrator knowingly rejected it. Therefore, the decision the arbitrator reached could not be deemed invalid.

*Warfield v. Icon Advisors Inc.*, 4th Cir., No. 20-1690 (Feb. 24, 2022), *motion for rehearing and rehearing en banc denied* (March 22, 2022).

​**Takeaway:**It is always important to remember when preparing for arbitration that arbitrators have vast discretion to make decisions based on their own interpretation of legal and factual principles. When a party is faced with a dispute and is required to base its case on a particular interpretation of the law, it is critical to ensure the arbitrator has a clear understanding of the law, the facts and where the dispute may lie. If a party does not ensure these areas are clear to the arbitrator, the decision will be nearly impossible to later challenge. This is not only because the standard for challenging arbitral review is so high, but also because an arbitrator cannot be said to have ignored a legal position if a party never specifically presented it.

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