

Many litigators, and their clients, dislike arbitration. This is largely because they feel that arbitrators – unlike juries or, sometimes even judges – are reluctant to give one side or the other a complete victory and instead reach split decisions in far too many proceedings. Arbitrators may, for example, find for the claimant on the disputed legal issues but then halve the claimant’s damages award, or agree with the respondent’s defenses to liability, but find a loophole to give the claimant something, so that the claimant does not walk away completely disappointed. Or they may (as happened to me recently) award damages to the claimant (my client, who is happy with the award, I hasten to add), but no one can figure out how the panel came up with the amount of the award it decided upon.

There are two principal workarounds. One, a “baseball” arbitration, is not always feasible because it requires the parties to agree that neither side gets a complete victory, and the dollar number each side will end up with falls this side of a complete victory. The other is to require the arbitration panel to explain what it is doing, to issue a reasoned award, so it is hard to “fudge” a result. It is there that John McArthur’s *The Reasoned Award in the United States: Its Promise, Problems, Preparation and Preservation* does a great service to the arbitration world. *The Reasoned Award* walks through the steps that an arbitration panel needs to take to explain – in cogent, understandable, and (may I say?) well-reasoned language – why the arbitration panel reached its conclusions. Equally important, *The Reasoned Award* explains what not to do and gives examples of unsatisfactory awards, why they are unsatisfactory, and why the court decisions upholding the awards were wrongly decided. Added to that is an extraordinary level of scholarship and insight and, I should add, some of the most erudite and interesting footnotes I have ever read.

This is, in short, a truly valuable work both for professional arbitrators and for lawyers who represent parties in arbitrations. Inspired by *The Reasoned Award*, I now make sure that every initial Scheduling and Procedures O in my arbitrations includes a description of precisely what type of award we want. Highly recommended.

—David B. Goodwin, Covington & Burling LLP