

On The Reasoned Arbitration Award in the United States: Its Promise, Problems, Preparation, and Preservation:

Why should judges be interested in this book? There are answers at two levels to this question.

At the higher level, judges and everyone else who cares about the “system of civil justice” in our country must acknowledge how considerable arbitration's place has come to be in that system. The “system's” private (arbitration) component is huge – and growing. So, those of us who care about the health of the system must care about the quality of justice that arbitrations deliver. Nothing less than the meaning and the reality of the “rule of law” is at stake. To incentivize our people, especially people with economic power, to ‘voluntarily’ comply with our legal norms, we must convince them that those norms are real and really will be enforced, even (especially) in the dispute resolution arena that is least visible to the public. Demanding that arbitration awards be reasoned is critical to achieving this most fundamental objective. Mr. McArthur's book teaches us this – and shows us that requiring awards to be reasoned (1) poses no threat to the values that make arbitration attractive, and (2) will enhance both the quality of the outcomes of arbitrations and the public's respect for and confidence in this valuable method of resolving disputes.

The second-level answer to the question about why judges should be interested in this book is this: Mr. McArthur teaches judges how to distinguish reasoned awards from awards that might have some content but that are not reasoned. Thus, he provides courts with what, in the end, is a straightforward guide to separating the wheat from the chaff. Judges who follow Mr. McArthur's prescriptions will be doing their job (when rules or contracts call for reasoned awards) – without having to re-try cases, or to analyze the analysis that supports their outcome, and, thus, without converting focused, efficient reviews into appeals. In this way, Mr. McArthur helps judges preserve the attribute of arbitration that is perhaps most valued both by parties and by the judiciary.

There are pine needles, trees, and a forest in this comprehensive work. For judges who only have time to see the forest, it is there and easy to bring into view.

—Hon. Wayne D. Brazil (Ret.)
Arbitrator/Discovery Referee/Special Master/Mediator
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