CHICAGO INTERNATIONAL ARBITRATION CENTER

OVERVIEW OF ILLINOIS ARBITRATION LAW

Marcio Vasconcellos

INTRODUCTION

1. This note provides a summary overview concerning the law of arbitration in Illinois. **Section II** provides an overview of Illinois arbitration law and **Section III** provides an overview of recent decisions from Federal and State courts concerning arbitration law in Illinois. As **Section IV** concludes, the law of arbitration stands on solid ground in Illinois, and the welcomed addition of the Chicago International Arbitration Center will no doubt bolster the continuing growth of arbitration in Chicago as a leading seat.

OVERVIEW OF ILLINOIS ARBITRATION LAW

Legislative Framework

2. The law of arbitration in the United States involves a dual framework between federal and state law. The Federal Arbitration Act ("FAA")[1] is the main source of U.S. arbitration law and applies to arbitration agreements involving interstate or foreign commerce both in federal and state courts.[2] Congress enacted the FAA in 1925 "*to overrule the judiciary's longstanding refusal to enforce agreements to arbitrate*" and "*and place such agreements 'upon the same footing as other contracts.'*"[3] The FAA applies to all arbitrations arising

---

[1] Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1–16, 201–208, 301–307.

[2] *See*, *e.g.*, *G3 Analytics, LLC v. Hughes Socol Piers Resnick & DYM Ltd.*, 2016 IL App (1st) 160369, ¶ 17, 67 N.E.3d 940, 945 ("The FAA governs the enforceability of arbitration agreements in contracts involving interstate commerce. *Bovay v. Sears, Roebuck & Co.*, 2013 IL App (1st) 120789, ¶ 28, 373 Ill.Dec. 896, 994 N.E.2d 665. The fee agreement was between parties from different states and contemplated potential False Claims Act litigation, under both state and federal law, in multiple jurisdictions. Because the fee agreement involves interstate commerce, the FAA, not Illinois law, governs.").

[3] *Volt Info. Scis., Inc. v. Bd. of Trs. of Leland Stanford Junior Univ.*, 489 U.S. 468, 474, 109 S. Ct. 1248, 1253, 103 L. Ed. 2d 488 (1989) (quotations omitted). *See also* H.R.Rep. No. 96, 68th Cong., 1st Sess., 1-2 (1924) ("The need for the law arises from an anachronism of our American law. Some centuries ago, because of the jealousy of the English courts for their own jurisdiction, they refused to enforce specific agreements to arbitrate upon the ground that the courts were thereby ousted from their jurisdiction. This jealousy survived for so long a period that the principle became firmly embedded in the English common law and was adopted with it by the American

from "maritime transactions" and "involving commerce," which is defined broadly.[4]

3. The United States is also a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention"), subject to its reciprocity and commercial reservations.[5] Chapter 2 of the FAA implements the New York Convention[6] and provides that any conflicts between the two are resolved in favor of the New York Convention[7] with a residual application of the FAA.[8] The New York Convention comes into play when the arbitration has a foreign or international nexus, typically the place of arbitration or the nationality of the parties.[9]

4. Every state in the United States has enacted an arbitration law. While New York's arbitration law of 1920 served as a basis for the FAA, most other states have modeled their arbitration law on the Uniform Arbitration Act ("UAA") and the Illinois Unform Arbitration Act ("IUAA") supplies the state law rules that govern Illinois arbitration.[10] Additionally, Illinois also adopted the Illinois International Arbitration Act ("IIAA"), which governs international arbitration seated in Illinois.[11] Illinois is one of the few States to have adopted an

courts. The courts have felt that the precedent was too strongly fixed to be overturned without legislative enactment, although they have frequently criticised the rule and recognized its illogical nature and the injustice which results from it. This bill declares simply that such agreements for arbitration shall be enforced, and provides a procedure in the Federal courts for their enforcement.").

4 FAA, § 1.

5 Convention Done at New York June 10, 1958; T.I.A.S. No. 6997 (U.S. Treaty Dec. 29, 1970), 21 U.S.T. 2517 ("New York Convention")

6 FAA, §§ 201–208.

7 FAA, § 208.

8 FAA, § 201.

9 New York Convention, Article 1.

10 Illinois Uniform Arbitration Act ("IUAA"), 710 ILCS 5/1–5/23.

11 Illinois International Arbitration Act ("IIAA"), 710 ILCS 30/1–30/25.

international arbitration statute based on the UNCITRAL Model Law on International Commercial Arbitration.[12]

5. While there are important distinctions between the FAA and the IUAA, the IUAA "*to a certain extent tracks the language of the FAA*" and the "*two acts* [share] *common origins*" as both are "*patterned after the New York arbitration statute enacted in 1920.*"[13] As a result, "*courts interpreting State arbitration statutes patterned after the Uniform Arbitration Act* [such as the IUAA] *look for guidance to Federal court decisions interpreting similar provision*[s] *of the Federal Arbitration Act.*"[14] In addition, the Illinois Supreme Court has stated that opinions from other jurisdictions are given "*greater than usual deference*" in construing the Uniform Arbitration Act since the purpose of the act is to make uniform the laws of those states which enact it.[15]

6. A threshold question for every Illinois-seated arbitration is whether the FAA or state law governs. The FAA applies to contracts evidencing transactions involving interstate commerce, whereas the IUAA applies to purely intrastate arbitrations and the IIAA applies to international arbitral proceedings seated in Illinois. Notably, while the FAA preempts state law to the extent it conflicts with federal law, the FAA does not exclude the applicability of state law that is compatible with federal law.[16] This means that Illinois law may still be relevant

---

[12] *See generally* Peter V. Baugher & Steven M. Austermiller, *A New Way to Resolve International Business Disputes in Illinois*, 88 Ill. Bar J. 582 (2000); *see also* Sébastien Besson, *The Utility of State Laws Regulating International Commercial Arbitration and Their Compatibility with the FAA*, 11 Am. Rev. Int'l Arb. 211, 225-239 (2000).

[13] *Cecala v. Moore*, 982 F. Supp. 609, 612 (N.D. Ill. 1997), citing to *J & K Cement Const., Inc. v. Montalbano Builders, Inc.*, 119 Ill. App. 3d 663, 668, 456 N.E.2d 889, 893 (1983).

[14] *See J & K Cement Const., Inc. v. Montalbano Builders, Inc.*, 119 Ill. App. 3d 663, 668, 456 N.E.2d 889, 893 (1983) ("Given the common origins of the federal and uniform statutes, courts interpreting state arbitration statutes patterned after the Uniform Arbitration Act look for guidance to federal court decisions interpreting similar provision of the Federal Arbitration Act"); *see also Radiant Star Enters., L.L.C. v. Metropolis Condo. Ass'n*, 2018 IL App (1st) 171844, 107 N.E.3d 877, 894; *see further City of Des Plaines v. Metro. All. of Police Chapter No. 240*, 2015 IL App (1st) 140957, ¶ 38, 30 N.E.3d 598, 609 ("Federal court decisions . . . can aid our interpretation of the Act").

[15] *Garver v. Ferguson*, 76 Ill. 2d 1, 8, 389 N.E.2d 1181, 1183 (1979) ("The Act is to be construed so as 'to make uniform the law of those states which enact it.' (Ill.Rev.Stat.1975, ch. 10, par. 120.) Opinions of the courts of other jurisdictions are therefore shown greater than usual deference."). This is consistent with Section 20 of the IUAA, which provides that the "Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it."

[16] *See*, *e.g.*, *Carter v. SSC Odin Operating Co., LLC*, 237 Ill. 2d 30, 40, 927 N.E.2d 1207, 1215 (2010) ("Thus, state law is preempted by the FAA to the extent that it actually conflicts with state law, that is, to the extent that it

in arbitral proceedings seated in Illinois. For example, parties may rely on the IUAA or the IIAA to request the issuance of an arbitral subpoena to assist with third party discovery,[17] which is otherwise not available under the FAA.[18]

7. The IIAA further offers significant clarity for parties seeking to resolve international disputes in Illinois. For example, the IIAA clarifies that "*no court shall intervene except where so provided in this Act or applicable federal law*"[19] and if a party brings an action in court regarding a matter that is the subject of an arbitration agreement, the "*arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court*."[20] Another important example is that the IIAA allows arbitrators to award interest and costs—including legal fees and expenses—to the prevailing party "*unless otherwise agreed by the parties*."[21] Other notable provisions of the IIAA include a default of one arbitrator absent agreement of the parties on the number of arbitrators; [22] court assistance with the constitution of the tribunal if the parties' agreed method breaks down;[23] the tribunal's authority to rule on its own jurisdiction under the principle of

---

'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" [citations omitted]); *see also Rodgers-Rouzier v. Am. Queen Steamboat Operating Co., LLC*, 104 F.4th 978, 985 (7th Cir. 2024) ("the FAA is a substantive federal law that, through the Supremacy Clause, generally preempts conflicting state law within its sphere . . . But it does not follow that the FAA preempts state laws that favor arbitration in means different from the FAA or beyond the FAA's own scope . . . To put the point in doctrinal terms, the FAA does not occupy the field of arbitration.").

17 *See* IUAA, 710 ILCS 5/7 and IIAA, 710 ILCS 30/20-50.

18 *See*, *e.g.*, *Integrity Ins. Co. v. Am. Centennial Ins. Co.*, 885 F. Supp. 69, 71 (S.D.N.Y. 1995), abrogated by *Life Receivables Tr. v. Syndicate 102 at Lloyd's of London*, 549 F.3d 210 (2d Cir. 2008) ("this Court concludes that an arbitrator does not have the authority to compel nonparty witnesses to appear for pre-arbitration depositions."); *Life Receivables Tr. v. Syndicate 102 at Lloyd's of London*, 549 F.3d 210, 216–17 (2d Cir. 2008) ("section 7 of the FAA does not authorize arbitrators to compel pre-hearing document discovery from entities not party to the arbitration proceedings.").

19 *See* 710 ILCS 30/1-25.

20 *See* 710 ILCS 30/5-10(b).

21 *See* 710 ILCS 30/25-20(g)–(j).

22 *See* 710 ILCS 30/10-10(f).

23 *See* 710 ILCS 30/10-5.

competence-competence; [24] the tribunal's authority to issue interim measures;[25] and court assistance in the taking of evidence.[26]

8. Additionally, parties to a contract may explicitly provide the law governing their arbitration. When parties to a contract explicitly agree to arbitrate in accordance with state law, "*the FAA does not apply, even where interstate commerce is involved.*"[27] However, "*a general choice of law provision in a contract will not extend to the arbitration clause, absent specific evidence the parties intended it to do so.*"[28]

9. The legislative framework covering arbitration in Illinois is robust, encompassing State, federal and international arbitration. This framework is not only aligned with but is often more comprehensive than its federal counterpart.

Validity and Enforcement of Arbitration Agreements

10. Under Illinois law, "*a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable save upon such grounds as exist for the revocation of any contract.*"[29] The IUAA "*embodies a legislative policy favoring enforcement of agreements to arbitrate future disputes*," which is "*largely coextensive with the FAA.*"[30] The IUAA "*placed arbitration agreements on equal footing with other contractual promises.*"[31]

---

[24] *See* 710 ILCS 30/15-5.

[25] *See* 710 ILCS 30/15-10.

[26] *See* 710 ILCS 30/20-55.

[27] *Yates v. Doctor's Associates, Inc.*, 193 Ill.App.3d 431, 438, 140 Ill.Dec. 359, 549 N.E.2d 1010 (1990), *citing Volt Information Sciences, Inc. v. Board of Trustees of Leland Stanford Junior University*, 489 U.S. 468, 109 S.Ct. 1248, 103 L.Ed.2d 488 (1989).

[28] *BEM I, LLC v. Anthropologie, Inc.*, No. 98 C 358, 2000 WL 1849574, at *6 (N.D.Ill.Dec.15, 2000) (collecting federal and Illinois cases); *accord Gillispie v. Village of Franklin Park*, 405 F.Supp.2d 904, 909 (N.D.Ill.2005). *See also Vazquez v. Cent. States Joint Bd.*, 547 F. Supp. 2d 833, 865 (N.D. Ill. 2008).

[29] IUAA, 710 ILCS 5/1.

[30] *Bain v. Airoom*, LLC, 2022 IL App (1st) 211001, ¶ 20, 207 N.E.3d 1015, 1022.

[31] *Chandler v. AT&T Wireless Services, Inc.*, 358 F.Supp.2d 701 (2005).

11. In the event of an "*opposing party's refusal to arbitrate*," disputants in Illinois may apply for a court order compelling arbitration and staying "[a]*ny action or proceeding involving an issue subject to arbitration*."[32] The application is made in the same manner as "*for the making and hearing of motions in civil cases*."[33] For Illinois courts to exercise jurisdiction over arbitration proceedings under the IUAA, "*the making of an agreement described in Section 1 providing for arbitration in this State confers jurisdiction on the court to enforce the agreement under this Act and to enter judgment on an award thereunder*."[34] Venue for initial applications lies in the county where the agreement provides the arbitration hearing shall be held, or if the hearing has been held, in the county where it was held.[35] In Illinois, court orders compelling arbitration are immediately appealable.[36]

12. Arbitration in Illinois—as in the United States as a whole—is first and foremost a creature of contract. Contracting parties may specify the method of appointing arbitrators,[37] whether hearings will be necessary,[38] and may even agree to non-binding arbitration.[39] While court files and trials in Illinois are typically open to the public, arbitration in Illinois is generally a private affair but confidentiality requires specific contractual agreement.

13. In Illinois, arbitral tribunals have the authority to issue subpoenas for the attendance of witness and the production of evidence and may permit that depositions be taken in case a witness cannot be subpoenaed or is unable to attend the hearing.[40] Overall, the arbitrators have the authority to decide

---

32 IUAA, 710 ILCS 5/2.

33 IUAA, 710 ILCS 5/15.

34 IUAA, 710 ILCS 5/16.

35 IUAA, 710 ILCS 5/17.

36 *See*, *e.g.*, *LAS, Inc. v. Mini-Tankers, USA, Inc.*, 342 Ill. App. 3d 997, 1000, 796 N.E.2d 633, 635 (2003) ("Because an order on a motion to compel arbitration is in the nature of injunctive relief, those orders are reviewable under Supreme Court Rule 307(a)(1).").

37 IUAA, 710 ILCS 5/3.

38 IUAA, 710 ILCS 5/5.

39 *Phoenix Ins. Co. v. Rosen*, 242 Ill. 2d 48, 67, 949 N.E.2d 639, 651 (2011) ("Illinois public policy does not require that arbitration be binding").

40 IUAA, 710 ILCS 5/7.

which rules of evidence apply and "*are only required to conduct arbitration in a manner consistent with the guidelines of the Arbitration Act.*"[41]

14. As to Court review of the validity and enforcement of arbitration agreements, Illinois courts are very much aligned with the federal law of arbitration.

Enforcing and Vacating Arbitration Awards

15. Section 8 of the IUAA requires that arbitral awards "*be in writing and signed by the arbitrators joining the award.*"[42] Similarly, Section 25-20 of the IIAA provides that an "*award shall be made in writing*" and that "*the signatures of the majority of all members of the arbitral tribunal shall suffice*."[43] Pursuant to the doctrine of *functus officio*, arbitrators are barred from revisiting the merits of a final award but may clarify or correct an award after issuance or on remand.[44] The tribunal has the authority to allocate costs and expenses as provided in the agreement to arbitrate.[45] Under the IIAA, the tribunal has the authority to award interest and costs—including attorney's fees—unless the parties agree otherwise.[46] These provisions afford significant discretion to arbitral tribunals.

16. Many arbitral awards are paid without the need for court intervention. Indeed, one of the advantages of arbitration is that it allows disputing parties to resolve their conflicts outside the purview of courts and without the inevitable publicity that follows court intervention. However, losing parties sometimes fail to comply with awards, which requires court assistance through confirmation and enforcement of arbitral awards. Similarly to Section 9 of the

---

41 *Christian Dior, Inc. v. Hart Schaffner & Marx*, 265 Ill. App. 3d 427, 437, 637 N.E.2d 546, 553 (1st Dist. 1994).

42 IUAA, 710 ILCS 5/8(a).

43 IUAA, 710 ILCS 30/25-20(a) and (b).

44 IUAA, 710 ILCS 5/9; *see also Fed. Signal Corp. v. SLC Techs., Inc.*, 318 Ill. App. 3d 1101, 1111, 743 N.E.2d 1066, 1074 (1st Dist. 2001).

45 IUAA, 710 ILCS 5/10.

46 IUAA, 710 ILCS 30/25-20(g)–(j).

FAA,[47] Section 11 of the IUAA provides that parties may apply to courts for confirmation of the award and subsequent enforcement.[48]

17. Section 12 of the IUAA provides that a reviewing court has the authority to vacate an arbitration award upon application by a party where:

> "*(1) The award was procured by corruption, fraud or other undue means;*
>
> *(2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any one of the arbitrators or misconduct prejudicing the rights of any party;*
>
> *(3) The arbitrators exceeded their powers;*
>
> *(4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Section 5, as to prejudice substantially the rights of a party; or*
>
> *(5) There was no arbitration agreement and the issue was not adversely determined in proceedings under Section 2 and the party did not participate in the arbitration hearing without raising the objection; but the fact that the relief was such that it could not or would not be granted by the circuit court is not ground for vacating or refusing to confirm the award."*[49]

---

47 FAA, § 9.

48 IUAA, 710 ILCS 5/11.

49 The grounds for vacatur under Illinois law largely track Section 10(a) of the FAA:

"***(1)*** *where the award was procured by corruption, fraud, or undue means;*
(2) *where there was evident partiality or corruption in the arbitrators, or either of them;*
(3) *where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or*
(4) *where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.*"

18. Under the IUAA, an application for vacatur must be made "*within 90 days after delivery of a copy of the award to the applicant, except that if predicated upon corruption, fraud or other undue means, it shall be made within 90 days after such grounds are known or should have been known.*"[50] The express provision addressing corruption, fraud or other undue means extends the time to file for vacatur beyond 90 days eliminates the need for Illinois courts to address, like other courts in the United States, whether the doctrine of equitable tolling extends the time for vacatur under the FAA.[51]

19. Parties may also apply for court modification or correction of awards where:

> "*(1) 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;*
>
> *(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or*
>
> *(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.*"[52]

20. Absent grounds for vacatur (as addressed in IUAA Section 12) or modification (as addressed in IUAA Section 13), Illinois courts will enter judgment on the award.[53] As was the case for applications to compel arbitration and stay parallel litigation, selection of an arbitration seat in Illinois will supply the rules

---

[50] IUAA, 710 ILCS 5/12(b).

[51] *See*, *e.g.*, *Move, Inc. v. Citigroup Glob. Markets, Inc.*, 840 F.3d 1152, 1156 (9th Cir. 2016) ("Although this Court has not yet decided whether equitable tolling applies to the FAA, the district court held that it does. We agree."); *see also Eletson Holdings, Inc. v. Levona Holdings Ltd.*, 23-CV-7331 (LJL), 2024 WL 4100555, at *11 (S.D.N.Y. Sept. 6, 2024) ("Congress need not explicitly state that a statutory time limit can be equitably tolled for a court to conclude that the statute is subject to equitable tolling.")

[52] IUAA, 710 ILCS 5/13. These grounds for modification of awards track Section 11 of the FAA:

> "***(a)*** *Where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award.*
> ***(b)*** *Where the arbitrators have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted.*
> ***(c)*** *Where the award is imperfect in matter of form not affecting the merits of the controversy.*"

[53] IUAA, 710 ILCS 5/14.

for jurisdiction[54] and venue[55] where the award is made. While the IIAA does not contain its own set of substantive rules regarding vacatur of arbitration awards, the international act allows disputing parties to resort to "*any ground for setting aside or refusing to recognize or enforce an arbitral award to the extent otherwise permitted under applicable federal law*."[56]

21. Illinois law provides for very limited judicial review of arbitration awards[57] and encompasses a strong public policy in favor of enforcing arbitration awards, which Illinois courts will vacate "*only in extraordinary*" [58] and "*limited circumstances*."[59] Illinois courts presume that arbitrators "*did not exceed*" their authority[60] and, "[w]*henever possible* [Illinois courts] *must construe an award so as to uphold its validity*."[61] Because Section 12 of the IUAA only allows vacatur based on the prescribed statutory grounds, judicial review of an arbitration award under Illinois law is more limited than appellate review of a trial court's decision.[62] This practice is very much in line with federal law.

OVERVIEW OF FEDERAL AND STATE DECISIONS ON ILLINOIS ARBITRATION

22. Illinois courts offer a pro-arbitration environment, particularly in commercial cases involving sophisticated parties.[63] In the words of the Illinois Supreme

---

54 IUAA, 710 ILCS 5/16; *see also Chicago Southshore & S. Bend R.R. v. N. Indiana Commuter Transp. Dist.*, 184 Ill. 2d 151, 155–56, 703 N.E.2d 7, 9 (1998) ("under the plain language of the statute, the parties' written agreement must provide for arbitration in Illinois in order for Illinois courts to exercise jurisdiction to confirm an arbitration award").

55 IUAA, 710 ILCS 5/17.

56 IUAA, 710 ILCS 30/10-10 and generally 710 ILCS 30/1-25.

57 *See*, *e.g.*, *In re Marriage of Haleas*, 2017 IL App (2d) 160799 (2017).

58 *Yorulmazoglu v. Lake Forest Hosp.*, 359 Ill. App. 3d 554, 564, 834 N.E.2d 468, 476 (2005) ("a court will grant a petition to vacate an arbitration award only in extraordinary circumstances").

59 *Munizzi v. UBS Fin. Servs., Inc.*, 2021 IL App (1st) 201237, ¶ 22, 202 N.E.3d 358, 364 ("The limited circumstances under which a reviewing court can modify or vacate an arbitration award are set forth in the Arbitration Act").

60 *Herricane Graphics, Inc. v. Blinderman Const. Co.*, 354 Ill. App. 3d 151, 155, 820 N.E.2d 619, 623 (2004) ("presumption that the arbitrator did not exceed his authority").

61 *Garver v. Ferguson*, 76 Ill. 2d 1, 10, 389 N.E.2d 1181, 1184 (1979).

62 *See*, *e.g.*, *In re Raymond Professional Group, Inc.*, 397 B.R. 414 (2008).

63 The instances in which Illinois courts tend to intervene in arbitration agreements generally involve vulnerable populations. *See*, *e.g.*, *Bain v. Airoom, LLC*, 2022 IL App (1st) 211001, 207 N.E.3d 1015 (*consumers*); *Calusinski v. Alden-Poplar Creek Rehab. & Health Care Ctr., Inc.*, 2022 IL App (1st) 220508, 239 N.E.3d 521 (*nursing*

Court, "*public policy in Illinois favors arbitration.*"[64] In Illinois, "[a]*rbitration is regarded as an effective, expeditious, and cost-efficient method of dispute resolution.*"[65] Courts in Illinois have long held that "[w]*here there is a valid arbitration agreement and the parties' dispute falls within the scope of that agreement, arbitration is mandatory and the trial court must compel it.*"[66] Conversely, "*where there is no valid arbitration agreement or where the parties' dispute does not fall within the scope of that agreement, the trial court may not compel it.*"[67] This approach does justice to the contractual nature of arbitration law. Below is an overview of Illinois federal and state court decisions on the key arbitration issues.

Validity of Arbitration Agreements

23. Illinois courts apply ordinary state law principles governing the formation of contracts to decide whether there is a valid arbitration agreement.[68] Under Illinois contract law, courts to look to "*whether the contracting parties manifested an objective intent to be bound to the agreement through outward expressions, such as words or acts.*"[69] A mutual arbitration agreement constitutes consideration under general Illinois contract law principles.[70]

---

home operators); *Dick-Ipsen v. Humphrey, Farrington & McClain, P.C.*, 2024 IL App (1st) 241043, 263 N.E.3d 6, appeal denied, 246 N.E.3d 1186 (Ill. 2024) (*legal-malpractice action against attorneys*); *Hwang v. Pathway LaGrange Prop. Owner, LLC*, 2024 IL App (1st) 240534, 260 N.E.3d 99 (*assisted nursing facility*).

64 *Bain v. Airoom, LLC*, 2022 IL App (1st) 211001, ¶ 20, 207 N.E.3d 1015, 1022.

65 *Portage Park Cap., LLC v. A.L.L. Masonry Constr. Co.., Inc.*, 2024 IL App (1st) 240344, ¶ 14, 258 N.E.3d 35, 41, appeal denied sub nom. *Portage Park Cap., LLC v. A.L.L. Masonry Constr. Co., Inc.*, 244 N.E.3d 257 (Ill. 2024).

66 *Travis v. Am. Mfrs. Mut. Ins. Co.*, 335 Ill. App. 3d 1171, 1175, 782 N.E.2d 322, 325 (5th Dist. 2002), citing to *TDE Ltd. v. Israel*, 185 Ill.App.3d 1059, 1063, 133 Ill.Dec. 843, 541 N.E.2d 1281 (1989) (parties to an arbitration agreement are irrevocably committed to arbitrate all disputes clearly arising under the agreement).

67 *Id.*, citing to *Roubik v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 181 Ill.2d 373, 382, 230 Ill.Dec. 1, 692 N.E.2d 1167 (1998) (a party cannot be forced to arbitrate a dispute that the party has not agreed to submit to arbitration).

68 *See*, *e.g.*, *Miracle-Pond v. Shutterfly, Inc.*, 2020 WL 2513099, at *3-4 (N.D. Ill. May 15, 2020); *see also Hutcherson v. Sears Roebuck & Co.*, 342 Ill. App. 3d 109, 116 (2003).

69 *See*, *e.g.*, *Greenhill v. RV World, LLC*, 727 F.Supp.3d 798 (2024).

70 See, e.g., *Matricciani v. American Homeowner Preservation, Inc.*, 718 F.Supp.3d 825 (2024)

Consideration "*for the agreement as a whole*" is sufficient "*to support the subsidiary arbitration clause as well.*"[71]

24. Like other contracts, state-law contract defenses such as fraud, duress, or unconscionability may invalidate an arbitration agreement.[72] However, the fact that a contract may be of adhesion under Illinois law does not automatically invalidate an arbitration agreement.[73] Courts examine both procedural[74] and substantive[75] unconscionability when evaluating challenges to arbitration agreements.[76] The Seventh Circuit has noted that even a party's silence may constitute consent to arbitration by failing to opt out an arbitration provision when informed that silence would constitute acceptance.[77]

Scope of Arbitration Agreements

25. Under both federal and Illinois law, the scope of arbitration agreements turns on the language of the contract. Broad arbitration clauses typically encompass all disputes that arise from or relate to the underlying contract, while narrow arbitration clauses are not extended by construction or implication.

26. The Seventh Circuit applies a strong presumption in favor of arbitration when interpreting the scope of broad arbitration clauses. In *Gore v. Alltel Communications*, the Seventh Circuit held that the scope of broad arbitration clauses encompasses breach of contract, civil conspiracy, aiding and abetting,

---

71 *Hartz v. Brehm Preparatory Sch., Inc.*, 2021 IL App (5th) 190327, ¶ 45, 183 N.E.3d 172, 184.

72 *See*, *e.g.*, *Turner v. Concord Nursing and Rehabilitation Center*, LLC, 2023 IL App (1st) 221721 (2023); *see also Trujillo v. Apple Computer, Inc.*, 578 F.Supp.2d 979 (2008).

73 *See*, *e.g.*, *Matricciani v. American Homeowner Preservation, Inc.*, 718 F.Supp.3d 825 (2024)

74 Arbitration agreements are procedurally unconscionable where the form of the arbitration clause is so difficult to find or understand so that a party cannot make an informed choice. *See*, *e.g.*, *Kinkel v. Cingular Wireless LLC*, 857 N.E.2d 250, 264-65 (Ill. 2006); *see also Turner v. Concord Nursing and Rehab. Ctr., LLC*, 2023 IL App (1st) 221721, ¶¶ 20–25).

75 Substantive unconscionability occurs when the substantive terms of the arbitration clause are so unfair or one-sided that one of the parties is essentially denied access to justice. *See*, *e.g.*, *Hwang v. Pathway LaGrange Property Owner, LLC*, 2024 IL App (1st) 240534, at ¶¶ 18-25.

76 *See*, *e.g.*, *Hartz v. Brehm Preparatory School, Inc.*, 2021 IL App (5th) 190327 (2021).

77 *See Gupta v. Morgan Stanley Smith Barney*, LLC, 934 F. 3d 705 (7th Cir, 2019).

unjust enrichment, and consumer fraud.[78] Following the United States Supreme Court's instruction, the Seventh Circuit resolves "*any doubt concerning the scope of arbitrable issues . . . in favor of arbitration*."[79]

27. Similarly, the Illinois Supreme Court has long held that "[w]*hether a dispute falls within the scope of an arbitration clause depends upon the language of the contract*."[80] Clauses providing for all claims "*arising out of*" or "*relating to*" an agreement cover all disputes that "*arise*[] *out of the subject matter of the contract*."[81] There is "*no magic to the phrase 'arising out of,'*"[82] and so long as the clause is characterized as a broad clause, it will encompass a broad spectrum of disputes.[83] Conversely, narrow arbitration clauses "*will not be extended by construction or implication*" because "*parties are only bound to arbitrate those issues which by clear language they have agreed to arbitrate*."[84]

Threshold Issues of Arbitrability

28. The "*threshold*" or "*gateway*" issues of arbitrability are typically characterized as *objective arbitrability*—i.e., whether the dispute at issue is the type of dispute that may be referred to arbitration—and *subjective arbitrability*—i.e., whether the parties in the dispute at issue agreed to refer the dispute to arbitration. These gateway issues of arbitrability are presumptively for courts to decide unless there is "*clear and unmistakable*" evidence that the parties

---

78 *Gore v. Alltel Communications, LLC*, 666 F.3d 1027 (7th Cir. 2012)

79 *Sweet Dreams Unlimited, Inc. v. Dial-A-Mattress Int'l, Ltd.*, 1 F.3d 639, 642 (7th Cir. 1993).

80 *Kinkel v. Cingular Wireless, LLC*, 357 Ill. App. 3d 556, 560–61, 828 N.E.2d 812, 817 (5th Dist. 2005), aff'd, 223 Ill. 2d 1, 857 N.E.2d 250 (2006).

81 *Johnson v. Baumgardt*, 216 Ill. App. 3d 550, 558–59, 576 N.E.2d 515, 520 (2d Dist. 1991).

82 *Trustmark Ins. Co. v. Transamerica Occidental Life Ins. Co.*, 484 F. Supp. 2d 850, 854 (N.D. Ill. 2007).

83 *See*, *e.g.*, *Matthews v. Rollins Hudig Hall Co.*, 72 F.3d 50, 53–54 (7th Cir.1995) (giving expansive reading to arbitration clause that governed all claims "relating to" breach of parties' agreement); *Welborn Clinic v. MedQuist, Inc.*, 301 F.3d 634, 639 (7th Cir.2002) (characterizing arbitration clause covering all claims either "arising out of" or "relating to" parties' agreement as "a very broad, standard arbitration clause.").

84 *Morris v. TrueAccord, Inc.*, 2025 IL App (1st) 250706, ¶ 12, *citing to Salsitz v. Kreiss*, 198 Ill. 2d 1, 13, 761 N.E.2d 724, 731 (2001), as supplemented on denial of reh'g (Dec. 3, 2001) and *Flood v. Country Mut. Ins. Co.*, 41 Ill. 2d 91, 94, 242 N.E.2d 149, 151 (1968). *See also Keeley & Sons, Inc. v. Zurich Am. Ins. Co.*, 409 Ill. App. 3d 515, 520, 947 N.E.2d 876, 881 (5th Dist. 2011).

agreed to arbitrate arbitrability.[85] Therefore, "*the question of who decides arbitrability is itself a question of contract*" because parties may agree "*that an arbitrator, rather than a court, will resolve threshold arbitrability questions as well as underlying merits disputes*."[86]

29. Under the FAA, Illinois courts refer substantive arbitrability issues to the arbitrators if the parties' agreement expressly states that the arbitral tribunal has the power to rule on its own jurisdiction;[87] or incorporates by reference a set of institutional rules empowering the arbitrator to decide jurisdiction.[88]

30. Under the IUAA, Illinois courts apply a three-prong approach to determine whether the parties agreed to arbitrate these threshold or gateway issues of arbitrability: "*(1) if it is clear that the dispute falls within the scope of the arbitration clause, the court must compel arbitration; (2) if it is clear that the dispute does not fall within the scope of the arbitration clause, the court must deny the motion to compel arbitration; and (3) if it is unclear or ambiguous whether the dispute falls within the scope of the arbitration clause, the matter should be referred to the arbitrator to determine arbitrability*."[89] Therefore, when it is "*unclear whether the subject matter of the dispute falls within the scope of* [a broad] *arbitration agreement*," Illinois courts will refer the matter to the arbitrators for an initial decision that may be subject to court review in the event of confirmation of annulment.[90]

---

85 *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938, 944, 115 S. Ct. 1920, 1924, 131 L. Ed. 2d 985 (1995) ("Courts should not assume that the parties agreed to arbitrate arbitrability unless there is 'clea[r] and unmistakabl[e]' evidence that they did so").

86 *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 586 U.S. 63, 65, 139 S. Ct. 524, 527, 202 L. Ed. 2d 480 (2019).

87 *Eska v. Jack Schmitt Ford, Inc.*, 2023 IL App (5th) 220812-U, ¶ 18 ("questions regarding whether a particular dispute was within the scope of this arbitration clause were clearly delegated to the arbitrator").

88 *Yellow Cab Affiliation, Inc. v. New Hampshire Ins. Co.*, 10-CV-6896, 2011 WL 307617, at *4 (N.D. Ill. Jan. 28, 2011) (by specifically incorporating the AAA rules, the parties to an agreement to arbitrate provide clear and unmistakable evidence to show that they intended the arbitrator to decide the threshold question of arbitrability).

89 *Bourbonnais Twp. v. Int'l Union of Operating Engineers of Chicago, Illinois Vicinity Local No. 399*, 2022 IL App (3d) 210409-U, ¶ 13. *See also Guarantee Trust Life Insurance Co. v. Platinum Supplemental Insurance, Inc.*, 2016 IL App (1st) 161612, ¶ 26; *MHR Estate Plan, LLC v. K & G Partnership*, 2016 IL App (3d) 150744, ¶ 20.

90 *Donaldson, Lufkin & Jenrette Futures, Inc. v. Barr*, 124 Ill. 2d 435, 447–48, 530 N.E.2d 439, 445 (1988); *see also Clark v. Foresight Energy, LLC*, 2023 IL App (5th) 230346, ¶ 17, 228 N.E.3d 988, 994.

Provisional Measures in Aid of Arbitration

31. Under FAA Sections 3 and 4, federal courts must stay—as opposed to dismiss—any litigation involving issues that the parties agreed to arbitrate and instead refer them to arbitration.[91] Likewise, under IUAA Section 2, a party that wishes to compel arbitration may request the court to stay litigation of the arbitrable issues and compel the other party to arbitrate the dispute.[92] In addition to motions to stay and/or compel, parties to an arbitration agreement may also request assistance from Illinois courts prior to the constitution of the arbitral tribunal through provisional remedies in aid of arbitration. Even though the IUAA does not explicitly contemplate provisional remedies, Illinois law contemplates various provisional measures that may be helpful in preserving assets or maintaining *status quo*, such as orders of attachment, temporary restraining orders or preliminary injunctions.[93]

32. However, parties seeking court assistance in connection with their arbitration must ensure they are not overreaching into the merits of the dispute, which may constitute a waiver of its right to arbitrate. Although waivers are "*disfavored*," parties may waive the right to arbitrate if they conduct themselves "*in a manner inconsistent with the arbitration clause, thereby demonstrating an abandonment of that right*."[94] While "*waiver of the right to arbitrate is not lightly inferred*,"[95] parties to an arbitration clause should not seek court involvement into the merits of the dispute in related court litigation.[96]

---

91 *See Smith v. Spizzirri*, 601 U.S. 472, 475–76, 144 S. Ct. 1173, 1176, 218 L. Ed. 2d 494 (2024) ("When a federal court finds that a dispute is subject to arbitration, and a party has requested a stay of the court proceeding pending arbitration, the court does not have discretion to dismiss the suit on the basis that all the claims are subject to arbitration.").

92 *See*, *e.g.*, *Messmore v. Silvis Operations, LLC*, 2018 IL App (3d) 170708, ¶ 23.

93 *See* Compelling and Staying Arbitration in Illinois, Practical Law Practice Note w-007-7082.

94 *Koehler v. Packer Group, Inc.*, 2016 IL App (1st) 142767, ¶ 22, 53 N.E.3d 218, 231, *citing to Northeast Illinois Regional Commuter R.R. Corp. v. Chicago Union Station Co.*, 358 Ill.App.3d 985, 996, 295 Ill.Dec. 63, 832 N.E.2d 214 (2005).

95 *Atkins v. Rustic Woods Partners*, 171 Ill. App. 3d 373, 378, 525 N.E.2d 551, 555 (2d Dist. 1988).

96 *See Smith v. Jones*, 2025 IL App (5th) 231136, ¶ 31 (collecting cases).

Enforcement and Vacatur of Arbitration Awards

33. Under the FAA, the approach from Illinois federal courts to the enforcement and vacatur of arbitration awards is consistent with federal case law on commercial arbitration. Because both the FAA and the IUAA share a common origin and similar language, it is unsurprising that the outcome under the IUAA is largely consistent with federal practice. Below we provide an overview of the most common challenges to arbitration awards before Illinois courts under both the FAA and the IUAA.

Evident Partiality, Fraud, Corruption or Undue Means

34. A common challenge to arbitration awards is that there was evident partiality in the arbitrators or the award was procured by fraud, corruption or undue means.[97] In the FAA case *Hurn v. Macy's, Inc.*, the Seventh Circuit affirmed the district court's decision to confirm the arbitration award "[b]*ecause nothing in the record supports a valid ground for vacating the award*."[98] First, the Court held that the arbitrator's decision not to allow one question about whether a witness was an attorney "*was not 'misbehavior' under § 10(a)(3) because it was the kind of procedural decision about representation that arbitrators may permissibly make*."[99] Second, the Court rejected the allegation that "*the arbitrator fell asleep during the hearing*" both because there was no evidence and because even if true does not, in and of itself, vitiate the arbitrator's discharge of his duties.[100] And third, the Court held that "*an adverse ruling alone is not 'direct, definite, and demonstrable bias' sufficient to constitute 'evident partiality.'*"[101]

35. Similarly, under the IUAA, vacatur for "*evident partiality*" requires the showing of "*direct, definite, and demonstrable interest, on the part of the arbitrator, in the outcome of the arbitration*" and proof of partiality cannot be "*remote,*

---

97 Compare IUAA, 710 ILCS 5/12(a)(1)–(2) with FAA, § 10(a)(1)–(2).

98 *Hurn v. Macy's, Inc.*, 728 Fed. Appx. 598 (7th Cir. 2018).

99 *Id*.

100 *Id*. at 599.

101 *Id*.

uncertain, or speculative."[102] Furthermore, the phrase "*undue means*" in section 12(a)(1) of the IUAA "*has been interpreted as akin to fraud and corruption; it refers to some aspect of the arbitrator's decision or decision-making process which was obtained in an unfair manner and beyond the normal processes contemplated by the act*."[103]

Excess of Powers

36. Another common challenge to arbitration awards is that the arbitrators exceeded their powers.[104] In the FAA case *Cont'l Cas. Co. v. Certain Underwriters at Lloyds of London*, the insurer Continental sought to vacate an arbitral award issued in favor of reinsurer Underwriters on the basis that the arbitral tribunal exceeded the scope of the agreement to arbitrate.[105] Continental objected to the tribunal's awarded remedies, specifically "*about the way in which certain claims should be billed and the consequences for failing to use the proper methodology*."[106] Relying on its own precedent, the Seventh Circuit noted that "[i]*t is commonplace to leave the arbitrators pretty much at large in the formulation of remedies, just as in the formulation of the principles of contract interpretation*"[107] and affirmed the District Court's confirmation of the award.

37. Similarly, Illinois state courts ruling under the IUAA frequently hold that "[t]*here is a presumption that the arbitrators did not exceed their authority*" and ""[i]*f the arbitrators have acted in good faith . . . the award is conclusive upon the parties*."[108] Accordingly, a court "*may not disturb the arbitrator's award unless he based it on a body of thought, feeling, policy, or law outside of the*

---

[102] *Saville Intern., Inc. v. Galanti Group, Inc.*, 107 Ill. App. 3d 799, 63 Ill. Dec. 578, 438 N.E.2d 509 (1st Dist. 1982).

[103] *See Laatz v. Intergovernmental Risk Mgmt. Agency*, 336 Ill. App. 3d 863, 866, 784 N.E.2d 877, 879 (2d Dist. 2003); *see also Hahn v. A.G. Becker Paribas, Inc.*, 164 Ill.App.3d 660, 667, 115 Ill.Dec. 693, 518 N.E.2d 218 (1987).

[104] Compare IUAA, 710 ILCS 5/12(a)(3) with FAA, § 10(a)(4).

[105] *Cont'l Cas. Co. v. Certain Underwriters at Lloyds of London*, 10 F.4th 814 (7th Cir. 2021).

[106] *Id.* at 822–23.

[107] *Id*. at 821.

[108] *Tim Huey Corp. v. Glob. Boiler & Mech., Inc.*, 272 Ill. App. 3d 100, 106, 649 N.E.2d 1358, 1362 (4th Dist. 1995); *see also Garver v. Ferguson*, 76 Ill. 2d 1, 7, 389 N.E.2d 1181, 1183 (1979).

contract."[109] However, "[a]*n arbitrator exceeds his authority when he decides matters that were not submitted to him for resolution. Id. If an arbitrator exceeds the scope of his authority in making a decision, his award must be vacated*."[110]

Misconduct Regarding Evidence or Hearings

38. Yet another common challenge to arbitral awards is that the arbitrators engaged in some misconduct in refusing to hear evidence or in the conduct of hearings.[111] In the FAA case *Hyatt Franchising, L.L.C. v. Shen Zhen New World I, LLC*, Hyatt sought to enforce an arbitration award against its franchisee Shen Zhen, and the franchisee cross-moved to vacate the award on the basis that the arbitrator had engaged in misconduct by failing to permit additional discovery and failing to disqualify Hyatt's counsel.[112] The Seventh Circuit noted that "*refusing to hear evidence*" concerns "*the conduct of the hearing*" and "*not the conduct of discovery*."[113] In fact, the Court further noted that "*nothing in the Federal Arbitration Act requires an arbitrator to allow any discovery*" and that in any event "*plenty of discovery occurred*" in arbitration. As to alternative argument that the arbitrator should have disqualified Hyatt's counsel—the notable firm DLA Piper—the Court held that Section 10(a)(3) of the FAA "*does not provide for substantive review of an arbitrator's decisions*" but only "*misbehavior*," of which there was none and accordingly affirmed the award.[114]

39. Likewise, Illinois state courts ruling under the IUAA have held that rejecting evidence is not the same as failing to hear evidence. In *Duemer v. Edward T. Joyce & Associates, P.C.*,[115] a case involving a dispute between former clients

---

109 *Illinois State Toll Highway Auth. v. Int'l Broth. of Teamsters, Local 700*, 2015 IL App (2d) 141060, ¶ 30, 43 N.E.3d 1206, 1216.

110 *Cnty. of Tazewell v. Illinois Fraternal Order of Police Labor Council*, 2015 IL App (3d) 140369, ¶ 13, 31 N.E.3d 782, 792.

111 Compare IUAA, 710 ILCS 5/12(a)(4) with FAA, § 10(a)(3).

112 *Hyatt Franchising, L.L.C. v. Shen Zhen New World I, LLC*, 876 F.3d 900, 901 (7th Cir. 2017).

113 *Id*. at 901–02.

114 *Id*. at 902.

115 *Duemer v. Edward T. Joyce & Associates, P.C.*, 2013 IL App (1st) 120687, ¶ 68, 995 N.E.2d 321, 332.

and their law firm, the defendant law firm alleged that the arbitrator "*refuse*[d] *to hear evidence pertinent to the issue of damages that the defendant wished to present*."[116] The Court of Appeals disagreed, and noted that the defendant law firm's motions "*presented its calculations of the damages and its arguments for reducing the amount of damages*."[117] Accordingly, the arbitrator did not refuse to hear the evidence, she instead considered the evidence and provided
"*detailed reasons*" for its rejection.

Public Policy

40. Although not a statutory ground under the FAA or the IUAA, another common challenge to arbitration awards is that they violate public policy. In the FAA case *Zimmer Biomet Holdings, Inc. v. Insall*, the licensee of patents for a knee replacement device sought to vacate an arbitration award in favor of the owner over licensee's obligation to continue paying royalties after patents expired.[118] The main basis for the challenge was a public policy exception, which the Seventh Circuit noted applies not only to labor disputes but extends to contract disputes as well.[119] The Court further noted that arbitral decisions "*demand*" deference, but that courts "*must vacate an arbitration award if the remedy or relief violates an explicit, well-defined, and dominant public policy*."[120] The Court held that an arbitral award most clearly violates public policy "*when it creates an explicit conflict with statutory laws or well-established and easily discernible precedent*."[121] However, because the arbitral

116 *Id*.

117 *Id*.

118 *Zimmer Biomet Holdings, Inc. v. Insall*, 108 F.4th 512 (7th Cir. 2024), cert. denied, 145 S. Ct. 773, 220 L. Ed. 2d 274 (2024).

119 *Id*. at 517.

120 *Id*. at 519.

121 *Id*., *citing to Titan Tire Corp. of Freeport v. United Steel, Paper & Forestry, Rubber, Mfg., Energy, Allied Indus. & Serv. Workers Int'l Union*, 734 F.3d 708, 716 (7th Cir. 2013) ("A violation of a statute or some other positive law is the clearest example of a violation of public policy and no arbitrator is entitled to direct a violation of positive law.") (cleaned up).

tribunal awarded the relevant payments under a license agreement and not any patent rights, the award could not have violated public policy.[122]

41. Likewise, Illinois state courts ruling under the IUAA have also held that "[a]*n arbitrator's award may not stand if it results in the contravention of paramount considerations of public policy*."[123] The public policy must be "*clearly shown*" and "'[t]*he contract as interpreted by the arbitrator must violate 'some explicit public policy' that is 'well defined and dominant, and is to be ascertained "by reference to the laws and legal precedents and not from general considerations of supposed public interests."'*"[124] This is a high bar and one that cannot be met with mere disagreement with the arbitrator's decision.

Manifest Disregard

42. One relative distinction between Illinois courts and federal practice lies in the "*manifest disregard of the law*" standard, which Illinois courts adopted from federal jurisprudence.[125] However, this is a distinction that ought not be overstated.

43. Historically, federal courts applied the "*manifest disregard of the law*" standard to cases where the "*arbitrators deliberately disregarded what they knew to be the law in order to reach the result they did.*"[126] In 2008, the United States Supreme Court held that "*the grounds for vacatur and modification provided by §§ 10 and 11 of the FAA are exclusive*,"[127] which created a circuit split as to whether "*manifest disregard*" remained as a viable ground for vacatur. Some Circuits eliminated "*manifest disregard*" altogether as an independent non-

---

122 *Id*. at 520.

123 *Shultz v. Atl. Mut. Ins. Co.*, 367 Ill. App. 3d 1, 11, 853 N.E.2d 94, 102 (1st Dist. 2006).

124 *Dep't of Cent. Mgmt. Services v. Am. Fed'n of State, Cnty. & Mun. Employee's (AFSCME)*, AFL-CIO, 222 Ill. App. 3d 678, 687, 584 N.E.2d 317, 322 (1st Dist. 1991).

125 *See*, *e.g.*, *Quick & Reilly, Inc. v. Zielinski*, 306 Ill. App. 3d 93, 99, 713 N.E.2d 739, 743 (1999) citing to *Health Services Management Corp. v. Hughes*, 975 F.2d 1253 (7th Cir.1992).

126 *Health Servs. Mgmt. Corp. v. Hughes*, 975 F.2d 1253, 1267 (7th Cir. 1992).

127 *Hall St. Assocs., L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 581 (2008).

statutory ground for vacatur,[128] while other circuits referred to "*manifest disregard*" as a "*judicial gloss*" on the FAA's statutory grounds for vacatur.[129]

44. The Ninth Circuit adopted an interesting approach and determined that the "*manifest disregard*" doctrine is a "*shorthand*" for FAA Section 10(a)(4),[130] which applies "*where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.*"[131] Because arbitrators are typically empowered to resolve a dispute under a particular law, manifestly disregarding that law may very well constitute a form of exceeding their powers.

45. Illinois courts continue to apply the "*manifest disregard*" standard but note that it is an "*almost nonexistent standard of review*" that is "*virtually impossible to meet.*"[132] "[T]*o vacate an arbitration award for manifest disregard of the law, there must be something beyond and different from mere error in law or failure on the part of the arbitrators to understand or apply the law; it must be demonstrated that the majority of arbitrators deliberately disregarded what they knew to be the law in order to reach the result they did.*"[133] Considering, even if erroneously, arguments of law will not constitute "*manifest disregard*" and "*something beyond*" will be necessary.

46. Therefore, while the "manifest disregard" doctrine survives in Illinois, it should not be overstated as it is certainly the exception and not the rule.[134]

---

[128] *See*, *e.g.*, *Citigroup Glob. Markets, Inc. v. Bacon*, 562 F.3d 349, 350 (5th Cir. 2009) ("We conclude that Hall Street restricts the grounds for vacatur to those set forth in § 10 of the Federal Arbitration Act (FAA or Act), 9 U.S.C. § 1 et seq., and consequently, manifest disregard of the law is no longer an independent ground for vacating arbitration awards under the FAA.").

[129] *See*, *e.g.*, *Friedler v. Stifel, Nicolaus, & Co., Inc.*, 108 F.4th 241, 248 (4th Cir. 2024) ("manifest disregard is best understood as a 'judicial gloss' on the FAA's statutory grounds for vacatur"); *see also Mountain Valley Prop., Inc. v. Applied Risk Servs., Inc.*, 863 F.3d 90, 94 (1st Cir. 2017) (expressing "doubt on the continued existence of manifest disregard of the law as a ground for vacatur, and this court stated just this year that the doctrine remains 'only as a judicial gloss.'").

[130] *Comedy Club, Inc. v. Improv W. Assocs*., 553 F.3d 1277, 1290 (9th Cir. 2009).

[131] FAA, § 10(a)(4).

[132] *Morgan v. Silver Fin. Cap., Inc.*, 2025 IL App (1st) 241488-U, ¶ 26, appeal denied, 270 N.E.3d 859 (Ill. 2025).

[133] *Tim Huey Corp. v. Glob. Boiler & Mech., Inc.*, 272 Ill. App. 3d 100, 107, 649 N.E.2d 1358, 1363 (1995).

[134] Perhaps recognizing that this was not a problem to be overstated, the United States Supreme Court itself did not decide whether "manifest disregard" survives as a "judicial gloss" on the statutory grounds for vacatur under the

CONCLUDING REMARKS

47. This note sought to provide an overview of Illinois arbitration law. As **Section II** shows, Illinois offers a solid arbitration framework, covering state, federal and international arbitration. As **Section III** shows, Illinois courts applying both the FAA and the IUAA offer an approach to arbitration problems that is largely consistent with federal practice and Illinois courts "*look for guidance to Federal court decisions interpreting similar provision*[s] *of the Federal Arbitration Act.*"[135] Taken together, the law and practice of arbitration in Illinois offer a predictable and sound environment for disputing parties to arbitrate their disputes.

* * *

FAA. *See*, *e.g.*, *Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.*, 559 U.S. 662, 672 (2010) ("[w]e do not decide whether 'manifest disregard' survives [its] decision in *Hall Street Associates, L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 585, 128 S.Ct. 1396, 170 L.Ed.2d 254 (2008), as an independent ground for review or as a judicial gloss on the enumerated grounds for vacatur set forth at 9 U.S.C. § 10."). Since *Stolt-Nielsen*, the United States Supreme Court has rejected several petitions for *certiorari* addressing the circuit split regarding whether manifest disregard remains valid ground for vacatur of arbitration awards.

135 *See J & K Cement Const., Inc. v. Montalbano Builders, Inc.*, 119 Ill. App. 3d 663, 668, 456 N.E.2d 889, 893 (1983) ("Given the common origins of the federal and uniform statutes, courts interpreting state arbitration statutes patterned after the Uniform Arbitration Act look for guidance to federal court decisions interpreting similar provision of the Federal Arbitration Act"); *see also Radiant Star Enters., L.L.C. v. Metropolis Condo. Ass'n*, 2018 IL App (1st) 171844, 107 N.E.3d 877, 894; *see further City of Des Plaines v. Metro. All. of Police Chapter No. 240*, 2015 IL App (1st) 140957, ¶ 38, 30 N.E.3d 598, 609 ("Federal court decisions . . . can aid our interpretation of the Act").