

**BLOGS**

Arbitration

Florida Federal Court Denies Motion to Vacate Arbitration Award Brought by Franchisee Who Claimed Not to Have Notice of the Arbitration Hearing

A federal court in Florida rejected a franchisee's motion to vacate an arbitration award entered against it despite its arguments it did not have notice of the arbitration hearing. *Your CBD Stores Franchising, LLC v. Buckwalter*, 2023 WL 6676671 (M.D. Fla. Oct. 12, 2023).

A federal court in Florida rejected a franchisee's motion to vacate an arbitration award entered against it despite its arguments it did not have notice of the arbitration hearing. *Your CBD Stores Franchising, LLC v. Buckwalter*, 2023 WL 6676671 (M.D. Fla. Oct. 12, 2023). Franchisor Your CBD Stores Franchising initiated an arbitration action against its franchisee for various breaches of the franchise agreement. The American Arbitration Association case manager sent the franchisee four emails over a span of two months notifying it that an arbitration proceeding had been commenced and providing status updates. The franchisee responded to two of the emails and indicated that it would not be participating in the case. The dispute proceeded to a final arbitration hearing and the franchisee failed to appear. The arbitrator entered a final award in Your CBD Stores Franchising's favor, and it petitioned the court to confirm the award. The franchisee then moved to vacate on the grounds that the arbitrator committed misconduct by determining it had been properly served and by determining that it was appropriate to proceed with the hearing, which the franchisee claimed he never received notice of.

As a threshold matter, the court determined that the petition to enforce the arbitration award was properly before the court because the three requirements for confirmation of an arbitration award under the Federal Arbitration Act were met. The court acknowledged that an award may be vacated if an arbitrator was guilty of misconduct but concluded that the arbitrator did not act improperly because the franchisee had constructive notice of the hearing. The court reasoned that the franchisee received email correspondence that an arbitration proceeding had been initiated and responded to those emails explaining that it did not intend to participate, and the notice of hearing was sent to the franchisee by email and certified mail. The court ruled that even though the franchisee avers that it did not see the notice of hearing, it was sufficient that the notice was sent to it by email and certified mail, even if the franchisee did not read it.

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