

any district within which the adverse party may be found in like manner as other process of the court.

(July 30, 1947, ch. 392, 61 Stat. 672.)

#### DERIVATION

Act Feb. 12, 1925, ch. 213, § 9, 43 Stat. 885.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 580, 581; title 41 section 607.

### § 10. Same; vacation; grounds; rehearing

(a) In any of the following cases the United States court in and for the district wherein the award was made may make an order vacating the award upon the application of any party to the arbitration—

(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.

(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.

(5) Where an award is vacated and the time within which the agreement required the award to be made has not expired the court may, in its discretion, direct a rehearing by the arbitrators.

(b) The United States district court for the district wherein an award was made that was issued pursuant to section 580 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 572 of title 5.

(July 30, 1947, ch. 392, 61 Stat. 672; Nov. 15, 1990, Pub. L. 101-552, § 5, 104 Stat. 2745; Aug. 26, 1992, Pub. L. 102-354, § 5(b)(4), 106 Stat. 946.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 11 of Pub. L. 101-552, see Termination Date of 1990 Amendment; Savings Provision note below.*

#### DERIVATION

Act Feb. 12, 1925, ch. 213, § 10, 43 Stat. 885.

#### AMENDMENTS

1992—Subsec. (b). Pub. L. 102-354 substituted “section 580” for “section 590” and “section 572” for “section 582”.

1990—Pub. L. 101-552 temporarily designated existing provisions as subsec. (a), in introductory provisions substituted “In any” for “In either”, redesignated former subsecs. (a) to (e) as pars. (1) to (5), respectively, and added subsec. (b). See Termination Date of 1990 Amendment; Savings Provision note below.

#### TERMINATION DATE OF 1990 AMENDMENT; SAVINGS PROVISION

For termination of amendments by Pub. L. 101-552 and authority to use dispute resolution proceedings on

Oct. 1, 1995, except with respect to certain pending proceedings, see section 11 of Pub. L. 101-552, set out as a Termination Date; Savings Provision note under section 571 of Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9 of this title; title 5 sections 580, 581; title 41 section 607.

### § 11. Same; modification or correction; grounds; order

In either of the following cases the United States court in and for the district wherein the award was made may make an order modifying or correcting the award upon the application of any party to the arbitration—

(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.

The order may modify and correct the award, so as to effect the intent thereof and promote justice between the parties.

(July 30, 1947, ch. 392, 61 Stat. 673.)

#### DERIVATION

Act Feb. 12, 1925, ch. 213, § 11, 43 Stat. 885.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9 of this title; title 5 sections 580, 581; title 41 section 607.

### § 12. Notice of motions to vacate or modify; service; stay of proceedings

Notice of a motion to vacate, modify, or correct an award must be served upon the adverse party or his attorney within three months after the award is filed or delivered. If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court. For the purposes of the motion any judge who might make an order to stay the proceedings in an action brought in the same court may make an order, to be served with the notice of motion, staying the proceedings of the adverse party to enforce the award.

(July 30, 1947, ch. 392, 61 Stat. 673.)

#### DERIVATION

Act Feb. 12, 1925, ch. 213, § 12, 43 Stat. 885.

#### FEDERAL RULES OF CIVIL PROCEDURE

Service and filing of pleadings and other papers, see rule 5, Title 28, Appendix, Judiciary and Judicial Procedure.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 580, 581; title 41 section 607.