

Mangling the Drafting of Binding Arbitration Clauses

“Agreeing to arbitrate a dispute, whether in a contract or by agreement, is a serious decision for any business. There are pros and cons to binding arbitration versus trial in a court that go beyond a series of blog posts, but the fact is that when a dispute is arbitrated, finality is the rule. It is very difficult to appeal an arbitration award. In many instances, representing a party in an arbitration requires more due diligence and work than a trial. Great “arbitration” lawyering is therefore essential but many times does not happen.” warns David K. Taylor in BuildSmart Bradley’s *Arbitration*.

“Arbitration is a matter of contract. Federal and state law allow for the enforcement of arbitration clauses. Courts now favor arbitration. There are plenty of articles out there on drafting arbitration clauses, but far too often drafters fail to consider the basics.”

Read the article to learn the basics.