

Claimant Win Rates in Consumer and Employment Arbitration

November 3, 2021

As the national debate over arbitration intensifies, we believe it is important to make available the most up-to-date statistics on the win rates for individuals in employment and consumer arbitration cases. We have provided the below analysis to ensure that policymakers have access to accurate information on this critical topic.

In this document, we calculate win rates for individuals in employment and consumer arbitration cases using the latest data available (January 2016 through June 2021). We use the same methodology as in our two previous reports, [Fairer, Faster, Better: An Empirical Assessment of Employment Arbitration](#) and [Fairer, Faster, Better II: An Empirical Assessment of Consumer Arbitration](#), to organize and analyze the latest AAA and JAMS datasets.

Employment Arbitration

The most recent AAA and JAMS datasets include 19,773 employment arbitration cases that terminated between January 2016 and June 2021, of which 7,359 terminated during the final 18 months of the study period (January 2020 – June 2021).¹

Approximately 7% of 2016 – 2021 cases were decided on the merits, i.e., terminated with awards, and the remainder were settled, withdrawn, or dismissed. This figure includes 1,462 decided cases in the entire dataset, including 521 cases from January 2020 to June 2021.

Turning to the question of how often claimants prevail in employee-initiated arbitrations, our original 2019 employment arbitration report found that the win rate² of employment arbitration cases was 32.3%. The win rate of employment arbitration cases that terminated during January 2016 – June 2021 is higher, at 34.0%. From January 2020 – June 2021 this figure is higher still, at 38.9%.

Table 1.
Employment Arbitration Win Rates

	2014 – 18 (dataset from 2019 report)	Jan 2016 – Jun 2021 (full five-year dataset)	Jan 2020 – Jun 2021 (most recent available)
Total Employment Arbitration Cases	10,486	19,773	7,359
Decided Cases	1,030	1,462	521
Decided Cases as % of Total	9.8%	7.4%	7.1%
Decided Cases with 1 Prevailing Party	776	1,295	494
Employee Initiated & Prevailed	251	440	192
Win Rate	32.3%	34.0%	38.9%

¹ Less than 1% of cases closed prior to 2016.

² To calculate the win rate, we divide the number of cases where the employee initiated and prevailed by the total number of decided cases with one prevailing party (we exclude cases where both parties won and cases with no prevailing party).

Consumer Arbitration

The most recent AAA and JAMS data include 31,510 consumer arbitration cases that terminated between January 2016 and June 2021, of which 13,734 terminated during the final 18 months of the study period.³

Less than 16% of these cases were decided on the merits, i.e., terminated with awards, and the remainder were settled, withdrawn, or dismissed. This figure includes 4,875 decided cases in the entire dataset, including 1,536 cases from January 2020 to June 2021.

Again turning to the question of how frequently claimants prevail, our 2020 consumer arbitration report found that the win rate⁴ of claimant-initiated consumer arbitration cases that terminated during January 2014 – June 2020 is 44.3%. The win rate of consumer arbitration cases that terminated during January 2016 – June 2021 is higher, at 46.3%, and during January 2020 – June 2021 this number is marginally higher still, at 46.7%.

Table 2.
Consumer Arbitration Win Rates

	Jan 2014 – Jun 2020 (dataset from 2020 report)	Jan 2016 – Jun 2021 (full five-year dataset)	Jan 2020 – Jun 2021 (most recent available)
Total Consumer Arbitration Cases	24,629	31,510	13,734
Decided Cases	5,129	4,875	1,536
Decided Cases as % of Total	20.8%	15.5%	11.2%
Decided Cases with 1 Prevailing Party	4,113	4,088	1,293
Consumer Initiated & Prevailed	1,821	1,893	604
Win Rate	44.3%	46.3%	46.7%

Sources

AAA Consumer and Employment Arbitration Statistics, available at <https://www.adr.org/consumer>.

JAMS Consumer Case Information, available at <https://www.jamsadr.com/consumercases>.

Researchers

Nam D. Pham, Ph.D., Managing Partner, ndp | analytics

Mary Donovan, Principal, ndp | analytics

³ Less than 1% of cases closed prior to 2016.

⁴ To calculate the win rate, we divide the number of cases where the consumer initiated and prevailed by the total number of decided cases with one prevailing party (we exclude cases where both parties won and cases with no prevailing party).