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INSURANCE PROFESSIONALS, ACCOUNTANTS AND STOCK BROKERS



[Court Confirms Arbitration Award in Favor of Law Firm Even Though Firm Did Not File Petition to Compel Arbitration](#)

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The grounds on which a binding arbitration award may be challenged in court are very limited, and a recent attack on an award against a former law-firm client was unsuccessful.

In *Vigilant v. Lamprey* (First Appellate District Division One), a client which had lost at arbitration against its former attorneys attacked the award against it on the ground that the law firm had never filed a petition to compel arbitration. In an [unpublished decision](#) dated December 6, 2010, the Court of Appeal had no difficulty concluding that under the facts of the case no petition to compel arbitration had been necessary and that the \$1.3 million award in favor of the firm should be confirmed.

The client, a hedge fund, had been represented by a series of law firms in a FINRA arbitration. After the FINRA arbitration was resolved pursuant to a settlement, the client filed a legal malpractice complaint against four of the law firms that had represented it in the FINRA arbitration. One of the firms filed a petition to compel binding AAA arbitration, and another firm, Goodin, McBride, et al., filed a cross-complaint seeking the recovery of unpaid fees and other relief.

The court granted the petition to compel arbitration, and at the hearing on the petition all of the parties, including Goodin which had not filed a petition to compel arbitration, agreed to participate in the AAA arbitration. The client and Goodin arbitrated their claims against one another at a hearing lasting 18 days. The result was that the panel rejected the claims against Goodin and issued a \$1.3 million award in Goodin's favor.

When Goodin sought court confirmation of the arbitration award, the client opposed the petition on the ground that Goodin had never filed a petition to compel arbitration. The client asserted that the case was analogous to *Loeb v. Record*, (2008) 162 Cal.App.4th 431, in which a law firm obtained an arbitration award for unpaid fees and costs against a former client. There, the Superior court had ordered the clerk of the court to disburse funds it was holding to satisfy the award. However, the Court of Appeal vacated this award after determining that the firm had skipped the necessary step of seeking confirmation of the arbitration award before seeking enforcement.

In *Vigilant v. Lamprey*, the Court of Appeal explained that *Loeb* does not stand for the proposition that the absence of a petition to compel arbitration is fatal to an order confirming an arbitration award. Here, the parties had consented to arbitration, and, accordingly, there was no need for Goodin to file a petition to compel arbitration. Moreover, the client never objected to going forward with the arbitration hearing against Goodin. The Court of Appeal said that the client's post-award repudiation of the proceedings ran counter to public policy in favor of arbitration.