

New Study Shows That U.S. Courts Are Arbitration-Friendly

By [Donald Scarinci](#)

There is a misperception in the international community that U.S. Courts are more willing to overturn arbitration awards than is the case overseas. Frequently cited by overseas representatives seeking to have a venue other than New York for the international arbitration is the “manifest disregard of the law” wording used by the U.S. Supreme Court in its 1953 decision in *Wilko v Swan*.

The New York City Bar’s International Commercial Disputes Committee recently reported that there was no real basis for this argument as several Circuit courts have held that [manifest disregard of the law](#) is no longer grounds to challenge an arbitration award, and the Second Circuit held that the manifest disregard standard has been applied in such rare instances of blatant flouting of the law as to make our standards comparable to those used by countries deemed arbitration-friendly.

As it turned out from the survey conducted by the New York City Bar Committee, there are no federal appellate decisions at all that have ever vacated an international arbitration award on the ground of manifest disregard of the law.

When negotiating the venue for arbitration of disputes involving international commerce, don’t let the other side use the incorrect and unsupported argument that the courts here are not arbitration-friendly. This recent study shows that the opposite is true: we are interested in lessening the numbers of litigations in our courts, and the federal courts here have demonstrated they are indeed arbitration-friendly.