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Rare Vacatur in Arbitration Appeal

Posted on January 16, 2011 by [D. Todd Smith](#)

I've been involved in a number of arbitrations in my career, both as lead counsel at the hearing stage and in post-hearing proceedings challenging the award. I've learned to tell clients that the time to win the case is at the arbitration hearing, because the chances of getting a trial judge or an appellate panel to change the outcome later are slim.

The Dallas Court of Appeals recently declined to rubber stamp an arbitration result in [*Alim v. KBR \(Kellogg, Brown & Root\)-Halliburton* \(No. 05-09-00395-CV\)](#). The Court vacated an award under 9 U.S.C. § 10(a)(2) because "the arbitrator failed to disclose facts which might, to an objective observer, create a reasonable impression of the arbitrator's partiality." More specifically, he did not reveal that he had served as an arbitrator in a prior case involving KBR's party representative and a related company.

[Disputing](#) discussed the case in more detail [here](#).