



# **Arbitration:** Simpler, Cheaper, and Faster Than Litigation

A Harris Interactive Survey



*Conducted for the U.S. Chamber Institute for Legal Reform ■ April 2005*



HarrisInteractive®

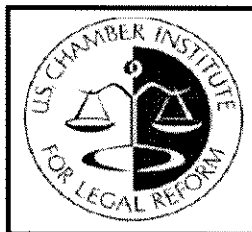
MARKET RESEARCH

*The Harris Poll*® PEOPLE

**Arbitration:  
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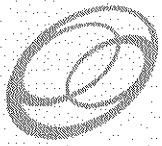
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## ***Research Objectives***

- The primary objectives include:
  - Obtain information, directly from participants, regarding arbitration procedures and outcomes
  - Test participants' assessments of arbitration

## ***Research Methodology***

- The Binding Arbitration Survey was conducted online **among 609 adults who are 18 years of age or older who had participated in arbitration.**
  - This was a sub-sample of a national cross-section of 31,045 adults.
  - 2% of the population qualified.
    - For qualification, these respondents had to have been a participant in a binding arbitration case that reached a decision. They also had to have been in the binding arbitration voluntarily, due to contract language, or with strong urging by the court, but not ordered into arbitration by a court.
- Interviews averaged about **10 minutes in length** and were conducted between **February 28 and March 14, 2005.**
- The total sample was weighted to figures obtained from the March 2002 Current Population Survey (CPS) using age, sex, education, race and ethnicity, income and region.
- The theoretical sampling error of the sample is +/- 4 percentage points, at the 95% confidence level.



## **Major Findings**

- Arbitration is widely seen as faster (74%), simpler (63%), and cheaper (51%) than going to court.
- Two thirds (66%) of participants say they would be likely to use arbitration again with nearly half (48%) saying they are likely to extremely likely.
  - Even among those who lost, a third say they are at least somewhat likely to use arbitration again.
- Most participants are very satisfied with the arbitrators' performance, the confidentiality of the process and its length.

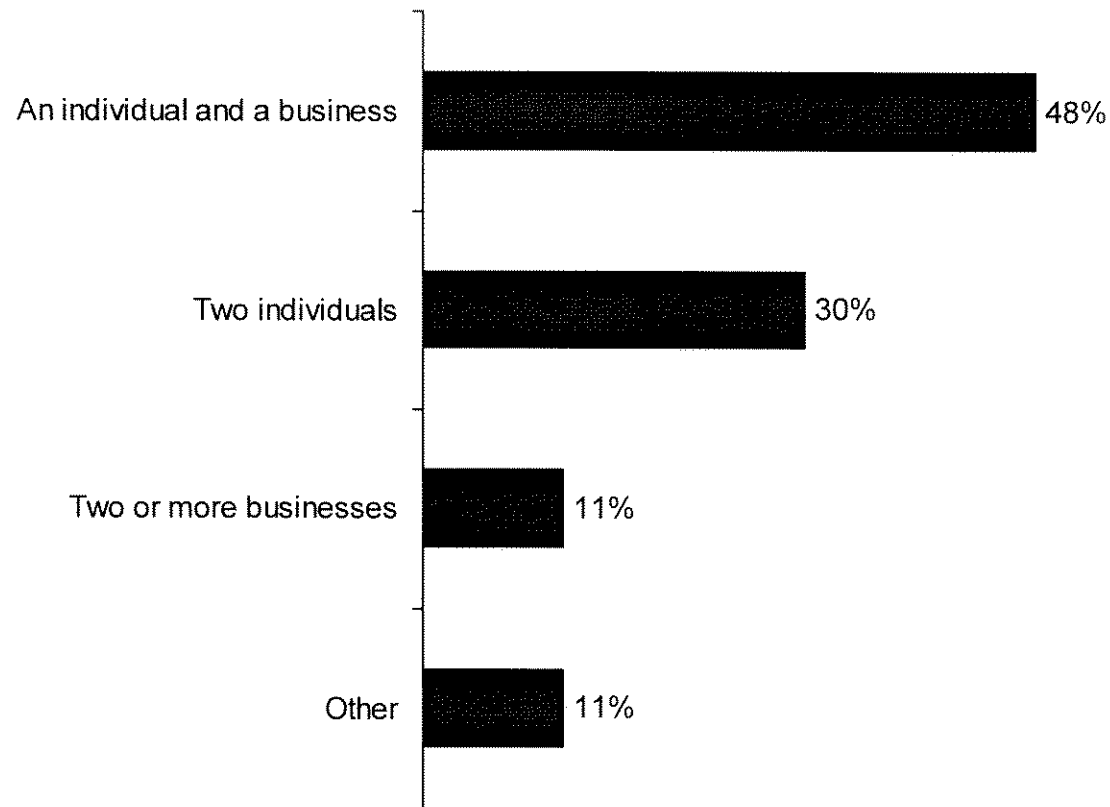


## ***Major Findings***

- Predictably, winners found the process and outcome very fair and the losers found the outcome much less fair. However, 40% of those who lost were moderately to highly satisfied with the fairness of the process and 21% were moderately to highly satisfied with the outcome.
- While one in five of the participants were required by contract to go to arbitration, the remainder were voluntary - suggested by one of the parties, one of the lawyers, or the court.
- Two thirds of the participants were represented by lawyers.

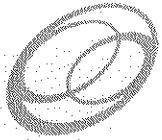


## Who Are the Parties?

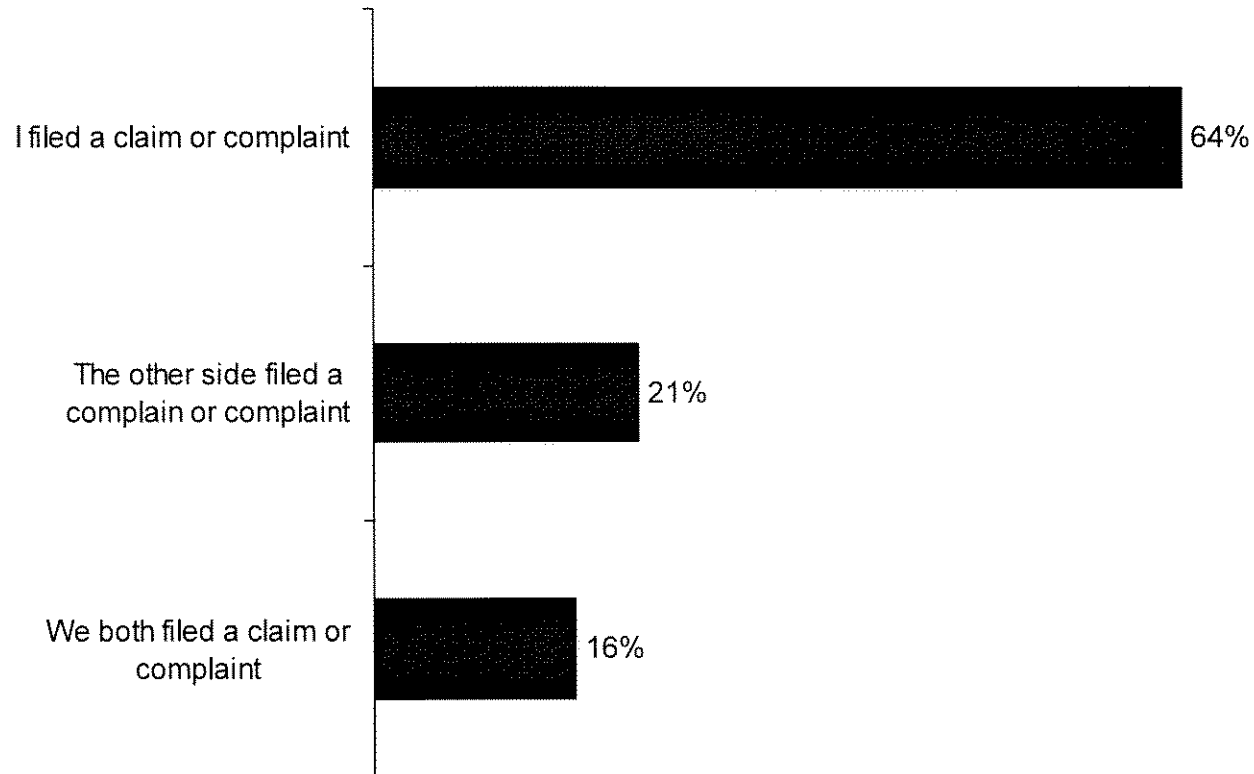


Q335: Who were the parties involved in the dispute?  
Base: All respondents (n=609 adults)

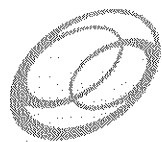




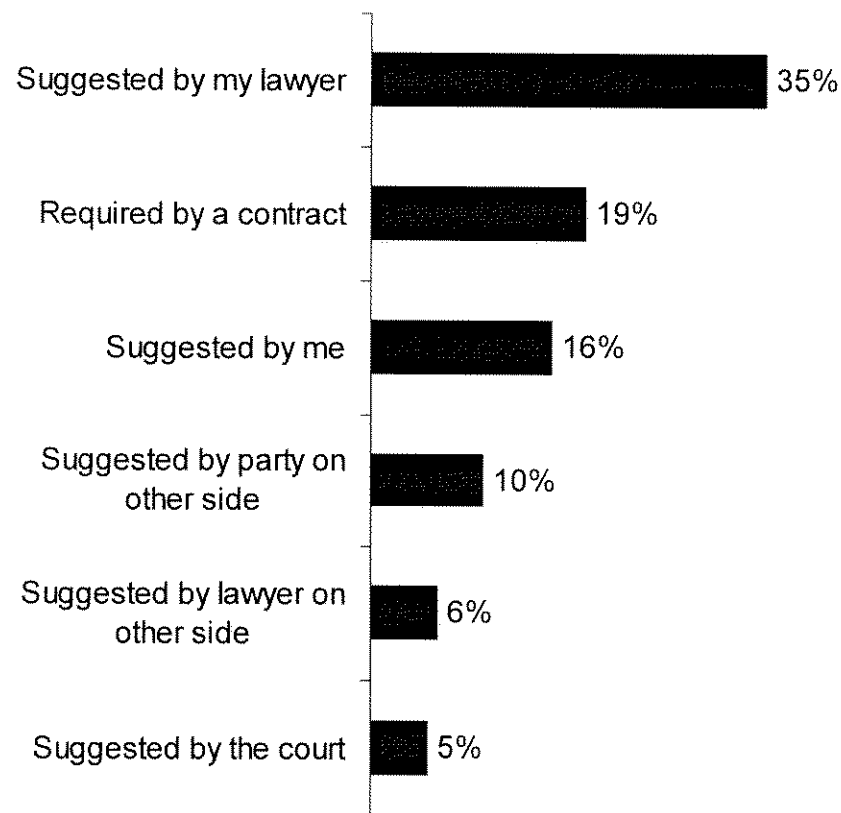
# Distribution of Plaintiffs and Defendants



Q420: Which of the following best describes your role in the dispute that led to arbitration?  
Base: All respondents (n=609 adults)



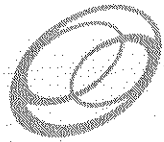
## How Did They Get to Arbitration?



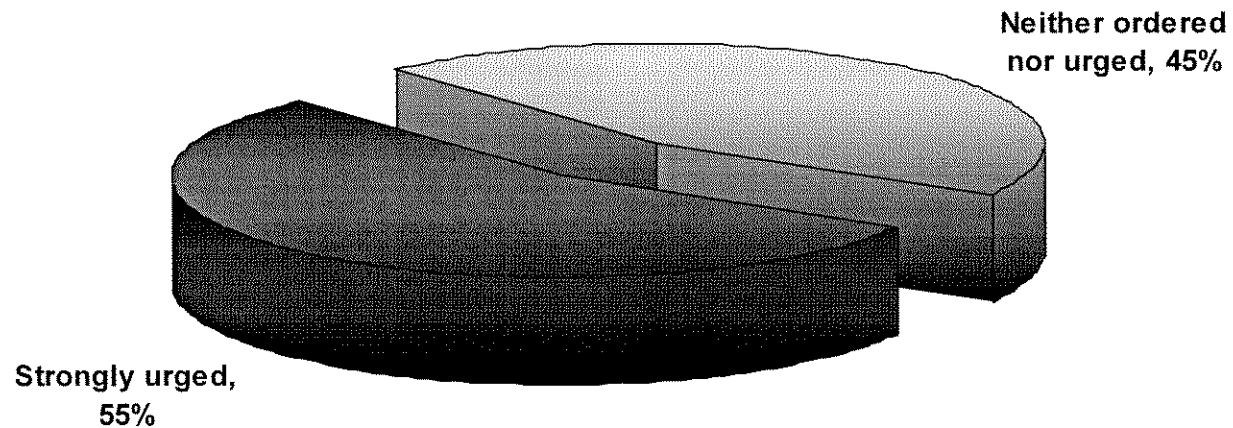
Q415: Which of the following best describes why you were in this arbitration?

Base: All respondents (n=609 adults)

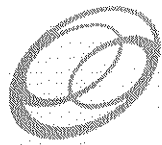
\*NOTE: Those with less than 5% of mentions are excluded



More than half say they were strongly urged into binding arbitration by a court.



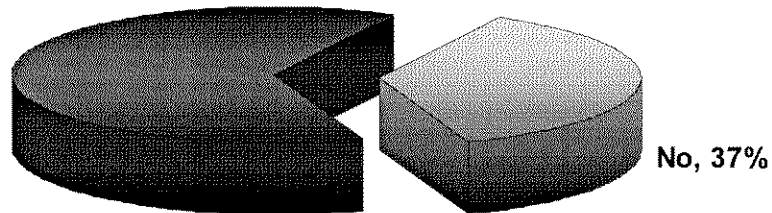
Q320: Were you ordered or strongly urged into this binding arbitration by a court?  
Base: All respondents (n=609 adults)



# How often were parties represented by a lawyer?

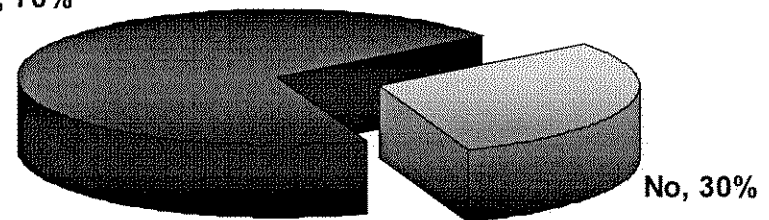
## Were you Represented By A Lawyer?

Yes, 63%



## Other Side Represented By A Lawyer?

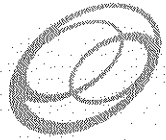
Yes, 70%



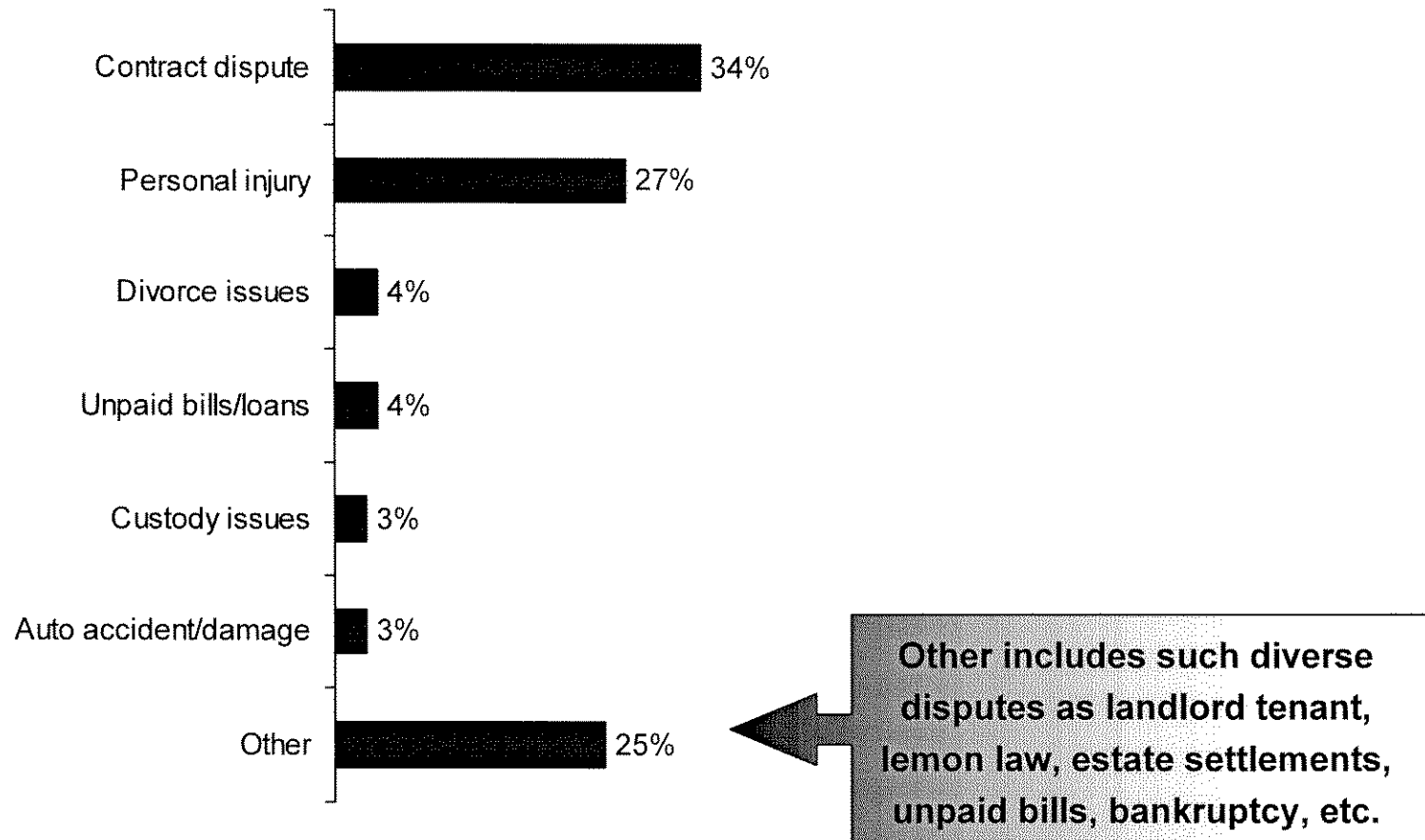
Q425: Were you represented by a lawyer in the arbitration?

Q430: Was the other side represented by a lawyer in the arbitration?

Base: All respondents (n=609 adults)



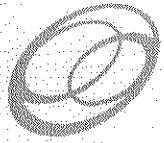
## What types of disputes were arbitrated?



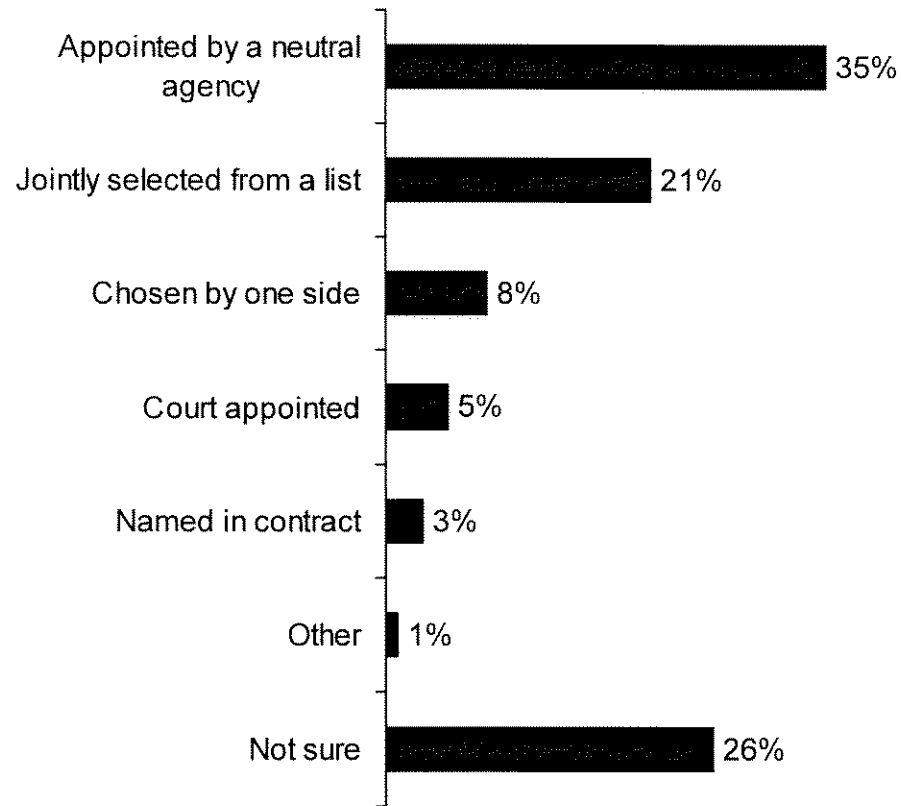
Q330: Thinking about the case that went into arbitration, what type of dispute was this?

Base: All respondents (n=609 adults)

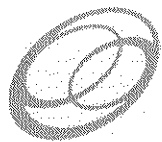
\*NOTE: Those with less than 3% of mentions are excluded



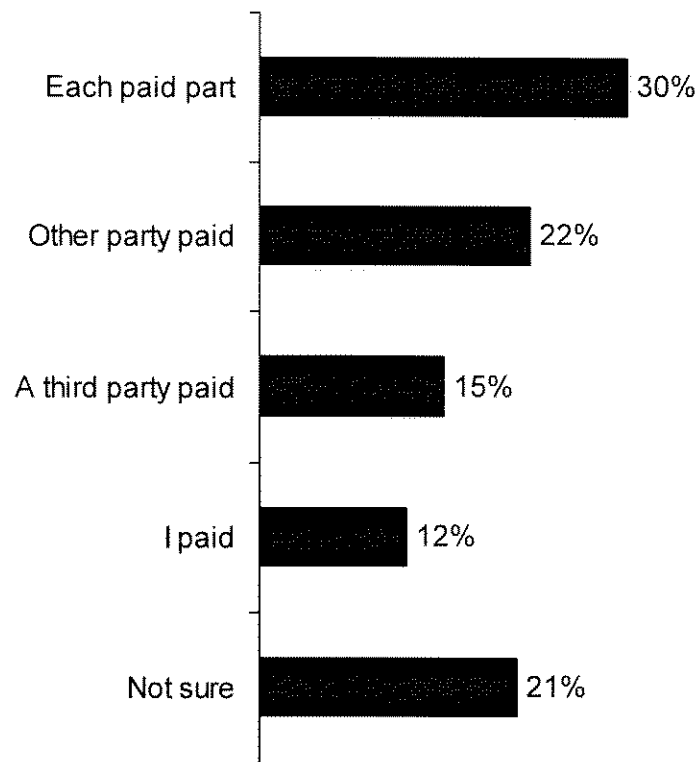
## How were arbitrators selected?



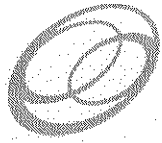
Q435: How was the arbitrator selected?  
Base: All respondents (n=609 adults)



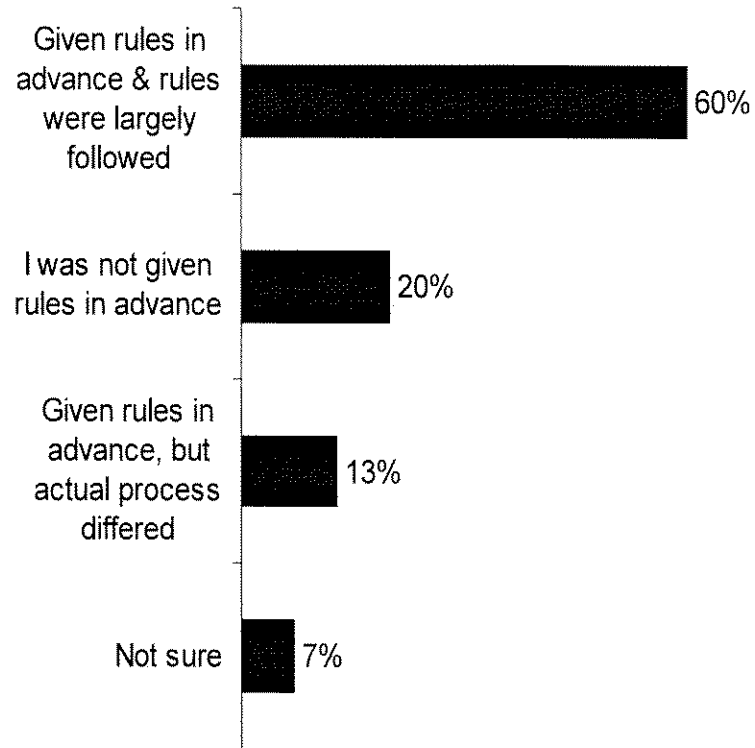
## Who paid the fees?



Q440: Which of the following applies to the fees for the arbitration?  
Base: All respondents (n=609 adults)



# Rules

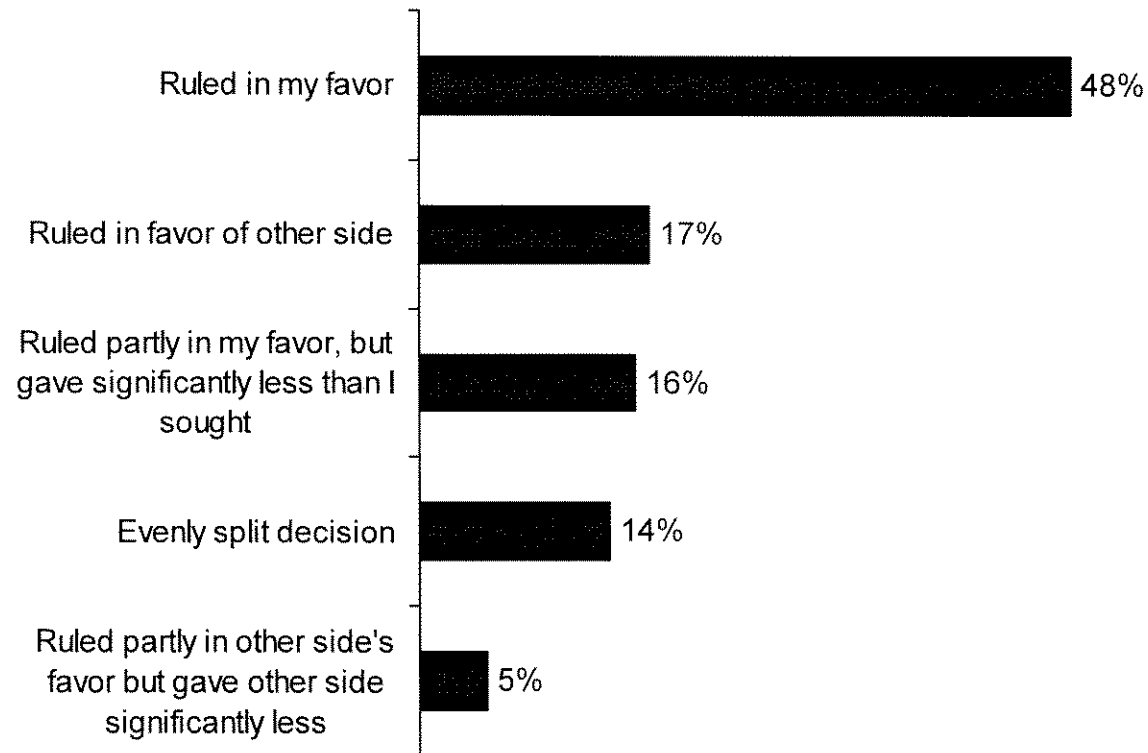


Q450: Which of the following best describes the process you experienced?  
Base: All respondents (n=609 adults)

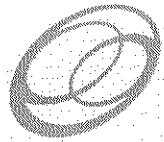




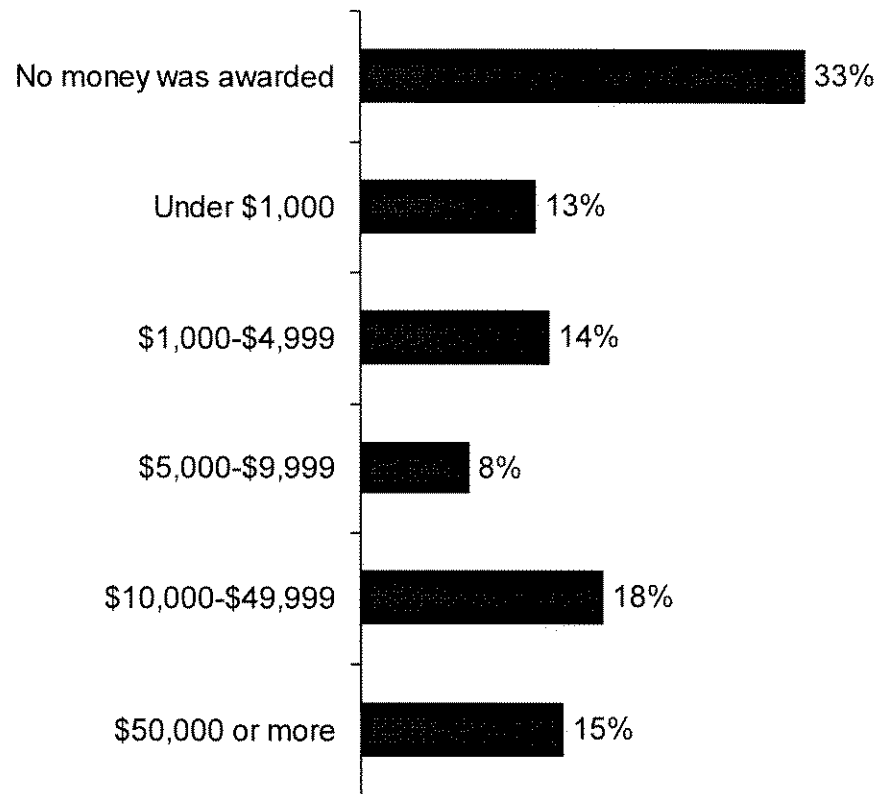
## Outcomes (all participants)



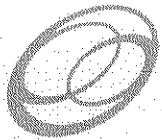
Q465: Which of the following best describes the outcome of the arbitration?  
Base: All respondents (n=609 adults)



## Outcomes: Award Given? (all participants)

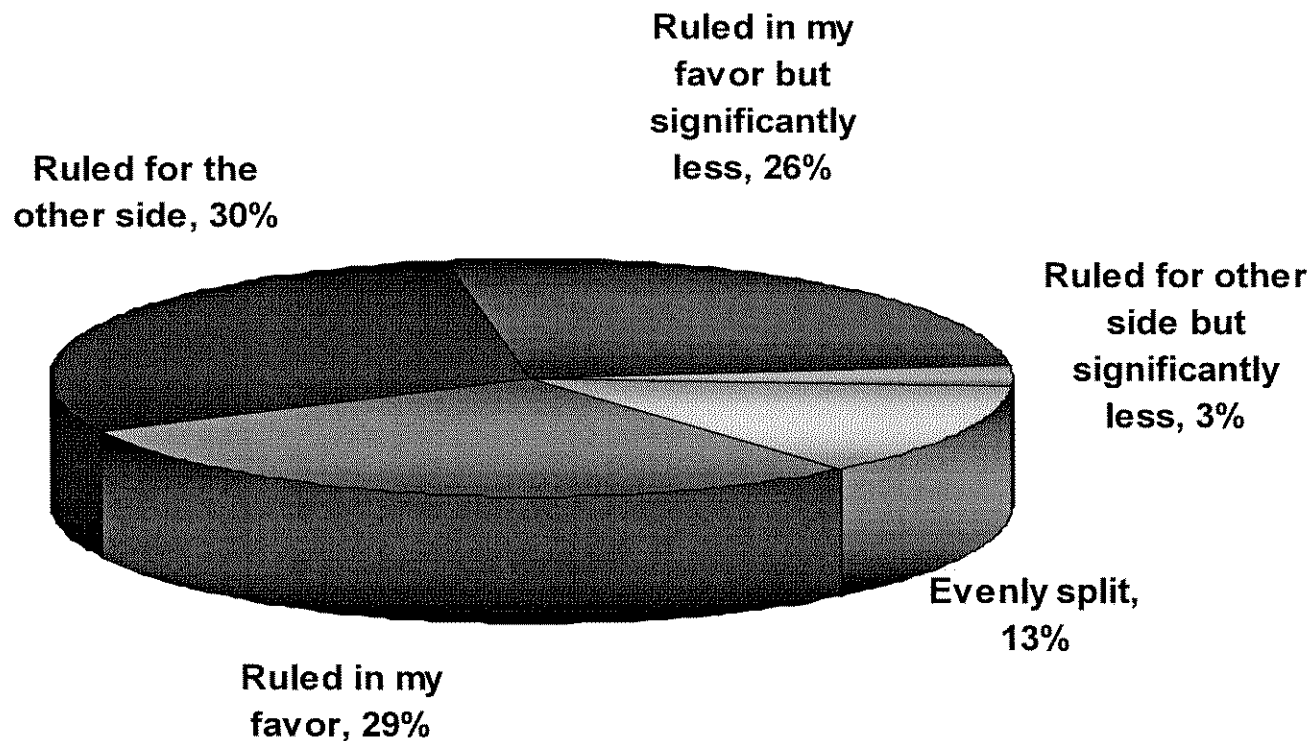


Q470: If the claim resulted in awarding money, how much was awarded?  
Base: All respondents (n=609 adults)



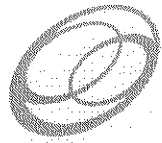
## Outcomes

(Individuals in Arbitration Through Prior Contract)

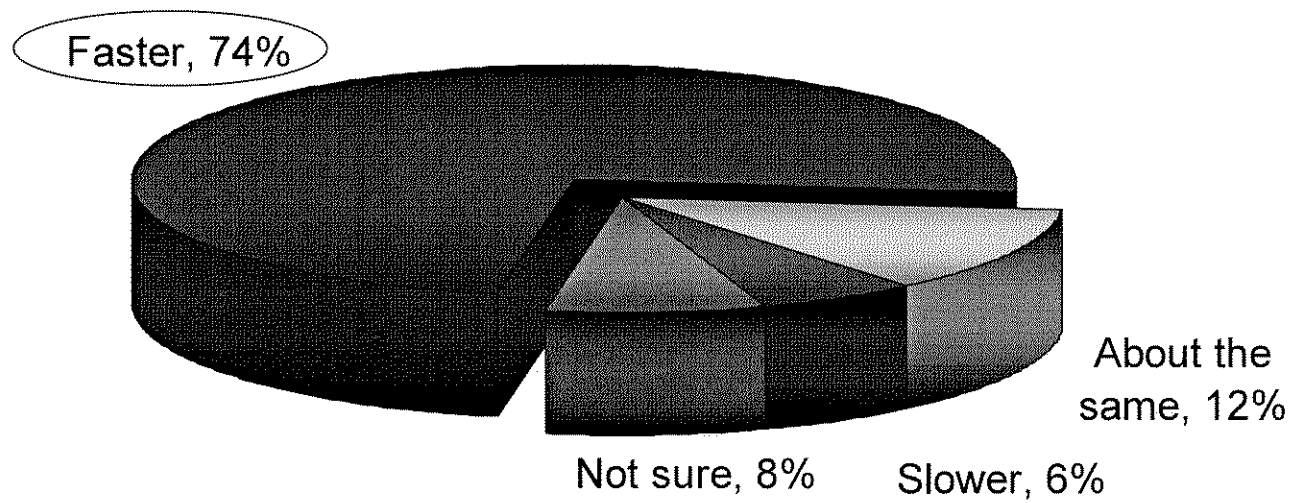


Q465: Which of the following best describes the outcome of the arbitration?

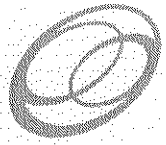
Base: Individuals in arbitration through a prior contract (n=78 adults)



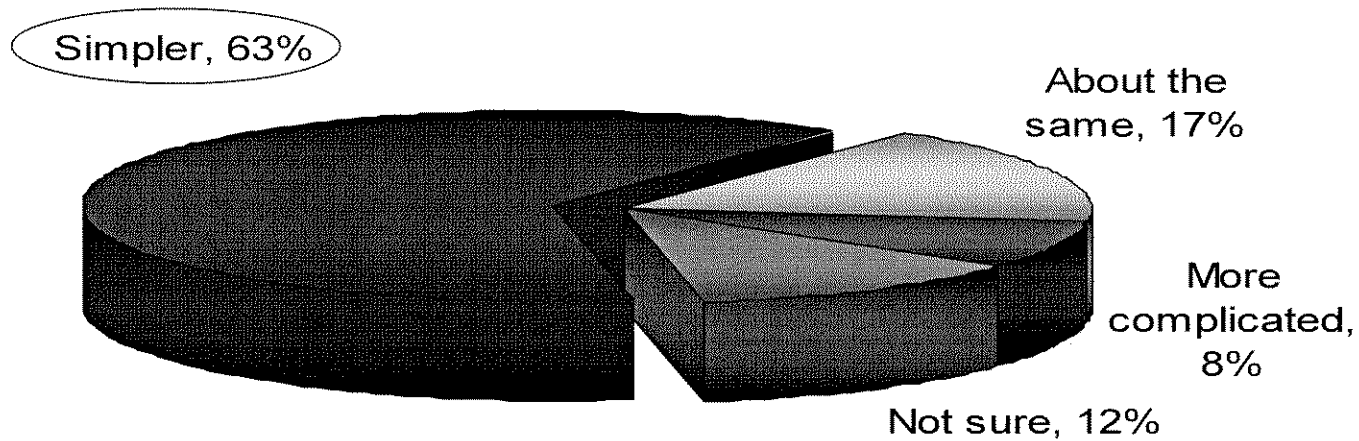
## Perceptions: Faster, Simpler, Cheaper



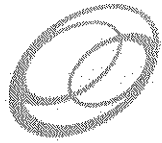
Q460: Do you think arbitration was faster or slower than going to court?  
Base: All respondents (n=609 adults)



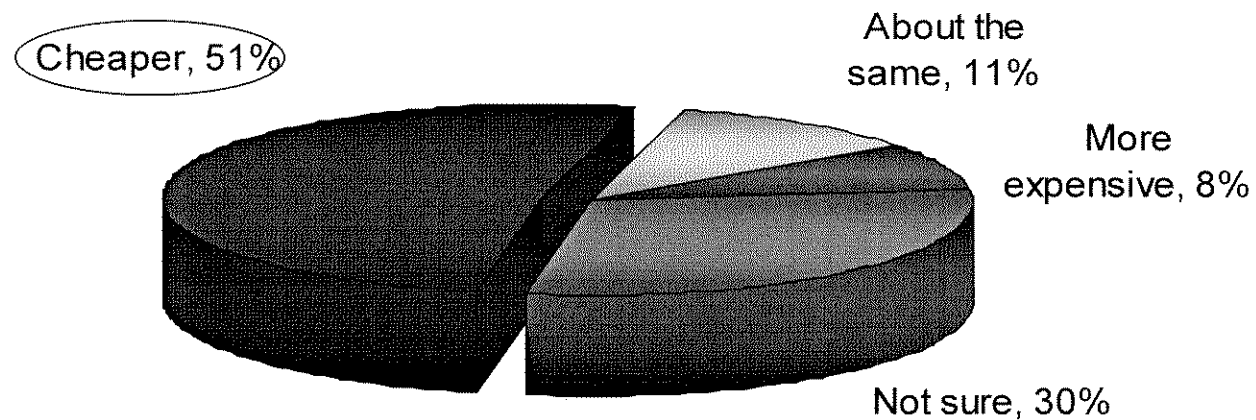
## Perceptions: Faster, Simpler, Cheaper



Q455: Do you think the arbitration was simpler than going to court or was it more complicated?  
Base: All respondents (n=609 adults)

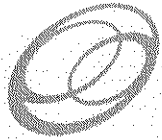


## Perceptions: Faster, Simpler, Cheaper

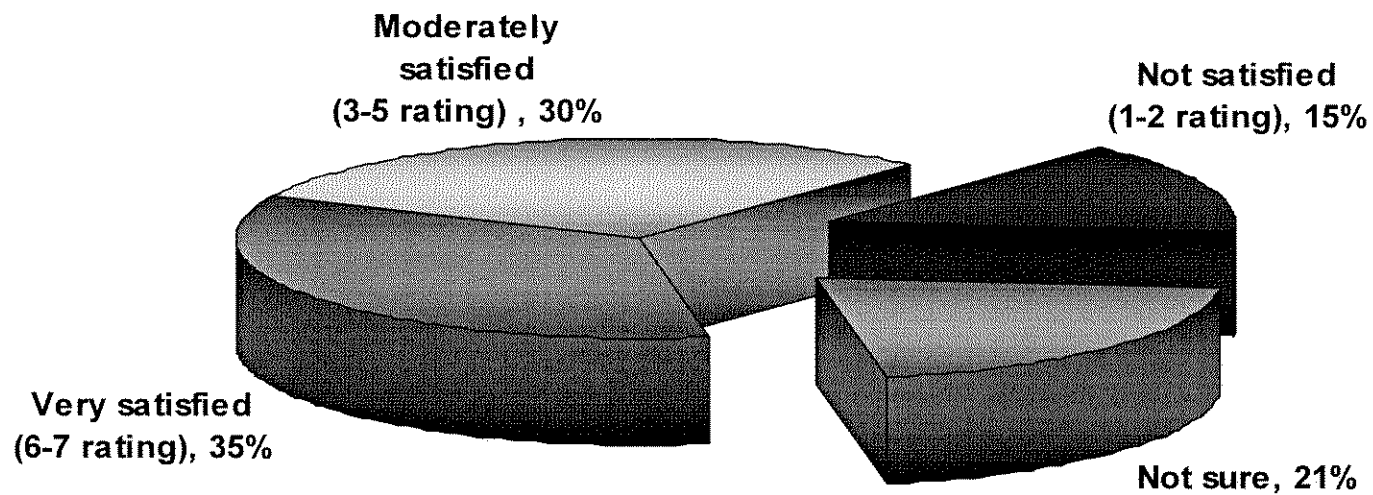


Q445: Thinking about the total costs (including filing fees and lawyers' fees), do you think arbitration was cheaper or more expensive than going to court?

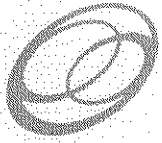
Base: All respondents (n=609 adults)



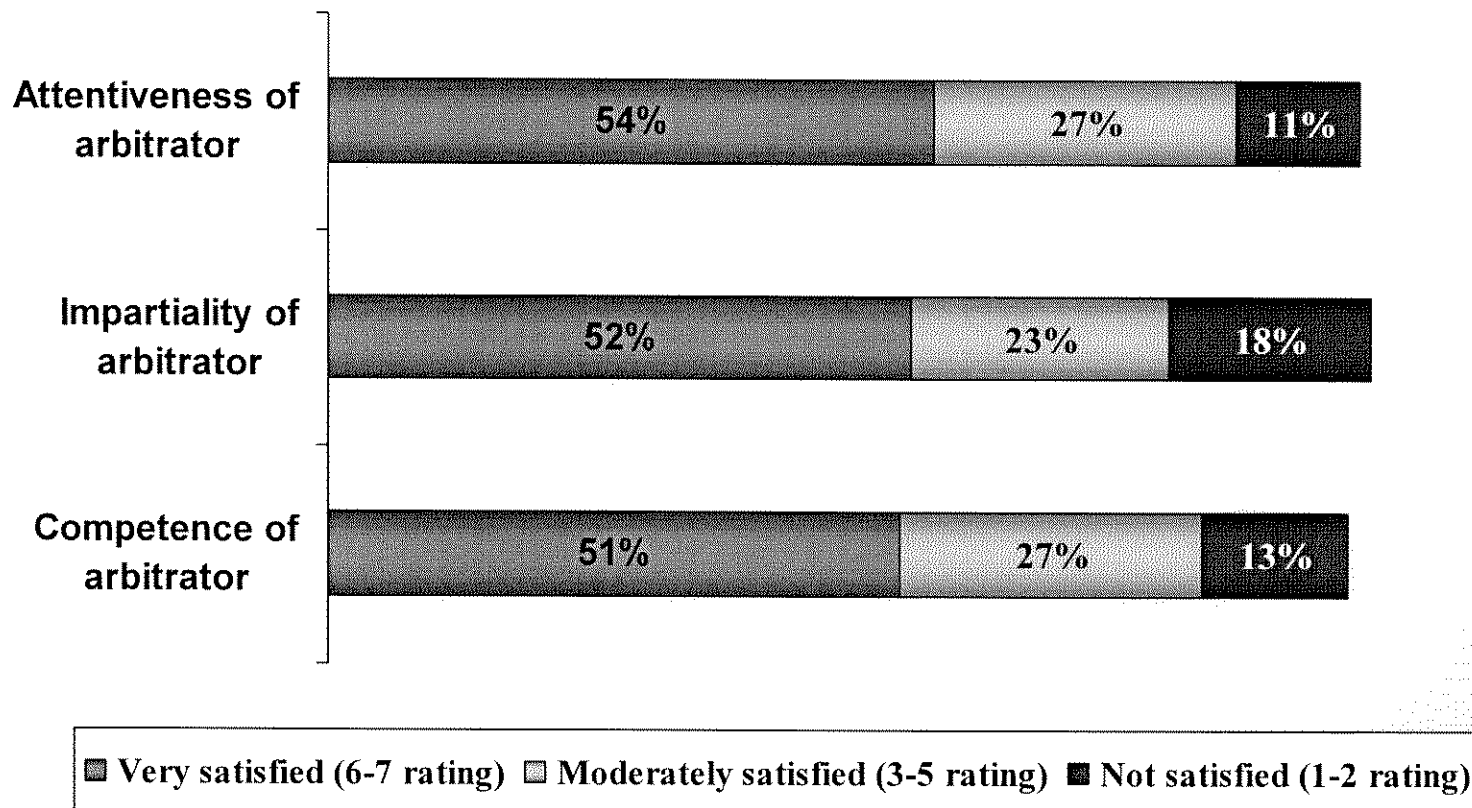
Most participants fairly satisfied with the process for choosing the arbitrator.



Q475: How would you rate the following... The process for choosing the arbitrator?  
Base: All respondents (n=609 adults)



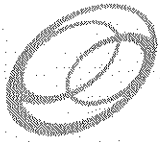
Most participants in an arbitration are quite satisfied with the arbitrators' performance.



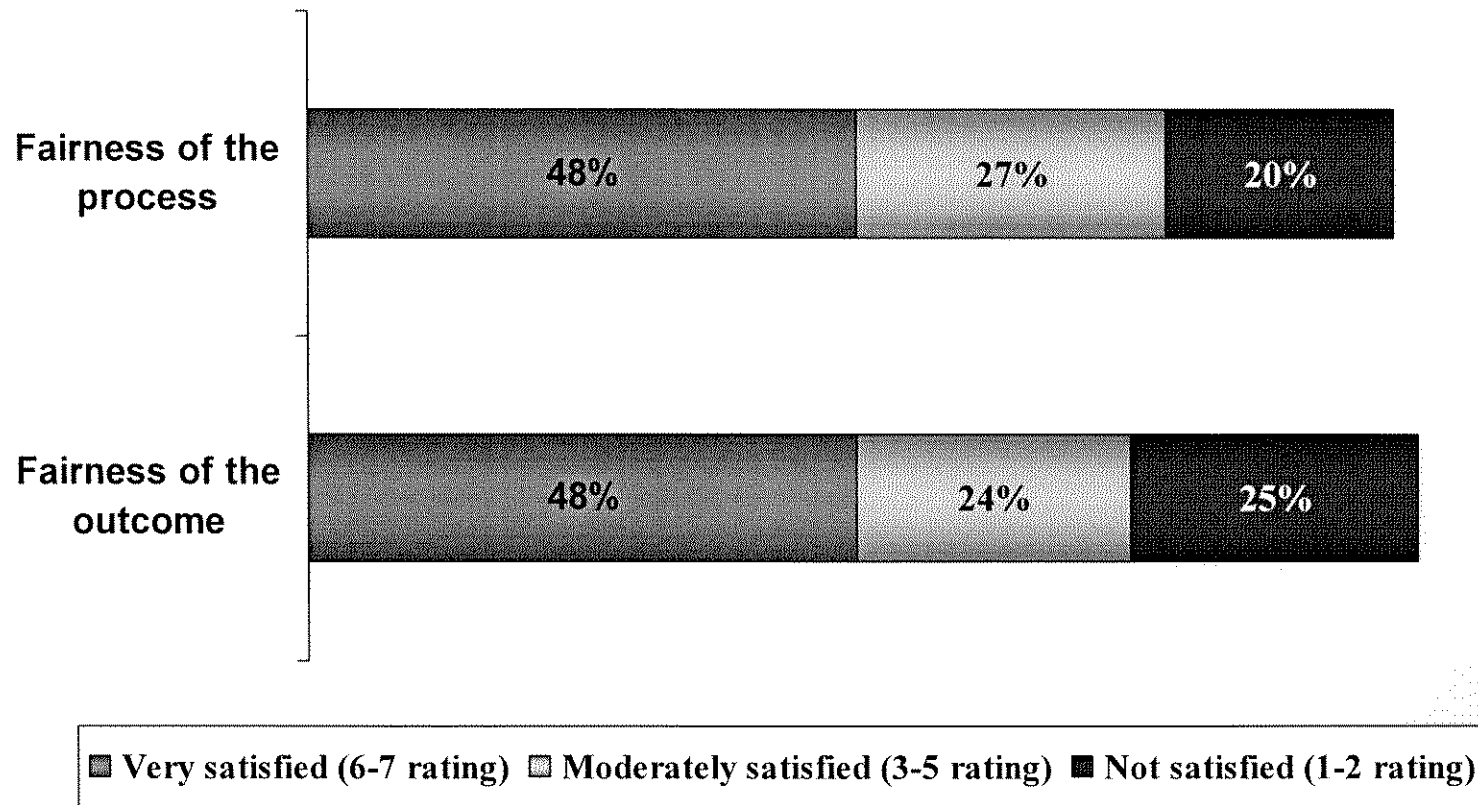
Q475: How would you rate the following... The attentiveness of the arbitrator, The impartiality of the arbitrator, The competence of the arbitrator?

Base: All respondents (n=609 adults)

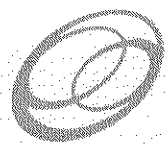




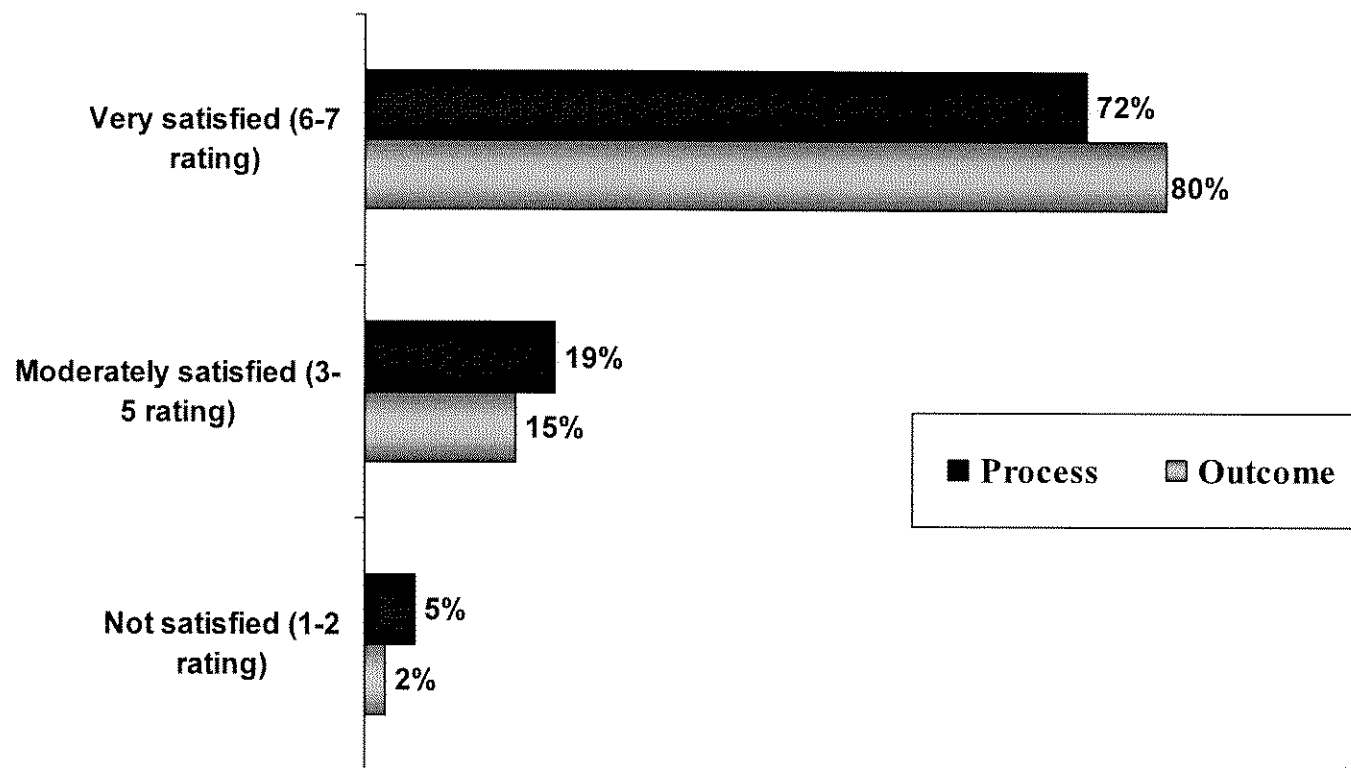
Most participants in an arbitration are satisfied with the fairness of the process and outcome.



Q475: How would you rate the following... The fairness of the process, The fairness of the outcome?  
Base: All respondents (n=609 adults)



Most of those who won are very satisfied with the fairness of the process and outcome.

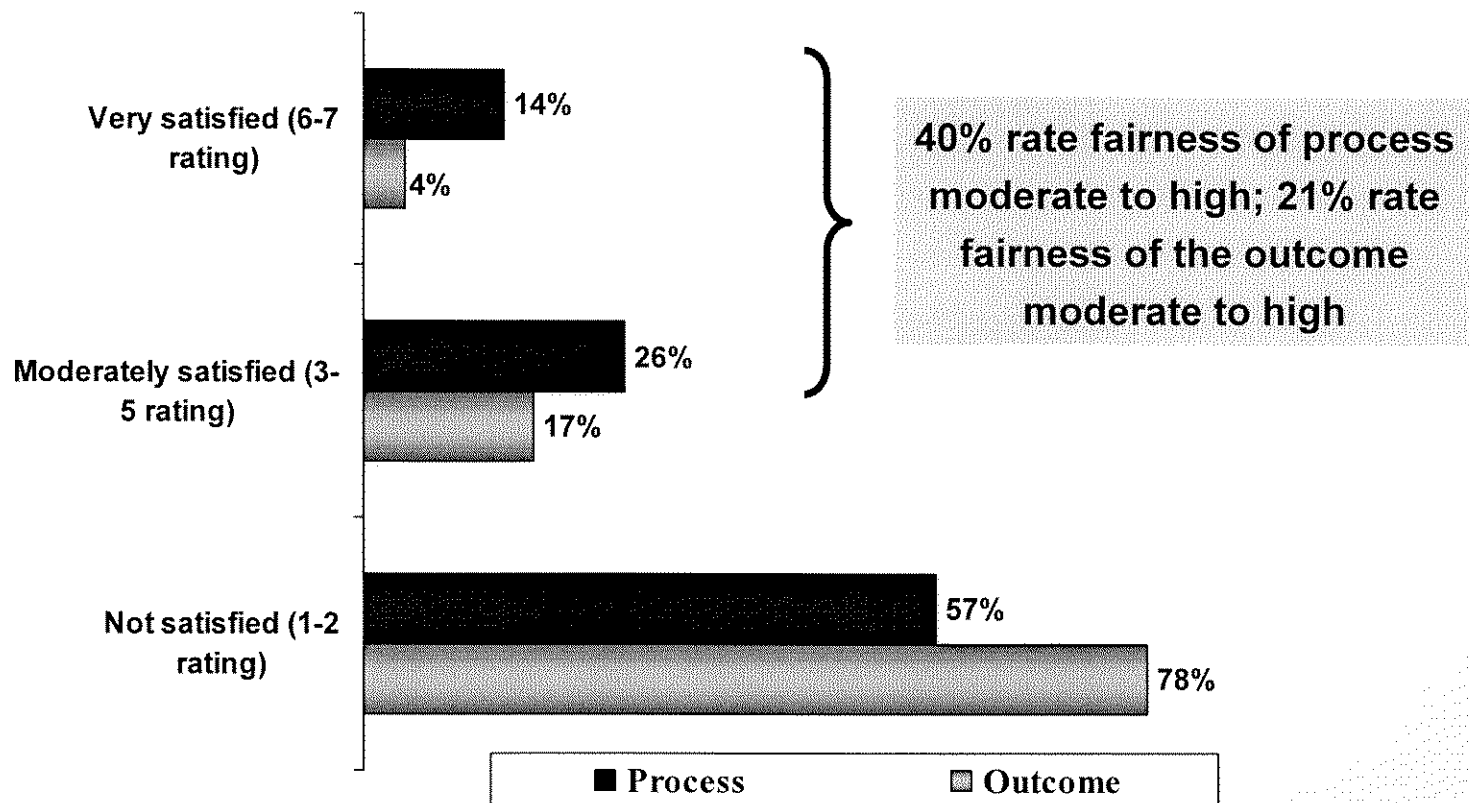


Q475: How would you rate the following... The fairness of the process, The fairness of the outcome?

Base: All participants who won (n=290 adults)

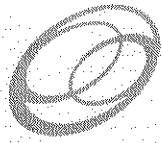


Even among losers significant percentages are satisfied with the fairness of the process and outcome.

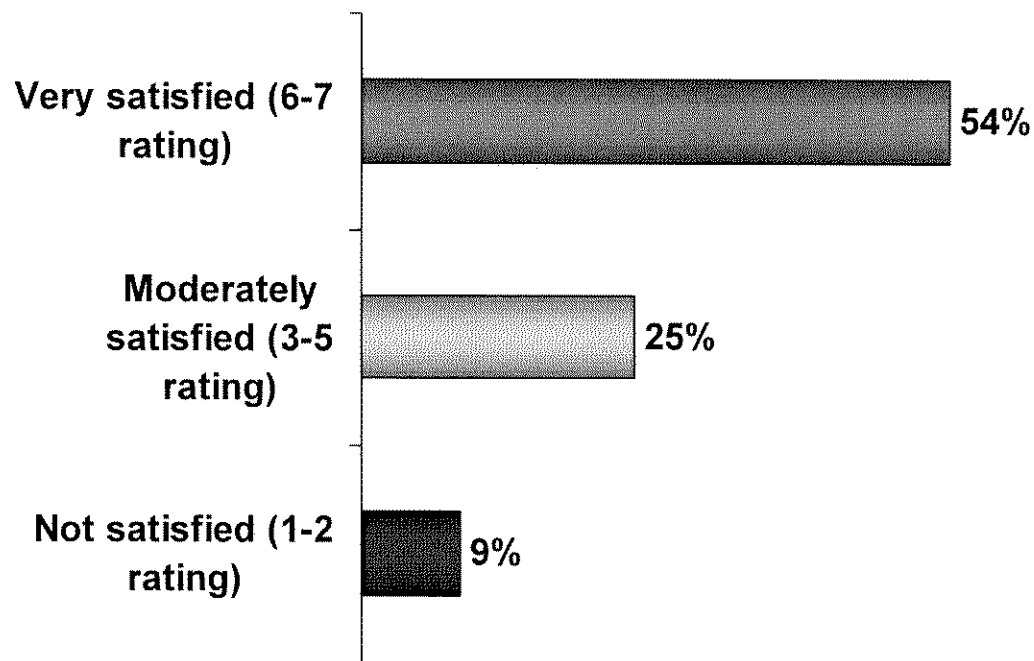


Q475: How would you rate the following... The fairness of the process, The fairness of the outcome?

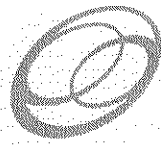
Base: All participants who lost (n= 100 adults)



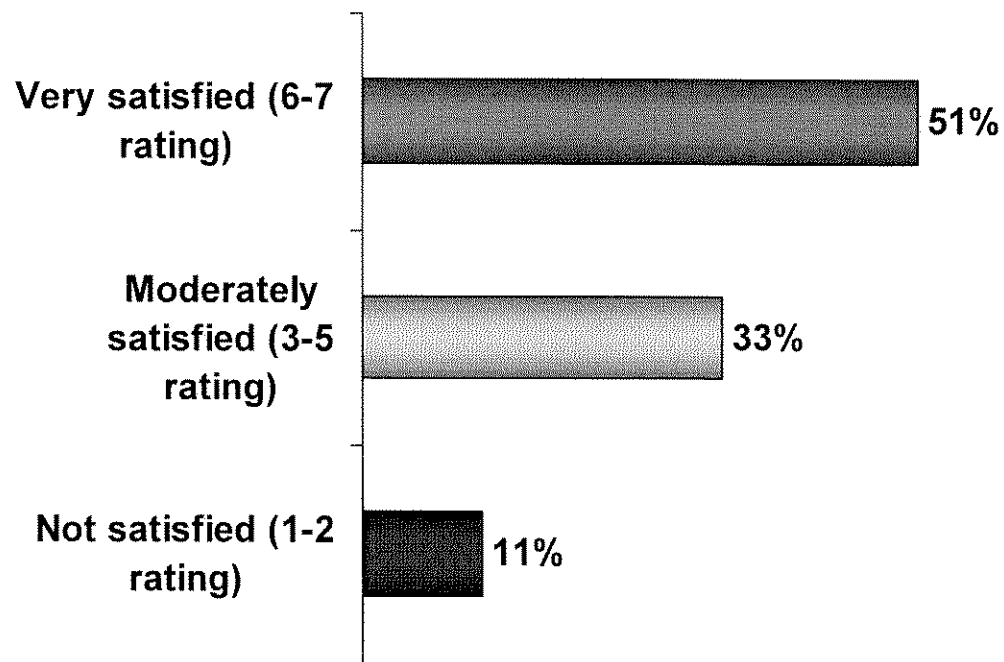
Most participants in an arbitration are satisfied with the confidentiality of the process.



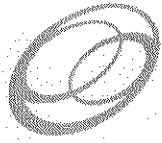
Q475: How would you rate the following... The confidentiality of the process?  
Base: All respondents (n=609 adults)



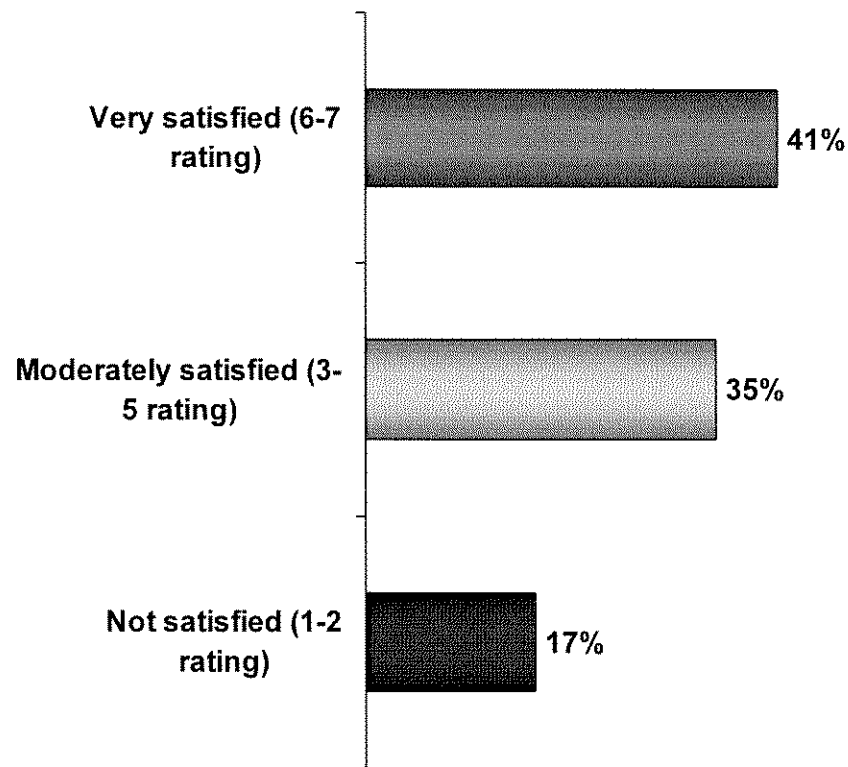
Most participants in an arbitration are satisfied with the length of the process.



Q475: How would you rate the following... The length of the process?  
Base: All respondents (n=609 adults)

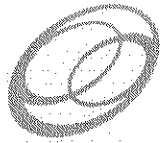


Most of those without lawyers found arbitration to be very “user friendly.”

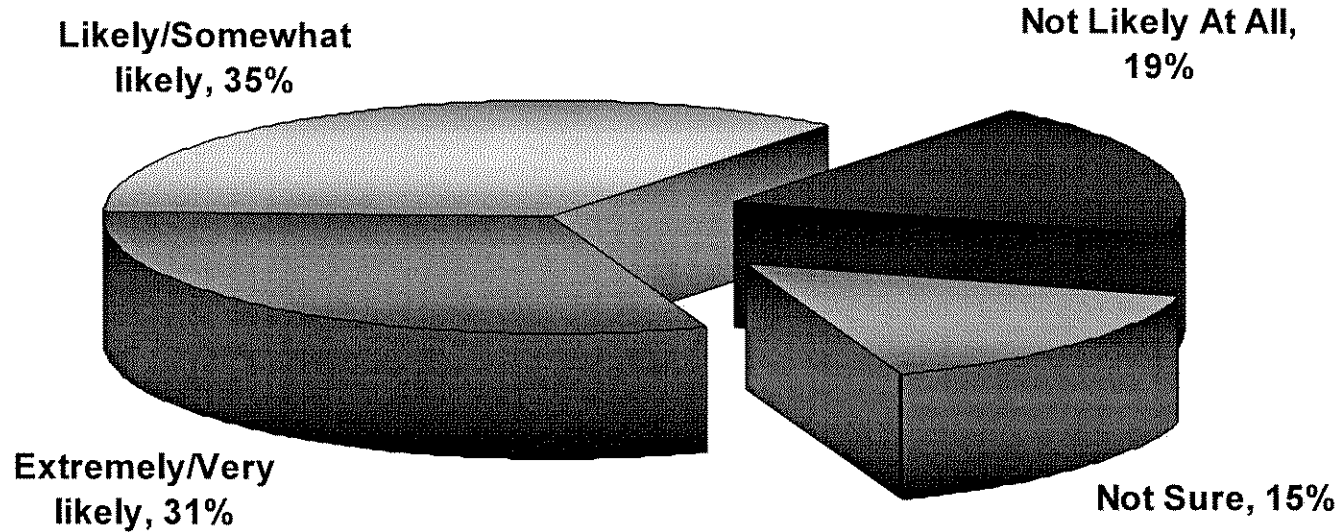


Q475: How would you rate the following... The extent to which the process was “user friendly?”

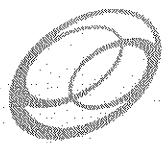
**\*\*NOTE:** Only asked of those who were not represented by a lawyer (n=227)



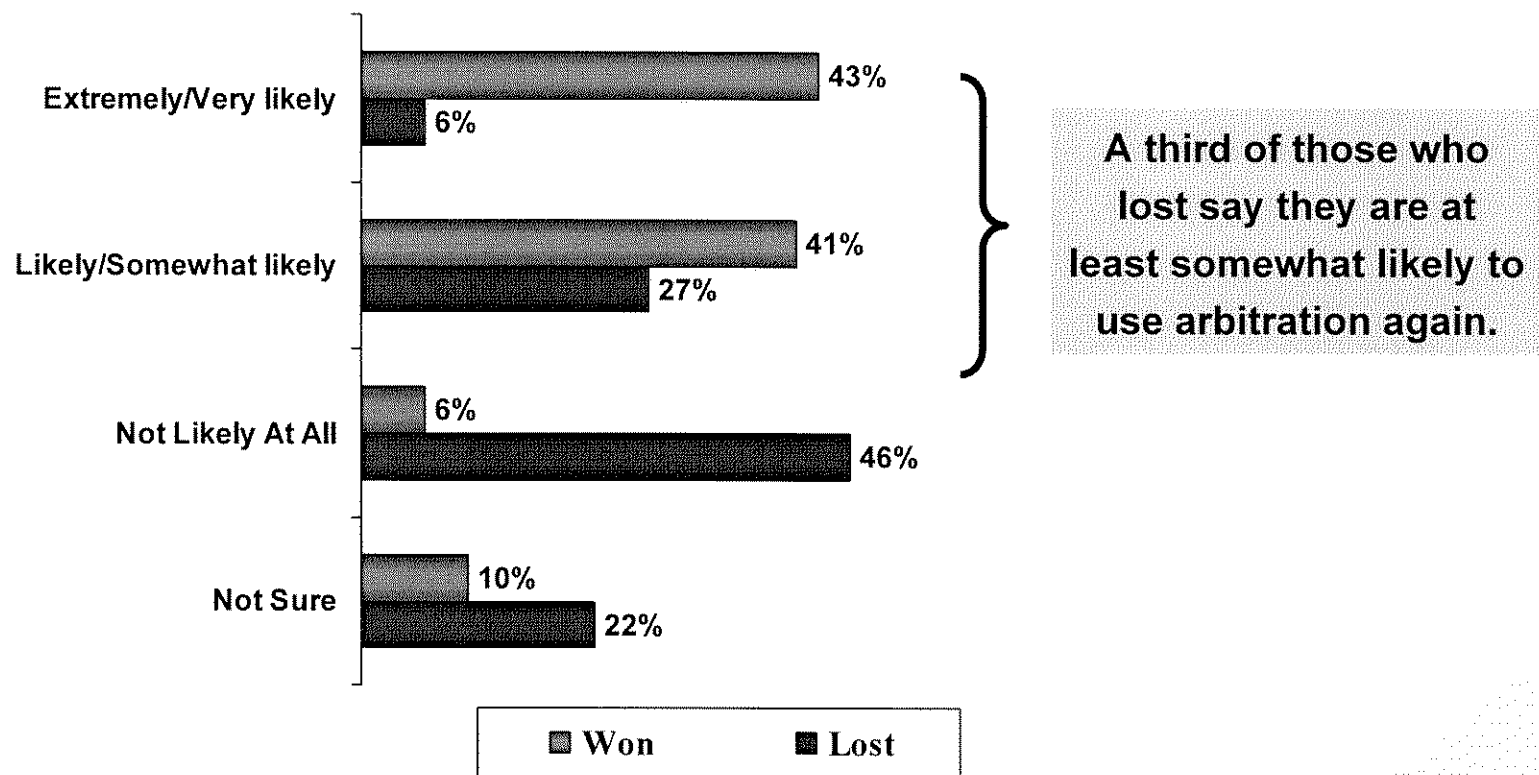
Two thirds are at least somewhat likely to use arbitration again.



Q480: In a future dispute, how likely are you to use arbitration instead of going to court?  
Base: All respondents (n=609 adults)



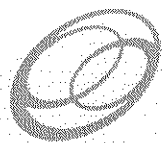
Winning and losing shapes the likelihood of using arbitration again, but a third of losers would use it again.



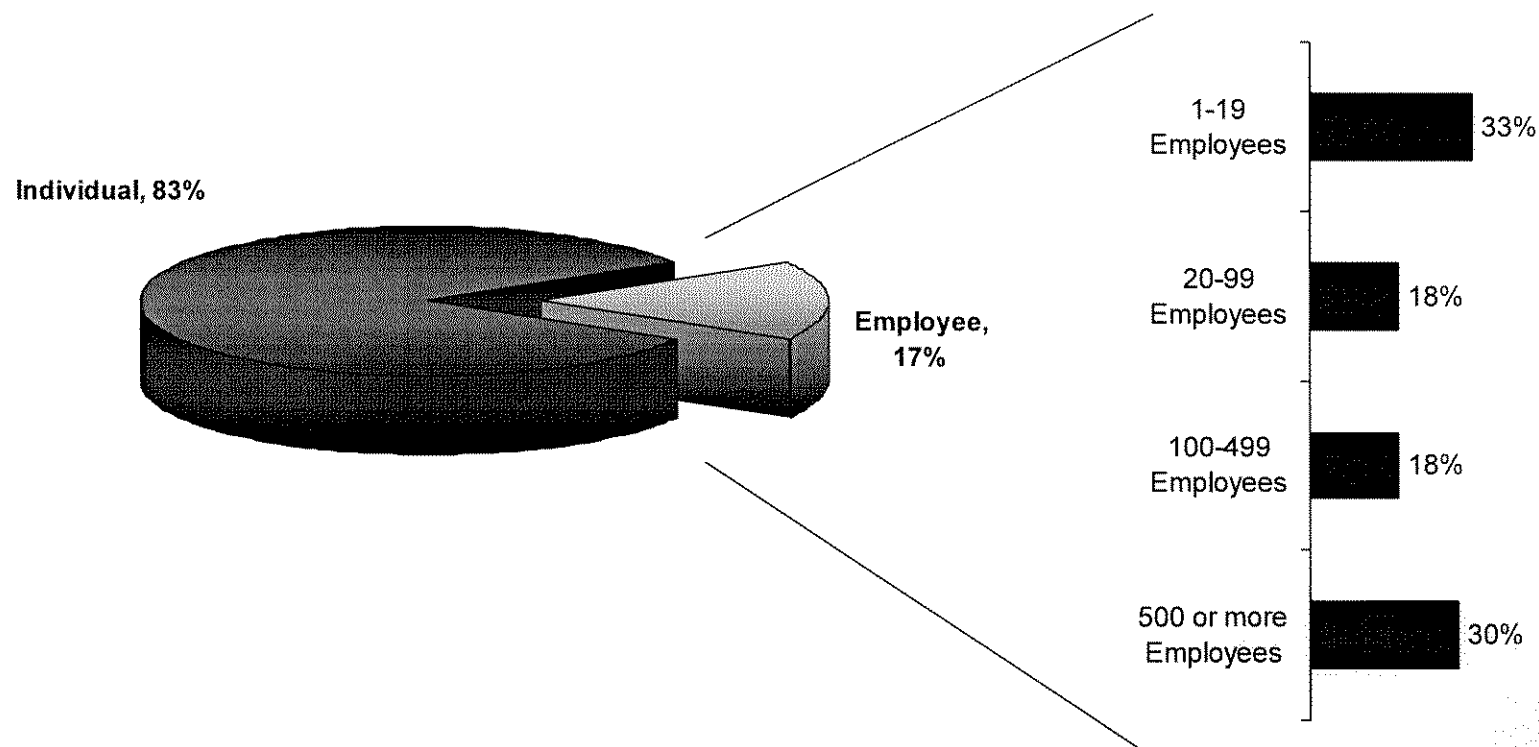
Q480: In a future dispute, how likely are you to use arbitration instead of going to court?

Base: All respondents (n=609 adults)





## Most were in arbitration as individuals

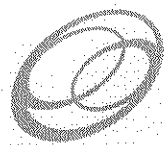


Q400: Were you in this arbitration as an individual or as an employee or representative of a business or organization?

Base: All respondents (n=609 adults)

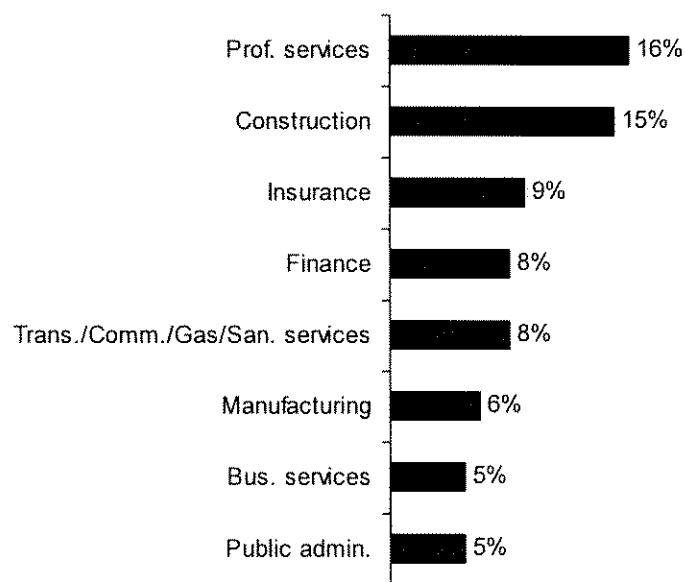
Q405: What was the size of your business at the time of the arbitration

Base: Employees/Representatives of Business (n=103)

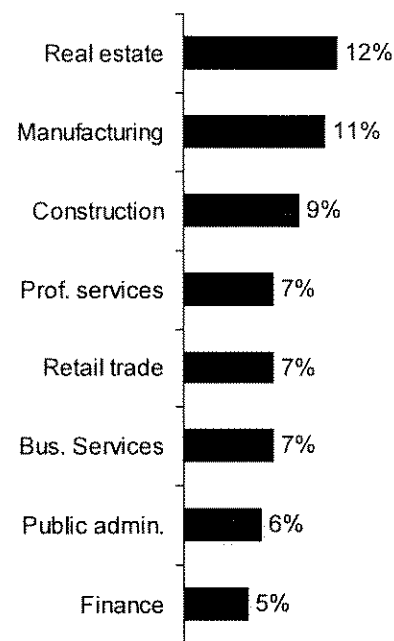


# What Industries Were Involved?

## Your Business?



## Other Business?



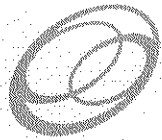
Q1000: What is your company's primary industry?

Q1005: What was the other company's primary industry?

Base: Employee/Representative of a Business (n=103)

Base: Individual/Two or more businesses and Employee/Representative of a Business (n=90)

\*NOTE: Those with less than 5% of mentions are excluded



# Demographics

## Gender

	<u>Total</u>
	%
Male	62
Female	38

## Age

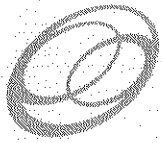
	<u>Total</u>
	%
Less than 35 years old	15
35-44	18
45-54	25
55-64	20
65 or older	21

## Education

	<u>Total</u>
	%
Less than high school	1
Some high school	3
High school graduate or equivalent (e.g., GED)	27
Attended college	22
College graduate (e.g., BA, AB, BS)	27
Postgraduate study without degree	6
Graduate Degree	13

## Annual Income

	<u>Total</u>
	%
Less than \$25,000	15
\$25,000 to \$49,999	20
\$50,000 to \$99,999	28
\$100,000 to \$149,999	20
\$150,000 or more	8
Decline to answer	9



# Detailed Methodology

**A study of Binding Arbitration participants** was conducted by Harris Interactive on behalf of the Institute for Legal Reform (ILR). Interviewing was conducted between February 28 and March 14, 2005 among those who had been a participant in a binding arbitration case that was not settled and they were not ordered into arbitration by the court. The length of the questionnaire was slightly over 10 minutes in length.

## **SAMPLE SELECTION**

Harris Interactive maintains the Harris Poll database (HPOL) comprised of several million respondents who have agreed to participate in survey research. The HPOL database was used as the sample source for this study. Email addresses for respondents in the database have been obtained from over 100 sources, including the HPOL registration site, Yahoo!, HPOL banner advertisements, and MSN/Hotmail.

Qualified respondents for this study were U.S adults aged 18+ who identified themselves as having gone through the binding arbitration process and not having their cases settled. These individuals also indicated that they had not been ordered into arbitration by a court order.

## **ONLINE INTERVIEWING PROCEDURES**

Interviews were conducted using a self-administered, online questionnaire, via proprietary, web-assisted interviewing software. The HPOL interviewing system permitted online data entry of interviews by the respondents. Questionnaires were programmed into the system with the following checks:

1. Question and response series
2. Skip pattern
3. Question rotation
4. Range checks
5. Mathematical checks
6. Consistency checks
7. Special edit procedures



## *Detailed Methodology (cont'd)*

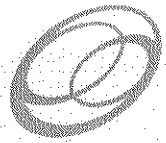
### **ONLINE INTERVIEWING PROCEDURES (cont'd)**

To maintain the reliability and integrity in the sample, each invitation contained a password that is uniquely assigned to that e-mail address. A respondent was required to enter the password at the beginning of the survey to gain access into the survey. Password protection ensured that a respondent completed the survey only one time.

To increase the number of respondents in the survey and to improve overall response rates, up to two additional reminder invitations are typically mailed at 2-4 day intervals to those respondents who have not yet participated in the survey. For this study, one reminder was sent to potential respondents.

To increase the number of respondents in the survey and to improve overall response rates, respondents were provided with a summary of some of the survey responses. This too was done via the Internet. Respondents were sent an email that provided them access to a web site that contained the survey findings. As with the survey itself, this was a password protected site that was accessible for a limited period (1-2 weeks).

All data were then tabulated, checked for internal consistency and processed by computer. A series of computer-generated tables were produced for each of the key sample groups that showed the results of each survey question, both by the total number of respondents and by the key subgroups.



## *Detailed Methodology (cont'd)*

### **WEIGHTING**

Completed interviews were weighted to figures obtained from the Current Population Survey (CPS). Harris used several demographic variables (e.g., sex, age, education, race and ethnicity and income) to generalize survey results to the population at large.

In addition, Harris Interactive applied a proprietary technique to the data called "propensity weighting" that essentially balanced all the characteristics (e.g., demographic, attitudinal, and behavioral) of online respondents. It is no surprise that certain kinds of people have a greater or lesser likelihood to be online and therefore to reply to our surveys. To account for this, Harris gave each individual a "propensity weight" which corresponded to their likelihood to be online. This ensured that the sample represented the general population of those who had gone through binding arbitration at large and was not skewed toward more active online users or survey takers. In addition, people who had a lesser likelihood to be online acted as a proxy for those who are not online at all. Typical propensity weights that were used included measures of activity (our online respondents do more things), knowledge (our online samples are better informed), and attitudes (our online samples are more skeptical or cynical).



## Detailed Methodology (cont'd)

### WEIGHTING (CONT'D)

It is also worth mentioning that Harris conducts parallel telephone and online research on a regular basis through *The Harris Poll*, our monthly omnibus survey. By conducting this research, Harris is able to track results to make comparisons between data collected online and by phone, closely examine the biases and most importantly, develop strategies for correcting these biases. In fact, Harris has an internal department that is entirely focused on conducting this “research on research.”

### EDITING AND CLEANING THE DATA

The data-processing staff performed machine edits and additional cleaning for the entire data set. Our edit programs acted as a verification of the skip instructions and other data checks that were written into the online program. The edit programs listed any errors by case number, question number and type. These were then resolved by senior personnel, who inspected the original file and made appropriate corrections. Complete records were kept of all such procedures.

For further information about this study, please contact:

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