

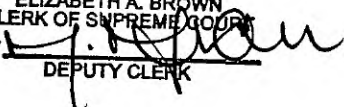
IN THE SUPREME COURT OF THE STATE OF NEVADA

WELLNESS CONNECTION OF  
NEVADA, LLC, A NEVADA LIMITED  
LIABILITY COMPANY,  
Appellant,  
vs.  
JODY ANN GHANEM, AN  
INDIVIDUAL,  
Respondent.

No. 86270

**FILED**

NOV 21 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order denying a motion to compel arbitration. Eighth Judicial District Court, Clark County; Nancy L. Allf, Judge.

Respondent Jody Ghanem is a current member and the former chief executive officer of appellant Wellness Connection of Nevada, LLC (“Wellness”). In September 2022, Ghanem made a records demand of Wellness under NRS 86.241 (providing that LLC members are entitled to certain LLC documents). Wellness refused to provide the requested records and Ghanem filed suit against Wellness. In her complaint, Ghanem asserted three causes of action: (1) accounting, (2) declaratory relief to compel the production of documents, and (3) breach of contract, specifically, breach of the Wellness operating agreement (the “Operating Agreement”).

Wellness filed a motion to dismiss or, in the alternative, to compel arbitration. In its motion, Wellness argued that Ghanem’s claims were subject to binding arbitration pursuant to a provision in the Operating Agreement. This provision stated that “[i]f any controversy or claim arising

out of this Agreement or the Members' relationship cannot be settled, the controversy or claim shall be subject to binding arbitration." The provision also stated that the Federal Arbitration Act (FAA) governs the agreement to arbitrate. Without explanation, the district court denied the motion. Wellness now appeals.

"A district court's order resolving a motion to compel arbitration may involve mixed questions of law and fact." *El Jen Med. Hosp., Inc. v. Tyler*, 139 Nev., Adv. Op. 36, 535 P.3d 660, 664 (2023). "We review purely legal questions de novo . . . and defer to the district court's factual findings unless they are clearly erroneous or not based on substantial evidence." *Id.* (internal citations omitted). Issues of statutory interpretation are reviewed de novo. *Young v. Nev. Gaming Control Bd.*, 136 Nev. 584, 586, 473 P.3d 1034, 1036 (2020).

The parties present two questions in this appeal. First, are NRS 86.241 claims subject to arbitration agreements? Second, are Ghanem's claims captured by the Operating Agreement's binding arbitration provision? We answer both questions in the affirmative and address each in turn.

*Claims arising under NRS 86.241 are subject to arbitration agreements*

Statutory interpretation begins with the plain language of the statute. *Clay v. Eighth Jud. Dist. Ct.*, 129 Nev. 445, 451, 305 P.3d 898, 902 (2013). When a statute is unambiguous, this court will enforce it as written. *Sheriff v. Witzenburg*, 122 Nev. 1056, 1061, 145 P.3d 1002, 1005 (2006); see also *Butler v. State*, 120 Nev. 879, 893, 102 P.3d 71, 81 (2004) ("Only when the plain meaning of a statute is ambiguous will this court look beyond the language to consider its meaning in light of its spirit, subject matter, and public policy.").

NRS 86.241(1)(a)-(c) requires LLCs to continuously maintain particular records, and NRS 86.241(2) provides that LLC members are “entitled” to obtain those records for inspection. NRS 86.243(2)-(3) specifies that “[a]ny action to enforce any rights arising under NRS 86.241 must be brought in the district court . . . [and that] [t]he district court has exclusive jurisdiction to determine whether or not the person seeking such records is entitled to the records sought.”

Wellness argues that while NRS 86.243 grants the district court exclusive jurisdiction to determine the LLC member’s entitlement to records, the statute does not prohibit the arbitration of NRS 86.241 claims. Wellness further asserts that even if NRS 86.243 prohibits the arbitration of such claims, federal law preempts the statute and requires enforcement of the Operating Agreement’s binding arbitration provision. We agree.

Nothing in NRS 86.243 indicates a legislative intent to preclude arbitration of a dispute arising under NRS 86.241. While NRS 86.243 grants district courts exclusive jurisdiction over NRS 86.241 claims, this serves only to preclude other courts such as the justice court or municipal court from deciding the matter. It does not preclude those claims from being subject to arbitration. Indeed, justice courts possess exclusive jurisdiction over cases not exceeding \$15,000 in damages, *see* NRS 4.370(1)(b), and district courts have original jurisdiction over cases exceeding \$15,000 in damages, *see A Cab, LLC v. Murray*, 137 Nev. 805, 808, 501 P.3d 961, 968 (2021), yet claims for damages are routinely arbitrated, *see, e.g., Gittings v. Hartz*, 116 Nev. 386, 389, 996 P.2d 898, 900 (2000) (involving an arbitration award of \$9,000 plus pre-judgment interest and taxable costs).

Furthermore, if Ghanem’s claim arising under NRS 86.241 falls within the arbitration provision in the Operating Agreement, which is

governed by the FAA, any requirement in NRS 86.243 that the matter be decided solely by the district court is superseded by the FAA. *See Preston v. Ferrer*, 552 U.S. 346, 359 (2008) (“When parties agree to arbitrate all questions arising under a contract, the FAA supersedes state laws lodging primary jurisdiction in another forum, whether judicial or administrative.”). “The Federal Arbitration Act (FAA) requires district courts to compel arbitration of claims covered by an enforceable arbitration agreement,” *Berman v. Freedom Fin. Network, LLC*, 30 F.4th 849, 855 (9th Cir. 2022) (citing 9 U.S.C. § 3), and “preempts state laws that outright prohibit arbitration of a specific claim,” *U.S. Home Corp. v. Michael Ballesteros Tr.*, 134 Nev. 180, 189, 415 P.3d 32, 40 (2018). Thus, we conclude that NRS 86.243 does not preclude the arbitration of disputes arising under NRS 86.241.

*Ghanem’s claims fall within the Operating Agreement’s binding arbitration provision*

Wellness argues that Ghanem’s claims fall within the scope of the arbitration clause contained in the Operating Agreement. Ghanem appears to concede that her claims of accounting and breach of contract are captured by the binding arbitration agreement but contends that the scope of the arbitration clause does not include her NRS 86.241 claim. We agree with Wellness.

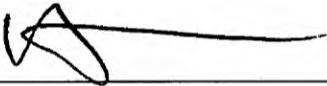
Nevada courts favor arbitration and liberally construe arbitration clauses to grant arbitration. *State ex rel. Masto v. Second Jud. Dist. Ct.*, 125 Nev. 37, 44, 199 P.3d 828, 832 (2009). Reflecting this policy, “in judging the scope of the arbitration agreements, we ‘resolve all doubts concerning the arbitrability of the subject matter of a dispute in favor of arbitration.’” *Kindred v. Second Jud. Dist. Ct.*, 116 Nev. 405, 411, 996 P.2d 903, 907 (2000) (quoting *Int’l Assoc. Firefighters v. City of Las Vegas*, 104


Nev. 615, 618, 764 P.2d 478, 480 (1988)). “Under a broad arbitration provision—i.e., one that encompasses all disputes related to or arising out of an agreement—a presumption of arbitrability applies and only the most forceful evidence of a purpose to exclude the claim from arbitration can prevail.” *SR Constr., Inc. v. Peek Bros. Constr., Inc.*, 138 Nev. 414, 417-18, 510 P.3d 794, 798 (2022) (internal quotations omitted).


Here, the arbitration clause is broad; therefore, a presumption of arbitrability applies. *See id.* The Operating Agreement’s binding arbitration provision reads in pertinent part: “If any controversy or claim arising out of this Agreement or the Members’ relationship cannot be settled, the controversy or claim shall be subject to binding arbitration[.]” While Ghanem’s claim for declaratory relief may be predicated on the rights of LLC members created by NRS 86.241, the right created therein arises out of Ghanem’s relationship with Wellness and out of Wellness’s Operating Agreement. Accordingly, the binding arbitration provision captures any claim brought under NRS 86.241 as well as Ghanem’s claims for breaching the Operating Agreement and for accounting. *See generally SR Constr., Inc.*, 138 Nev. at 417-18, 510 P.3d at 798 (indicating claims for a breach of contract are covered by a broad arbitration provision); *Gilbert v. Indiana*, No. 09 CIV. 6352 DAB, 2011 WL 651427 (S.D.N.Y. Feb. 16, 2011) (finding that a cause of action for accounting fell within a broad arbitration clause).

As NRS 86.243’s grant of exclusive jurisdiction to district courts over NRS 86.241 claims does not impact the arbitrability of such claims, and as Ghanem’s claims fall within the scope of the arbitration provision in the Operating Agreement, we conclude that the district court erred in denying the motion to compel arbitration.

Accordingly, we ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Lee

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Nancy L. Alf, District Judge  
Stephen E. Haberfeld, Settlement Judge  
Howard & Howard Attorneys PLLC  
Gerrard Cox Larsen  
Eighth District Court Clerk