

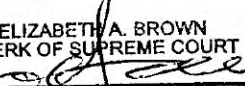
IN THE SUPREME COURT OF THE STATE OF NEVADA

DAX CONTRACTING, LLC D/B/A BLUE
HERON
Appellant,
vs.
GREG HEINRICH AND BARBARA
HEINRICH, INDIVIDUALLY AND AS
TRUSTEES OF THE HEINRICH
FAMILY TRUST,
Respondents.

No. 88692

FILED

SEP 10 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order confirming an arbitration award and denying a countermotion to vacate. Eighth Judicial District Court, Clark County; Joanna Kishner, Judge.

This appeal arises out of the private arbitration of construction defect-related claims. Respondents Greg and Barbara Heinrich hired appellant DAX Contracting, LLC, dba Blue Heron, to build a custom \$5 million home in Henderson, Nevada. The construction was partially governed by an Agreement for Construction Services, which included a "Construction Standard" provision that promised relatively broad levels of quality workmanship, stating that the home "shall be constructed in a good and workmanlike manner and at a level of construction quality typically found in custom homes in Clark County, Nevada in the same price range." Following construction, respondents filed a private arbitration claim alleging that the home contained multiple construction problems requiring repairs. The statement of claim included several causes of action, including breach of express warranties, breach of implied warranties, negligence and

negligence per se, breach of contract, and breach of the implied covenant of good faith and fair dealing.

After a 10-day arbitration, the arbitrator issued an award of damages and attorney fees totaling \$2,324,656.23. The district court subsequently granted respondents' motion to confirm the arbitration award and denied appellant's countermotion to vacate. Appellant now appeals that order, arguing that the arbitrator manifestly disregarded the law in issuing portions of the award and that, therefore, the district court should not have confirmed the award.

"This court reviews a district court's decision to vacate or confirm an arbitration award de novo." *Washoe Cnty. Sch. Dist. v. White*, 133 Nev. 301, 303, 396 P.3d 834, 838 (2017). A party seeking to vacate an arbitration award based on a manifest disregard of the law must prove, by "clear and convincing evidence," *id.*, that "the arbitrator, knowing the law and recognizing that the law required a particular result, simply disregarded the law," *Clark Cnty. Educ. Ass'n v. Clark Cnty. Sch. Dist.*, 122 Nev. 337, 342, 131 P.3d 5, 8 (2006) (internal quotation marks omitted).

A party cannot merely object to the *results* of the arbitration, and a reviewing court "may not concern [itself] with the correctness of the arbitrator's interpretation of [a] statute." *Id.* at 345, 131 P.3d at 10. Rather,

[m]anifest disregard of the law is something beyond and different from a misinterpretation or error in applying the law. An arbitrator manifestly disregards the law when he or she recognizes that the law *absolutely requires* a given result and nonetheless refuses to apply the law correctly. Mere error in the application of the law is not grounds to vacate an arbitration award.


Bohlmann v. Byron John Printz & Ash, Inc., 120 Nev. 543, 545, 96 P.3d 1155, 1156 (2024) (emphasis added), *overruled on other grounds in Bass-Davis v. Davis*, 122 Nev. 442, 452 n.32, 134 P.3d 103, 109 n.32 (2006).

Here, appellant argues that the arbitrator manifestly disregarded the law by awarding damages under a breach of contract theory for certain constructional deficiencies that did not meet the definition of a “[c]onstructional defect” under NRS 40.615 but nonetheless violated the parties’ Construction Agreement. Relying largely on *High Noon at Arlington Ranch Homeowners Ass’n v. Eighth Judicial District Court*, appellant argues that although these claims were brought under a breach of contract theory, they must meet the definition provided in NRS 40.615 to qualify for damages awarded under NRS Chapter 40 because they allege constructional defects. 133 Nev. 500, 402 P.3d 639 (2017). In *High Noon*, this court discussed construction defect-related claims brought by an HOA that did not allege the claims fell under NRS Chapter 40. *Id.* at 504-05, 644-45. We held that while the plaintiff’s breach of implied and express warranty claims did not specifically seek relief pursuant to NRS Chapter 40, those claims “sought relief similar to that allowed for a construction defect” and thus should be treated as Chapter 40 defect claims. *Id.* at 505, 402 P.3d at 644. Appellant asserts the same situation is present here; all of respondents’ claims sought relief similar to that allowed for constructional defect claims, and thus, should be treated as falling exclusively under Chapter 40 and cannot qualify for damages if they do not meet the definition provided in NRS 40.615.

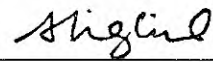
But in *High Noon*, we also stated that the plaintiff’s “breach of contract and breach of fiduciary duty claims are not construction defect claims under NRS Chapter 40,” and noted that “[t]hese claims are distinct

from construction defect claims.” *High Noon*, 133 Nev. at 504-05, 402 P.3d at 644. The arbitrator’s determination here appears consistent with, not contrary to, *High Noon*. The claims that met the definition of a constructional defect were adjudicated under NRS Chapter 40. But the Construction Agreement was written to guarantee higher levels of workmanship than those covered under NRS 40.615’s definition. Appellant wrote a broad guarantee and now asks to be shielded from liability for its guarantees that extend more broadly than the protections of Chapter 40. The arbitrator disagreed and wrote a well-reasoned decision, supported his analysis with references to NRS Chapter 40, the Construction Agreement, and Nevada caselaw, and came to a reasonable interpretation of the law that should not be disturbed by the court. It is not clear that a different result on the at-issue claims was required but disregarded by the arbitrator, and the district court did not err in confirming the award. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Parraguirre

 J.
Bell

 J.
Stiglich

cc: Hon. Joanna Kishner, District Judge
Paul M. Haire, Settlement Judge
Morris Sullivan Lemkul/Las Vegas
Howard & Howard Attorneys PLLC/Las Vegas
Eighth District Court Clerk