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This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0864

Ryan Lynch,
Appellant,

vs.

Condominiums of Buena Vista, Inc.,
Respondent.

Filed February 27, 2023
Affirmed
Bryan, Judge

Olmsted County District Court
File No. 55-CV-20-6939

Justice Ericson Lindell, Greenstein Sellers PLLC, Minneapolis, Minnesota (for appellant)

Janine M. Loetscher, James C. Kovacs, Bassford Remele, P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this appeal from the district court's order compelling arbitration and its subsequent order confirming the arbitration award, appellant argues that the district court erred for the following two reasons: (1)

appellant's claims are beyond the scope of the arbitration clause in the parties' prior settlement agreement; and (2) the arbitrator incorrectly interpreted the release language of the settlement agreement. Because appellant's claims were arbitrable and the arbitrator did not exceed his authority, we affirm.

FACTS

In May 2019, appellant Ryan Lynch, a unit owner and member of respondent Condominiums of Buena Vista, Inc. (the association), initiated a civil lawsuit against the association (the prior action) claiming, among other things, that the association violated its governing documents when it entered into a design and construction contract to address moisture damage. The parties settled the prior action in July 2020. In December 2020, Lynch sued the association again. Pursuant to the parties' settlement agreement in the prior action, the district court ordered the parties to arbitrate the dispute, and the arbitrator determined that Lynch's new claims were barred by the release language in the settlement agreement. The district court subsequently denied Lynch's motion to vacate the arbitration award, and Lynch appeals. Given the issues raised, we summarize the claims in the prior action, the terms of the parties' settlement agreement, and the claims in the present action. These facts are undisputed.

Over the past several years, the association has faced several structural issues affecting its

condominium building—most notably, water leaks and moisture intrusion. In September 2018, the association entered into a contract with Widseth Smith Nolting (WSN) to provide architectural and engineering services to address these issues. The contract provided that WSN would provide design services, prepare construction specifications, and assist the association with finding a contractor. Lynch, along with other Buena Vista owners, objected to the WSN contract. In May 2019, these owners, including Lynch, initiated the prior action against the association and named board members, seeking injunctive relief to halt the WSN contract and asserting various statutory violations by the association. These owners alleged that the association signed the WSN contract without considering other bids, without disclosing personal relationships between the association board and a contractor working with WSN, and without following provisions of the association's bylaws related to meetings, solicitation of bids, and assessments. These owners also alleged that the board members had conflicts of interest and had harassed unit owners that opposed the project.

The parties entered mediation and ultimately reached a settlement in July 2020. The settlement agreement provided that the association would pay each plaintiff a specified amount and that the plaintiffs would dismiss their claims and dissolve a temporary restraining order they had obtained. The parties also agreed to the following relevant terms:

3. Defendants agree to operate the Buena Vista HOA in a manner consistent with its governing documents and applicable law. . . .

4. . . . Plaintiffs . . . agree not to appeal or relitigate any of the Plaintiffs' Claims that were or could have been asserted in the Action that was previously dismissed. . . .

5. Plaintiffs, for themselves and their successors and assigns and anybody attempting to claim through them, fully and forever release and discharge Defendants . . . of and from all claims . . . arising from or related to the Plaintiffs' Claims that were asserted or reasonably could have been asserted in the Action. . . . [(the release clause)]

. . . .

8. Plaintiffs affirm that as of the Effective Date, other than the Plaintiffs' Claims, they know of no existing act or omission that may constitute a claim or cause of action against Defendants, or any violation of the HOA's governance documents. . . .

9. Plaintiffs agree not to interfere with or delay engineering consultant Widseth Smith Nolting in the execution of its engineering services or repair recommendations as set forth in the WSN contract signed and approved by the Board as of the Effective Date. . . .

. . . .

14. Plaintiffs and Defendants agree to appoint Mark Heley of Heley, Duncan, &

> Melander [(the arbitrator)] as their binding arbitrator in the event a dispute arises regarding the terms of the agreement.

Shortly before final execution of the settlement agreement, at the parties' request, the arbitrator stated that paragraph 9 does not "restrict the Plaintiffs' rights with regard to any new WSN contracts or amendments" and only "applies to contracts in place as of the effective date of the agreement."

After the settlement agreement, the association moved forward with further discussions regarding repairs. In September 2020, the association's board gave notice of a special meeting of association members to be held in October. The agenda items included requests by the board to obtain and accept a bid for a construction manager and to proceed with a garage waterproofing project in 2021. The association held the special meeting and announced that a majority of association members had voted in favor of the requests.

Lynch believed that the board held the special meeting in violation of the association's declaration and bylaws because it was held without proper notice, there was not a quorum present, and the association changed the agenda items without notice. In December 2020, Lynch filed the action that is the subject of this appeal as well as a new request for a temporary restraining order. He asserted the following four claims: (1) the association's decision to engage WSN violated the association's governing documents (with a request for injunctive relief); (2) a request for declaratory

judgment based on the alleged violations in count 1; (3) the association violated its governing documents and Minnesota law by failing to maintain adequate reserves for repairs; and (4) the association committed fraud by misrepresenting or not disclosing the existence of structural problems to Lynch before Lynch purchased his unit.

The association moved to compel arbitration of Lynch's claims and to dismiss or stay the claims. The district court granted the motion to compel arbitration, concluding that Lynch's present claims "arise broadly from the terms of" the settlement agreement and were therefore arbitrable. The district court also discussed the motion to dismiss, opining that Lynch's claims were likely barred by the release clause in the settlement agreement, but it did not rule on the motion because it referred the matter to arbitration.

The arbitrator subsequently concluded that all four of Lynch's claims fall within the release clause and granted the association's motion to dismiss. The arbitrator reasoned that counts 1 and 2 of the lawsuit "arise out of and relate to the repair work," and that counts 3 and 4 "arise from and relate to existing conditions and facts in existence and well known to Mr. Lynch at the time he commenced the [prior action]." The arbitrator also noted that Lynch's claims "interfere with WSN's repair recommendations and with WSN's ability to complete its contractual obligations, including the obligation to assist the Association in obtaining bids or proposals and awarding or preparing contracts for construction."

As noted above, the district court confirmed the arbitration award. On appeal, Lynch challenges both the district court's decision to compel arbitration and the district court's decision to confirm the arbitration award.

DECISION

I. Decision to Compel Arbitration

Lynch argues that the district court erred by compelling arbitration because his claims are not within the scope of the arbitration clause in the parties' settlement agreement. Because Lynch's claims arise out of and involve the terms of the settlement agreement, they are within the scope of the arbitration clause.

When a party opposes a motion to compel arbitration, "[u]nless the [district] court finds that there is no enforceable agreement to arbitrate, it shall order the parties to arbitrate." Minn. Stat. § 572B.07(a) (2020); *see also Rodgers v. Silva*, 920 N.W.2d 664, 666 (Minn. App. 2018).[1] In general, the district court, not the

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[1] Neither party argues that the Federal Arbitration Act (FAA), 9 U.S.C. §§ 1-16, applies in this case, and neither the district court nor the arbitrator applied it. We note, however, that "Minnesota courts must apply the FAA to transactions that affect interstate commerce." *Onvoy, Inc. v. SHAL, LLC*, 669 N.W.2d 344, 351 (Minn. 2003); *see Allied-Bruce Terminix Cos. v. Dobson*, 513 U.S. 265, 274 (1995) (describing the FAA's reach "expansively as coinciding with that of the Commerce Clause"). "[R]egardless of whether the plaintiff asserts federal or state law claims, [the FAA] preempts conflicting state law." *Churchill Env't & Indus. Equity Partners, L.P. v. Ernst & Young, L.L.P.*, 643 N.W.2d 333, 336 (Minn. App. 2002). The parties did not brief whether the

arbitrator, "shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate." Minn. Stat. § 572B.06(b) (2020). "When considering a motion to compel arbitration, the court's inquiry is limited to (1) whether a valid arbitration agreement exists, and (2) whether the dispute falls within the scope of the arbitration agreement." *Amdahl v. Green Giant Co.*, 497 N.W.2d 319, 322 (Minn. App. 1993). Because the parties agree that a valid arbitration agreement exists, this case involves only the second question.

"Minnesota law clearly favors arbitration of disputes." *Minnesota Teamsters Pub. & Law Enf't Emps.' Union, Local No. 320 v. County of St. Louis*, 611 N.W.2d 355, 358 (Minn. App. 2000). When a valid arbitration agreement exists, "[d]oubts concerning the scope of arbitrable issues are resolved in favor of arbitration." *Id.*; *see also Churchill*, 643 N.W.2d at 336 (applying the same rule under the FAA). "Determining whether a party has agreed to arbitrate a particular dispute is a matter of contract interpretation that we review de novo." *Glacier Park Iron Ore Props. v. U.S. Steel Corp.*, 961 N.W.2d 766, 771 (Minn. 2021); *see also Michael-Curry Cos. v. Knutson S'holders Liquidating Tr.*, 449 N.W.2d 139, 141 (Minn. 1989) (noting that "arbitrability is to be determined by ascertaining the intention of the parties through examination of the language of the

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repairs or the settlement agreement in this case affect interstate commerce. We need not address whether interstate commerce was impacted, however, because the outcome in this case remains the same under both federal and state law.

arbitration agreement" and that "[a] reviewing court is not bound by the trial court's interpretation of the arbitration agreement").

Lynch asserts that the arbitration clause only applies to disputes regarding the meaning or validity of the terms of the settlement agreement and does not include a dispute regarding whether the release language bars the current lawsuit. The association disagrees that we should apply such a narrow interpretation of the arbitration clause and argues that we should instead apply a broad meaning to the phrase "arises regarding the terms of the settlement agreement" in the arbitration clause. We agree with the association.

Neither party argues that the arbitration provision is ambiguous, *Minnesota Jud. Branch v. Teamsters Loc. 320*, 971 N.W.2d 82, 88 (Minn. App. 2022) ("When the language of [a] contract is unambiguous, it should be given its plain meaning."), and several cases interpreting similar language construe "arising under" terms broadly, *see*, *e.g.*, *Onvoy*, 669 N.W.2d at 352 (concluding that "arising under" in an arbitration clause was broad enough to encompass contract formation claims); *see also*, *e.g.*, *Fleet Tire Serv. of N. Little Rock v. Oliver Rubber Co.*, 118 F.3d 619, 620-21 (8th Cir. 1997) (concluding that "arising out of or relating to" in an arbitration clause "was the broadest language the parties could reasonably use"). Lynch's argument regarding the meaning of the phrase "arises regarding the terms of the settlement agreement" conflicts with the

broad construction that courts have given to "arising under" language in similar cases.

In addition, contrary to Lynch's argument, the claims in the current lawsuit do relate to the terms of the parties' settlement agreement in at least three separate respects. First, in paragraph 3 of the settlement agreement, the association made an ongoing promise "to operate the Buena Vista HOA in a manner consistent with its governing documents and applicable law." Lynch's new claims allege that the association violated its governing documents and applicable law. Second, in paragraph 9 of the settlement agreement, Lynch made an ongoing promise "not to interfere with or delay engineering consultant Widseth Smith Nolting in the execution of its engineering services or repair recommendations as set forth in the WSN contract signed and approved by the Board. . . ." Lynch's new claims, however, request injunctive relief that includes revoking the WSN contract. Third, even assuming we agreed with Lynch's narrow interpretation of the arbitration clause as requiring arbitration only over disputes regarding the meaning of the terms of the settlement agreement, the heart of the parties' dispute concerns the meaning and scope of the release terms of the settlement agreement. For these reasons, section 14 of the settlement agreement requires the parties to arbitrate their dispute.[2]

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[2] Lynch also argues that the district court issued an improper advisory opinion when it discussed the merits of the association's motion to dismiss before submitting it to the arbitrator. We note that Lynch cites no case law supporting this argument,

II. Decision to Confirm the Arbitrator's Dismissal of Lynch's Current Claims

Lynch next argues that the district court erred by confirming the arbitration award because the arbitrator erroneously interpreted the scope of the release language in the settlement agreement. We affirm the district court's decision because courts do not review an arbitrator's interpretation of a contract.[3]

A court may vacate an arbitration award only in very limited circumstances, Minn. Stat. § 572B.23(a)(4)-(5) (2020), and as a general rule, the arbitrator is "the final judge of both law and fact, including the interpretation of the terms of any contract." *State Off of State Auditor v. Minnesota Ass'n of Pro. Emps.*, 504 N.W.2d 751, 754 (Minn. 1993) (quotation omitted). An appellate court "will not overturn an award merely because they disagree with the arbitrator's decision on the merits." *Id.* at 754-55. The only issue before the appellate court "is whether the question decided by the arbitrator was within his authority to decide; we may not examine the underlying evidence and record, or otherwise delve into the merits of the award." *Liberty Mut. Ins. Co. v. Sankey*, 605 N.W.2d 411, 414 (Minn.

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but we decline to address the merits of the argument because Lynch forfeited it by not making the argument to the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

[3] Portions of Lynch's brief could be construed as arguing that the district court erred by not reconsidering the issue of arbitrability when deciding the motion to vacate. We need not address that argument given our affirmance of the decision to compel arbitration.

App. 2000), *rev. denied* (Minn. Apr. 18, 2000). As the United States Supreme Court has explained when applying a parallel provision of the FAA for reviewing arbitration awards:

> Nothing we say in this opinion should be taken to reflect any agreement with the arbitrator's contract interpretation. . . . All we say is that convincing a court of an arbitrator's error—even [an arbitrator's] grave error—is not enough. So long as the arbitrator was arguably construing the contract—which this one was—a court may not correct [the arbitrator's] mistakes under § 10(a)(4) [of the FAA]. The potential for those mistakes is the price of agreeing to arbitration. As we have held before, we hold again: It is the arbitrator's construction of the contract which was bargained for; and so far as the arbitrator's decision concerns construction of the contract, the courts have no business overruling [the arbitrator] because their interpretation of the contract is different from [the arbitrator's]. The arbitrator's construction holds, however good, bad, or ugly.

Oxford Health Plans LLC v. Sutter, 569 U.S. 564, 572-73 (2013) (quotations and citations omitted).

Given this caselaw, we cannot conclude that the arbitrator erred in interpreting the scope of the release language in the settlement agreement. Even if this panel disagreed with the arbitrator's interpretation of the release language, "[t]he arbitrator's construction holds, however good, bad, or ugly." *Id.* at 573. Because

this court cannot interpret the settlement agreement or review the merits of the arbitrator's interpretation, we affirm the district court's decision to confirm the arbitration award.

Affirmed.

STATE OF MINNESOTA	DISTRICT COURT CIVIL DIVISION
COUNTY OF OLMSTED	THIRD JUDICIAL DISTRICT
Ryan Lynch, Plaintiff, vs. Condominiums of Buena Vista, Inc., Defendant.	Court File No. 55-CV-20-6939 **ORDER, ORDER FOR JUDGMENT, JUDGMENT, AND MEMORANDUM** (Filed May 12, 2022)

The above-entitled matter came on for remote hearing before the Honorable Christina K. Stevens, Judge of District Court, on February 11, 2022, on the parties' competing motions to confirm or vacate the arbitration award.

Justice Ericson Lindell, Greenstein Sellers, Minneapolis, Minnesota, appeared on behalf of Plaintiff.

James C. Kovacs, Bassford Remele, Minneapolis, Minnesota, appeared on behalf of Defendant.

Based on the files, records, and proceedings, the court makes the following:

ORDER

1. Defendant's motion to confirm the arbitration award is **GRANTED**.
2. Plaintiffs motion to vacate the arbitration award is **DENIED**.

3. Defendant's motion to dismiss this action with prejudice is **GRANTED**.

4. Defendant's motion for an award of reasonable costs and disbursements is **GRANTED**.

5. The attached memorandum is incorporated.

ORDER FOR JUDGMENT

LET JUDGMENT ENTER ACCORDINGLY.

BY THE COURT
/s/ Christina K. Stevens

Stevens, Christina
2022.05.12
13:25:15 05'00'

Christina K. Stevens
Judge of District Court

JUDGMENT

I certify the foregoing order constitutes the judgment of the court.

Hans Holland
Court Administrator

/s/ Grace McGlover
Deputy Clerk of District Court

MEMORANDUM

FACTS

The court issued an order compelling arbitration and staying the proceedings on April 19, 2021. That decision is incorporated in this memorandum. Arbitration commenced with the filing of a motion for

temporary injunction, brought by Lynch, which the arbitrator denied on May 21, 2021. Buena Vista then brought a motion to dismiss, which the arbitrator granted on September 27, 2021.

Relevant to the motions before the court, the arbitrator determined:

> [W]hile the alleged underlying facts supporting Counts I and II in the Second Complaint may vary from and post-date those facts identified in the Initial Complaint, the relief sought by Mr. Lynch in this Current Lawsuit is essentially the same as the relief sought in the Initial Lawsuit. The claims asserted in Counts I and II "arise from" and are "related to" the claims in the Initial Lawsuit and are essentially an attempt to re-litigate the same claims. Mr. Lynch simply offers different facts to challenge the same or substantively related contracts and actions that were the subject of the Initial Lawsuit.
>
> * * *
>
> The broad language of the Release Agreement previously signed by Mr. Lynch and the Association reflects an intent to finally resolve all of Mr. Lynch's claims related to the repair work. Paragraph 9 provides that Plaintiffs, including Mr. Lynch, will not interfere with or delay WSN in the execution of its engineering services or repair recommendations as set forth in the WSN contract. Paragraph 4 provides that Plaintiffs agree not to appeal or re-litigate any issues that were or could have been addressed in the Initial Action. Mr.

Lynch's claims need to be examined in the context of this broad Release Language.

* * *

Counts III and IV of the complaint in the Current Lawsuit do not necessarily arise from or relate to the Association's desire to contract for repairs or to Mr. Lynch's efforts to limit or interfere with the Association's efforts to implement repairs. Nevertheless, the claims in Counts III and IV of the complaint for the Current Lawsuit also fall within the reach of the Release Agreement executed by the parties. Counts III and IV each arise from and relate to existing conditions and facts in existence and well known to Mr. Lynch at the time he commenced the Initial Lawsuit and at the time he settled the Initial Lawsuit and executed the Release Agreement.

* * *

The predicate facts underlying Counts III and IV occurred and were known to Mr. Lynch before execution of the Release Agreement. The Release Agreement executed by Mr. Lynch to settle the Initial Lawsuit expressly releases all claims that "were asserted or could have been asserted" in the Initial Lawsuit. Since Counts III and IV all arise from alleged acts or omissions of the Association that pre-dated the Initial Lawsuit, predated the Release Agreement and each could have been made in the Initial lawsuit, those claims fall within the broad parameters of the Release and were released.

Buena Vista moves the court to confirm the arbitration award, dismiss the action with prejudice, and award reasonable costs and disbursements. Lynch moves the court to vacate the arbitration award based on (1) no agreement to arbitrate the dispute between the parties; and (2) "the arbitrator exceeded his authority by disregarding controlling Minnesota law and attempting to rewrite the Settlement Agreement to release the claims in this case even though that conclusion is not provided for within the four corners of the document." Additional facts are set forth below.

ANALYSIS

The Minnesota Uniform Arbitration Act requires the court to confirm an arbitration award unless it is modified, corrected, or vacated in accordance with the Act. Minn. Stat. § 572B.22 (2021). The Act provides specific circumstances under which the court is required to vacate an award, such as the arbitrator exceeded his powers, or there was no agreement to arbitrate.[1] Minn. Stat. § 572B.23(a)(1)(4) and (5).

1. No Agreement to Arbitrate

Buena Vista argues the court has already determined there was an agreement to arbitrate because it found Lynch's claims were subject to the arbitration clause of the parties' settlement agreement. It

[1] The other bases enumerated in the Act do not apply to the facts of this case.

contends Lynch's motion to vacate the arbitration award is a veiled motion to reconsider the court's order to compel arbitration. And because Lynch failed to comply with the procedural requirements for bringing a motion to reconsider, the motion is not properly before the court and should not be considered.

Minn. Gen. R. Prac. 115.11 prohibits motions to reconsider without the express permission of the court. The court may grant a motion to reconsider "only upon a showing of compelling circumstances." *Id.* A party who wishes to make such a motion is required to submit a request to the court, no more than two pages in length. *Id.* The Advisory Committee comments following the rule note that "[m]otions for reconsideration are not opportunities for presentation of facts or arguments available when the prior motion was considered." It is undisputed that Lynch failed to comply with this process. Lynch claims, however, that his motion is brought pursuant to Minn. Stat. § 572B.23(a)(5) and therefore cannot be considered a motion to reconsider. He argues "[i]t is well-established that the law of the case doctrine requiring courts to follow prior decisions 'is not normally applied by a trial court to its own prior decisions' and nonetheless only applies to matters that have been reduced to a final judgment. *See Anderson v. Anderson*, 897 N.W.2d 828, 832 (Minn. Ct. App. 2017)." Interestingly, Lynch also cites a case that addresses the court's power to *reconsider* and modify a decision prior to entry of judgment—specifically, *Borchardt v. State Farm Fire & Cas. Co.*, 325 F. Supp.3d, 953 (D.

Minn. 2018), *aff'd*, 931 F.3d 781 (8th Cir. 2019) (emphasis added).

The court declines to consider Lynch's motion to vacate the arbitration agreement based on subdivision 5—no agreement to arbitrate, because it already considered his arguments and found the claims were subject to the arbitration clause of the parties' settlement agreement. Relevant to this determination are the following memorandums of law, filed by Lynch in this action:

1. Plaintiff's Memorandum in Opposition to Defendant's Motion to Compel Arbitration and Dismiss or Stay Proceedings, filed January 22, 2021;

2. Memorandum of Law in Support of Motion to Vacate Arbitration Award Under Minn. Stat. § 572B.23, filed December 23, 2021; and

3. Memorandum of Law in Opposition to Motion to Confirm Arbitration Award, filed January 28, 2022.

The January 22, 2021 and the December 23, 2021 memorandums of law are virtually identical, with minor differences. The December 23, 2021 and the January 28, 2022 memorandums of law, filed for the January 2022 hearing, are identical with two exceptions—discussion and argument concerning an email exchange with the arbitrator and June 26, 2020 decision and order, and minor editing.

A comparison of the January 22, 2021 and December 23, 2021 memorandums of law leaves the court

with the impression that Lynch copied the earlier memorandum—filed in opposition to Buena Vista's motion to compel arbitration for the 2021 hearing, and pasted it into the latter memorandum—filed in support of Lynch's motion to vacate the arbitration award for the 2022 hearing, and made minor modifications. Indeed, multiple pages of the memorandums are identical in that there are no word substitutes or modifications. The court notes differences between the two memorandums as follows: (1) introductory fact paragraphs; (2) introductory argument paragraphs; (3) summary paragraphs; (4) substitution of "Defendant" for "arbitrator"; and (4) substitution of "court" for "arbitrator." Lynch also included two new paragraphs in the December 2021 memorandum on his claim the arbitrator exceeded his powers, addressed in section two below. As an example of the copying/pasting and minor modifications made to the more recent memorandum, Lynch wrote in his January 2021 memorandum: "**Courts** are not 'to create or add exceptions to the contract or to remake it on behalf of either of the contracting parties.'" And in his December 2021 memorandum, he wrote "**Arbitrators**, like Minnesota courts, are not permitted 'to create or add exceptions to the contract or to remake it on behalf of either of the contracting parties.'" (emphasis added).

The court considered Lynch's arguments, found his claims were within the scope of the arbitration clause, and granted Buena Vista's motion to compel arbitration. Lynch should have brought a motion to reconsider, but his failure to do so is inconsequential.

No new arguments were advanced, so there is nothing more for the court to consider.

Lynch's motion to vacate the arbitration award on the basis there was no agreement to arbitrate is denied.

2. Arbitrator Exceeded His Powers

In his memorandum of law filed in support of his motion to vacate the arbitration award, Lynch argues the award must be vacated "because the arbitrator exceeded his authority by disregarding controlling Minnesota law and attempting to rewrite the Settlement Agreement to release the claims in this case even though that conclusion is not provided for within the four corners of the document." This statement is then repeated twice in a conclusory paragraph. Lynch offers no additional facts or analysis of the law that would assist the court with understanding the exceeded his powers claim.

In its reply memorandum of law, Buena Vista argues Lynch's claim—the arbitrator exceeded his powers because there was no agreement to arbitrate—conflates the two challenges into one. These are two independent provisions under the Act that allow a party to move the court to vacate an arbitration award. The court determines whether a dispute is subject to an arbitration clause, which it did here. The arbitrator does not exceed his powers by arbitrating a dispute that the court has determined is subject to arbitration and ordered to commence.

In his reply and opposition memorandums of law, Lynch attempts to clarify the exceeded his powers claim with new information. For the first time, Lynch references an email exchange with the arbitrator concerning the language of paragraph 9, and a decision and order issued on June 26, 2020. He argues the arbitrator "failed to apply controlling Minnesota law of contract interpretation and effectively attempted to rewrite the Settlement Agreement by holding the release contained in paragraph 9 applied to Plaintiffs claims in this action." Lynch makes conflicting allegations in his memorandums concerning this issue. He claims the arbitrator, while the parties were negotiating the language of the settlement agreement, told the parties the release language *of paragraph 9 applied only* to contracts in effect at the time of execution. But he also claims the arbitrator "held that the *parties' settlement agreement applies only* 'to contracts in place as of the effective date of the agreement.'" Lynch further alleges the arbitrator made additional statements in the June 26, 2020 decision and order that paragraph 9 would not preclude him from asserting claims relating to subsequent contracts or amendments. Ultimately, Lynch contends the arbitrator failed to apply his interpretation of paragraph 9 in the present action when he determined Lynch's claims were subject to the language of paragraph 9 and dismissed his claims.

While participating in mediation, the parties agreed to submit all disputes regarding "final language of the settlement agreement negotiated in mediation" to binding arbitration. They selected the mediator to

be the arbitrator. The arbitrator issued a decision and order on the final version of the settlement agreement on June 26, 2020. With respect to paragraph 9, the decision provides the following:

> Paragraph 9 of the Settlement Agreement circulated to the Parties for final consideration provided as follows:
>
> Plaintiffs agree not to interfere with or delay engineering services or repair recommendations of engineering consultant Widseth Smith Nolting as set forth in the WSN contract signed and approved by the Board as of the date of this Agreement. The Parties further agree not to discuss the specific amount of consideration of this agreement with other HOA members or other non-parties to this agreement.
>
> Plaintiffs contend the first sentence of this paragraph was not part of the mediated settlement agreement, and is not an issue because Plaintiffs deny ever delaying or interfering with the Widseth Smith Nolting ("WSN") engineering work. One of the claims made in the underlying case related to the board's authority to enter into the WSN contract. The settlement is intended to finally resolve this issue. However, the language is not intended to preclude discussions with the HOA board or restrict the Plaintiffs' rights with regard to any new WSN contracts or amendments.
>
> The Arbitrator denies the request to delete the first sentence of paragraph 9 of the settlement agreement to the extent the language is consistent with the intended scope of the releases. The

> Arbitrator will amend the language of this first sentence slightly to be consistent with the Parties' agreement that any claims as to the WSN contract in place as of the effective date of the Settlement Agreement are resolved. Therefore, there should be no interference with the engineering services provided by WSN under the existing contract. The Arbitrator will amend the first sentence of paragraph 9 to confirm that Plaintiffs will agree "not to interfere with or delay engineering consultant Widseth Smith Nolting in the execution of its engineering services or repair recommendations" as set forth in the WSN contract signed and approved by the HOA as the "Effective Date" of the Settlement Agreement.

In an email sent to the arbitrator on July 2, 2020, Lynch's attorney expressed concern with the language of paragraph 9. He argued Lynch did not agree to the language and that he found it confusing. He noted his objections remained and requested the paragraph be edited or deleted. The arbitrator responded the following day, noting his decision as arbitrator with respect to the language of the settlement agreement was final and any request to reconsider would be denied. The arbitrator further stated, "I also advised you that the language of paragraph 9, as revised, applies to contracts in place as of the effective date of the agreement."

Lynch acknowledges that he did not submit this evidence and argument concerning paragraph 9, the June 26, 2020 decision and order, or the email exchange to the arbitrator in the arbitrations that took

place following the court's order to compel arbitration and stay the proceedings.

The Minnesota Supreme Court has determined that "only when it is established that arbitrators have clearly exceeded their powers must a court vacate an arbitration award." *State Office of State Auditor v. Minnesota Ass'n of Prof'l Emps.*, 504 N.W.2d 751, 754 (Minn. 1993) (internal citation omitted). "Every reasonable presumption must be exercised in favor of the finality and validity of the arbitration award, and courts will not overturn an award merely because they disagree with the arbitrator's decision on the merits." *Id.* at 754-755 (internal citations omitted). The challenging party must prove the arbitrator "*clearly* exceeded the powers granted to them in the arbitration agreement." *Id.* at 755. (emphasis included). The scope of review of an arbitration award is therefore extremely narrow. *Id.*

In this respect, the Court in *State Office of State Auditor* noted:

> It is well settled that an arbitrator, in the absence of an agreement limiting his authority, is the final judge of both law and fact, including the interpretation of the terms of any contract, and his award will not be reviewed or set aside for mistake of either law or fact in the absence of fraud, mistake in applying his own theory, misconduct, or other disregard of duty.

Id. at 754 (internal citation omitted).

Lynch argues the arbitrator exceeded his powers when he failed to apply his own interpretation of paragraph 9. But Lynch never submitted this argument to the arbitrator for consideration, and he provides no reasonable explanation for his failure to do so. He just simply chose not to. Lynch does not believe that he had any obligation to submit evidence or argument concerning paragraph 9 to the arbitrator, and he contends the court must consider this new evidence and argument on the arbitrator exceeded his powers claim regardless. When asked why Lynch did not pursue a request to reconsider, similar to the process established in the Minnesota General Rules of Practice for the District Courts, his counsel replied that he was unaware of any such process available within the context of arbitration. But the email exchange supports Lynch was aware that this process was available. In that exchange, the arbitrator stated "[a]s we discussed, my decision as an arbitrator as to the final language of the settlement is final and *any request to reconsider that decision* would be denied." (emphasis added). Lynch could have pursued a request to reconsider.

Buena Vista argues that it would be unfair and unjust to allow Lynch to change the outcome of arbitration based on evidence and argument that it failed to submit to the arbitrator for consideration. Lynch had opportunity to present this evidence and argument to the arbitrator and should bear the consequences of his decision to withhold it. Regardless, there is no evidence in the record that supports the arbitrator did not consider the statement. After all, he wrote

the email and was aware of it. The arbitrator could have decided against referencing the statement for a number of reasons, including the lack of relevance to the claims submitted.

The argument on non-submission of evidence and argument aside, Buena Vista contends Lynch's position concerning paragraph 9 is a "red herring" because the arbitrator's decision was based on the broad release language contained in paragraph 5, which provides a release of "any and all claims . . . whether know or unknown . . . arising from or related to [Lynch's] claims that were asserted or reasonably could have been asserted." Moreover, Buena Vista argues paragraph 9 cannot be read in isolation, noting the arbitrator construed paragraphs 4, 5, and 9 together and found these paragraphs evidenced an intent of the parties to release all claims known at the time of the settlement agreement and related to the contract. Buena Vista is correct. The arbitrator examined all of Lynch's claims and determined within "the context of [the] broad Release Language" that the claims were released.

The court's review of an exceeded his powers challenge is narrow. The court does not evaluate the evidence or examine the award. The only question for the court is whether the issues decided by the arbitrator were within his authority to decide. Here, the arbitrator was authorized pursuant to stipulation and agreement of the parties to act "as their biding arbitrator in the event a dispute arises regarding the terms of this agreement." Lynch has the burden of proof. The

evidence in the record does not support a finding of fraud, mistake in applying his own theory, misconduct, or other disregard of duty. The arbitrator interpreted the contract, determined the facts, and applied the law. The arbitrator acted within his powers.

Lynch's motion to vacate the arbitration award on the basis the arbitrator exceeded his powers is denied.

C.K.S.

STATE OF MINNESOTA	DISTRICT COURT CIVIL DIVISION
COUNTY OF OLMSTED	THIRD JUDICIAL DISTRICT
Ryan Lynch, Plaintiff, vs. Condominiums of Buena Vista, Inc., Defendant.	Court File No. 55-CV-20-6939 **ORDER AND MEMORANDUM** (Filed Apr. 19, 2021)

The above-entitled matter came on for hearing before the Honorable Christina K. Stevens, Judge of District Court, on February 16, 2021, via Zoom on Defendant's motion to compel arbitration and dismiss or stay proceedings.

Justice Ericson Lindell, Greenstein Sellers, Minneapolis, Minnesota, appeared on behalf of Plaintiff.

Janine Maureen Loetscher, Bassford Remele, Minneapolis, Minnesota, appeared on behalf of Defendant.

Based on the files, records, and proceedings, the court hereby makes the following:

ORDER

1. Defendant's motion to compel arbitration is **GRANTED**.
2. This action is **STAYED** pending the outcome of arbitration.

3. The attached memorandum is incorporated herein.

BY THE COURT
/s/ Christina K. Stevens

Stevens, Christina
2021.04.19
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Christina K. Stevens
Judge of District Court

MEMORANDUM

FACTS

Plaintiff and Defendant were opposing parties in an Olmsted County civil action commenced in 2019 that ultimately settled.[1] Said action arose out of Defendant's entry into a design and construction contract with an engineering consulting firm and construction contractor to repair water leaks affecting Buena Vista condominiums. The plaintiffs in the prior action alleged: (1) Defendant violated governing documents by entering into the contract without undergoing proper voting and approval processes; (2) members of the condominium's board of directors had conflicts of interest in connection with the contract; (3) members of the board had harassed various unit owners who were opposed to the contract; (4) the board improperly sought to change the condominium's bylaws and to ratify the contract in a manner that did not comply with the condominium's governing documents; (5) the board failed

[1] *Ryan Lynch, Gary Jacobson, and Bharath Wootla v. Homeowner's Association of Buena Vista, et al.*, court file number 55-CV-19-3142

to properly handle a board member's resignation; (6) members of the board violated the condominium's governing documents by allowing pets and accepting fees for their work as board members.

The parties executed a settlement agreement and general release ("settlement agreement") on July 7, 2020. According to the settlement agreement, the defendants agreed to operate Buena Vista condominiums in a manner consistent with governing documents and applicable law. The plaintiffs agreed to dismiss all claims and promised not to re-litigate or appeal any claims that were asserted or could have been asserted in the action. The plaintiffs also agreed to release the defendants from any claims, whether known or unknown, arising from or related to the action that were asserted or reasonably could have been asserted in the action. The plaintiffs affirmed they knew of no existing acts or omissions that could constitute a cause of action against the defendants, or any violation of the governing documents. The plaintiffs agreed not to interfere with the engineering services or repair recommendations of the engineering consultant as set forth in the executed contract. And last, the parties agreed to arbitrate all disputes involving their agreement. Relevant provisions of the settlement agreement are as follows:

> Section 3: Defendants agree to operate the Buena Vista HOA in a manner consistent with its governing documents and applicable law.
>
> Section 4: . . . Plaintiffs agree to immediately dismiss all of their claims against Defendants in the Action with prejudice . . . Plaintiffs further agree

not to appeal or re-litigate any of the Plaintiffs' Claims that were or could have been asserted in the Action that was previously dismissed.

Section 5: Plaintiffs . . . fully and forever release and discharge Defendants . . . of and from all claims, causes of action, suits, obligations, liabilities, demands, rights, or damages, whether known or unknown, fixed or contingent, arising from or related to the Plaintiffs' Claims that were asserted or reasonably could have been asserted in the Action, including without limitation, claims for actual compensatory, consequential, punitive, exemplary, contractual, or extra-contractual damages or injuries of any kind, property damage, pecuniary loss, general damages, services, loss of services, and all derivative claims, and including claims for attorney fees, expenses, interest, costs, and disbursements.

Section 9: Plaintiffs agree not to interfere with or delay engineering consultant Widseth Smith Nolting in the execution of its engineering services or repair recommendations as set forth in the WSN contract signed and approved by the Board as of the Effective Date.

Section 14: Plaintiffs and Defendants agree to appoint Mark Heley of Heley, Duncan, & Melander as their binding arbitrator in the event a dispute arises regarding the terms of this agreement.

This action was commenced on December 4, 2020, only five months after execution of the settlement agreement. Plaintiff asserts four causes of action: (1) breach of contract based on Defendant's alleged

violation of governing documents; (2) declaratory judgment based on Defendant's alleged violation of governing documents; (3) violation of Minn. Stat. § 515B.3–1141 due to failure to maintain adequate replacement reserves; and (4) fraudulent inducement due to failure to disclose material facts concerning the existence of water damage and the necessity to undertake repairs, thereby making false representations about the condition of the property.

Plaintiff bases his first two claims on factual assertions that Defendant violated governing documents by improperly calling and conducting a special meeting, by conducting voting procedures improperly, and by improperly authorizing the start of a repair project. Plaintiff bases his third claim on factual assertions that began earlier than the prior action, claiming Defendant for years failed to maintain adequate replacement reserves as required by Minnesota law. Plaintiff bases his fourth claim on factual assertions that began earlier than the prior action, alleging that at the time of purchase Defendant made false representations to Plaintiff by failing to disclose significant water damage to the condominium requiring repairs, in violation of Minnesota law.

Defendant contends Plaintiffs claims arise from or are related to the same water repair project that was the subject of the prior action. Defendant argues that in both causes of action, Plaintiff requests the court to enjoin the condominium from repairing the same water leak and excuse the payment of assessments. Defendant moves the court for an order to compel

arbitration. Defendant argues the settlement agreement includes a valid, enforceable arbitration clause and Plaintiff is required to submit these disputes to arbitration. Defendant further seeks dismissal of Plaintiff's claims or a stay of the proceedings pending the outcome of arbitration. Plaintiff argues his claims are wholly separate from those of the former lawsuit and therefore the arbitration clause does not apply. Additional facts are set forth herein.

ANALYSIS

Arbitrability of the Dispute

Under the Uniform Arbitration Act ("Act"), on a motion to compel arbitration the court must first determine whether there is an enforceable agreement to arbitrate. Minn. Stat. § 572B.07 (a) (2020). Under the Act, if the court finds an enforceable agreement to arbitrate, it must order the parties to arbitrate. *Id.* Once the court has determined there is an enforceable agreement to arbitrate, that court must determine whether a dispute or controversy falls within the scope of the same. Minn. Stat. § 572B.06 (b); *Churchill Env't & Indus. Equity Partners, L.P. v. Ernst & Young, L.L.P.*, 643 N.W.2d 333, 337 (Minn. Ct. App. 2002). Where an arbitration agreement exists, the court is bound to enforce that contractual agreement unless the dispute is unambiguously outside the scope of the arbitration provision. *Minnesota Teamsters Pub. & L. Enf't Employees' Union, Loc. No. 320 v. Cty. of St. Louis*, 611 N.W.2d 355, 359 (Minn. Ct. App. 2000).

The parties do not dispute the existence of an enforceable arbitration agreement. Moreover, Minnesota law presumes the validity and enforceability of arbitration agreements. *See* Minn. Stat. § 572B.06 (a) (2020) ("An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of the contract."). Based on the evidence in the record, the court finds an enforceable agreement to arbitrate exists between the parties, drafted into the parties' settlement agreement on their prior lawsuit.

The parties dispute whether Plaintiffs current claims fall within the scope of the arbitration agreement. To determine the intent of the parties as to arbitrability of the dispute, the court must look to the language of the agreement. *State v. Berthiaume*, 259 N.W.2d 904, 909 (Minn. 1977). "The text of the arbitration agreement determines whether the parties intended to arbitrate a given issue." *EEC Prop. Co. v. Kaplan*, 578 N.W.2d 381, 384 (Minn. Ct. App. 1998). The court does not examine the merits of the dispute. *Local No. 1119, Am. Fed'n State, Cnty., & Mun. Emps., AFL-CIO v. Mesabi Reg'l Med. Ctr.*, 463 N.W.2d 290, 296 (Minn. Ct. App. 1990) (citation omitted). Any doubt as to whether the parties intended to arbitrate a dispute are resolved in favor of arbitration. *Johnson v. Piper Jaffray, Inc.*, 530 N.W.2d 790, 795 (Minn. 1995).

Here, Section 14 of the settlement agreement requires the parties to resolve any dispute that "arises

regarding the terms of this agreement"[2] by arbitration. Section 3 of the settlement agreement obligates Defendant to abide by governing documents and applicable law. Section 4 of the settlement agreement requires Plaintiff to immediately dismiss all of his claims against Defendant with prejudice and not appeal or relitigate any of the claims that were asserted or could have been asserted in that action.

Plaintiff's claims center on allegations that Defendant violated governing documents by improperly calling meetings, commencing voting procedures, and authorizing the start of a water repair project. Plaintiff further claims that Defendant violated Minnesota law by failing to maintain adequate replacement reserves to fund condominium repairs and by committing fraud by way of false representations through nondisclosure.

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[2] Arbitration clauses referring to claims "arising under" or substantially similar terms are given broad construction. *See Onvoy, Inc. v. SHAL, LLC*, 669 N.W.2d 344, 351–52 (Minn. 2003) (discussing case law interpreting broadly inclusive language in arbitration agreements). When arbitration language in an agreement is broadly inclusive, courts construe it to cover most controversies. *See, e.g., Michael-Curry Co. v. Knutson Shareholders Liquidating Trust*, 449 N.W.2d 139, 141-42 (Minn.1989) (construing language requiring arbitration of any controversy "arising out of, or relating to" the making of the contract to include question of fraudulent inducement, based on broad language of arbitration agreement); *Fleet Tire Serv. of N. Little Rock. v. Oliver Rubber Co.*, 118 F.3d 619, 621 (8th Cir.1997) (stating arbitration clauses requiring arbitration of claims "arising out of or relating to" the agreement are considered to be very broad and contain "the broadest language the parties could reasonably use to subject their disputes to that form of settlement, including collateral disputes that relate to the agreement containing the clause.").

Plaintiff's claims alleging Defendant violated governing documents are based on conduct that occurred after the parties executed the settlement agreement. Plaintiff's claims alleging Defendant violated applicable Minnesota law are based on conduct that occurred before and during the prior action. More specifically, Plaintiff allegations are based on conduct that occurred on and after September 28, 2020. He claims Defendant noticed a special meeting to vote on two agenda issues—authorization to obtain and accept a bid for hiring of a construction manager, and authorization to proceed with a garage waterproofing project in 2021. The board approved the two agenda items at an October 19, 2020, board meeting. Following the meeting, Defendant announced its intentions to proceed with hiring a construction manager for the garage waterproofing project. Plaintiff alleges the vote that took place on the aforementioned agenda items did not comply with governing documents. As to the remaining allegations, Plaintiff claims that when he purchased his unit, Defendant failed to disclose significant problems requiring repairs to the condominium. He also claims Defendant failed to maintain adequate reserves.

Plaintiff argues the settlement agreement does not apply to the current action as the agreement "plainly states that it applies only to claims 'arising from or related to' the claims asserted by plaintiffs in the Prior Action." He argues the specific conduct at issue in the prior action is not at issue in this action. And because said conduct was not addressed, it cannot be

"fairly characterized as 'arising from or related to' the claims asserted in the Prior Action." The court disagrees. Plaintiff's claims fall within the terms of the settlement agreement as discussed above. All of these claims run afoul of Section 3's obligation requiring Defendant to abide by governing documents and applicable law. Plaintiff's claims that Defendant violated Minnesota law by failing to maintain adequate reserves and committing fraud run afoul of Section 4's obligation requiring Plaintiff to dismiss all claims against Defendant and not re-litigate those which could have been asserted in the prior action. And finally, these claims run afoul of Section 9's obligation requiring Plaintiff to not interfere with the execution of the engineering services or repair work set forth in the engineering contract. "Presented with a clear statement of the parties' intent, courts will honor the plain language of the document and either retain jurisdiction of the case or compel arbitration." *Onvoy, Inc. v. SHAL, LLC*, 669 N.W.2d 344, 352 (Minn. 2003). Applying the language of the terms of the settlement agreement to Plaintiff's claims, the court finds these claims are within the scope of the arbitration clause because they arise broadly from the terms of the same.

Defendant's motion to compel arbitration is granted.

Dismissal of Claims

Courts should enforce settlement agreements, like other contracts, in accordance with their terms. *Onvoy,*

Inc., 669 N.W.2d at 349. Similar to the language used in the arbitration provision, contract provisions with language such as "arising from or relating to" are broadly construed.[3] "A general release of all claims, known and unknown, will be enforced by the court if the intent is clearly expressed." *Curtis v. Altria Grp., Inc.*, 813 N.W.2d 891, 902 (Minn. 2012). "Generally, a release must manifest the intent to release, discharge, or relinquish a right, claim, or privilege by a person in whom the claim exists to a person who seeks to be released." *Id.*

Section 5 of the settlement agreement provides that Plaintiff releases Defendant from liability for "of and from all claims, causes of action . . . or damages whether known or unknown, fixed or contingent, arising from or related to Plaintiffs' Claims that were asserted or reasonably could have been" in the prior action. Applying the release language to the claims in this action, Plaintiff's claims arguably fall within the scope of the release in the settlement agreement. Defendant's argument that Plaintiff's claims were released has merit.

In *Curtis v. Altria Grp., Inc.*, 813 N.W.2d 891 (Minn. 2012), the parties disputed whether several claims fell within the scope of a similar release provision that was executed in a prior, related action. The Court found the claims were released as the language of the provision provided that one party released the

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[3] *See supra* note 1. *See also, e.g., Curtis v. Altria Grp., Inc.*, 813 N.W.2d 891, 902-04 (Minn. 2012)

other "from any and all manner of civil claims, demands, actions, suits and causes of action . . . known or unknown . . . " that the party ever had or ever would have, including "any [c]laims relating to the subject matter of this action which have been asserted to could be now or in the future" and claims "arising out of or in any way related to" the subject of litigation. *Id.* at 903. After reviewing the terms of release, the Court found the party had released all claims based on past and future conduct when it contractually agreed to the aforementioned provision. *Id.* at 903-04.

As in *Curtis*, Plaintiff contractually agreed to encompass his claims in the release because the language specifically addresses claims "known or unknown . . . arising from or related to" the claims in the prior action that "were asserted to reasonably could have been asserted[.]" This language will broadly include Plaintiff's claims. Counts one and two allege Defendant violated governing documents by improperly calling meetings, improperly commencing voting procedures, and improperly authorizing commencement of a water repair project. Though these claims are founded upon conduct that occurred after the settlement agreement was executed, the claims are related to the prior action and are essentially being re-litigated in this action. Counts three and four allege Defendant violated Minnesota law by failing to maintain adequate replacement reserves to fund condominium repairs and by committing fraud by false representations through nondisclosure. The factual basis of both these claims occurred before the settlement agreement was

executed. This supports that these claims should be barred as claims arising from or related to the claims in the prior action that could have reasonably been asserted at that time.

Plaintiff argues his claims are wholly separate from and unrelated to those brought in the prior action. The court disagrees. To find otherwise would result in the impermissible changing of the terms of the contract. Plaintiff agreed to the terms of the settlement agreement as written when he signed and executed the contract. The court may not create exceptions or remake a contract on behalf of a contracting party—it is not the function of the court to "rewrite, modify, or set aside contract provisions fully considered and agreed upon between the parties." *Telex Corp. v. Data Products Corp.*, 135 N.W.2d 681, 687 (Minn. 1965); *see also Travertine Corp. v. Lexington-Silverwood*, 683 N.W.2d 267, 271 (Minn. 2004) ("We have consistently stated that when a contractual provision is clear and unambiguous, courts should not rewrite, modify, or limit its effect by a strained construction."). If the parties wanted to exclude future claims of alleged fraud by nondisclosure, or failure to abide by statutory requirements to maintain reserves from the release or arbitration provisions, they should have included such language in the settlement agreement. Instead, the parties agreed to arbitrate all disputes that may arise regarding the terms of the settlement agreement. And Plaintiff agreed to release all claim, whether known or unknown, arising from or related to the claims that were asserted or reasonably could have been asserted.

Notwithstanding the foregoing analysis, the court informed the parties at the onset of litigation of its intention to address the motion to compel arbitration only. The court reserves ruling on Defendant's motion to dismiss pending the outcome of arbitration. The court may consider additional argument on the motion to dismiss if deemed necessary. These proceedings are suspended accordingly.

C.K.S.

STATE OF MINNESOTA

IN SUPREME COURT

A22-0864

Ryan Lynch,

Petitioner,

vs.

Condominiums of Buena Vista, Inc.,

Respondent.

ORDER

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the petition of Ryan Lynch for further review is denied.

Dated: June 20, 2023

BY THE COURT:

/s/ Lorie S. Gildea

Lorie S. Gildea
Chief Justice