No. _____

IN THE

The Supreme Court of the United States

DELCO LLC, dba Delco Products,

Applicant,

v.

LEVIATHAN GROUP LLC,

Respondent.

ON APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI TO ASSOCIATE JUSTICE BRETT M. KAVANAUGH.

APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

To the Honorable Brett M. Kavanaugh, Associate Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the Sixth Circuit.

Pursuant to Rules 13.5, 21, 22, and 30.2 of this Court, Applicant Delco LLC ("Applicant") respectfully requests that the time to file a petition for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit be extended for 30 days, to and including Jul. 19, 2025.

The United States Court of Appeals for the Sixth Circuit (hereinafter the "Sixth Circuit") issued its opinion affirming the district court's dismissal of Applicant's complaint on Mar. 21, 2025. Appl. App. 1a-9a. The Applicant is filing this application at least ten days prior to the current due date of Jun 21, 2025. *See* S. Ct R. 30.2. This Court has jurisdiction over the judgment pursuant to 28 U.S.C. § 1254(1).

I. BACKGROUND

On Jun. 7, 2023, Arbitrator Sheri Cataldo in American Arbitration Association proceeding 01-21-0017-5755 sitting in Southfield, Michigan, entered a partial final award of $156,474.00 for Leviathan, exclusive of costs and attorney fees. Appl. App. 2a. That same partial final order also required Leviathan to provide Delco any outstanding deliverables as provided for in the parties' contract. On Aug. 14, 2023, the arbitrator added costs and attorney fees to the partial final award to arrive at a total monetary award of $254,320.60 for Leviathan in the final award. *Id*.

In August 2023, Leviathan Group LLC ("Leviathan") filed for conformation of the arbitration award with the Michigan 38th Circuit Court at Monroe, Michigan (the "State Court Action"). *Id*. While the State Court Action was pending, Delco, LLC (dba Delco Products) ("Delco"), an Oklahoma limited liability company, timely removed the case and all claims and causes of action with the U.S. District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1446. *Id*. Delco timely answered the State Court Action in the federal court. Leviathan did not contest the jurisdiction or the venue of the removal in the district court. The District Court entered an opinion and order confirming only the final award. *Id*.

The construction of the partial final award and the final award is the subject of this appeal. The final award was silent in how the partial final award and the final award were related as the final award merely added attorney fees to the partial final award and stated the total award to Leviathan. The Arbitrator only provided for the contract deliverables to be provided to Delco in the partial final award. The District Court interpreted the partial final award to be superseded by the final award. Since the final award was silent on the deliverables owed to Delco, the District Court held that no deliverables were owed. Delco appealed arguing that the partial final award, particularly that the order for Leviathan to provide deliverables to Delco, should be read in concert with the final order.

The Sixth Circuit applied an essentially absolute standard for review of arbitration rulings and affirmed the District Court's holding that the arbitration award cannot be overturned and that Delco was not owed any deliverables ordered in

the partial final order. As it stands, Leviathan was granted its benefit of the bargain of the underlying contract and Delco walks away with nothing. Delco asserts that the Sixth Circuit's holding in denying review of the arbitration award is in contravention of its own holdings and the holdings of this Court.

Delco believes that the district court and the appeals court erred by not interpreting the underlying contract to require both payment made to Leviathan and deliverables provided to Delco to make both parties whole in the confirmed arbitration award.

II. THE DECISION BELOW

Delco asserted three arguments on appeal to the Sixth Circuit: 1) the District Court erred by not including Delco's award of deliverables included in the partial final award; 2) the District Court erred by not invalidating the arbitrator's award for attorney fees; and 3) the District Court erred by not vacating the arbitration award that departed from the essence of the Contract. Of these three grounds, Delco will be asserting the first two arguments to this Court and abandoning the third.

The Sixth Circuit affirmed the District Court's decision to adopt the arbitrator's decision, but only the final order without incorporating the partial final order. In citing its own decision, the Sixth Circuit held that

> Did the arbitrator act "outside his authority" by resolving a dispute not committed to arbitration? Did the arbitrator commit fraud, have a conflict of interest or otherwise act dishonestly in issuing the award? And in resolving any legal or factual disputes in the case, was the arbitrator "arguably construing or applying the contract"?

Mich. Fam. Res., Inc. v. Serv. Emp. Int'l Union Local 517M, 475 F.3d 746, 753 (6th Cir. 2007) (en banc). The Sixth Circuit indicated that "judicial intervention must be denied, even if 'the arbitrator made 'serious,' 'improvident' or 'silly' errors in resolving the merits of the dispute. We look more to process than substance, "unless the substance of the interpretation is so off the wall that it makes implausible the idea that the arbitrator was engaged in interpretation in the first place." *Id*. (citing *Zeon Chemicals, L.P. v. United Food and Commercial Workers, Local 72D*, 949 F.3d 980, 982 (6th Cir. 2020)). The Sixth Circuit concludes that "[o]ur review is narrow because the parties have bargained for an arbitrator to decide their dispute, not for 'layers of federal judicial review,' 'that delegation of decision making authority must be respected.'" *Id*. (citing *Mich. Fam. Res.*, 475 F.3d at 756.). But the Sixth Circuit failed to follow its own precedent and the precedent of this Court. The Sixth Circuit erred by not ordering both the partial final and the final award together.

The Sixth Circuit also held

> An arbitration decision "must fly in the face of established legal precedent" for us to find manifest disregard of the law. *Id.* An arbitration panel acts with manifest disregard if "(1) the applicable legal principle is clearly defined and not subject to reasonable debate; and (2) the arbitrators refused to heed that legal principle." *Id.* Thus, to find manifest disregard a court must find two things: the relevant law must be clearly defined and the arbitrator must have consciously chosen not to apply it.

Dawahare v. Spencer, 210 F.3d 666, 669 (6th Cir. 2000). The Arbitrator contemplated a partial final award and a final award. Delco never received any of its deliverables even though the arbitrator ordered those deliverables to be provided. Appl. App. 2a. The Sixth Circuit incorrectly held that "[t]he most natural reading of these two orders

is that at some point the arbitrator decided either that no deliverables remained outstanding or that no deliverables were ever outstanding in the first place." Appl. App. 5a. The Arbitrator would not have ordered deliverables if she decided no deliverables remained outstanding. Delco asserts that the most natural reading is that the arbitrator ordered deliverables for Delco in the partial final order and that order was subsumed in, not superseded by, the final order. The arbitrator specifically titled the first order as "partial final order" and the second order as a "final order." The dictionary definition of the word partial is "of or relating to a part rather than the whole**:** not general or total." Merriam-Webster.com Dictionary, s.v. "partial," accessed May 15, 2025, https://www.merriam-webster.com/dictionary/partial. The words "partial final order" is not a synonym for temporary order or preliminary order which are to be entirely replaced by a final order. Rather, the partial final order is a part of the final order.

In addition, Delco argued below that the arbitrator failed to follow prevailing Michigan law in the award of attorney fees and the Sixth Circuit erred in not overturning the District Court regarding those fees. The parties agreed that Michigan law would govern the Contract. Appl. App. 6a. Therefore, Michigan law applies to the award of reasonable attorney fees and costs. Michigan law clearly sets out how a prevailing party must prove that its attorney fees and costs are reasonable. Michigan law also clearly specifies what does not satisfy Michigan law to prove reasonable attorney fees and costs: an itemized bill. *Petterman v. Haverhill Farms, Inc.*, controls attorney fee awards in Michigan and that court held that an "itemized bill in itself

was not sufficient to establish the reasonableness of the fee, nor was the trial judge required to accept it on its face. 125 Mich. App. 30, 33 (1983). The burden of proving fees rests upon the claimant of those fees." Yet, an itemized bill is exactly what Arbitrator Cataldo used to award attorney fees and the District Court and the Sixth Circuit upheld that impermissible violation of the contract and Michigan law. The Sixth Circuit noted that

> It is true that some of Michigan's recent cases citing *Petterman* apply a stricter rule against reliance on billing records alone. *See, e.g.*, *In re Foster*, No. 350644, 2020 WL 4382786, at *4 (Mich. Ct. App. July 30, 2020) (per curiam) ("While such billing records may substantiate how an attorney spent his time and which services he performed, they cannot demonstrate why said time and services were needed or reasonable."). But other Michigan cases have held differently. *See Rudnicki v. Ateek*, No. 328130, 2016 WL 5930121, at *3–4, (Mich. Ct. App. Oct. 11, 2016) (per curiam) (detailed billing records, accompanied by an affidavit, can support a finding of reasonableness even without a hearing).

Appl. App. 7a (*citing Petterman v. Haverhill Farms, Inc.*, 125 Mich. App. 30 (1983)). This holding is flawed in several ways. Firstly, the Sixth Circuit cited two unpublished opinions in *In re Foster* and *Rudnicki*, where *Petterman* is the Michigan case that controls awards of attorney fees. Secondly, and most importantly, Leviathan provided no affidavit to support the billing records the Sixth Circuit indicated was required by *Rudnicki*. Finally, the Sixth Circuit stood on an absolutist position that an arbitrator's award should not be touched.

The District Court and the Sixth Circuit ignored both Sixth Circuit precedent and the precedent of this Court. *Wilko v. Swan* held that "a blatant disregard of the applicable rule of law will not be tolerated." 346 U.S. 427, 436–437 (1953). Here, the

District Court and the Sixth Circuit blatantly disregarded what was required to award attorney fees under clear Michigan law.

The Supreme Court has held that

> A party seeking relief under that provision bears a heavy burden. It is not enough ... to show that the [arbitrator] committed an error—or even a serious error. Because the parties bargained for the arbitrator's construction of their agreement, an arbitral decision even arguably construing or applying the contract must stand, regardless of a court's view of its (de)merits. Only if the arbitrator act[s] outside the scope of his contractually delegated authority—issuing an award that simply reflect[s] [his] own notions of [economic] justice rather than draw[ing] its essence from the contract—may a court overturn his determination. So the sole question for us is whether the arbitrator (even arguably) interpreted the parties' contract, not whether he got its meaning right or wrong.

Oxford Health Plans LLC v. Sutter, 569 U.S. 564, 569 (2013) (internal quotations marks and citations omitted). The Arbitrator granted Delco its deliverables, the main benefit in the contract given to Delco, but the District Court refused to follow through with the Arbitrator's partial final and final order. The Arbitrator blatantly disregarded Michigan law in awarding attorney fees. The District Court and the Sixth Circuit erred by using an absolute standard of review of an arbitration award and failed to follow the plain language of the arbitration award and failed to overturn the arbitrator's disregard for Michigan law.

III. REASONS FOR GRANTING AN EXTENSION OF TIME

1. The Sixth Circuit applied an essentially absolute standard of denying review of arbitration awards in contravention of its own holdings and the holdings of this Court even though the award confirmed by the district court did not comport with the underlying contract.

2. The Supreme Court held that "[a]s long as the arbitrator's award 'draws its essence from the collective bargaining agreement,' and is not merely 'his own brand of industrial justice,' the award is legitimate. *United Paperworkers Int'l Union, AFL-CIO v. Misco, Inc.*, 484 U.S. 29, 36 (1987). Arbitrator Cataldo awarded Leviathan its expectation measure of damages, and in the partial final award Delco's deliverables owed under the contract. The final award was silent on the deliverables. The District Court and the Sixth Circuit ignored an entire half of the contract related to Delco's deliverables and improperly interpreted the partial final and final awards. Delco walking away with none of its contractual bargain is far from the essence of the contract.

3. A combination of a pre-planned personal travel and contested motions and hearings in other matters in the weeks leading up to the current deadline leaves counsel concerned that, absent a thirty-day extension, a Petition for a writ of certiorari might not do full justice to the issues presented.

4. An extension should not cause prejudice to Respondents, as it will ensure that Respondents need not prepare a brief in opposition, if any, during the summer holidays.

5. The Sixth Circuit opinion in this case raises significant issues related to the fundamental functioning of a justice in arbitration proceedings and the limited, but important, role of federal courts to maintain fairness in arbitration and confirmation proceedings. A thirty-day extension will help ensure the issues are more clearly presented to the Court so it can determine whether certiorari is warranted.

IV. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the time to file the Petition for a writ of certiorari in this matter be extended 30 days, up to and including Jul. 19, 2025.

Respectfully submitted,

/s/

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May 23, 2025

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Case No. 24-1547

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Mar 21, 2025
KELLY L. STEPHENS, Clerk

LEVIATHAN GROUP LLC,

Plaintiff - Appellee,

v.

DELCO LLC, dba Delco Products,

Defendant - Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

OPINION

Before: GIBBONS, LARSEN, and MURPHY, Circuit Judges.

JULIA SMITH GIBBONS, Circuit Judge:

This case concerns a dispute between two companies, Leviathan Group LLC ("Leviathan") and Delco LLC ("Delco"), that was resolved by arbitration. Leviathan prevailed before the arbitrator and sought to enforce the resulting order in state court. Delco removed to federal district court, which confirmed the arbitrator's award. Delco now appeals, asking us to vacate the district court's decision confirming the award. We affirm.

I.

On November 1, 2020, Leviathan and Delco entered into a contract under which Leviathan was to market and publicize Delco's products by email, on social media, and on other platforms, for a rate of $100,000 each month. The contract provided that "disputes arising out of or relating to this Agreement will be resolved by binding arbitration under the rules of the American Arbitration Association. The arbitrator's award will be final, and judgment may be entered upon it by any court having proper jurisdiction." DE 1-4, Contract, Page ID 32.

Leviathan asserts disputes over performance and payment began in spring 2021. Delco claimed to have paid over $500,000 under the contract and that Leviathan repeatedly overpromised as to both what it could deliver and what it was delivering. The parties submitted their disputes to arbitration, as provided in the contract, and designated Sheri B. Cataldo as their arbitrator. Cataldo reviewed written submissions and held evidentiary hearings over five days in April and May of 2023.

On June 7 of that year, Cataldo issued a "Partial Final Award" that determined that 1) Delco had breached the contract, and the evidence did not support its counterclaims against Leviathan; 2) Delco owed Leviathan $156,474.00 in damages; 3) the parties were to submit briefing and documentation supporting and opposing a request for Leviathan's attorney's fees; and 4) "Contract deliverables not previously provided to Delco, if any, shall be transmitted by Leviathan to Delco within 7 days of this Order." DE 1-2, Partial Final Award of Arbitrator, Page ID 25. The arbitrator then held a hearing on July 31, 2023 regarding attorney's fees, and, two weeks later, issued a final award. This final award awarded fees and costs of $254,320.60 against Delco and in favor of Leviathan. The final award provided that it was "in full settlement of all claims and counterclaims submitted to this Arbitration. All claims not expressly granted herein are hereby denied." DE 1-3, Final Award of Arbitrator, Page ID 27.

On August 17, 2023, Leviathan filed a complaint in Michigan state court to confirm the arbitration award and enter judgment. Two months later, Delco removed the case to the United States District Court for the Eastern District of Michigan. There, Delco moved to vacate or modify the arbitrator's award, and Leviathan moved to confirm the award. The district court held a hearing on the two motions on May 23, 2024. The district court entered an opinion and order confirming the arbitrator's award on May 28, 2024, determining that "none of the statutory bases in the Federal

Arbitration Act for overturning an arbitration award can be found in this record." DE 16, D. Ct. Op., Page ID 343. Delco now appeals the district court's confirmation of the arbitration award.

II.

On appeal of a district court's decision to confirm an arbitration award, our review of factual findings is for clear error and our review of questions of law is de novo. *Adell v. Cellco P'ship*, No. 21-3570, 2022 WL 1487765, at *3 (6th Cir. May 11, 2022). Additionally, the Federal Arbitration Act ("FAA") "expresses a presumption that arbitration awards will be confirmed." *Uhl v. Komatsu Forklift Co., Ltd.*, 512 F.3d 294, 305 (6th Cir. 2008) (citation omitted); *see* 9 U.S.C. § 10(a). In considering whether a reviewing court can vacate a decision entered by an arbitrator, we ask:

> Did the arbitrator act "outside his authority" by resolving a dispute not committed to arbitration? Did the arbitrator commit fraud, have a conflict of interest or otherwise act dishonestly in issuing the award? And in resolving any legal or factual disputes in the case, was the arbitrator "arguably construing or applying the contract"?

Mich. Fam. Res., Inc. v. Serv. Emp. Int'l Union Local 517M, 475 F.3d 746, 753 (6th Cir. 2007) (en banc). These questions are drawn from the FAA and decisions interpreting it. If none of these questions can be affirmatively answered, judicial intervention must be denied, even if "the arbitrator made 'serious,' 'improvident' or 'silly' errors in resolving the merits of the dispute." *Id.* We look more to process than substance, "unless the substance of the interpretation is so off the wall that it makes implausible the idea that the arbitrator was engaged in interpretation in the first place." *Zeon Chemicals, L.P. v. United Food and Commercial Workers, Local 72D*, 949 F.3d 980, 982 (6th Cir. 2020). Our review is narrow because the parties have bargained for an arbitrator to decide their dispute, not for "layers of federal judicial review," and "that delegation of decision-making authority must be respected." *Mich. Fam. Res.*, 475 F.3d at 756.

Further, even where, as here, the arbitrator's reasoning is sparse, "this court has never squarely held that a dearth of explanation constitutes a . . . violation—indeed, [9 U.S.C. § 10(a)(4)]'s plain language seems to contradict that reading." *In re Romanzi*, 31 F.4th 367, 375 (6th Cir. 2022). This is especially true where, as here, the parties did not bargain for the arbitrator to explain her reasoning. And even if there is doubt, we are nevertheless to presume that the arbitrator was in fact interpreting the contract. *Mich. Fam. Res.*, 475 F.3d at 753 ("[I]n most cases, it will suffice to enforce the award that the arbitrator appeared to be engaged in interpretation, and if there is doubt we will presume that the arbitrator was doing just that.").

III.

Delco makes three arguments in favor of vacating the district court's order. We address each in turn, with this background of "very narrow" review in mind. *Uhl*, 512 F.3d at 305 (citation omitted).

A.

Delco's first argument is cleverly framed. Rather than arguing that the arbitrator erred, it faults the district court for not being faithful enough to the arbitrator's decisions. Delco claims that the arbitrator's "Partial Final Award" intended to award outstanding contract deliverables to Delco, that the "Final Award" only added attorney's fees to the "Partial Final Award," that Delco never received its deliverables, and that the district court erred by ignoring the language of the "Partial Final Award" in only confirming the "Final Award." Delco seeks a remand so that the district court can reconsider. Delco is correct to an extent. The "Partial Final Award" provided that "Contract deliverables not previously provided to Delco, if any, shall be transmitted by Leviathan to Delco within 7 days of this Order" and that "[e]xcept for an award of attorney's fees and costs, which will be addressed in the Final Award, all claims and requests for relief made by

the parties but not expressly granted in this Partial Final Award are hereby, denied." DE 1-2, Partial Final Award of Arbitrator, Page ID 25–26. And it is also true that we have in other contexts, considered discrepancies between sequential decisions by an arbitrator in vacating an award. *See Thomas Kinkade Co. v. White*, 711 F.3d 719, 724 (6th Cir. 2013).

But Delco's problem is that, as the district court recognized, to the extent there is a contradiction between the two, the Final Award supersedes the Partial Final Award. The Partial Final Award did not make any particular findings about which deliverables were outstanding—or even, given that it uses the words "if any," *that* any deliverables were outstanding. And the Final Award, by its terms, is a final disposition of all claims and counterclaims under the contract: "This Award is in full settlement of all claims and counterclaims submitted to this Arbitration. All claims not expressly granted herein are hereby denied." DE 1-3, Final Award of Arbitrator, Page ID 27. The Final Award refers back to the amount of damages awarded against Delco in the Partial Final Award; it does not refer back to its earlier language on deliverables. The most natural reading of these two orders is that at some point the arbitrator decided either that no deliverables remained outstanding or that no deliverables were ever outstanding in the first place. Either way, Delco did not prevail on its counterclaims regarding Leviathan's performance under the contract.

To the extent Delco is arguing that the arbitrator erred in determining which or whether deliverables remained, we cannot reverse and remand on the basis of error alone. *See Mich. Fam. Res.*, 475 F.3d at 756. And to the extent Delco is arguing that the district court erred in its conclusion that the Final Award must have superseded or integrated the Partial Final Award, we do not agree: that seems to be the clear import of the words of the Final Award. In the end, the agreement to arbitrate makes no mention of a requirement for the arbitrator to explain her decision. "If parties to an arbitration agreement wish a more detailed arbitral opinion, they should clearly

state in the agreement the degree of specificity required." *Green v. Ameritech Corp.*, 200 F.3d 967, 976 (6th Cir. 2000). Where no explanation is required by the agreement, we generally "will not vacate an award for failure to provide such an explanation." *Murray v. Citigroup Global Markets, Inc.*, 511 F. App'x 453, 455 (6th Cir. 2013). In some circumstances remand to the arbitrator for clarification is appropriate, *see Romanzi*, 31 F.4th at 377, but Delco does not seek such a remand on appeal.

B.

Delco's second argument claims error by the arbitrator. Delco argues that the contract between the parties specified that it was to be construed under Michigan law, that under Michigan law the awarding of attorney's fees requires more evidence than an itemized bill, and that the arbitrator erred as a matter of law by relying on no more than a bill in making its attorney's fees award. This second argument fares no better than the first. To begin with, even accepting the premise that Michigan law was to govern the fee award, it is not clear that Michigan law so categorically requires what Delco says it does.[1] And further, even if it did, an error of law is not grounds for reversal of an arbitration award.

[1] The contract between the parties provided that it was to be construed under Michigan law and that "[i]n any action arising hereunder or any separate action pertaining to the validity of this Agreement, the prevailing party shall be awarded reasonable attorney's fees and costs, both in the trial court and on appeal." DE 1-4, Contract, Page ID 32–33. The district court suggested that the Commercial Arbitration Rules of the American Arbitration Association might prove an independent substantive source of fees. Since the relevant provision of the Commercial Arbitration Rules merely authorizes a fee award "if all parties have requested such an award or it is authorized by law or their arbitration agreement," we are skeptical of the idea that anything other than Michigan law was intended to govern the fee award. American Arbitration Association, COMMERCIAL ARBITRATION RULES AND MEDIATION PROCEDURES, Rule R-47(d)(ii) (Oct. 2013). All roads, whether "authorized by law" in the Arbitration Rules or the terms of the agreement itself, would lead back to Michigan. This does not help Delco, however, as we explain below.

The chief Michigan case on which Delco relies is *Petterman v. Haverhill Farms, Inc.*, 335 N.W.2d 710 (Mich. Ct. App. 1983). In that case, the court of appeals determined that "[s]ince plaintiff claimed that defendants' attorney fees were excessive in general and the trial court failed to actually consider the issue of reasonableness but instead found the bill acceptable on its face, the trial court abused its discretion," and remanded the case for an evidentiary hearing on fees. *Id.* at 712.

But the arbitrator here was presented with more than just an itemized bill. First, and most obviously, she held a hearing on the fees question on July 31, 2023. And second, Leviathan also filed a State Bar of Michigan guidance document covering typical billing rates to support its fee briefing. It is true that some of Michigan's recent cases citing *Petterman* apply a stricter rule against reliance on billing records alone. *See, e.g.*, *In re Foster*, No. 350644, 2020 WL 4382786, at *4 (Mich. Ct. App. July 30, 2020) (per curiam) ("While such billing records may substantiate how an attorney spent his time and which services he performed, they cannot demonstrate why said time and services were needed or reasonable."). But other Michigan cases have held differently. *See Rudnicki v. Ateek*, No. 328130, 2016 WL 5930121, at *3–4, (Mich. Ct. App. Oct. 11, 2016) (per curiam) (detailed billing records, accompanied by an affidavit, can support a finding of reasonableness even without a hearing). And, as the district court noted, the arbitrator's investigation into the reasonableness of fees could be supported by the fact that she did not accept the figures quoted by Leviathan without question—she awarded significantly less in fees than Leviathan had asked for.

In short, the rule under *Petterman* and its progeny that reasonable fees are to be justified by more than just an attorney's bills is likely satisfied here.[2] And of course, even if Michigan law required more and this decision was error, legal errors by arbitrators are to be tolerated so long as the arbitrator has even arguably construed or interpreted the agreement. *Mich. Fam. Res.*, 475 F.3d at 756. We reject Delco's argument for remand on these grounds.

C.

Delco's third argument is its broadest: it argues that the arbitrator's decision should be vacated because it is too one-sided and departs from the essence of the contract. Delco characterizes the decision as "[a]warding Leviathan its expectation measure of damages but denying Delco anything close to what it expected under the Contract" and argues that "[t]he arbitrator exceeded her authority by ignoring Delco's rights under the Contract." CA6 R. 21, Appellant Br. at 25, 28. But once again, even if she had, "[a]n arbitrator does not exceed his authority every time he makes an interpretive error; he exceeds that authority only when the . . . bargaining agreement does not commit the dispute to arbitration." *Mich. Fam. Res.*, 475 F.3d at 756. Delco does not and could not argue that these issues, which spring from the contract and the parties' performance under it, were not committed to arbitration. Although we cannot

[2] Delco also points us (and pointed the arbitrator) to *Smith v. Khouri*, 481 Mich. 519, 529–34 (Mich. 2008), which requires a trial court awarding reasonable attorney's fees to consider certain factors, and *Pirgu v. United Servs. Auto. Ass'n*, 499 Mich. 269, 281–82 (Mich. 2016), which revised the list of factors and stated that "[i]n order to facilitate appellate review, the trial court should briefly discuss its view of each of the factors above on the record." The arbitrator's failure to discuss these factors and the reasonableness of fees on the record is thus the closest thing to a clear error of law by the arbitrator that we can discern on the record available to us. But Delco conceded before the district court that where the parties did not bargain for a reasoned decision by the arbitrator, the arbitrator did not "necessarily" need to expound on the factors that had to have been applied. DE 20, Tr. of Motions Hearing, Page ID 385. And Delco bases its argument on appeal on a purported lack of evidence and information presented to the arbitrator, not on a lack of explicit consideration by the arbitrator.

"ignore the specter that an arbitration decision could be so ignorant of the contract's plain language as to make implausible any contention that the arbitrator was construing the contract," we also recall that "judicial consideration of the merits of a dispute is the rare exception, not the rule." *Id.* at 753 (citation omitted).

And finally, because the parties did not bargain for any kind of reasoned decision by the arbitrator, Delco's critique of her admittedly sparse reasoning "faces a tremendous obstacle." *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Jaros*, 70 F.3d 418, 421 (6th Cir. 1995); *see Phys. Inc. Capital v. Praesidium All. Grp.*, 562 F. App'x 421, 423 (6th Cir. 2014) (same). And the range of permissible review of arbitrators' decisions has only narrowed since *Merrill Lynch*. *See Mich. Fam. Res.*, 475 F.3d at 752–53. We decline, as we must, this invitation to relitigate the merits of the arbitrator's decision.

IV.

The parties bargained contractually for an unbiased arbitrator to decide their disputes and, accordingly, did not bargain for federal judicial review. Delco does not allege bias, conflict of interest, or that the arbitrator decided issues not committed to her—only that the district court read her orders wrong, that she exceeded her authority by erring as a matter of law, and that she departed from the essence of the contract. As to the first argument, we think the district court got it right. As to the second and third arguments, they simply do not meet the high standard for vacating an arbitrator's decision. We conclude that the arbitrator was acting within the scope of her authority and was, at a minimum, arguably construing the terms of the parties' contract, and we affirm the decision of the district court.