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Oct 17 2025

SC Court of Appeals

EXHIBIT A

FINDINGS OF FACT & CONCLUSIONS OF LAW

This matter arises out of a dispute between the parties with respect to a renovation on the Highsmiths' residence. In August and September of 2020, the Highsmiths engaged Shelter to perform portions of the renovation. Shelter and the Highsmiths entered into contracts with Design Gaps for cabinetry and closet systems in the residence. *See* Am. Pet. Ex. B & C (the “Contracts”). Both Contracts entered into between the Highsmiths and Design Gaps – which were prepared on Design Gaps’ form – contained the following arbitration clause:

All disputes arising out of or in connection with this Agreement or any transaction hereunder shall be finally settled under the Commercial Arbitration Rules of the American Arbitration Association then in effect by an [sic] arbitrator appointed in accordance with such Rules. The arbitrator's award shall be final and binding. Judgment upon the award rendered may be entered in any court having jurisdiction over the party against which the award is rendered. The parties expressly consent to the jurisdiction of the federal and state courts situated in Charleston, South Carolina for the purpose of enforcing any arbitration award rendered pursuant to this Section 15 [sic]. The [sic] arbitration shall take place in Charleston, South Carolina or such other place as the parties may agree. The arbitration shall include (i) a provision that the prevailing party in such arbitration shall recover its costs of the arbitration and reasonable attorneys' fees from the other party or parties, and (ii) the amount of such fees and costs. The arbitrators shall be bound to enforce any applicable statute of limitations.

Am. Pet. Exs. B & C, at § 17 (the “Arbitration Clause”).

On May 14, 2021, after numerous and lengthy delays, the Highsmiths and Shelter terminated both Contracts with Design Gaps. Am Pet. Ex. A, at 3. On July 20, 2021, the Highsmiths and Shelter filed a demand for arbitration for breach of contract, promissory estoppel, fraud, and piercing the corporate veil against Design Gaps, Mr. Glover, and Ms. Glover. *Id.* at 1–2. Design Gaps filed counterclaims for negligence, breach of contract, fraudulent misrepresentation, failure to mitigate damages, tortious interference, civil conspiracy, conversion, unfair and deceptive trade practices, quasi-contract, and violation of the Copyright Act. *Id.* at 2.

The parties agreed that the claims against Mr. and Mrs. Glover would be reserved for another forum. *Id.* Mr. Glover,¹ on behalf of Design Gaps, deposed witnesses and conducted discovery prior to the Arbitration hearing, and, at the hearing, had the opportunity to present witnesses and cross-examine evidence put on by Petitioners. *Id.* At the end of the three-day hearing, the parties confirmed they had each “had an adequate opportunity to present in full the evidence which they thought was relevant and important for [the arbitrator] to consider in rendering [his] Award.” *Id.*

On October 7, 2022, in a ten (10) page written award (the “Award”), the Arbitrator found in favor of Respondents and denied each of Design Gaps’ counterclaims. *Id.* at 9. Nonetheless, the arbitrator did discount the damages awarded to account for the higher quality product provided by the repair contractor, Distinctive Design & Construction, LLC (“Distinctive Design”). *Id.* at 5. The Award was the “full settlement of all claims and counterclaims.” *Id.* at 2.

Subsequently, on December 29, 2022, Design Gaps filed a petition in U.S. District Court for the District of South Carolina to vacate the Award, arguing the arbitrator was evidently partial, manifestly disregarded the law, and imperfectly executed his duties. Shelter and the Highsmiths responded by moving to confirm the Award. The District Court issued an order confirming the Award and rejecting all of Design Gaps’ arguments. Am. Pet. Ex. E, at 79 (Order & Op. dated May 19, 2023). The District Court also found the Arbitration Clause entitled Shelter and the Highsmiths to attorney’s fees and costs incurred in defending the Award, holding that “[t]he plain language of the contract describes the arbitration process to include any proceeding before an arbitrator as well as any court proceeding to enforce the arbitrator’s award.” Am. Pet. Ex. E, at 89, 91 (Order & Op. dated June 7, 2023).

¹ Mr. Glover represented Design Gaps *pro se* in the Arbitration, after obtaining an opinion from the South Carolina Supreme Court’s Office of Disciplinary Counsel permitting his representation of the Respondents without a law license. *See id.* at 2 n.1.

Design Gaps then appealed the District Court’s order confirming the Award to the U.S. Court of Appeals for the Fourth Circuit. After the appeal was fully briefed and oral argument was held, the Fourth Circuit dismissed the appeal *sua sponte*, finding the federal court system lacked subject matter jurisdiction over the case. *See* Am. Pet. Ex. F. In so doing, the Fourth Circuit offered no opinion on the merits of the district court’s orders, or of the Award. On remand, the District Court carried out the Fourth Circuit’s mandate by dismissing the case for lack of jurisdiction; however, the court said nothing about the merits of its prior orders. *See* Am. Pet. Ex. E, at 96–97 (April 2, 2025 Order & Judgment).

On April 9, 2025, Petitioners filed their Amended Petition to Confirm Arbitration Award in the above captioned action (the “Petition”). On the same date, Respondents filed a Notice and Motion for Vacatur of Arbitration Award (the “Motion to Vacate”). Subsequently, both parties filed memoranda in support of their respective motions, which also set forth their reasons for opposing the other party’s petitions.

I. LEGAL STANDARD

Under the South Carolina Uniform Arbitration Act (“UAA”), “[u]pon application of a party, the court shall confirm an award, unless *within the time limits hereinafter imposed* grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in §§ 15-48-130 and 15-48-140.” S.C. Code Ann. § 15-48-120 (emphasis added).² Because “[a]rbitration is a favored method of settling disputes in South Carolina,” *Pittman Mortg. Co., Inc. v. Edwards*, 327 S.C. 72, 75, 488 S.E.2d 335, 337 (1997), “[t]he scope of judicial

² “The FAA’s substantive provisions apply to arbitration in federal or state courts, but a state’s procedural rules apply in state court unless they conflict with or undermine the purpose of the FAA.” *Henderson v. Summerville Ford-Mercury Inc.*, 405 S.C. 440, 450, 748 S.E.2d 209, 226–27. Because “the confirmation statute is procedural, not substantive” and because “the outcome would be the same under either the FAA or UAA, as both mandate confirmation unless grounds were established for vacating, modifying, or correcting the award,” the South Carolina UAA applies rather than Section 9 of the FAA. *Id.*

review for an arbitrator’s decision ‘is among the narrowest known at law because to allow full scrutiny of such awards would frustrate the purpose of having arbitration at all.’” *Group III Mgmt., Inc. v. Suncrete of Carolina, Inc.*, 425 S.C. 141, 149, 819 S.E.2d 781, 785 (Ct. App. 2018) (quoting *Three S Del., Inc. v. DataQuick Info. Sys., Inc.*, 492 F.3d 520, 527 (4th Cir. 2007)). “Generally, an arbitration award is conclusive and courts will refuse to review the merits of an award.” *Pittman*, 327 S.C. at 76, 488 S.E.2d at 337.

II. PETITION TO VACATE.

A. There is No Timely Motion to Vacate or Modify the Award.

Pursuant to the South Carolina Uniform Arbitration Act,³ an application to vacate an arbitration award “shall be made within ninety days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or should have been known.” S.C. Code Ann. § 15-48-130(b). In this case, the Award was emailed to the parties the day it was issued, October 7, 2022. Design Gaps filed its motion to vacate with this Court on April 9, 2025, well outside the 90-day window.

Although Design Gaps filed its petition to vacate in district court prior to expiration of the 90-day period, there is no tolling provision under the UAA “*except*” for “corruption, fraud or other undue means.” Design Gaps has not identified any corruption, fraud, or other undue means that

³ Although the South Carolina Supreme Court has not formally addressed the question of whether the UAA or FAA applies to motions to vacate an arbitration award, its prior holdings regarding applicable law for petitions to confirm awards and appealability of orders compelling arbitration, *see Henderson v. Summerville Ford-Mercury, Inc.*, 405 S.C. 440, 748 S.E.2d 221 (2013) and *Toler’s Cove Homeowners Ass’n v. Trident Constr. Co.*, 355 S.C. 605, 586 S.E.2d 581 (2003), I find that application of the UAA to Respondents’ motion to vacate is appropriate. Respondents filed their motion under the authority of the UAA, and, because the motion to vacate would not be granted under either state or federal law, the UAA does not “undermine the goals and policies of the FAA.” *See Toler’s Cove Homeowners Ass’n*, 355 S.C. at 611, 586 S.E.2d at 584.

prevented it from timely filing an application with this Court. Accordingly, I find the motion to vacate is untimely and cannot operate to prevent confirmation of the Award.

B. Merits of Design Gaps' Motion to Vacate.

Even if Design Gaps' motion to vacate had been timely filed, I am not persuaded the facts here justify interference with the arbitrator's Award. Under the South Carolina law, an award may only be vacated under the narrow statutory grounds in S.C. Code Ann. Section 15-48-130(a) or where the arbitrator manifestly disregards the law. *Waldo v. Cousins*, 442 S.C. 662, 665, 901 S.E.2d 276, 277–78 (2024). In reviewing an arbitration award, the court's function is limited "to determin[ing] whether the arbitrators did the job they were told to do—not whether they did it well, or correctly, or reasonably, but simply whether they did it." *Grp. III Mgmt.*, 425 S.C. at 151, 819 S.E.2d at 786 (internal quotation omitted).

Design Gaps' argument largely relies on their belief the arbitrator exceeded his powers in violation of S.C. Code Ann. § 15-48-130(a)(3), and refused to hear evidence material to the controversy or otherwise mis-conducted the hearing to the prejudice of Respondents. *See* S.C. Code Ann. § 15-48-130(a)(4). Design Gaps also contends the arbitrator manifestly disregarded the law. This Court disagrees.

1. The Arbitrator Issued a Reasoned Award.

Design Gaps contends the Arbitrator exceeded his authority by not issuing a "reasoned award." Mot. to Vacate. Design Gaps relies heavily on a case from the U.S. Court of Appeals for the Second Circuit, *Leeward Constr. Co. v. Am. Univ. of Antigua–Coll. of Med.*, 826 F.3d 634, 640 (2d. Cir. 2016), which is not binding on this Court or in the courts of South Carolina.

A similar argument was recently before our Court of Appeals in another arbitration-confirmation case. *See TCC of Charleston, Inc. v. Concord & Cumberland, LLC*, No. 2021-000272, 2025 WL 2161167, at *12–13 (S.C. Ct. App. July 30, 2025) (published but not yet

reported). The Court of Appeals expressed doubt about using the Second Circuit's description because settled South Carolina law provides for a lesser standard: "'arbitrators need not specify their reasoning or the basis of the award so long as the factual inferences and legal conclusions supporting the award are barely colorable and . . . a ground for the award can be inferred from the facts.'" *Id.* at *13 (quoting *Renaissance Enter., Inc. v. Ocean Resorts, Inc.*, 310 S.C. 395, 399, 426 S.E.2d 821, 823 (Ct. App. 1992)).

Applying the standard espoused in *TCC of Charleston*, I find the arbitrator issued a reasoned award. Although Design Gaps argues the arbitrator did not make a "barely colorable" decision on its counterclaims, I find the arbitrator sufficiently addressed each claim and counterclaim. The arbitrator clearly stated his reasons for denying such counterclaims: first, Design Gaps' claim for material breach of contract was based upon the Highsmiths' and Shelter's termination of the Contracts and its alleged failure to pay. *See* Am. Pet. Ex. A.

When addressing the Highsmiths' and Shelter's claim for breach of contract, the arbitrator found "[Design Gaps'] repeated failure to meet the many dates promised for completion justifies the termination of the contracts [by Claimants]." Am. Pet. Ex. A, p. 5. As the arbitrator turned to Design Gaps' counterclaims, he found "[Design Gaps] conceded they had not completed its work by May 2021. I find this arbitration involves contract claims. The parties [sic] rights are all set out in the contracts. Design Gaps has received an offset against Claimants' completion costs for its contract balance. That is all it is entitled to receive." Am. Pet. Ex. A, p. 6. On the counterclaim for fraud, the arbitrator found "[Design Gaps] did not prove any false or reckless representation made by Claimants which caused it any damage; therefore, it is not entitled to anything on these claims." *Id.*

Further, the arbitrator addressed the counterclaims for tortious interference and civil conspiracy together as they were based on the same facts—that by meeting with and engaging Distinctive Design while the Highsmiths and Shelter were under contract with Design Gaps—they “did Torturously [sic] Interfere with the Master Closet Contract . . . did so commit Civil Conspiracy in the act of doing so, Conversion of the Design Gaps, Inc. Copyrighted and Protected Designs” *See* Am. Pet. Ex. A. (including allegations in support of several counterclaims together)). The Arbitrator identified the specific facts supporting his decision on these counterclaims:

Respondents did not establish any tortious interference in its contract by any party. It further did not establish that there was a civil conspiracy between and among the Claimants, Distinctive Design or any other party. While Claimants did meet with Distinctive Design as early as January 2021 to review Respondents’ performance, the Claimants were advised by Distinctive Design to continue working with Design Gaps to achieve completion. When completion had not been accomplished by May 2021, only then did Claimants terminate the contract.

Am. Pet. Ex. A, p. 6.

Additionally, the arbitrator provided a brief explanation for his denial of the counterclaim for unfair and deceptive trade practices based on Design Gaps’ failure to establish essential elements in support of its claim. “Respondents did not establish that Claimants’ conduct was unfair or deceptive and therefore cannot sustain an unfair trade practices act claim. Respondents did not establish that the conduct it complains of was repetitive or in violation of the public interest.” *Id.*

Finally, the arbitrator provided ample support and explanation of his decision on the copyright issues. The arbitrator provides a lengthy explanation of his decision and the facts and testimony supporting it:

Respondents gave to the Claimants their drawings for the cabinets. Obviously, this was for Claimants’ review, approval, and use during the construction process. Claimants were free to use the drawings to measure the compliance of Design Gaps with these drawings and its obligation to install the designed cabinets in accordance with its contractual obligation. Respondents failed to enter into evidence a valid copyright registration; however, even if they had, Claimants certainly established

fair use of the design work, especially considering that Shelter did not profit from the design. The sharing of a pdf of the design did not materially impair the marketability of the design. Respondents failed to prove that Claimants or anyone else converted its designs for this project. Bryan Reiss of Distinctive Design confirmed that he did not use Design Gaps' designs for the cabinets. I am convinced by Reiss's testimony and the exhibits provided that any similarity in the designs is due to the limitations of the space and the client's desired layout. Therefore, there has been no violation of any copyright which Respondent may have had.

Am. Pet. Ex. A, pp. 6-7. This Court finds the Award is sufficiently clear and that "the factual inferences and legal conclusions supporting the award" are more than "barely colorable" to meet the applicable standard in South Carolina. *See TCC of Charleston*, 2025 WL 2161167, at *13.

Even if this Court were to apply the standard set forth in *Leeward Construction*, the award more than exceeds that bar as well as it sets forth more than bare conclusions. *See Leeward Constr. Co. v. Am. Univ. of Antigua-Coll. of Med.*, 826 F.3d at 640 (defining a "reasoned award" as "something more than a line or two of unexplained conclusions, but something less than full findings of fact and conclusions of law on each issue raised before the panel.").

2. *The Arbitrator did not Exceed his Powers.*

"The question of whether arbitrators have exceeded their powers [under Section 15-48-130(a)(3)] relates to the arbitrability of the issue they have attempted to resolve." *Pittman Mortg. Co. v. Edwards*, 327 S.C. at 76, 488 S.E.2d at 338. "Arbitrators exceed their powers only if the issue resolved by them is not within the scope of the agreement to arbitrate. Factual and legal errors by arbitrators do not constitute an abuse of their powers, and the court is not required to review the merits of the decision so long as the arbitrators do not exceed their powers." *Id.* (citation omitted).

Design Gaps challenges the arbitrator's finding regarding termination of its contracts with the Highsmiths and Shelter, arguing the arbitrator imposed deadlines not set forth in the contract. First, I find that, under the Arbitration Clause, "[a]ll disputes arising out of or in connection with

[the Contracts] or any transaction [thereunder]” were subject to arbitration and properly considered by the arbitrator. This includes issues of timely performance and termination of the Contracts. Although the arbitrator found the Contracts did not contain “specified completion dates,” he provided a list of subsequent representations by Design Gaps regarding a promised or reasonable completion date. Am. Pet. Ex. A., at 3–4. The arbitrator also noted that “the expressed goal for the time of completion of the project was approximately four to eight weeks from contract signing.” *Id.* at 1. The arbitrator found Design Gaps’ “repeated failure to meet the many dates promised for completion justifies the termination of the contracts.” *Id.* at 5.

Even if the arbitrator made a legal error in determining these issues, such is not grounds for vacatur under the UAA. I find the arbitrator did not exceed his powers and did not consider issues outside the scope of the Arbitration Agreement.

3. The Arbitrator did not Refuse to Hear Evidence, Nor did the Arbitrator Conduct the Hearing so as to Substantially Prejudice Respondents’ Rights.

Design Gaps claims the arbitrator refused to hear evidence material to the controversy, or otherwise so conducted the hearing contrary to the provisions of § 15-48-50 as to substantially prejudice the rights of Respondents, warranting vacatur of the award. S.C. Code Ann. § 15-48-130(a)(4). Design Gaps further states it was not afforded a full and fair opportunity to litigate because the arbitrator (1) did not join as parties certain persons who were not parties to the arbitration agreement and did not consent to arbitration; (2) allegedly did not consider Design Gaps’ copyright registration in rendering his opinion; and (3) did not consider the alleged substantial similarity between Distinctive Design’s work and Design Gaps’ designs. This Court disagrees.

First, Design Gaps argues it was not allowed to fully present its case because Distinctive Design, its owner and/or agents, and the owners and/or agents of Shelter were not joined as parties

in the Arbitration. However, Design Gaps was permitted to conduct discovery, depose these non-parties, and cross-examine the non-party witnesses at the three-day arbitration hearing. This Court finds no error in the arbitrator's finding that he could not join parties to the arbitration if they were not parties to the Arbitration Agreement. Moreover, Design Gaps has not shown how the refusal to join the non-parties prevented it from presenting its case in accordance with S.C. Code § 15-48-50, since it was able to present witnesses and cross-examine the non-parties. Most importantly, at the conclusion of the hearing, Design Gaps confirmed it had a full and fair opportunity to present their case:

At the conclusion of that testimony, as arbitrator, I asked each side if they had an adequate opportunity to present in full the evidence which they thought was relevant and important for me to consider in rendering my Award. Each side advised that they had adequate opportunity to present their case with all relevant testimony and exhibits. Therefore, the merits hearing was closed and the parties afforded an opportunity to present post-hearing briefs and proposed orders.

Am. Pet. Ex. A, at 2.

Second, Design Gaps contends the arbitrator refused to hear evidence related to its copyrights. Although the arbitrator noted Design Gaps failed to enter its certificate of copyright as evidence at the hearing, the arbitrator explicitly stated the copyright registration would not have changed the result. Even if the arbitrator had improperly refused to consider the copyright registration (which this Court finds it did not⁴), such refusal did not substantially prejudice Respondents as required for vacatur under S.C. Code Ann. § 15-48-130(a)(4). The arbitrator plainly stated it would not have changed the result: "Respondents failed to enter into evidence a

⁴ Design Gaps provided no applicable rule under the Commercial Arbitration Rules of the American Arbitration Association, which the parties agreed in the Arbitration Clause would govern the arbitration proceedings, requiring the arbitrator to consider unadmitted evidence nor any rule requiring that the arbitrator admit evidence not presented at the hearing.

valid copyright registration; however, even if they had, Claimants certainly established fair use of the design work, especially considering that Shelter did not profit from the design. The sharing of a pdf of the design did not materially impair the marketability of the design. Respondents failed to prove that Claimants or anyone else converted its designs for this project.” Am. Pet. Ex. A, p. 6–7. This Court finds Design Gaps was not substantially prejudiced due to the arbitrator’s refusal to admit the copyright registration as evidence, particularly since the arbitrator considered the registration in reaching his conclusions.

Finally, Design Gaps’ argument that the arbitrator did not consider the similarity between designs as part of his copyright analysis is not supported by the record. The Award discusses the similarities between the designs and found that it did not constitute infringement: “Bryan Reiss of Distinctive Design confirmed that he did not use Design Gaps’ designs for the cabinets. I am convinced by Reiss’s testimony and the exhibits provided that any similarity in the designs is due to the limitations of the space and the client’s desired layout. Therefore, there has been no violation of any copyright which Respondent may have had.” Am. Pet. Ex. A, at 7. Simply because Design Gaps disagrees with the arbitrator’s analysis is not sufficient to vacate an award under § 15-48-130(a)(4). I find the arbitrator did not refuse to hear material evidence and did not conduct the hearing contrary to § 15-48-50 so as to substantially prejudice Design Gaps’ rights.

4. The Arbitrator Did Not Manifestly Disregard the Law.

South Carolina law recognizes one non-statutory ground for vacatur—manifest disregard of the law—which is “rarely applied.” *Swentor v. Swentor*, 336 S.C. 472, 486, 520 S.E.2d 320, 338 (Ct. App. 1999). “[F]or a court to vacate an arbitration award based upon an arbitrator’s manifest disregard of the law, the governing law ignored by the arbitrator must be well defined, explicit, and clearly applicable.” *Gissel v. Hart*, 382 S.C. 235, 241 (2009). “The focus is on the conduct of the arbitrator and **presupposes something beyond a mere error in construing or**

applying the law.” *Id.* (emphasis in original). “A manifest disregard of the law is established only where the ‘arbitrator understands and correctly states the law, but proceeds to disregard the same.’” *Group III Mgmt.*, 425 S.C. 155, 819 S.E.2d 787 (quoting *Patten v. Signator Ins. Agency, Inc.*, 441 F.3d 230, 234 (4th Cir. 2006)) (cleaned up). “Courts may now vacate an arbitration award, but only when it is untethered from controlling legal principles known to, but shrugged off by, the arbitrator.” *Waldo v. Cousins*, 442 S.C. 662, 669, 901 S.E.2d 276, 279 (2024).

Design Gaps argues the arbitrator misapplied the fair use doctrine in his copyright infringement analysis. Even accepting such argument as true, “error in construing or applying the law” does not constitute manifest disregard. *Gissel*, at 241. Design Gaps is unable to show the arbitrator acknowledged a legal principle yet refused to apply it. The arbitrator engaged in a lengthy discussion on the copyright claims in the various forms. *See* Am. Pet. Ex. A, pp. 6–7. Design Gaps has identified no rule requiring a contrary result and is simply challenging the arbitrator’s application of the law. The Court holds this is not sufficient to show manifest disregard of the law.

Last, Design Gaps challenges, again, the arbitrator’s holding with respect to the competing breach of contract claims. However, again, Design Gaps has provided no black letter law mandating the arbitrator find in a certain way; rather, Design Gaps simply challenges the findings of fact and law based on the arbitrator’s analysis. This is simply insufficient.

Our Supreme Court has noted when considering an alleged manifest disregard of the law, “[e]ven a ‘clearly erroneous interpretation of the contract’ cannot be disturbed.” *Gissel*, at 241 (quoting *Trident Tech. Coll.*, 286 S.C. at 108, 333 S.E.2d at 787). As explained by the district court, “the Arbitrator outlined the facts he found relevant and credible, and then he found that Design Gaps, not the Highsmiths, was in material breach. [Design Gaps] can point to no binding

precedent that required the Arbitrator to determine otherwise.” Am. Pet. Ex. E (May 19, 2023 Order & Op at 8.). Accordingly, this Court rejects all of Design Gaps’ grounds for vacatur.

III. PETITION TO CONFIRM.

Having rejected Design Gaps’ motion to vacate as both untimely and on the merits, the UAA mandates that I confirm the award: [T]he court *shall* confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award S.C. Code Ann. § 15-48-120 (emphasis added). I, therefore, find the Award shall be confirmed and also award prejudgment interest and attorneys’ fees for Petitioners.

With respect to prejudgment interest, Petitioners cite to S.C. Code Ann. § 34-31-20, stating in all cases wherein any sum of money shall be ascertained and, being due, such shall draw interest according to law. Interest begins accruing on the date “when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty.” *Babb v. Rothrock*, 310 S.C. 350, 353, S.E.2d 789, 791 (1993). When an arbitrator awards a specific dollar amount, interest begins accruing on the date of the award – accordingly, the Award entered on October 7, 2022, began the clock for pre-judgment interest to accrue on the total Award amount of \$296,409.17. Am. Pet. Ex. A.

As Design Gaps has failed to make any payment efforts to Petitioners since the date the Award was issued, interest has accrued on the full value of the Award, as follows:

October 7, 2022 – December 31, 2022	\$ 6,039.85
January 1, 2023 – December 31, 2023	\$ 25,684.75
January 1, 2024 – December 31, 2024	\$ 25,684.75
January 1, 2025 – September 22, 2025	\$ 23,219.34
TOTAL	\$ 80,628.69

Pursuant to the applicable prejudgment interest statute and the South Carolina Supreme Court's orders regarding annual interest rates, the Court orders Design Gaps to pay Petitioners prejudgment interest on the full amount of the Award, running from the date of the Award's issuance to the date this Order is entered.

As to attorneys' fees, Petitioners reiterate their argument that attorneys' fees should be awarded, pursuant to the Arbitration Clause and prevailing party provision. I find that the language of the contract unambiguously provides for the prevailing party to be awarded reasonable attorneys' fees in the arbitration and that the arbitration process includes efforts to enforce or defend the Award. *See, e.g., Henderson*, 405 S.C. at 452, 748 S.E.2d at 227 ("Confirmation is not a separate judicial process; it is merely a continuation of the arbitration procedure.").

Further, even if this Court were to view the language of the Arbitration Clause as ambiguous, "[a]mbiguous language in a contract should be construed liberally and most strongly in favor of the party who did not write or prepare the contract and is not responsible for the ambiguity; and any ambiguity in a contract, doubt, or uncertainty as to its meaning should be resolved against the party who prepared the contract or is responsible for the verbiage." *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC*, 374 S.C. 483, 499–500, 649 S.E.2d 494, 592 (Ct. App. 2007). To the extent a court were to read any ambiguity into the contractual language regarding the award of attorney fees for court proceedings to enforce an arbitration award (which this Court does not), any ambiguity must be construed against Design Gaps, the drafter of the mandatory arbitration clause with its attorneys' fee provision.

Therefore, I award Petitioners' their reasonable attorneys' fees incurred in enforcing and defending the Arbitration Award.

IT IS, THEREFORE, ORDERED, that Petitioners' Amended Petition for Order Confirming the Arbitration Award is hereby granted in its entirety and Respondents' Motion for Vacatur is denied in its entirety. The Court hereby confirms the Arbitration Award in the amount of \$296,409.17; awards prejudgment interest calculated at the rate of 8.75% beginning October 7, 2022; and awards Petitioners' their reasonable attorneys' fees and costs pursuant to the Contracts. Petitioners are hereby ordered to provide documentation and evidence supporting their claim for attorneys' fees within ten (10) days of this Order. Respondents may file a response if they so desire concerning the fee award requested within ten (10) days thereafter.

AND IT IS SO ORDERED.

The Honorable G.D. Morgan Jr.



Charleston Common Pleas

Case Caption: Shelter, Llc , plaintiff, et al VS Design Gaps Inc , defendant, et al

Case Number: 2025CP1001835

Type: Order/Other

So Ordered

G.D. Morgan Jr.

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