

EXHIBIT

V

Affirmed and Memorandum Opinion filed December 9, 2025



In The

Fourteenth Court of Appeals

NO. 14-24-00753-CV

CAROLINE ALLISON AND RICHARD ALLISON, Appellants

V.

**BORUNDA, P.C., JORGE BORUNDA, NICHOLAS ABAZA, LAW
OFFICES OF NICHOLAS ABAZA, P.C., MICHAEL TREVINO, AND LAW
OFFICE OF MICHAEL A. TREVINO, PLLC, Appellees**

**On Appeal from the 269th District Court
Harris County, Texas
Trial Court Cause No. 2021-80256**

MEMORANDUM OPINION

Appellants Caroline Allison and Richard Allison (Rich) appeal from the trial court's final judgment confirming an arbitration award in favor of appellees Borunda, P.C., Jorge Borunda, Nicholas Abaza, Law Offices of Nicholas Abaza, P.C., Michael Trevino, and Law Offices of Michael Trevino, PLLC (collectively the Lawyers). Because we conclude that appellants did not establish any of the grounds for vacating a judgment confirming an arbitration award authorized by the Federal

Arbitration Act (FAA), we affirm. *See* 9 U.S.C. § 10(a).

BACKGROUND

Appellants are siblings whose father, Richard Gerard Allison (Dr. Allison), was a successful doctor and real estate investor. Dr. Allison created the Richard Allison Trust in 1989 and placed his real estate holdings into this trust. Dr. Allison was the sole trustee and the sole lifetime beneficiary of the trust. Under the original trust, when Dr. Allison died, the trust assets would be distributed evenly to his two children, Caroline and Rich. If the siblings were over the age of thirty five, they would receive the assets directly, but if they were younger than thirty five, the assets would be held in trust until they reached the age of thirty five.

In 1992, Dr. Allison married Robin Alice Allison. In 2011, Dr. Allison amended his trust to carve out certain assets which would be distributed to Robin when he died. The remainder of the trust estate would be divided equally between Dr. Allison's children and grandchildren alive at the time of Dr. Allison's death. Two years later, Dr. Allison changed his estate plan again. Under the 2013 estate plan, when Dr. Allison died, the Richard Allison Trust would be separated into three trusts: the Family Trust, the Marital Trust, and the Surviving Grantor's Trust.

The Surviving Grantor's Trust would receive most of Dr. Allison's personal property including certain family heirlooms. The personal property would remain in the trust until Robin passed away, when it would be distributed in a specified manner. Robin was both the trustee of and the lifetime beneficiary of the Surviving Grantor's Trust.

The Family Trust would receive as much of Dr. Allison's assets as could pass free of estate tax. At the time the trust was created, this amount totaled about \$5.4 million. Robin was again the trustee and sole beneficiary of this trust. When Robin

died, any remaining assets in the Allison Family Trust would pass equally to Dr. Allison's descendants.

The remainder of Dr. Allison's assets at the time of his death would go into the Allison Marital Trust. Robin was the trustee and sole beneficiary of the Allison Marital Trust. Robin was required to make quarterly distributions to herself of the trust's income. In addition, Robin was allowed to use the principal of the trust to maintain herself in the lifestyle to which she was accustomed. If Robin depleted the Allison Marital Trust, she was authorized to "invade the Family Trust as well."

As set up by Dr. Allison's 2013 estate plan, Robin would have exclusive control over Dr. Allison's assets through the three trusts. Caroline and Rich had no control over any of the trusts, and the only thing they could do was ask Robin for distributions only from the Family Trust. Robin had wide discretion over whether to grant a distribution to either of her stepchildren or their children. Dr. Allison did not inform appellants of the 2013 estate plan changes.

Dr. Allison died in 2017, and appellants learned soon thereafter about the 2013 estate plan changes. Dissatisfied with Robin having total control, appellants approached two of the Lawyers, Abaza and Borunda, to learn more about their options to invalidate Dr. Allison's 2013 estate plan. Appellants' first conversations with Abaza and Borunda were about various fee options for retaining the two lawyers. Eventually, Rich signed a contingent fee agreement, while Caroline opted for a negotiated hourly fee arrangement. Caroline, after being advised to seek independent legal advice on the issue, later switched to a contingent fee agreement as well. Once Caroline signed the new contingent fee agreement, Abaza and Borunda added the third lawyer, Michael Trevino, to the legal team. Both contingent fee agreements called for a thirty-five percent payment on any recovery achieved as a result of the Lawyers' handling of the dispute with Robin. The contingent fee

agreements also contained identical arbitration clauses. The arbitration clauses provide the following:

Any and all disputes, controversies, claims or demands arising out of or relating to [the contingent fee agreements] or any provision hereof, the providing of services by Attorney to Client, or in any way relating to the relationship between Attorney and Client, whether in contract, tort, or otherwise, at law or in equity, for damages or other relief, shall be resolved by binding arbitration pursuant to the Federal Arbitration Act in accordance with the Commercial Arbitration Rules then in effect with the American Arbitration Association. Any such arbitration proceeding shall be enforceable in either federal or state court in Harris County, Texas pursuant to substantive federal laws established by the Federal Arbitration Act. Any party to any award rendered in such arbitration proceedings may seek a judgment upon the award and that judgment may be entered by any federal or state court in Harris County, Texas, having jurisdiction.

Once appellants had retained their legal team, the attorneys discussed the no-contest clauses in Dr. Allison's 2013 estate documents and the risks they posed to appellants' stated goal of invalidating those documents.¹ At that point, the Lawyers, with appellants' approval, filed suit against Robin alleging several different causes of action. Appellants sought to unwind Dr. Allison's 2013 changes to his estate plan through a declaration that the changes were ineffective because Dr. Allison lacked testamentary capacity and also because Robin exerted undue influence over Dr. Allison. Appellants also alleged that Robin had breached her fiduciary duties by: (1) misappropriating trust assets, (2) failing to perform a required restructuring of the trusts, (3) selling trust assets for an inadequate price, and (4) failing to provide a requested accounting. Appellants also sought to remove Robin as the trustee and

¹ The purpose of a no-contest or in terrorem clause "is to dissuade beneficiaries from filing vexatious litigation, particularly among family members, that might thwart the intent of the testator." *Marshall v. Marshall*, Nos. 14-18-00094-CV, 14-18-00095-CV, 2021 WL 208459, at *5 (Tex. App.—Houston [14th Dist.] Jan. 21, 2021, pet. denied) (mem. op.); see Tex. Estates Code § 254.005.

asked for an accounting.

The parties eventually settled their dispute at mediation. Among other provisions, the Mediated Settlement Agreement (MSA) provided that Dr. Allison's estate would be divided into two trusts: the Marital Trust and the Family Trust. Assets controlled by both sides in the dispute would have to be moved into either the Marital Trust or the Family Trust. The parties agreed they would cooperate in signing the required documents to accomplish the movement of those assets. In addition, Dr. Allison's grandchildren would have to approve the settlement. Once the settlement was completed, Robin would retain approximately half of Dr. Allison's estate through her control of the Marital Trust. Appellants would gain control over the other half of Dr. Allison's estate through the Family Trust. Among the assets included in the Family Trust was a separate entity, Minaki, L.P., whose account Robin represented had a balance of at least \$9,500,000.00 on the date of the mediation. Appellants were required to maintain a balance of at least \$1,000,000.00 in the Family Trust until the youngest of Dr. Allison's grandchildren reached the age of 25. With that exception, appellants, as co-trustees of the Family Trust, had the right to access all principal and income from the Family Trust. The trial court approved the MSA and gave the parties two weeks to execute all documents required by the MSA.

At this point, appellants refused to complete the final settlement documents. Caroline emailed Borunda that attorneys' fees needed to be negotiated before she or her brother would sign any further documents related to the settlement. Caroline suggested a negotiated fee of \$100,000.00 to each attorney. When the Lawyers refused to negotiate their agreed fee, appellants terminated them and retained a new attorney. Once the new attorney approved the existing settlement documents, appellants signed the final documents, ending the litigation with Robin.

Within days of ending the litigation with Robin, Caroline filed suit against the Lawyers alleging multiple causes of action including legal malpractice, breach of fiduciary duty, and violations of the Deceptive Trade Practices Act. The Lawyers filed an answer and a motion to compel arbitration based on the arbitration clause in Caroline's contingent fee agreement. The trial court granted the motion to compel arbitration and stayed all trial court proceedings pending the completion of the arbitration. The Lawyers issued arbitration demands to both appellants alleging that appellants were liable to the Lawyers in their individual capacities for breach of contract and various equitable causes of action including quantum meruit. Rich appeared in the arbitration and asserted his own negligence and breach of fiduciary duty claims against the Lawyers.

Following a seven-day arbitration hearing during which several witnesses testified, and hundreds of exhibits were admitted for the arbitrator to consider, the arbitrator issued a "Reasoned Interim Award" and a "Final Award" in favor of the Lawyers. The arbitrator overruled all of appellants' objections to arbitration. The arbitrator found that: (1) the Lawyers were credible witnesses; (2) Caroline was credible at times, but she "was not always a credible witness;" (3) Rich "was not a credible witness and his testimony was not credible;" (4) Rich was individually liable for \$1,416,915.68 to all the Lawyers, and owed \$421,133.32 in pre-judgment interest on that award; (5) Caroline was individually liable for \$1,352,149.80 to all of the Lawyers, and owed \$401,883.72 in pre-judgment interest on that award; (6) appellants were individually liable for attorneys' fees of \$454,470.20 incurred by the Lawyers in the arbitration; and (7) appellants were each liable for administrative fees of the American Arbitration Association (AAA) totaling \$56,225.00, and arbitrator's fees totaling \$133,318.81. The arbitrator ruled that the award would accrue post-judgment interest. The arbitrator also ordered Caroline and Rich to each

“direct the trustee(s) of the Allison Family Trust to liquidate sufficient trust assets to pay the Final Award and all accrued interest in full.” The arbitrator also ordered a “freeze” on Minaki, L.P.’s Charles Schwab account until the Final Award and all accrued interest had been paid in full. Finally, the arbitrator rejected all of appellants’ affirmative claims for relief against the Lawyers and their affirmative defenses.

The Lawyers filed a motion in the trial court seeking to confirm and enforce the arbitration awards against appellants. Rich filed a petition in intervention. Appellants then filed a joint motion responding to the Lawyers’ motion to confirm the arbitration awards and also asking the trial court to vacate or modify the arbitration awards. The trial court denied appellants’ motion to vacate or modify the arbitration awards, granted the Lawyers’ motion to confirm, and then signed a final judgment confirming the arbitration awards. This appeal followed.

ANALYSIS

Appellants filed separate briefs in this appeal asserting multiple issues challenging the trial court’s final judgment confirming the arbitration awards. When appellants raise the same issues, we will address them together.

I. The trial court did not abuse its discretion when it compelled the parties to arbitration.

Caroline makes two arguments in her first issue. First, she argues that the trial court abused its discretion when it compelled the parties to arbitration because the arbitration agreement was procured by fraud. Second, Caroline argues the trial court should have vacated rather than confirmed the arbitration awards because the arbitration agreement was procured by fraud and also because the arbitration agreement was unconscionable. Because both contentions address the arbitrability of the parties’ conflict, we address them together. *See G.T. Leach Builders, LLC v.*

Sapphire V.P., LP, 458 S.W.3d 502, 519 (Tex. 2015) (stating arbitrability issues include issues addressing the validity, scope, or enforceability of the arbitration agreement).

A trial court's decision to grant or deny a motion to compel arbitration is reviewed for an abuse of discretion. *Henry v. Cash Biz, LP*, 551 S.W.3d 111, 115 (Tex. 2018). There are strong policies and presumptions favoring arbitration. See *Prudential Sec. Inc. v. Marshall*, 909 S.W.2d 896, 899 (Tex. 1995). Despite this strong policy, parties cannot be compelled to arbitrate any controversy unless they have contractually agreed to do so. *TotalEnergies E&P USA, Inc. v. MP Gulf of Mexico, LLC*, 667 S.W.3d 694, 701 (Tex. 2023).

In addition, because arbitration is a matter of contract, parties to a contract can agree that arbitrators, rather than courts, must resolve disputes over the arbitrability of their dispute. *Id.* When this occurs, courts must enforce that agreement just as they must enforce an agreement to delegate resolution of the underlying merits to the arbitrator. *Id.* Generally, the determination whether parties have agreed to delegate arbitrability issues to an arbitrator is governed by “ordinary state-law principles that govern the formation of contracts.” *TotalEnergies E&P USA, Inc.*, 667 S.W.3d at 702. To avoid the risk of requiring parties to arbitrate a dispute they have not agreed to arbitrate, courts only enforce agreements to delegate arbitrability issues to an arbitrator if the agreement is “clear and unmistakable.” *Id.*

Here, both arbitration agreements require that “any and all disputes, controversies, claims or demands arising out of or relating to” the contingent fee agreements be resolved by binding arbitration “in accordance with the Commercial Arbitration Rules then in effect with the [AAA].” Rule R-7(a) of the current AAA Commercial Arbitration Rules provides that

[t]he arbitrator shall have the power to rule on his or her own

jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim, without any need to refer such matters first to a court.

AAA, Commercial Arbitration Rules and Mediation Procedures, R-7(a), (2022) (https://www.adr.org/media/qielmf0g/2025_commercialrules_web.pdf, last accessed Nov. 18, 2025).

The Texas Supreme Court and previous panels of this court have recently addressed the question of arbitrability when the parties' agreement incorporates the AAA arbitration rules. Each determined that an agreement to arbitrate disputes in accordance with rules providing that the arbitrator shall have the power to determine arbitrability clearly and unmistakably demonstrates the parties' intent to delegate arbitrability issues to the arbitrator. *See TotalEnergies E & P USA, Inc.*, 667 S.W.3d 701–20 (addressing Rule-7(a) of the AAA Commercial Arbitration Rules); *Qualia Labs, Inc. v. Stewart Title Co.*, No. 14-24-00582-CV, 2025 WL 1523686, at *5 (Tex. App.—Houston [14th Dist.] May 29, 2025, pet. filed) (mem. op.) (concluding that arbitrability question must be submitted to arbitrators); *Elite Townhomes, LLC v. Intown Constr. Grp., LLC*, No. 14-22-00641-CV, 2024 WL 1107889, at *5 (Tex. App.—Houston [14th Dist.] March 14, 2024, no pet.) (mem. op.) (addressing Rule R-9 of the AAA Construction Arbitration Rules). Because we are presented with the same scenario here, we conclude that the trial court did not abuse its discretion when it granted the Lawyers' motion to compel arbitration against Caroline.

We turn next to Caroline's second argument within her first issue in which she asserts that the trial court should have vacated rather than confirmed the arbitration award against her because, in her view, her contingent fee agreement containing the arbitration agreement with the Lawyers "as a whole" was procured by fraudulent inducement. While Caroline mentions the Texas Supreme Court's

TotalEnergies opinion within her argument here, she proceeds to disregard its import by arguing that “the trial court was required to decide the issue of whether the arbitration provision was valid.” 667 S.W.3d at 708 (“We agree with the vast majority of courts that, as a general rule, an agreement to arbitrate in accordance with the AAA or similar rules constitutes a clear and unmistakable agreement that the arbitrator must decide whether the parties’ disputes must be resolved through arbitration.”). We rejected this argument above and Caroline offers no reason to reconsider our resolution of her first argument within her first issue here. Finally, to the extent Caroline argues, without citation to legal authority, that the trial court should have vacated the award because it was unconscionable, we conclude she has failed to make persuasive arguments demonstrating the trial court erred when it confirmed rather than vacated the arbitration awards. *See Bertucci v. Watkins*, 709 S.W.3d 534, 542–43, n.9 (Tex. 2025). We overrule Caroline’s first issue.

II. Appellants have not shown that the trial court erred when it confirmed the arbitration awards.

Caroline argues in her second through fifth issues that the trial court erred when it confirmed the arbitration award against her because the arbitrator exceeded her powers by: (1) allegedly compelling non-parties to liquidate trust assets; (2) enforcing a contract that violated Texas law and public policy; (3) awarding attorneys’ fees and expenses not authorized by law or the parties’ agreements; and (4) not providing a reasoned award. Rich makes the same arguments in his first four issues. Finally, appellants both argue the trial court erred when it confirmed the arbitration awards because they contained a material miscalculation of prejudgment interest. As explained below, we conclude that none of appellants’ arguments demonstrate the trial court erred when it confirmed the arbitration awards.

We review de novo a trial court’s decision to confirm or vacate an arbitration

award. *Vargas v. Rigid Glob. Bldgs., LLC*, 654 S.W.3d 1, 6 (Tex. App.—Houston [14th Dist.] 2022, pet. denied). Review of an arbitration award is “extraordinarily narrow” and “exceedingly deferential.” *Id.* Consistent with the deferential and narrow scope of review of an arbitration award, we indulge every reasonable presumption in favor of the Award and none against it. *Id.* We review appellants’ challenges to the arbitration awards under a “heavy presumption” in favor of confirming the awards. *See id.*

The parties to an agreement to arbitrate can agree that it is governed by the FAA. *See Palisades Acquisition XVI, LLC v. Chatman*, 288 S.W.3d 552, 554–55 (Tex. App.—Houston [14th Dist.] 2009, no pet) (“When, as in this case, the parties expressly agree that their arbitration agreement shall be governed by the Federal Act, the parties are not required to establish that the transaction at issue involves or affects interstate commerce.”). Under the FAA, an arbitration award must be confirmed unless it is vacated, modified, or corrected under specifically enumerated statutory grounds. *See* 9 U.S.C. §§ 9–11; *Vargas*, 654 S.W.3d at 6. Under the FAA, courts may vacate an arbitrator’s decision “only in very unusual circumstances.” *Oxford Health Plans LLC v. Sutter*, 569 U.S. 564, 568 (2013). Significantly, the grounds on which a trial court may vacate an arbitration award under the FAA are limited to those expressly identified in section 10 of the FAA, to the exclusion of all other potential grounds. *See Hall St. Assocs., L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 584 (2008); *Vargas*, 654 S.W.3d at 6. Section 10(a) of the FAA provides that a trial court may vacate an arbitration award for any of the following reasons:

- (1) where the award was procured by corruption, fraud, or undue means;
- (2) where there was evident partiality or corruption in the arbitrators, or either of them;
- (3) where the arbitrators were guilty of misconduct in refusing to

postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or

- (4) where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

9 U.S.C. § 10(a). Parties to an arbitration agreement governed by the FAA may not contractually supplement the statutory bases for vacatur expressly detailed in the FAA to expand judicial review of an arbitration award. *Denbury Onshore, LLC v. Texcal Energy South Tex., L.P.*, 513 S.W.3d 511, 517 (Tex. App.—Houston [14th Dist.] 2016, no pet.). Appellants argue that the parties contractually agreed to expanded judicial review, although they have not pointed to specific language in the arbitration agreement supporting that argument, and we see none. Regardless, because the arbitration agreement is governed by the FAA, we reject appellants’ arguments. Therefore, under the FAA, appellants bear a heavy burden to prove one of the above statutorily enumerated grounds. *See* 9 U.S.C. § 10; *Vargas*, 654 S.W.3d at 6.

A. Appellants have not shown that the arbitrator exceeded her powers.

As stated above, appellants both argue that the arbitrator exceeded her powers in multiple ways. Exceeding an arbitrator’s power is one of the grounds listed in section 10 of the FAA and is therefore a valid basis for vacating an arbitration award under the FAA. *See* 9 U.S.C. § 10; *Vargas*, 654 S.W.3d at 6. To show that an arbitrator exceeded her powers, it is not, however, enough to show that the arbitrator committed an error, or even a grave error. *Oxford Health Plans LLC*, 569 U.S. at 572. Section 10(a)(4) of the FAA “permits courts to vacate an arbitral decision only when the arbitrator strayed from his delegated task of interpreting a contract, not

when he performed that task poorly.” *Id.*; see *Venture Cotton Co-op v. Neudorf*, No. 14-13-00808-CV, 2014 WL 4557765, at *3 (Tex. App.—Houston [14th Dist.] Sep. 16, 2014, no pet.) (mem. op.) (“Arbitrators [only] exceed their power when they decide a matter not properly before them.”). Because arbitrators derive their authority from the arbitration agreement, their power and authority depend on the provisions under which they were appointed. See *Venture Cotton Co-op*, 2014 WL 4557765, at *3. Thus, to determine whether an arbitrator exceeded her authority, we must examine the language in the arbitration agreement. *Glover v. IBP, Inc.*, 334 F.3d 471, 474 (5th Cir. 2003).

Arbitrators do not exceed their powers if the arbitration award has a basis that is at least rationally inferable, if not obviously drawn, from the letter or purpose of the arbitration agreement. *Vargas*, 654 S.W.3d at 7. An arbitration award may also not be vacated under section 10(a)(4) of the FAA based on the arbitrator’s errors in the interpretation or application of the law or facts. *Venture Cotton Co-op*, 2014 WL 4557765, at *3. To determine whether an arbitrator exceeded her authority a reviewing court is not limited to the arbitrators’ explanation for the award. *Vargas*, 654 S.W.3d at 7. Rather, the reviewing court looks to the result reached and determines whether the award, however arrived at, is rationally inferable from the arbitration agreement. *Id.*

B. Appellants have not shown that the arbitrator exceeded her powers by ordering appellants to pay the Lawyers out of the settlement proceeds the Lawyers obtained.

Appellants both argue that the arbitrator exceeded her powers by freezing an account of Minaki, L.P., a non-party to the litigation and also by ordering non-parties to the litigation to liquidate trust assets.

As summarized above, the dispute underlying this appeal was between

appellants and Robin. Appellants believed Robin had improperly obtained control over Dr. Allison's estate and they retained the Lawyers to reduce Robin's control and gain for themselves immediate access to significant portions of Dr. Allison's estate. Appellants signed contingent fee agreements with the Lawyers to accomplish their goal. The Lawyers eventually achieved appellants' goal as reflected in the MSA between Robin and appellants. Pursuant to the MSA, appellants gained immediate control over approximately half of Dr. Allison's estate through their appointment as co-trustees of the Family Trust. As co-trustees, appellants had the right to access all principal and income from the Family Trust. As mentioned above, among the assets included in the Family Trust was Minaki, LP, which Robin represented had an account with a balance of at least \$9,500,000.00 on the date of the mediation. These funds were held in an account with Fidelity Investments and the value of the account grew to almost \$11,000,000.00. After completion of the settlement, appellants, while refusing to pay the Lawyers the fees required under the contingent fee agreements, withdrew \$10,831,473.02 from the Fidelity account and moved the funds to an account at Charles Schwab. It was from this fund that the arbitrator prohibited appellants from withdrawing or transferring any funds pending further order by the arbitrator.

The arbitration agreements contain very broad arbitration clauses requiring that "[a]ny and all disputes, controversies, claims or demands arising out of or relating to [the contingent fee agreements] or any provision hereof, the providing of services by Attorney to Client, or in any way relating to the relationship between Attorney and Client, whether in contract, tort, or otherwise, at law or in equity, for damages or other relief shall be resolved by binding arbitration" Because the dispute over the payment of the Lawyers' contingent fee fits squarely within the language of the arbitration agreement, we conclude that the arbitrator did not exceed

her powers by resolving each of the Lawyers’ claims against appellants. *See Vargas*, 654 S.W.3d at 7 (“Arbitrators do not exceed their powers if the arbitration award has a basis that is at least rationally inferable, if not obviously drawn from the letter or purpose of the arbitration agreement.”). The fact the arbitrator may have misinterpreted or misapplied the law in its award does not empower this court to vacate it. *Id.* at 8 (construing section 10(a)(4) of the FAA); *Rassouli v. Nat’l Signs Holding Co.*, No. 14-15-00353-CV, 2017 WL 6374720, at *3 (Tex. App.—Houston [14th Dist.] Dec. 14, 2017, no pet.) (mem. op.) (“Thus, we will not disturb an [arbitration] award even if, in our view, the arbitrator misapplied the law.”). We therefore overrule Caroline’s second issue on appeal and Rich’s first issue.

C. Appellants have not shown that the trial court erred when it confirmed the arbitration award even if the arbitrator violated public policy.

Appellants next argue that the trial court erred when it confirmed the arbitration award because the arbitrator enforced contracts, the contingent fee agreements, that violated Texas public policy.² Appellants also argue that the trial court erred because the arbitrator misapplied Texas law even though the arbitration agreements required her to apply that law correctly. We have already rejected appellants’ argument that the trial court erred because the arbitrator allegedly misapplied Texas law. We therefore do not repeat that analysis here. Because violating public policy is not a ground for vacating an arbitration award under the FAA, appellants’ contentions that the trial court erred when it confirmed the arbitration award because the arbitrator allegedly violated Texas public policy are unavailing. *See LeFoumba v. Legend Classic Homes, Ltd.*, No. 14-08-00243-CV,

² In addition to arguing that the arbitrator violated Texas public policy when she enforced the contingent fee agreements, appellants assert that the arbitrator violated public policy when she found in favor of the Lawyers on the Lawyers’ equitable causes of action. We address these contentions together.

2009 WL 3109875, at *2 (Tex. App.—Houston [14th Dist.] Sept. 17, 2009, no. pet.) (mem. op.) (holding the FAA statutory grounds for vacatur are exclusive and that even if an arbitration award under the FAA violates public policy, a court may not vacate the award because it is not one of the exclusive vacatur grounds).

Caroline next asserts that the trial court erred when it confirmed the arbitration awards because the arbitrator’s finding against her breach of fiduciary duty claim was against the great weight and preponderance of the evidence submitted during the arbitration hearing. Because sufficiency of the evidence is not a basis listed in the FAA for overturning an arbitrator’s award, we conclude this contention offers no support for vacating the arbitration awards.

Finally, Caroline asserts, without citation to the appellate record, that the trial court erred when it confirmed the arbitration awards against her because the arbitration agreement required the arbitrator to correctly apply Texas law when rendering her decision. Even if the FAA permitted the parties to contractually modify the standard of review for arbitration awards, we have reviewed the contingent fee agreements at issue here, including the arbitration clauses, and we could not find this language. Thus, this contention does not demonstrate error by the trial court. *See Bertucci*, 709 S.W.3d at 542–43, n.9. We overrule Caroline’s third issue and Rich’s second issue.

D. The trial court did not err when it confirmed the arbitration awards, which included an award of attorneys’ fees and expenses.

Appellants next argue that the trial court erred when it confirmed the arbitration awards because the arbitrator exceeded her powers by including an award of attorneys’ fees and expenses to the Lawyers because, in appellants’ view, the arbitration agreements did not provide for an award of attorneys’ fees and expenses. We disagree.

In this case both arbitration clauses provide that “[a]ny and all disputes, controversies, claims or demands arising out of or relating to [the contingent fee agreements] or any provision hereof, the providing of services by Attorney to Client, or in any way relating to the relationship between Attorney and Client, whether in contract, tort, or otherwise, at law or in equity, for damages or other relief shall be resolved by binding arbitration” Attorneys’ fees are recoverable in a breach of contract action. *See* Tex. Civ. Prac. & Rem. Code § 38.001(b)(8) (providing that a party may recover reasonable attorneys’ fees, in addition to the amount of a valid claim and costs, if the claim is for an oral or written contract). We conclude that the arbitration agreements’ language, quoted above, authorizing the arbitrator to resolve all disputes between the parties and then determine the appropriate damages and other relief to award is broad enough to encompass an award of attorneys’ fees.

Additionally, the arbitration agreements incorporated the AAA Commercial Arbitration Rules. Rule R-49(d)ii expressly provides that an arbitrator’s award may include an award of attorneys’ fees if all parties have requested them or they are authorized by law or the parties’ arbitration agreements. AAA, Commercial Arbitration Rules and Mediation Procedures, R-49(d)(ii). All parties to the arbitration requested an award of attorneys’ fees and costs. Also, as discussed above, an award of attorneys’ fees is authorized for a breach of contract cause of action. *See* Tex. Civ. Prac. & Rem. Code § 38.001(b)(8).

Finally, we turn to appellants’ argument that the arbitrator exceeded her powers by misapplying Texas Law when she did not require the Lawyers to segregate their fees. Because an award of attorneys’ fees was authorized by the parties’ agreements and the AAA Commercial Arbitration Rules, we conclude the arbitrator did not exceed her powers when she awarded the Lawyers their attorneys’ fees. *See Gilchrist Cmty. Ass’n v. Hill*, No. 14-21-00630-CV, 2024 WL 1568543,

at *6 (Tex. App.—Houston [14th Dist.] April 11, 2024, pet. denied) (mem. op.) (“Thus, the appropriate inquiry is not whether the arbitrator decided an issue correctly, but instead whether she had the authority to decide the issue at all. Having concluded that the arbitrator had the power to award to [sic] attorney’s fees to appellees, we conclude that the arbitrator did not exceed her powers.”). We hold that appellants have not shown that the trial court erred by confirming the arbitration awards because they include an award of attorneys’ fees and expenses. We overrule each appellant’s fourth issue.

E. The arbitrator provided a reasoned award.

Caroline argues in her fifth issue and Rich argues in his third issue that the trial court erred when it confirmed the arbitration award because the arbitrator did not provide a reasoned basis in her interim award for denying their claims for affirmative relief and overruling their defenses. Assuming without deciding that the arbitrator was required to provide a reasoned award resolving the parties’ dispute, we conclude that she did so here. *See Stage Stores, Inc. v. Gunnerson*, 477 S.W.3d 848, 857 (Tex. App.—Houston [1st Dist.] 2015, no pet.) (assuming for purposes of appeal that arbitrator’s notation in a scheduling order was sufficient evidence that the parties agreed to a reasoned award).

The arbitrator’s interim award is styled Reasoned Interim Award and is twenty-five pages in length. The arbitrator began with a Procedural Background and a summary of the arbitration hearing and the evidence submitted during the hearing. The arbitrator then explained the matters she considered which included the parties’ pleadings, the hearing testimony and exhibits, all expert reports, and all briefs submitted by the parties during the arbitration. Next, the arbitrator explained her credibility decisions with respect to the party witnesses. The arbitrator found all three of the Lawyers credible and that they provided credible testimony. The

arbitrator found that Caroline, “although credible at times, was not always a credible witness.” Finally, the arbitrator found that Rich was not a credible witness and his testimony was not credible.

The arbitrator then turned to the appellants’ objections to the arbitration. After providing a summary of the law related to the enforcement of arbitration clauses, the arbitrator overruled appellants’ objections. The arbitrator made various findings regarding the objections to arbitration. These findings included: (1) the arbitration agreements were fair, valid, and enforceable; (2) the Lawyers provided all “necessary or appropriate advice and disclosures regarding” both the contingent fee agreements and the arbitration agreements contained in the fee agreements; (3) appellants were not fraudulently induced to sign the contingent fee agreements; and (4) “as in other circumstances in which the parties’ testimony conflicted, the Lawyers’ evidence and testimony on these issues was credible and [appellants’] evidence and testimony on these issues was not credible.”

The arbitrator next made her factual and legal findings and conclusions. These ran more than twelve pages in length and included a summary of the record evidence as determined by the arbitrator. This section of the Reasoned Interim Award concluded with nineteen specific findings based on the previous summary of the evidence. The arbitrator next addressed the parties’ claims and defenses and sets out her award, which granted all relief requested by the Lawyers and none of the relief requested by appellants.

Absent an agreement to the contrary, an arbitrator can issue a standard award, which simply announces a result without any reasoning or explanation. *Stage Stores, Inc.*, 477 S.W.3d at 857. Parties to an arbitration may agree that an arbitrator hearing a dispute will make findings of fact and conclusions of law when making its decision. *Id.* In between these extremes stands a reasoned award, which has been described

as “a somewhat ambiguous term left undefined by the FAA.” *Cat Charter, LLC v. Schurtenberger*, 646 F.3d 836, 843 (11th Cir. 2011). Our sister court, in *Stage Stores, Inc.*, reviewed the cases addressing the meaning of a reasoned award in the context of an arbitration conducted under the FAA and determined that a reasoned award “is an award that is provided with or marked by the detailed listing *or mention of* expressions or statements offered as a justification of the decision of the Panel or arbitrator.” 477 S.W.3d at 859 (quotations omitted, emphasis in original). We agree with the First Court of Appeals and adopt this definition of reasoned award here. Based on this definition of what a reasoned award requires, we conclude that the arbitrator’s Interim Reasoned Award meets those requirements. We overrule Caroline’s fifth issue and Rich’s third issue.

F. The trial court did not err when it confirmed the arbitration awards, which included an award of prejudgment interest.

Appellants both argue that the trial court erred when it confirmed the arbitration awards because, in appellants’ view, they contain a material miscalculation of prejudgment interest. Appellants assert that the arbitrator used the wrong date to begin the accrual of the prejudgment interest included in the arbitration award. Appellants cite section 11(a) of the FAA in support of their argument that correcting an alleged miscalculation of prejudgment interest is a modification that can be made to an arbitration award. *See* 9 U.S.C. § 11(a) (permitting a district court to modify an arbitration award “where there was an evident material miscalculation of figures”).

The parties’ arbitration agreements authorized the arbitrator to resolve “any and all disputes, controversies, claims or demands” arising out of the relationship between appellants and the Lawyers. The arbitration agreements also authorized the arbitrator to award damages and any other relief necessary to resolve the disputes

submitted to her. This includes prejudgment interest. *See Gilchrist Cmty. Ass’n*, 2024 WL 1568543, at *7 (stating that prejudgment interest is compensation for the lost use of money owed as damages during the lapse of time between the accrual of a claim and the date of judgment). The arbitration agreements also incorporated the AAA Commercial Rules, including Rule R-49(d)(i) which states that an arbitrator’s award may include “interest at such rate and from such date as the arbitrator may deem appropriate.” AAA, Commercial Arbitration Rules and Mediation Procedures, R-49(d)(i). Therefore, the amount of interest awarded, if any, was entrusted to the arbitrator’s discretion. As such, even if the arbitrator’s calculation of prejudgment interest was in error, this is not an error that can be corrected by a trial or appellate court because we may not substitute our judgment for that of the arbitrator on an issue properly before the arbitrator. *Gilchrist Cmty. Ass’n*, 2024 WL 1568543, at *7.

Appellants’ reliance on section 11(a) of the FAA does not change this analysis because it addresses errors that are clerical in nature rather than legal. *Fogal v. Stature Const., Inc.*, 294 S.W.3d 708, 721 (Tex. App.—Houston [1st Dist.] 2009, pet. denied). Determining the accrual date for prejudgment interest is a legal determination and therefore the entry of an allegedly incorrect accrual date for prejudgment interest is not a clerical mistake that can be corrected pursuant to section 11(a) of the FAA. *See B.Z.B., Inc. v. Clark*, 273 S.W.3d 899, 903–04 (Tex. App.—Houston [14th Dist.] 2008, no pet.) (stating that a clerical error is an error that is not the result of legal reasoning, evidence, or determination). We overrule Caroline’s sixth issue and Rich’s fifth issue.

CONCLUSION

Having overruled appellants' issues, we affirm the trial court's final order confirming the arbitration awards.

/s/ Chad Bridges
Justice

Panel consists of Justices Bridges, Boatman, and Antú.