

STEWART WEINBERG  
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WILLIAM A. SOKOL  
ANTONIO RUIZ  
MATTHEW J. GAUKER  
ASHLEY K. IKEDA  
LINDA BALDWIN JONES  
PATRICIA A. DAVIS  
ALAN G. CROWLEY  
KRISTINA L. HILLMAN  
BRUCE A. HARLAND  
CAREN P. SENCER  
ANNE I. YEN  
JANNAH V. MANANSALA  
MANUEL A. BOIGUES  
KERIANNE R. STEELE  
GARY P. PROVENCER  
EZEKIEL D. GARDNER  
LISE R. SOTO  
JOLENE KRAMER  
CAITLIN E. GRAY  
TIFFANY L. CRAIN  
XOCHITL A. LOPEZ  
DAVID W.M. FUJIMOTO  
ANDREA C. MATSUOKA  
ALEXANDER S. NAZAROV  
SEAN W. McDONALD

March 27, 2023

VIA EMAIL

Mr. Gary Watson  
President/Business Agent  
Teamsters Union Local No. 533  
1190 Selmi Dr #100  
Reno, NV 89512  
[gary@teamsters533.org](mailto:gary@teamsters533.org)

Re: March 27, 2023 Order  
USDC District of Nevada Case No. 2:22-cv-00710-RFB-EJY  
Keolis Transit America Inc. v. Teamsters Union Local 533

Dear Mr. Watson:

Attached please find Judge Richard F. Boulware, II's March 27, 2023 Order denying Keolis' Motion and granting the Union's Motion to Confirm. Congratulations on this victory!

This matter was dismissed, and the Arbitration Award was confirmed. We will prepare a Motion for Attorneys' Fees. The Court found that Attorneys' Fees are warranted in this case but has not yet ordered fees. The Court did not hear arguments on Fees during hearing, so the court's request for us to file a Motion is likely to provide Keolis an opportunity to be heard before the Court orders the Fees. We will keep you informed of the progress.

Please do not hesitate to contact me should you have any questions or wish to discuss.

Sincerely,



Tiffany L. Crain

TLC:ms  
opeiu 29 afl-cio(1)  
Attachment  
cc: Ms. Debbie Calkins

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KATHARINE R. McDONAGH  
WILLIAM T. HANLEY  
BISMA SHAHBAZ  
MATTHEW J. ERLE  
MAXIMILLIAN D. CASILLAS  
CRAIG L. SCHECHTER  
MICHAELA F. POSNER  
ALEXANDER M. MILNE  
ZACHARY D. ANGULO  
JOSEPH T. ADAMIAK  
MICHAEL E. BRAUD  
HUGO GARCIA  
WINNIE VIEN  
AILYN GONZALEZ  
SARA J. ZOLLNER

OF COUNSEL

ROBERTA D. PERKINS  
ROBERT E. SZYKOWNY  
ANDREA K. DON  
LORI K. AQUINO

LABOR EDUCATOR

NINA FENDEL (Retired Attorney)

Admitted in California, unless  
otherwise noted  
Admitted in Hawaii  
Also admitted in Nevada  
Also admitted in Illinois  
Also admitted in New York and  
Alaska  
Also admitted in Minnesota  
Admitted in Nevada and  
Washington  
Also admitted in Idaho

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

KEOLIS TRANSIT AMERICA INC.,  
Plaintiff,  
v.  
TEAMSTERS UNION, LOCAL 533,  
Defendant.

Case No. 2:22-cv-00710-RFB-EJY

**ORDER**

**I. INTRODUCTION**

Before the Court are two motions and one cross-motion: Plaintiff Keolis Transit America (“Keolis”), Inc.’s Notice and Motion to Vacate Arbitration Award (ECF No. 1) and Defendant Teamsters Union, Local 533, Motion to Dismiss and Cross Motion to Confirm Arbitration Award by Defendant Teamsters Union, Local 533 (“the Union” or “Teamsters”). For the reasons stated below, the Court denies Keolis’ Motion and grants the Union’s cross-motion.

**II. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND**

Keolis commenced this case by filing its Notice and Motion to Vacate Arbitration Award on May 3, 2022. ECF No. 1. Teamsters filed a pre-answer Motion to Dismiss on June 1, 2022. ECF No. 12. Keolis filed its Response to the Motion on June 13, 2022. ECF No. 13. Teamsters filed its Reply in support of its Motion on June 17, 2022. ECF No. 14. On July 20, 2022, the Court directed the parties to file a proposed discovery plan and scheduling order no later than August 3, 2022. ECF No. 15. The parties filed a proposed joint discovery plan and scheduling order on July 27, 2022, which the Court granted the same day. ECF Nos. 16, 17. The Court set a hearing for the pending motions on January 27, 2023. ECF No. 18.

1           **III.    FACTUAL ALLEGATIONS**

2           Keolis alleges the following facts in its Notice and Motion (ECF No. 1):

3           Keolis is a transportation company that operates public transportation bus routes around  
4 the world, including in Nevada. Michael Rowan is a former Keolis bus driver. In Reno, where  
5 Rowan was based, Keolis operates buses pursuant to a contract with the Regional Transit  
6 Commission of Washoe County, Nevada (“RTC”). The parties are bound to a collective  
7 bargaining agreement (“the CBA”). The CBA requires disputes involving the CBA to be submitted  
8 to binding arbitration.

9           Rowan was terminated from Keolis because he engaged in unsafe behavior while operating  
10 a vehicle in violation of the CBA and Keolis policies. Specifically, Rowan was seen on  
11 surveillance video on June 1, 2020 watching a loud video on his cell phone on two separate  
12 occasions for several minutes at a time, while passengers were boarding and exiting the bus.  
13 Rowan played the videos so loudly that a customer complained on or about June 1, 2020.

14           In response to the customer complaint, Keolis investigated and confirmed via video  
15 surveillance that Rowan’s conduct violated the following policies: CBA Section 9.6 (no use of cell  
16 phone while operating vehicle); Company Rule 4 (no use of cell phone while in the seat of any  
17 company vehicle), and provisions of the Keolis Handbook prohibiting the use of cell phones where  
18 use or distraction with use could create a safety risk to an employee or others. After reviewing the  
19 passenger complaint and observing Rowan’s safety violations, Keolis terminated Rowan’s  
20 employment on June 19, 2020. The Union filed a grievance on June 24, 2020 alleging Rowan was  
21 wrongfully discharged.

22           An arbitration hearing was held on June 15, 2021 in Reno Nevada before Arbitrator Robert  
23 B. Hirsch. During the hearing, Keolis testified that there had never been an instance where a driver  
24 was observed using a cellphone while operating a company vehicle and had NOT been terminated.  
25 At the conclusion of the hearing, the parties filed post hearing briefs. On August 27, 2021, the  
26 Arbitrator issued the award.

27           The Arbitrator mistakenly found that Keolis failed to rely upon the policy contained in the  
28 handbook even though the termination form clearly states Rowan violated ” Keolis [] handbook

1 policies....and policies posted” even though Rowan violated both the handbook policies and the  
2 posted Work Rule 4. The arbitrator found that work rule 4 violated the CBA. Section 9.3 of the  
3 CBA allows the Union to grieve Keolis work rules and failure to do so within 14 days of  
4 implementation means the rule stands implemented. This rule should be deemed to stand as  
5 implemented. Furthermore, the Arbitrator found that Work Rule 4 was unreasonable because  
6 operating a bus and sitting in a driver’s seat are two different things. The Arbitrator found that  
7 operating a vehicle is not the same as sitting in the driver’s seat with the vehicle idling. Based on  
8 these conclusions, The Arbitrator first found that Rowan did violate Keolis’ Personal Electronic  
9 Devices policy that prohibits the use of cell phone where the “use or distraction with use could  
10 create a safety risk to an employee or others.” The Arbitrator also found that “Rowan used his cell  
11 phone to watch videos while he sat in the driver’s seat of his vehicle with passengers on board.”  
12 The Arbitrator then found that “[i]t was clear from the video introduced into evidence that he was  
13 focused solely on his phone and oblivious to the passengers who were in his custody and care” and  
14 “Rowan was not mindful of his responsibilities – care for the transit passengers – while he watched  
15 his phone,”

16 Even after making these findings, the Arbitrator only imposed a two (2) week suspension  
17 for the clear violation rather than use it to sustain termination. The Arbitrator concluded that found  
18 that: (a) Keolis’ decision to discharge Rowan violated the just cause doctrine; (b) Rowan was to  
19 be reinstated and any reference to his discharge be expunged from Keolis’ personnel records; and  
20 (c) Rowan was to be made whole for lost wages and benefits he would have earned, less two  
21 weeks’ wages and benefits, and less any monies earned during time away from employment with  
22 Keolis.

23 The Arbitration Award did not fix a total amount of backpay but merely provided that two  
24 weeks should be deducted from the unspecified backpay awarded. Keolis reinstated Rowan on  
25 September 1, 2021, but requested evidence of mitigation before backpay could be calculated. On  
26 October 7, 2021, the Arbitrator ordered in an email that Rowan provide only a statement under  
27 penalty of perjury confirming his earnings from his date of termination of employment with Keolis.  
28 In this email, the Arbitrator requested only that Rowan account for his efforts to find other

1 employment and list unemployment benefits received. The email stated that “No other data or  
2 documents are to be included” and “No other information is to be requested by the Employer.”  
3 Rowan submitted a two-page statement that simply itemized his purported interim earnings and  
4 stated without explanation that he applied for but received no unemployment benefits.

5 Rowan’s statement on backpay provided no explanation as to why he did not receive  
6 unemployment benefits, and what, if any actions he took to obtain employment during his 6-month,  
7 3-week period of unemployment. On January 5, 2022, Keolis requested an evidentiary backpay  
8 hearing. Arbitrator Hirsch subsequently scheduled what Keolis understood was to be a joint status  
9 conference (“Conference”) with counsel for the Union. All hearing requests were denied. Rowan  
10 represented, by counsel, that he would seek 66 full weeks of backpay. There are, however, only  
11 62 weeks and 4 days between June 20, 2020 (date of Rowan’s firing) and September 1, 2021 (date  
12 of Rowan’s reinstatement). The Arbitrator was made aware of this on January 8, 2022. On  
13 February 2, 2022, the Arbitrator ordered Keolis to pay Rowan backpay and benefits for 66 weeks.  
14 The Arbitrator worked at the Union’s law firm for eleven years and was biased against Keolis.

#### 15 16 **IV. LEGAL STANDARD**

##### 17 **a. Motion to Vacate Arbitration Award**

18 Recently, the Supreme Court clarified that Courts reviewing petitions to vacate or confirm  
19 arbitration awards may not “look through” to the underlying controversy to find subject matter  
20 jurisdiction over the dispute. Badgerow v. Walters, 142 S. Ct. 1310, 1314 (2022). After Badgerow,  
21 "a court may look only to the application actually submitted to it in assessing its jurisdiction." Id.  
22 Therefore, a federal court has subject-matter jurisdiction only if the "face of the application [to  
23 confirm or vacate]. . . shows that the contending parties are citizens of different States (with over  
24 \$75,000 in dispute) . . . [o]r if it alleges that federal law (beyond Section 9 or 10 [of the Federal  
25 Arbitration Act]) entitles the applicant to relief." Id. at 1316.

26 Pursuant to the Federal Arbitration Act, 9 U.S.C.S. § 1 et seq., a federal court may vacate  
27 an arbitration award: (1) where the award was procured by corruption, fraud, or undue means; (2)  
28 where there was evident partiality or corruption in the arbitrators; (3) where the arbitrators were

1 guilty of misbehavior by which the rights of any party have been prejudiced; or (4) where the  
2 arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite  
3 award upon the subject matter submitted was not made. 9 U.S.C.S. § 10; see also Coutee v.  
4 Barington Capital Group, L.P., 336 F.3d 1128, 1132 (9th Cir. 2003) (finding the court’s review of  
5 an arbitration decision is “limited and highly deferential.”) (internal citation omitted). The  
6 petitioner cannot show evident partiality, pursuant to 9 U.S.C. § 10(a)(2), if an arbitrator merely  
7 fails to disclose facts “relating to long past, attenuated, or insubstantial connections between a  
8 party and an arbitrator.” In re Sussex, 776 F.3d 1092, 1094 (9th Cir. 2015). Arbitrators exceed  
9 their powers when the given award “evidences a manifest disregard for law.” A.G.Edwards &  
10 Sons, Inc. v. McCollough, 967 F.2d 1401, 1403 (9th Cir. 1992). However, “manifest disregard for  
11 the law means something more than just an error in the law[.]” Luong v. Circuit City Stores, Inc.,  
12 368 F.3d 1109, 1112 (9th Cir. 2004). Mere ambiguity in the arbitrator's opinion is likewise  
13 insufficient for a finding of manifest disregard. Sheet Metal Workers Int'l Ass'n, Local No. 359,  
14 AFL-CIO v. Ariz. Mech. & Stainless, Inc., 863 F.2d 647, 653 (9th Cir. 1988). The reviewing court  
15 also cannot second-guess the weight the arbitrator assigns to conflicting evidence in resolving  
16 disputes. Coutee v. Barington Capital Group, L.P., 336 F.3d 1128, 1134 (9th Cir. 2003).

#### 17 18 **b. Motion to Dismiss**

19 An initial pleading must contain “a short and plain statement of the claim showing that the  
20 pleader is entitled to relief.” Fed. R. Civ. P. 8(a). The court may dismiss a complaint for “failure  
21 to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). In ruling on a motion  
22 to dismiss, “[a]ll well-pleaded allegations of material fact in the complaint are accepted as true and  
23 are construed in the light most favorable to the non-moving party.” Faulkner v. ADT Sec. Services,  
24 Inc., 706 F.3d 1017, 1019 (9th Cir. 2013) (citations omitted).

25 To survive a motion to dismiss, a complaint need not contain “detailed factual allegations,”  
26 but it must do more than assert “labels and conclusions” or “a formulaic recitation of the elements  
27 of a cause of action . . . .” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atlantic Corp.  
28 v. Twombly, 550 U.S. 544, 555 (2007)). In other words, a claim will not be dismissed if it contains

1 “sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face,”  
2 meaning that the court can reasonably infer “that the defendant is liable for the misconduct  
3 alleged.” Id. at 678 (internal quotation and citation omitted). The Ninth Circuit, in elaborating on  
4 the pleading standard described in Twombly and Iqbal, has held that for a complaint to survive  
5 dismissal, the plaintiff must allege non-conclusory facts that, together with reasonable inferences  
6 from those facts, are “plausibly suggestive of a claim entitling the plaintiff to relief.” Moss v. U.S.  
7 Secret Service, 572 F.3d 962, 969 (9th Cir. 2009).

## 8

### 9 V. DISCUSSION

10 The Court finds that there is an initial question of subject matter jurisdiction that the parties  
11 have not briefed. The Court finds that Keolis has not adequately plead facts supporting an  
12 independent basis for subject matter jurisdiction in this case. First, while there is complete  
13 diversity, the amount in controversy is less than \$75,000.00. The award, which Keolis argues is  
14 too high, is \$64,765.36. This is the only amount in controversy mentioned in the Petition. Under  
15 Badgerow, Plaintiff would need an independent basis, under federal question jurisdiction, to bring  
16 this case. The only federal statute—outside of the FAA—pursuant to which Keolis brings the  
17 instant case is Section 301 of the Labor Management Relations Act (“LMRA”).

18 As the Court understands the relationship between these two statutes, the Court may  
19 analyze the validity of the Arbitration award under either, but not both. This is evidenced by the  
20 fact that there are different (albeit only slightly different) standards of review under each of the  
21 two federal statutes. Pursuant to the LMRA, a court may vacate an arbitration award (1) when the  
22 award does not draw its essence from the collective bargaining agreement and the arbitrator is  
23 dispensing his own brand of industrial justice; (2) where the arbitrator exceeds the boundaries of  
24 the issues submitted to him; (3) when the award is contrary to public policy, or (4) the award is  
25 procured by fraud. See Southwest Reg'l Council of Carpenters v. Drywall Dynamics, Inc., 823  
26 F.3d 524, 530 (9th Cir. 2016), cert. denied, 580 U.S. 1099, 137 S. Ct. 829, 197 L. Ed. 2d 68 (2017)  
27 (internal citation and quotation marks omitted). Pursuant to the FAA, any party may apply to the  
28 Court to confirm, vacate, modify, or correct an arbitration award. 9 U.S.C. § 9. A court may

1 vacate an arbitration award, pursuant to the FAA, (1) where the award was procured by corruption,  
2 fraud, or undue means; (2) where there was evident partiality or corruption in the arbitrators; (3)  
3 where the arbitrators were guilty of misbehavior by which the rights of any party have been  
4 prejudiced; or (4) where the arbitrators exceeded their powers, or so imperfectly executed them  
5 that a mutual, final, and definite award upon the subject matter submitted was not made. 9 U.S.C.S.  
6 § 10; see also Coutee v. Barington Capital Group, L.P., 336 F.3d 1128, 1132 (9th Cir. 2003).

7 The Union addressed the different standards of review in its argument on its motion, but  
8 Keolis has not responded. The Union's position is that the Ninth Circuit applies the FAA to labor  
9 arbitration disputes. Keolis brings its Petition pursuant to both statutes but does not explain, in its  
10 response to the Union's motion, why (or whether) the LMRA, rather than the FAA, should govern  
11 the Court's review of the case. Nevertheless, the choice between the relevant legal standards is not  
12 outcome determinative here for two reasons. First, even if this Court strictly applies Section 301,  
13 it may look to the FAA for guidance. See Int'l Alliance of Theatrical Stage Emple. v. Insync Show  
14 Prods., Inc., 801 F.3d 1033, 1039 (9th Cir. 2015) (noting that federal courts often look to the FAA  
15 for guidance in labor arbitration cases especially since § 301 empowers federal courts to craft  
16 federal common law in applying and interpreting the LMRA) (citing United Paperworkers Int'l  
17 Union, AFL-CIO v. Misco, Inc., 484 U.S. 29, 41 n.9 (1987) (internal quotation marks omitted)).

18 Second, the Court is required, under both the FAA and Section 301, to defer to arbitration  
19 awards. Sheet Metal Workers' Int'l Assn. Loc. Union No. 359 v. Madison Indus., Inc. of Ariz., 84  
20 F.3d 1186, 1190 (9th Cir. 1996) (judicial review of arbitration awards under the LMRA is "both  
21 limited and highly deferential"); Aspic Eng'g and Constr. Co. v. EEC Centcom Constructors LLC,  
22 913 F.3d 1162, 1166 (9th Cir. 2019) (finding the same under the FAA).

### 23 **A. Statute of Limitations**

24 The Union argues that Keolis' motion is time barred because Keolis waited longer than  
25 three months after the award was filed or delivered to commence the case. There are two  
26 arbitration awards in this case. The first was issued on August 27, 2021. Keolis had 3 months (i.e.  
27 until November 27, 2021) to challenge the award. It failed to do so. The Arbitrator issued a second  
28 award on February 2, 2022. Keolis filed its federal court petition on May 3, 2022, but failed to



1 effectuate service on that date. Because service was not effectuated on the Union until May 9,  
2 2022, Keolis waived its challenge to the second award. Keolis counters that service was perfected  
3 in time, and that the statute of limitations does not run until the Arbitrator determined the amount  
4 of backpay (February 2, 2022).

5 The Court agrees with Keolis that the case was not ripe for federal court review until  
6 Arbitrator Hirsh established a final backpay determination in the February 2, 2022 Order. See,  
7 e.g., Millmen Local 550, Un. Broth. Of Carpenters & Joiners of Am., AFL-CIO v. Wells Exterior  
8 Trim, 828 F.2d 1373, 1375 (9th Cir. 1987) (finding that under Section 301 of the LMRA an  
9 arbitration decision is not final and binding where the arbitrator retains jurisdiction to decide the  
10 remedy) (“[I]nterlocutory review of nonfinal arbitration awards would defeat the purpose of 28  
11 U.S.C. § 1291 (1982) to avoid piecemeal litigation of a claim.”); see also Teamsters, Chauffers,  
12 Warehousemen, and Helpers and Professional, Clerical, Public and Miscellaneous Employees,  
13 Local Union No. 533 v. Keolis Transit America, Inc., No. 21-cv-00167 (CLB), 2021 WL 4097136  
14 (D. Nev. Sep. 8, 2021) (finding that the arbitrator’s award was not final and binding in part because  
15 it was ambiguous as to backpay and the Arbitrator had retained jurisdiction to decide the remedy  
16 if a dispute between the parties arose).

#### 17 **B. Motion to Vacate and Motion to Dismiss**

18 The Court otherwise finds that under both the FAA and Section 301 of the LMRA, the  
19 Court must confirm, rather than vacate, the Award. Keolis raises three arguments in chief: that  
20 the Arbitrator exceeded his powers under the CBA by issuing a decision that modifies the express  
21 terms Keolis policies and the parties’ CBA; and that the Arbitrator violated the FAA when he  
22 refused to consider evidentiary material pertinent to the parties’ dispute; that the Arbitrator’s award  
23 was biased in favor of the Union.

24 The burden of proof in a proceeding to confirm or vacate an arbitration award rests with  
25 the party defending against enforcement of the award. U.S. Life Ins. Co. v. Superior Nat. Ins. Co.,  
26 591 F.3d 1167, 1173 (9th Cir. 2010). The Court finds that Keolis has not satisfied that burden as  
27 to each of its arguments, which are analyzed in turn. Keolis has not shown that the Arbitrator  
28 exceeded his powers. The Arbitrator weighed the evidence, read the relevant sections, and

1 concluded that Work Rule 4 conflicted with rather than expanded CBA Section 9.6. He noted that  
2 “it does not help Keolis’ case that it sought to include language resembling Work Rule 4 in the  
3 CBA during the most recent round of contract negotiations. One has to wonder why an employer  
4 would seek to negotiate such a provision, and possibly fail at the bargaining table, if it already  
5 enjoyed the right in question.” ECF No. 1 p. 37, n. 4.

6 Judicial scrutiny of an arbitrator's decision in a labor dispute "is extremely limited." Sheet  
7 Metal Workers Int'l Ass'n, Local No. 359 v. Arizona Mechanical & Stainless, Inc., 863 F.2d 647,  
8 653 (9th Cir. 1988). This Court must defer to the arbitrator whenever she "arguably construing or  
9 applying the contract." United Paperworkers Int'l Union v. Misco, Inc., 484 U.S. 29, 38 (1987).  
10 Here, the Arbitrator appears to go to great lengths to center the language of the CBA, and weighs  
11 the parties’ factual allegations accordingly. Furthermore, the law requires deference to a labor  
12 arbitrator's decision even where a court believes that the decision finds the facts erroneously.  
13 Southwest Reg'l Council of Carpenters, 823 F.3d at 533 (9th Cir. 2016).

14 In reviewing an arbitration award, the district court does not "sit to hear claims of factual  
15 or legal error by an arbitrator as an appellate court does in reviewing decisions of lower courts."  
16 S. Cal. Gas Co. v. Utility Workers Union of Am., Local 132, 265 F.3d 787, 792 (9th Cir. 2001)  
17 (internal quotations omitted). The court's role is to review the procedural soundness of the  
18 arbitration, not its substantive merit. Haw. Teamsters & Allied Workers Union, Local 996 v.  
19 United Parcel Serv., 241 F.3d 1177, 1181 (9th Cir. 2001). Keolis has not shown why, under these  
20 circumstances, this Arbitration award should be vacated under this extremely exacting standard.

21 Keolis argues that the Arbitrator refused to allow Keolis any discovery, inquiry, or even  
22 examination of witnesses regarding the reasonableness of Rowan’s job search during his period of  
23 unemployment. Furthermore, the Arbitrator denied Keolis the opportunity to present evidence  
24 relevant to Rowan’s duty to mitigate his damages (backpay). The Union responds that under the  
25 Arbitrator’s order, the Company could have presented additional mitigation evidence in its  
26 possession. The Arbitrator’s requirement that “no other documents are to be included” was in  
27 reference to a list of items for Rowan to include in his statement. The Arbitrator did not prohibit  
28 the Company from presenting relevant evidence, let alone pertinent and material evidence. Keolis

1 does not argue that it made a request to seek specific discovery that was denied, or that it took  
2 affirmative steps to introduce evidence already in its possession that was also denied.

3 At the hearing on the instant motions, Keolis did not state that it requested any discovery  
4 related to remedies during the general discovery period prior to the hearing before the Arbitrator  
5 that the Arbitrator denied. The Court agrees with the Union that by granting the Arbitrator  
6 jurisdiction over the remedy in the case, the parties granted the Arbitrator the power to determine  
7 the appropriate procedures for determining a remedy. The Arbitrator exercised those powers fairly  
8 here. Furthermore, Keolis does not point to language in the CBA that curtails or limits the  
9 Arbitrator's power to control post-hearing discovery, or any evidence that specific requests were  
10 granted or denied unfairly or prejudicially. See, e.g., Ferguson v. Countrywide Credit Indus., Inc.,  
11 298 F.3d 778, 787 (9th Cir. 2002) (concluding discovery provisions limiting the number of  
12 depositions to three "may afford [plaintiff] adequate discovery to vindicate her claims" when the  
13 arbitrator had discretion to allow for more depositions and expand discovery).

14 Keolis argues that the Arbitrator had a bias in favor of the Union traceable to his decade  
15 long tenure at the Union's counsel's law firm. "[A]n arbitrator's business relationships may be  
16 diverse indeed, involving more or less remote commercial connections with great numbers of  
17 people. He cannot be expected to provide the parties with his complete and unexpurgated business  
18 biography." Commonwealth Coatings Corp. v. Continental Casualty, 393 U.S. 145, 151-52 (1968).  
19 Instead, an arbitrator must disclose only those relationships that are substantial, and not "trivial."  
20 Id.; see also Schmitz v. Zilveti, 20 F.3d 1043, 1046 (9th Cir. 1994) ("[E]vident partiality is present  
21 when the undisclosed facts show a reasonable impression of partiality.") (internal citation and  
22 quotation marks omitted).

23 Keolis had the Arbitrator's resume before the parties began the striking process to select  
24 an Arbitrator. Keolis agreed on the Arbitrator knowing about his prior work at the Union's law  
25 firm. The Court does not find that the Arbitrator withheld important information about his  
26 connection to the Union's law firm. Additionally, outside of this allegation, Keolis does not raise  
27 relevant facts that challenge the Arbitrator's partiality.

28 /

1           **C. Attorneys' fees**

2           The Court finds that attorney's fees are warranted in this case. In Int'l Union of Petroleum  
3 and Industrial Workers v. Western Industrial Maintenance, Inc., 707 F.2d 425, 428 (9th Cir. 1983),  
4 the Ninth Circuit held that: "bad faith may be demonstrated by showing that a defendant's  
5 obstinacy in granting a plaintiff his clear rights necessitated resort to legal action with all the  
6 expense and delay entailed in litigation" and that "these considerations are particularly apt in the  
7 context of labor arbitration . . . [which] advances the goal of industrial stabilization." (internal  
8 citations and quotation marks omitted).

9           Other circuits have agreed that an award of fees is appropriate when a losing party to a  
10 labor arbitration refuses to comply. United Food & Commercial Workers Union, Local 400 v.  
11 Marval Poultry Co., 876 F.2d 346, 351 (4th Cir. 1989) ("Because such challenges [to arbitration  
12 awards], if undeterred, inevitably thwart the national labor policy favoring arbitration, they must  
13 be considered presumptively unjustified."); Production and Maintenance Employees' Local 504,  
14 Laborers' Intern. Union of N.A., AFL-CIO v. Roadmaster Corp., 916 F.2d 1161, 1163 (7th Cir.  
15 1990) ("Anything less makes a mockery of arbitration's promise to expedite and cut the costs of  
16 resolving disputes.").

17  
18           **VI. CONCLUSION**

19           IT IS THEREFORE ORDERED THAT Keolis' Motion (ECF No. 1) is DENIED, and  
20 Defendant's Motion to Confirm (ECF No. 12) is GRANTED. This matter is DISMISSED, and  
21 the Arbitration Award is CONFIRMED.

22           IT IS FURTHER ORDERED that Defendant is given 30 days to file a Motion for an award  
23 of attorney's fees if it so chooses. If no such motion is filed by April 26, 2023, the Clerk of Court  
24 is instructed to close this case.

25           DATED March 27, 2023.

26  
27           

28           \_\_\_\_\_  
**RICHARD F. BOULWARE, II**  
**UNITED STATES DISTRICT JUDGE**