



1 has alleged that Defendant had failed to pay her and other class members overtime compensation  
2 or benefits as required by federal and state law. See id. Plaintiff’s employment was governed by an  
3 Employee Agreement, which was executed by the parties in 2004. Decl. of Michael A. Aparicio in  
4 Supp. of Def.’s Mot. to Vacate, Ex. A.

5 On October 4, 2011, Defendant filed a Motion to Compel Arbitration based on the  
6 following arbitration clause from the Employee Agreement:

7 Except as provided in Section 7(b) below, I agree that any dispute or controversy  
8 arising out of or relating to any interpretation, construction, performance or breach  
9 of this Agreement, shall be settled by arbitration to be held in Santa Clara County,  
10 California, in accordance with the rules then in effect of the American Arbitration  
11 Association. The arbitrator may grant injunctions or other relief in such dispute or  
12 controversy. The decision of the arbitrator shall be final, conclusive and binding on  
13 the parties to the arbitration. Judgment may be entered on the arbitrator’s decision  
14 in any court having jurisdiction. The Company and I shall each pay one half of the  
15 costs and expenses of such arbitration, and each of us shall separately pay our  
16 counsel fees and expenses.

17 Id. § VII.a. This Court issued an Order Granting the Motion to Compel Arbitration on February 1,  
18 2012. See Docket Item No. 43. In this Order, the Court found the provisions in the arbitration  
19 clause regarding cost-splitting and attorney’s fees to be unconscionable; however the Court found  
20 that those provisions may be severed from the agreement. Id. at 10:18–23. Because the current  
21 dispute relates to Plaintiff’s employment, the Court concluded, the remaining provisions of the  
22 arbitration clause were applicable. Id. at 12:4–6. The Court went on to order, “Any further  
23 decisions regarding the scope of arbitration, including whether class arbitration may proceed, are  
24 left to the arbitrator.” Id.

25 The arbitration proceedings were conducted through the American Arbitration Association  
26 (“AAA”), and heard by arbitrator Louise A. LaMothe, Esq. (“the Arbitrator”). See Pl.’s Mot. to  
27 Confirm Arbitration Award at 1–2. The Arbitrator was selected through the AAA’s usual  
28 procedures, and the arbitration was held telephonically on June 20, 2012. Def.’s Mot. to Vacate at  
8. During the arbitration, Defendant sought to strike the class references in Plaintiff’s arbitration

1 demand so as to require Plaintiff to proceed on an individual basis only. See Aparicio Decl., Ex. L.  
2 On August 27, 2012, in a Partial Final Award on Clause Construction (“the Award”), the Arbitrator  
3 denied Defendant’s motion to strike the class allegations. Id. Pursuant to the AAA’s  
4 Supplementary Rule for Class Arbitrations 3, the Arbitrator stayed the proceedings for a period of  
5 30 days to permit “any party to move a court of competent jurisdiction to confirm or to vacate the  
6 Clause Construction Award.” Id. at 7.

7 On September 7, 2012, Plaintiff moved this Court to reopen the case and confirm the  
8 Award. See Docket Item No. 45. For its part, on September 21, 2012, Defendant cross-moved to  
9 vacate the Award. See Docket Item No. 47.

## 11 **II. Standard of Review**

12 This case presents the issue of whether a district court may vacate a binding award of an  
13 arbitrator pursuant to the Federal Arbitration Act (“FAA”). In reviewing an award, a court must  
14 afford great deference to the arbitrator’s decision as well as the interpretation of the arbitrability of  
15 the dispute. See Sheet Metal Workers’ Int’l Ass’n v. Madison Indus., Inc., 84 F.3d 1186, 1190 (9th  
16 Cir. 1996); see also Pack Concrete, Inc. v. Cunningham, 866 F.2d 283, 285 (9th Cir. 1989). Such  
17 deference is given even in light of the speed and informality in which arbitration can take place.  
18 See Collins v. D.R. Horton, Inc., 505 F.3d 874, 879 (9th Cir. 2007). Indeed, it is these twin  
19 advantages that are lauded by federal policy and make arbitration favorable for the many private  
20 parties in resolving their disputes. See Fairchild & Co., Inc. v. Richmond, Fredericksburg &  
21 Potomac R.R. Co., 516 F. Supp. 1305, 1313 (D.D.C. 1981); see also Madison Indus., Inc., 84 F.3d  
22 at 1190; Scherk v. Alberto-Culver Co., 417 U.S. 506 (1974) (acknowledging that the FAA  
23 “reflects a legislative recognition of the ‘desirability of arbitration as an alternative to the  
24 complications of litigation.’”) (quoting Wilko v. Swan, 346 U.S. 427, 431 (1953)).

25 In assessing cases such as the instant one, it is important to remember that “arbitration is a  
26 consensual agreement of the parties to substitute a final and binding judgment of an impartial entity  
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1 for the judgment of the court.” See Coast Trading Co. v. Pac. Molasses Co., 681 F.2d 1195, 1197  
2 (9th Cir. 1982). The FAA itself provides limited grounds on which a federal court may vacate an  
3 arbitral award, and such awards are binding and enforceable unless the district court finds present  
4 one of the specified grounds. See 9 U.S.C. § 10; see also Kyocera Corp. v. Prudential–Bache Trade  
5 Servs., Inc., 341 F.3d 987, 994 (9th Cir. 2003) (en banc). While the FAA generally presumes that  
6 arbitration awards will be confirmed, the statute enumerates four narrow bases for vacatur:

7 In any of the following cases the United States court in and for the district wherein  
8 the award was made may make an order vacating the award upon the application of  
9 any party to the arbitration—

- 10 (1) where the award was procured by corruption, fraud, or undue means;
- 11 (2) where there was evident partiality or corruption in the arbitrators, or either of  
12 them;
- 13 (3) where the arbitrators were guilty of misconduct in refusing to postpone the  
14 hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent  
15 and material to the controversy; or of any other misbehavior by which the rights  
16 of any party have been prejudiced; or
- 17 (4) where the arbitrators exceeded their powers, or so imperfectly executed them  
18 that a mutual, final, and definite award upon the subject matter submitted was  
19 not made.

20 9 U.S.C. § 10(a).

### 21 **III. Discussion**

22 Defendant’s argument is grounded in the fourth basis for vacatur enumerated in 9 U.S.C.  
23 § 10(a): that the Arbitrator exceeded her powers in denying Defendant’s motion to strike the class.  
24 Under 9 U.S.C. § 10(a)(4), “arbitrators exceed their powers when they express a ‘manifest  
25 disregard for the law,’ or when they issue an award that is ‘completely irrational.’” See Bosack v.  
26 Soward, 586 F.3d 1096, 1104 (9th Cir 2009); Comedy Club, Inc. v. Improv West Assocs., 553 F.3d  
27 1277, 1290 (9th Cir. 2009). “This is a high standard for vacatur: ‘[i]t is not enough ... to show that  
28 the panel committed an error—or even a serious error.’” Lagstein v. Certain Underwriters at  
Lloyd’s, 607 F.3d 634, 642 (9th Cir. 2010) (quoting Stolt–Nielsen S.A. v. AnimalFeeds Int’l Corp.,  
— U.S. —, 130 S.Ct. 1758, 1767 (2010)). Indeed, “[n]either erroneous legal conclusions nor

1 unsubstantiated factual findings justify federal court review of an arbitral award under the statute,  
2 which is unambiguous in this regard.” Bosack, 586 F.3d at 1102; see also Kyocera Corp. v.  
3 Prudential–Bache T Servs., 341 F.3d 987, 997 (9th Cir. 2003) (en banc) (holding that “arbitrators  
4 ‘exceed their powers’ ... when the award is ‘completely irrational,’ or exhibits a ‘manifest disregard  
5 of law.’”).

6 Defendant argues when she issued the Award, the Arbitrator manifestly disregarded the  
7 relevant and applicable law—and thus she exceeded her powers. In support of this notion,  
8 Defendant argues that the Arbitrator ignored dispositive federal and state case law on class  
9 arbitration and contract interpretation. Specifically, Defendant contends that United States Supreme  
10 Court precedent requires a contractual basis to permit class arbitration, and that in this case, there  
11 was none. Defendant also argues that California contract interpretation rules establish that the  
12 Employee Agreement does not allow for class arbitration.

13 Under 9 U.S.C. § 10(a)(4), “‘manifest disregard of the law’ means something more than  
14 just an error in the law or a failure on the part of the arbitrators to understand or apply the law.”  
15 Lagstein, 607 F.3d at 642. “[T]o demonstrate manifest disregard, the moving party must show that  
16 the arbitrator underst[ood] and correctly state[d] the law, but proceed[ed] to disregard the same.”  
17 Bosack, 586 F.3d at 1104; Collins v. D.R. Horton, Inc., 505 F.3d 874, 879 (9th Cir. 2007). “[T]here  
18 must be some evidence in the record, other than the result, that the arbitrators were aware of the  
19 law and intentionally disregarded it.” Bosack, 586 F.3d at 1104; Collins, 505 F.3d at 879. In some  
20 cases, “legally dispositive facts are so firmly established that an arbitrator cannot fail to recognize  
21 them without manifestly disregarding the law.” Coutee v. Barington Capital Group, L.P., 336 F.3d  
22 1128, 1133 (9th Cir. 2003).

23 In light of this highly deferential standard, the Court finds that Defendant’s argument is  
24 without merit. Contrary to Defendant’s contention, the Arbitrator did not ignore the federal and  
25 state law relevant to the task at hand, which was to decide whether the arbitration clause in the  
26 Employee Agreement would permit class arbitration. Rather, the Arbitrator addressed the rules and  
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1 case law that Defendant refers to, explicated their application, and distinguished the facts from the  
2 present case from those of other relevant and precedential cases when necessary.

3 For example, Defendant heavily relies on the Supreme Court decision in Stolt-Nielsen S.A.  
4 v. AnimalFeeds Int'l Corp. in support of its position that the Arbitrator exceeded her powers. As  
5 the Arbitrator noted, Stolt-Nielsen requires arbitrators to find evidence that the parties agreed to  
6 class arbitration. See Stolt-Nielsen, — U.S. —, 130 S.Ct. 1758, 1775 (2010) (“[A] party may not  
7 be compelled under the FAA to submit to class arbitration unless there is a contractual basis for  
8 concluding that the party agreed to do so.”). The Arbitrator in this case applied that reasoning in  
9 reaching her decision: She examined the Employee Agreement and the relevant case law in  
10 reaching her conclusion that at the time the contract was entered into the parties understood that  
11 class arbitration was a possible consequence of the arbitration clause. See Award at 6 (“The  
12 reasonable expectations of parties entered into contracts with language such as this one with  
13 California governing law in 2004 was that there would be class arbitration of claims such as those  
14 raised in this Arbitration.”). As such, she determined, there was indeed a contractual basis for  
15 concluding that the parties had agreed to the possibility of class arbitration. Stolt-Nielsen held that  
16 arbitrators may not infer an implicit agreement from class arbitration “solely from the fact of the  
17 parties’ agreement to arbitrate.” 130 S.Ct. at 1775. This is not what the Arbitrator did here. She did  
18 not rely solely on the fact of an agreement to arbitrate generally; rather, she looked to the entirety  
19 of the relevant circumstances surrounding execution of the Agreement in order to glean the  
20 understanding of the parties at the time the contract was entered into.

21 Additionally, as instructed by Stolt-Nielsen, the Arbitrator examined the applicable law  
22 governing the Agreement. In Stolt-Nielsen, the Supreme Court took issue with the arbitrators’  
23 wholly ignoring the applicable New York and maritime laws when it reached its decision:  
24 “[I]nstead of identifying and applying a rule of decision derived from the [Federal Arbitration Act]  
25 or either maritime or New York law, the arbitration panel imposed its own policy choice and thus  
26 exceeded its powers.” 130 S.Ct. at 1770. This is not what has occurred here. In reaching her  
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1 decision that the Employee Agreement allows for class arbitration, the Arbitrator explored the  
2 relevant California law and policy, cited key cases and statutes, and considered Defendant’s  
3 opposing arguments. Her decision was not based on “[her] own policy choice,” Stolt-Nielsen, 130  
4 S.Ct. at 1770, but rather on the “background of California law in the area of employment  
5 agreements,” Award at 6. The arbitrator noted that “California state contract law favors procedural  
6 devices of class actions and class arbitrations in cases such as this one” and that “[t]he strong  
7 public policy of the state [in 2004] . . . supported class arbitration.” Id.

8 Irrespective of what this Court—or Defendant—thinks of the merits of the Arbitrator’s  
9 decision, this is not a case where there has been a “manifest disregard of the law.” As noted, for an  
10 arbitrator’s award to be in manifest disregard of the law, “[i]t must be clear from the record that the  
11 arbitrator [ ] recognized the applicable law and then ignored it.” Mich. Mut. Ins. Co. v. Unigard  
12 Sec. Ins. Co., 44 F.3d 826, 832 (9th Cir. 1995). Defendant has failed to show that this occurred  
13 here. The Arbitrator applied the relevant case law to the facts at hand in making her determination;  
14 this is apparent from her discussion of her reasoning for the Award. Moreover, nowhere can  
15 Defendant show that the Arbitrator was aware of the law and “intentionally disregarded it.”  
16 Bosack, 586 F.3d at 1104. Even if the Arbitrator erroneously applied or misunderstood the relevant  
17 law, that would not be enough to constitute a “manifest disregard of the law” such that the  
18 Arbitrator exceeded her decisionmaking authority. See Mich. Mut. Ins. Co., 44 F.3d at 832  
19 (“‘Manifest disregard of the law’ means something more than just an error in the law or a failure on  
20 the part of the arbitrators to understand or apply the law.”). What Defendant has presented in its  
21 motion is a disagreement with the Arbitrator’s decision, not a showing that she manifestly ignored  
22 the law.

23  
24 **IV. Conclusion**

25 Defendant’s motion to vacate essentially takes issue with the result of the arbitration and  
26 asks this Court to sit in de novo review of the arbitration proceedings and the Arbitrator’s  
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1 determination. Because the Court's discretion is limited by the well-established standard of review  
2 of arbitration awards, the Court cannot review the determination as Defendant requests. Having  
3 found that the Arbitrator did not manifestly disregard the relevant law for the reasons explained  
4 above, the Court cannot pass judgment on the substance of the Arbitrator's decision. Accordingly,  
5 the Court cannot vacate the Award.

6  
7 **V. Order**

8 For the reasons stated above Plaintiff's motion to confirm the Arbitrator's Award is  
9 GRANTED; Defendant's motion to vacate the Award is DENIED.

10  
11 **IT IS SO ORDERED.**

12 Dated: December 20, 2012



EDWARD J. DAVILA  
United States District Judge