

## Texas Supreme Court Limits Grounds for Vacating Arbitration Awards under the TAA

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In an opinion that will make vacating arbitration awards even more challenging, the Texas Supreme Court unanimously held that the Texas Arbitration Act (“**TAA**”) sets out the exclusive grounds for vacating arbitration awards arising from agreements governed by that statute, and that common law vacatur grounds are no longer viable. *Hoskins v. Hoskins*, No. 15-0046, --- S.W.3d --- (Tex. May 20, 2016).

Section 171.088 of the Texas Arbitration Act enumerates several limited grounds for vacating an arbitration award, including, but not limited to, the “evident partiality” by an arbitrator, where the award is obtained by corruption or fraud, where the arbitrators “exceeded their powers,” or where the arbitrators conducted the hearing “in a manner that substantially prejudiced the rights of a party.” TEX. CIV. PRAC. & REM. CODE § 171.088. These grounds are all focused on the integrity of the process, not the substance of the arbitrator’s decision.

For years, Texas courts had also considered non-statutory grounds for vacating arbitration awards under Texas common law, including that the award violated public policy, see, e.g., *Lee v. El Paso County*, 965 S.W.2d 668, 672 (Tex. App.—El Paso 1998, pet. denied), or that the arbitrators acted in “manifest disregard of the law.” See, e.g., *Home Owners Mgmt Enters., Inc. v. Dean*, 230 S.W.3d 766, 768 (Tex. App.—Dallas 2007, no pet.).

Until *Hoskins*, the Texas Supreme Court had repeatedly declined to cut off these common law grounds. See *E. Tex. Salt Water Disposal Co. v. Werline*, 307 S.W.3d 267, 270 n.7 (Tex. 2010) (“We express no opinion on this issue [of whether an arbitration under the TAA can be set aside on common law grounds.]”); *CVN Group, Inc. v. Delgado*, 95 S.W.3d 234, 237-38 (Tex. 2002) (assuming, without deciding, that the common law grounds are still viable, but holding that sufficient showing was not made).

But now, the court has definitively settled the issue. In unmistakable terms, the court held that any grounds not included in the text of Section 171.088, such as manifest disregard for the law, are no longer valid bases for vacatur under the TAA. The court found support for its conclusion in Section 171.087 of the TAA, which says that the trial court “shall confirm” an award “[u]nless grounds are offered for vacating” it under Section 171.088.

In a concurrence, Justice Willett noted that the court’s decision avoids the “quagmire that surrounds the TAA’s federal counterpart, the Federal Arbitration Act (“**FAA**”).” Courts and commentators have widely disagreed about whether manifest disregard remains a viable ground for vacatur under the FAA in the wake of the United States Supreme Court’s decision in *Hall Street Associates, L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 586 (2008). Justice Willett concluded that under the Texas Supreme Court’s opinion in *Hoskins*, “[n]o such uncertainty exists with regard to the exclusivity of the TAA’s vacatur grounds. Participants in arbitrations governed by the TAA now know that an award can be vacated only under the TAA’s enumerated grounds.”

Read the [Hoskins opinion](#) and the [Hoskins concurrence](#).

If you have any questions, please contact one of the lawyers listed below.