



1           The FAA does not confer subject matter jurisdiction, so a federal court has power  
2 to enter judgment on an arbitration award only if an independent basis for federal  
3 jurisdiction exists. *See Gen. Atomic Co. v. United Nuclear Corp.*, 655 F.2d 968, 970 (9th  
4 Cir. 1981). The parties concede they are not diverse, so the only possible basis for  
5 jurisdiction is if this case presents a federal question. As the Ninth Circuit has recognized,  
6 though, showing that an arbitration award gives rise to a federal question is no simple  
7 task. For example, “the presence of federal questions in an underlying arbitration is  
8 insufficient to provide an independent basis for federal question jurisdiction to review an  
9 arbitration award under the FAA.” *Carter v. Health Net of Cal.*, 374 F.3d 830, 836 (9th  
10 Cir. 2004). Federal question jurisdiction to enforce or vacate an arbitration award exists  
11 only when “‘ultimate disposition of the matter by the federal court necessarily depends on  
12 resolution of a substantial question of federal law,’ such as when the petition primarily  
13 asserts as grounds for vacatur the arbitrator’s manifest disregard of federal law.” *Id.*  
14 (quoting *Luong v. Circuit City Stores, Inc.*, 368 F.3d 1109, 1112 (9th Cir. 2004).

15           Golub’s first argument is that the Court has jurisdiction to vacate the arbitral award  
16 because she was denied a fundamentally fair arbitral hearing. *See* Dkt. 28 at 3. The gist  
17 of her argument is that Bofl refused to produce necessary documents and the arbitrator  
18 failed to compel production of those documents, thus denying her a fair opportunity to  
19 present her case. That may be true, but it doesn’t raise a “substantial question of federal  
20 law.” *Id.* Golub relies on two cases—*Carpenters 46 v. Zcon Builders*, 96 F.3d 410 (9th  
21 Cir. 1996) and *Sunshine Mining Company v. United Steelworkers*, 823 F.2d 1289 (9th  
22 Cir. 1987)—to argue that the Court has jurisdiction to vacate an award where a party is  
23 denied a fundamentally fair hearing. In both of those cases, though, there was an  
24 independent basis for jurisdiction apart from the petitioner’s argument that he or she was  
25 denied a fair hearing. Indeed, because one party almost always leaves an arbitration  
26 dissatisfied with the result, if a “fair hearing” argument were sufficient to grant jurisdiction,  
27 federal courts would never lack jurisdiction to hear motions to vacate an arbitration  
28 award—the dissatisfied party could simply argue the hearing wasn’t fair. That’s not the

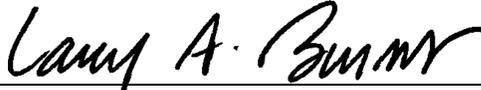
1 law, so the Court rejects Golub's argument. There's no reason a state court can't  
2 determine whether the hearing was conducted fairly.

3 Golub's second argument is that the award was rendered in "manifest disregard of  
4 federal law" because the arbitrator failed to rule on Golub's motion to compel Bofl's  
5 production of documents. See Dkt. 28 at 4. It is true that manifest disregard of federal  
6 law in an arbitration can give rise to federal question jurisdiction, but that's not the case  
7 here. Golub says the parties agreed the arbitration would be conducted in accordance  
8 with the Federal Rules of Civil Procedure, and that the arbitrator's failure to compel Bofl's  
9 production of documents violated the Federal Rules. The Court is aware of no case (and  
10 Golub has not provided one) stating that failure to follow federal procedure in an  
11 arbitration can give rise to federal question jurisdiction. The leading cases on the subject  
12 involve manifest disregard of federal *substantive* law, such as ERISA or the Americans  
13 with Disabilities Act. And even in those cases where the arbitrator manifestly disregarded  
14 federal *substantive* law, courts are reluctant to find jurisdiction. See *Carter*, 374 F.3d at  
15 839 (finding no federal question jurisdiction where petitioners argued the arbitrator  
16 manifestly disregarded ERISA); *Luong*, 368 F.3d at 1112 (finding no federal question  
17 jurisdiction where petitioners argued the arbitrator manifestly disregarded the ADA). The  
18 Ninth Circuit is clear that the question of federal law giving rise to jurisdiction must be  
19 "substantial." See *Carter*, 374 F.3d at 836. The Court declines to find that a violation of  
20 arbitral procedure, even where that procedure is ostensibly tethered to the Federal Rules  
21 of Civil Procedure, constitutes a "substantial question of federal law." *Id.*

22 For these reasons, this Court lacks jurisdiction to enforce or vacate the arbitral  
23 award. This case is **DISMISSED WITHOUT PREJUDICE**. The parties may re-file their  
24 petitions in a court where jurisdiction is proper. The clerk is directed to close the case.

25 **IT IS SO ORDERED.**

26 Dated: November 8, 2018

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28 **HONORABLE LARRY ALAN BURNS**  
United States District Judge

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