

COURT OF APPEALS OF OREGON

Catherine L. Wissenback v. Joseph F. Russi and Deborah E. Russi

345 Or. App. 487 (2025) · No. A177594 · Decided December 10, 2025

SUMMARY

The Oregon Court of Appeals held that a party seeking to vacate an arbitration award is not required to provide a verbatim transcript or other complete record of the arbitration proceeding. The trial court erred by denying the petition to vacate solely because no such record existed and by declining to consider the asserted statutory grounds for vacatur. The general judgment was vacated and remanded, and the supplemental attorney-fee judgment was reversed by operation of law.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Shorr, Presiding Judge; Pagán, Judge; O’Connor, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	December 10, 2025
DOCKET	A177594
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Respondents appealed general and supplemental judgments denying their petition to vacate an arbitration award, confirming the award, and awarding attorney fees, costs, and disbursements to petitioner.
STANDARD OF REVIEW	Issues of statutory construction are reviewed for legal error.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Joseph F. Russi, Deborah E. Russi v. Catherine L. Wissenback

TOPICS

- arbitration
- statutory interpretation
- appellate procedure
- civil procedure
- attorney fees

PRACTICE AREAS

- Arbitration
- Appellate Procedure
- Civil Procedure
- Statutory Interpretation
- Contracts

QUESTIONS PRESENTED

1. Whether a party seeking to vacate an arbitration award under ORS 36.705 must provide a verbatim record or transcript of the arbitration proceedings.
2. Whether the trial court erred by denying the petition to vacate solely because the arbitration proceeding was not recorded.
3. Whether the trial court was required to permit the parties to present evidence concerning the statutory grounds for vacatur or determine respondents' claim that the arbitration panel refused to consider material evidence.

HOLDINGS

1. ORS 36.705 does not require a party seeking to vacate an arbitration award to obtain or submit a verbatim record or transcript of the arbitration proceedings.
2. The trial court erred by concluding that respondents' failure to record the arbitration proceeding precluded them from seeking vacatur.
3. The Court of Appeals declined to decide whether the trial court was required to conduct an evidentiary hearing or how respondents' evidence should be presented; those procedural matters were left to the trial court on remand.

KEY QUOTATIONS

“At its core, arbitration is supposed to be an alternative to litigation in a court of law, not a prelude to it.” (495)

“Therefore, we also conclude that the trial court, here, erred when it held that it was unable to decide respondents’ petition because they did not have a record made of the arbitration proceeding; we, therefore, vacate the judgment denying the petition to vacate and remand for further proceedings.” (495)

“However, the petition to vacate does not fail merely because there was no verbatim record or transcript of the arbitration proceedings.” (496)

FACTUAL BACKGROUND

The parties were involved in litigation concerning the estate and trusts of petitioner and respondent Deborah Russi's parents. A 2017 settlement agreement required arbitration, and a California court compelled arbitration of petitioner's action. The arbitration was conducted remotely by an American Arbitration Association panel over several days in April 2021, without a verbatim recording, and petitioner received an award exceeding \$5 million in damages and fees.

PROCEDURAL HISTORY

After petitioner obtained an arbitration award exceeding \$5 million, she petitioned the Douglas County Circuit Court to confirm the award. Respondents cross-petitioned to vacate or modify it under ORS 36.705, asserting evident partiality, refusal to consider material evidence, and excess of arbitral powers. The trial court denied vacatur because the arbitration was not recorded, confirmed the award, and entered a supplemental judgment for

attorney fees and costs. The Court of Appeals vacated and remanded the general judgment and reversed the supplemental judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must reconsider the petition to vacate without treating the absence of a verbatim arbitration record as dispositive and may determine the appropriate manner of proceeding, including how the parties may present evidence. The supplemental judgment for attorney fees, costs, and disbursements is reversed by operation of law.

CASES CITED

- State ex rel Rosenblum v. Living Essentials, LLC, 371 Or. 23, 33, 529 P.3d 939 (2023)
- Prime Properties, Inc. v. Leahy, 234 Or. App. 439, 445, 228 P.3d 617 (2010)
- Floor Solutions, LLC v. Johnson, 322 Or. App. 417, 421, 520 P.3d 902 (2022)
- State v. Gaines, 346 Or. 160, 171-172, 206 P.3d 1042 (2009)