

**STATE OF NEW MEXICO  
COUNTY OF DONA ANA  
THIRD JUDICIAL DISTRICT**

**IN THE MATTER OF THE APPEAL  
OF AN ARBITRATION BETWEEN:**

EJG

**DONA ANA COUNTY,**

**Petitioner/Appellant,**

**v.**

**No. D-307-CV-2013-02250**

**COMMUNICATIONS WORKERS  
OF AMERICA, LOCAL 7911,**

**Respondent/Appellee.**

**ORDER AFFIRMING ARBITRATION AWARD**

**THIS MATTER** came before the Court following a hearing on December 19, 2013, and upon (1) a Motion to Vacate Arbitration Award taken by Dona Ana County (“the County”), and (2) a Motion for Order Confirming Arbitration Award taken by the Communications Workers of America (“Union”), both pursuant to NMSA 1978, § 44-7A-1 *et seq.* (2001) (The Uniform Arbitration Act). The opposing motions concerned the decision and award of Arbitrator Ira S. Epstein in FMCS Case No. 13-51332-1, issued August 27, 2013. That decision and award came following an interest arbitration hearing held on June 13, 2013, under the Dona Ana County Collective Bargaining Ordinance, Ordinance No. 215-04 (“Ordinance”), following the June 30, 2010 expiration of the parties’ collective bargaining agreement, and continued bargaining thereafter. Arbitrator Epstein, given the choice of only one of the parties’ complete, last, best offers in bargaining, chose the Union’s proposal.

Having reviewed the briefs and having heard oral argument of counsel for the parties, the Court hereby denies the County’s Motion to Vacate the Arbitration Award, and grants the

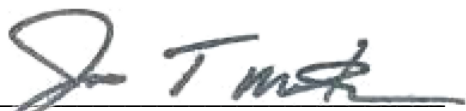
Union's Motion to Confirm the Arbitrator's Award. The Court further adopts the findings and conclusions of the Arbitrator as the findings and conclusions of this Court.

**RATIONALE**

The Court's review of an arbitration award is limited in scope and does not permit a de novo review. "Having bitten once at the arbitration apple, [the unsuccessful party] cannot now take a second bite from the judicial one. So long as the award is made fairly and honestly and is restricted to the scope of the submission, it must be confirmed by the district court." *State of New Mexico v. American Federation of State, County and Municipal Employees, Council 18*, 2012-NMCA-114, ¶ 23, 291 P.3d 600, 606 (N.M. App. 2012) (internal citations omitted), *aff'd* 2013 WL 2359657 (N.M. 2013).

The Court has reviewed the arbitrator's decision and all of the briefing and, while prohibited from substituting its judgment for that of the arbitrator, the Court finds that the conclusion of the arbitrator is not so completely irrational or mistaken as to violate public policy. Further, the Court will not substitute its interpretation of the facts or conclusions of law for that of the arbitrator, who had the benefit of firsthand review of the testimony, and subject matter expertise. The Court will adopt the findings and conclusions of the arbitrator, as the findings and conclusions of this Court.

Therefore, the Court **DENIES** the Motion to Vacate Arbitration Award, and **GRANTS** the Motion to Confirm the Arbitration Award.

  
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HON. JAMES T. MARTIN  
District Judge

Respectfully submitted,

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