FOURTH DIVISION
September 22, 2016

No. 1-15-2946

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CANTOR FITZGERALD & CO. and BGC FINANCIAL L.P.,	)	Appeal from the Circuit Court of Cook County.
Plaintiffs-Appellants,	)	
v.	)	No. 15 CH 00851
RAYMOND WALTON,	)	Honorable Sophia H. Hall,
Defendant-Appellee.	)	Judge Presiding.

PRESIDING JUSTICE ELLIS delivered the judgment of the court.
Justices Howse and Burke concurred in the judgment.

ORDER

¶ 1 *Held*: Denial of petition to vacate arbitration award affirmed. Arbitrators did not exceed authority or commit gross error of law in determining that parties had entered into four-year employment contract. Plaintiffs forfeited any argument that such agreement would violate Statute of Frauds.

¶ 2 Defendant Raymond Walton is a former employee of plaintiffs Cantor Fitzgerald & Co. (Cantor) and BGC Financial, L.P. (BGC Financial). In 2009, Walton and two of plaintiffs' executives had discussions regarding Walton entering into a four-year employment contract, but the parties never executed a final written agreement. After those discussions, Walton continued to work for plaintiffs for two more years. In 2011, plaintiffs shut down operations at the office where Walton worked and offered Walton a different job. Walton eventually resigned, claiming

that plaintiffs had, in effect, terminated him in violation of the four-year contract he had been given.

¶ 3 The parties submitted their dispute to arbitration. A panel of three arbitrators concluded that the parties did enter into a four-year employment contract in 2009, and that plaintiffs breached that agreement. Plaintiffs sought to vacate that award in circuit court, but the circuit court denied that request.

¶ 4 Plaintiffs appeal, arguing that the arbitrators exceeded their authority and made gross errors of law in three ways. First, plaintiffs contend that the arbitrators' decision violated the Statute of Frauds by finding that the parties had an unwritten employment agreement. Second, plaintiffs claim that the arbitrators erred in finding that the unwritten agreement was enforceable because plaintiffs' employee handbook required any employment agreements to be in writing. And third, plaintiffs claim that the arbitrators disregarded Illinois contract law in finding that the parties had formed a contract.

¶ 5 We reject these claims. Plaintiffs never mentioned the Statute of Frauds either at arbitration or in the circuit court, thereby forfeiting any such challenge in this court. And plaintiffs' other arguments are simply an attempt to relitigate the existence of an enforceable employment agreement, the very dispute they agreed to submit to arbitration. We affirm the circuit court's judgment.

¶ 6 I. BACKGROUND

¶ 7 Walton began working for Cantor in 1992 as a commission-based trader. In 2006, Walton began to work for BGC Financial, an entity related to Cantor.

¶ 8 In 1998, Walton and plaintiffs entered into a three-year employment agreement. In 2001, Walton and plaintiffs entered into another one-year employment agreement.

¶ 9 Walton signed Cantor's Employee Handbook on February 27, 2002. It stated that no one other than certain specified officers of Cantor "has the authority to enter into any agreement with you for employment for any specified period of time, at any specified rate of compensation or *** to otherwise alter the at-will employment relationship." And "[a]ny such employment agreement must be contained in a written employment agreement executed by both you and one of such authorized persons." It also stated, "Any of the policies, benefits or procedures (other than the Arbitration Agreement and Policy) may be revised, added to or eliminated at any time without notice. You will periodically receive supplements and revisions to the Handbook, and should update your copy with them." Walton signed a new Employee Handbook on December 1, 2003, which contained substantially the same terms, but also said, "The statements concerning policies, guidelines and benefits in this Employee Handbook are not all inclusive, nor is this Employee Handbook a contract, express or implied, guaranteeing employment for any specific period or at any specific rate of compensation."

¶ 10 In 2009, Walton began to supervise plaintiffs' floor trading operations at the Chicago Mercantile Exchange. In December 2011, plaintiffs closed their floor operations in Chicago. In January 2012, Walton resigned, sending his superiors the following email:

> "Cantor *** has eliminated my ability to broker from the CME/CBOT trading floor so that I cannot work. As a result, Cantor *** has effectively terminated my employment relationship, which is an involuntary termination. This involuntary termination was forced upon me despite my 20 years of loyal service, partnership status since 1994, and exhaustive efforts, over the last 45 days to resolve my employment status in mutually [*sic*] agreeable manner. As a result, effective immediately, I am exiting Cantor ***. I am available to provide reasonable transition services."

¶ 11 Walton filed a statement of claim with the Financial Industry Regulatory Authority (FINRA), alleging that Cantor and BGC Financial had breached the four-year employment contract they had extended to him. Walton also alleged that Cantor and BGC Financial had violated the Illinois Wage Payment and Collection Act (820 ILCS 115/1 *et seq.* (West 2010)) by failing to pay him his full compensation under the agreement.

¶ 12 Plaintiffs filed a statement of answer with FINRA, claiming that Walton was an at-will employee, that they never entered into a four-year employment agreement with Walton, and that a portion of Walton's claims was not within FINRA's jurisdiction.

¶ 13 In his opening statement, plaintiffs' counsel argued that Walton was an at-will employee because "[a] written contract was required to establish a four-year term [of employment], to set a specified rate of payments, and [Walton] never signed that contract, never signed any contract." Counsel explained that Walton had signed the Employee Handbook, which "very plainly stated that any Employment Agreement *** for a specified period of time or to pay [a] specified rate of compensation or to alter the at-will Employment Agreement in any respect had to be in writing." Counsel later reiterated that any employment agreement was "explicitly identified in the employee handbook as requiring a written contract signed by [Walton] and signed by the senior executive of the company." Counsel did not refer to the Statute of Frauds in his opening statement.

¶ 14 At the arbitration hearing, Walton testified that, in January 2006, he began serving in a "principal supervisory role" in the Chicago office. Walton said that, despite taking on additional responsibilities, he continued to be paid the same amount. In July 2007, he emailed his superiors seeking "compensation for [his] management activities." Walton said that he "went through *** 19 months of back and forth" on this issue.

¶ 15 Walton testified that, in 2009, Roger Campbell, the chief administrative officer of BGC Partners, Inc. (BGC Partners), approached him about taking a management position with Cantor. Walton, Campbell, and J.P. Aubin, the executive managing director at BGC Partners, met in Chicago in May 2009. Walton testified that he agreed to take the management position during that meeting. Specifically, he said that he agreed "to sign a four-year Employment Agreement," in exchange for his normal commissions, an additional $25,000 per year "in cash," and $50,000 per year in partnership units. Walton testified he received an email from Campbell on May 8, 2009 that outlined the agreement they had reached at the meeting in Chicago.

¶ 16 The May 8, 2009 email from Campbell to Walton was admitted at the arbitration. It read:

> "Please allow this message to serve as confirmation of your recent conversations with JP and me wherein we agreed that you would sign a new four year employment agreement for the same base and percentage payout as you now receive. We further agreed that you will continue to serve as the manager/supervisor of BGC's Chicago futures business in consideration for $25k cash and 50k deferred comp [*sic*] (i.e. RSUs or REUs or partnership units) per annum.
>
> I look forward to working with you."

¶ 17 Walton testified that, shortly after receiving the confirmation email, he "received a draft copy of a four-year contract" from one of plaintiffs' attorneys. He testified that he never received a final draft of the employment agreement even though he requested one.

¶ 18 After the 2009 meeting and email, Walton served as the manager of plaintiffs' floor trading operations in Chicago. He testified and presented evidence that he was compensated consistent with the terms of the May 8, 2009 email. Walton also presented evidence that, in 2010, he was allowed to participate in the "Newton Plan," which allowed employees under

contract, with two or more years remaining on that contract, to trade restricted non-public partnership units for marketable shares of publicly traded BGC stock.

¶ 19 Walton testified that, on December 6, 2011, a representative from human resources informed him that the floor trading operations in Chicago were being closed.

¶ 20 Campbell and Aubin both acknowledged that they met with Walton in Chicago in April 2009 and that the May 8, 2009 email summarized the conversation they had with Walton at that meeting. They also said that Walton never signed a written employment agreement.

¶ 21 The arbitration panel found that Walton had entered into a binding, four-year employment contract with plaintiffs "on May 8, 2009, as evidenced by [the May 8, 2009 email]." The arbitrators acknowledged that "the parties intended that the agreement be memorialized in a written agreement" but found that a contract had been formed anyway. The arbitrators noted that the failure to memorialize the agreement "was not the result of any of [Walton's] conduct, and any purported missing or undecided terms were not material to any findings required of the panel in this arbitration." The arbitrators also noted that the parties complied with the terms of that agreement until defendant left, including the fact that Walton was allowed to participate in the "Newton Plan," which was offered only to employees with two or more years remaining on term contracts.

¶ 22 The arbitrators found that plaintiffs "breached the employment agreement by substantially changing the terms of [Walton's] employment when it closed the floor operations of the Chicago futures division and failed to provide a reasonable substitute for those activities." The arbitrators found that the position plaintiffs offered Walton would have led to a material and substantial reduction in his compensation.

¶ 23 The arbitrators awarded Walton $1,063,398 in compensatory damages, as well as interest, costs, and attorney fees. The arbitrators specifically stated that it had awarded Walton costs and attorney fees "pursuant to the Illinois Wage Payment and Collection Act."

¶ 24 Plaintiffs filed a complaint in the circuit court of Cook County seeking to vacate the arbitration award. Plaintiffs stated that the employee handbooks signed by Walton required that any employment agreement be in writing. According to plaintiffs, the arbitrators thus exceeded their authority "by finding that a 2009 email constituted a contract even though *** it was not a written employment agreement executed by [Walton] and an authorized Cantor executive." Plaintiffs also alleged that the arbitrators "disregard[ed] the black letter contract law [they were] provided."

¶ 25 At the hearing on plaintiffs' complaint, plaintiffs' counsel argued that Walton could not "escape the handbook he signed and agreed to be bound by," which "said explicitly that the parties could only alter the at-will relationship that existed [between them] by a written signed agreement." Counsel made no mention of the Statute of Frauds.

¶ 26 The trial court denied plaintiffs' motion to vacate and confirmed the arbitration award. Plaintiffs filed this appeal.

¶ 27 II. ANALYSIS

¶ 28 Where, as in this case, the trial court decides whether to vacate an arbitration award based on documentary evidence rather than courtroom testimony, we apply *de novo* review of the trial court's ruling. *Rosenthal-Collins Group, L.P. v. Reiff*, 321 Ill. App. 3d 683, 687 (2001); *Herricane Graphics, Inc. v. Blinderman Construction Co., Inc.*, 354 Ill. App. 3d 151, 157 (2004).

¶ 29 Judicial review of an arbitration award is "extremely limited." *American Federation of State, County and Municipal Employees, AFL-CIO v. Department of Central Management*

Services, 173 Ill. 2d 299, 304 (1996) (*AFSCME II*). By contracting to arbitrate their disputes, the parties must accept "the arbitrator's view of the meaning of the contract." *Id.* at 305. "We will not overrule that construction merely because our own interpretation differs from that of the arbitrator." *Id.* The same is true of any factual findings made by the arbitrator; by agreeing to have their dispute "settled by an arbitrator chosen by them rather than by a judge, it is the arbitrator's view of the facts * * * that [the parties] have agreed to accept." *Griggsville–Perry Community Unit School District No. 4,* 2013 IL 113721, ¶ 18 (internal quotations omitted). Whenever possible, we must construe arbitration awards to uphold their validity. *Village of Posen v. Illinois Fraternal Order of Police Labor Council*, 2014 IL App (1st) 133329, ¶ 37.

¶ 30 Still, section 12(a)(3) of the Uniform Arbitration Act (the Act) (710 ILCS 5/12(a)(3) (West 2008)) provides that a party may seek to vacate an arbitration award where "the arbitrators exceeded their powers." Courts have interpreted this provision to include gross mistakes of law as a reason for vacating an award. See, *e.g.*, *Advocate Financial Group*, 2014 IL App (2d) 130670, ¶¶ 49-50.

¶ 31 Our supreme court has explained the gross mistake of law doctrine as follows:

> "Errors of judgment in law are not grounds for vacating an arbitrator's award when the interpretation of law is entrusted to the arbitrator. [(Citation.)] Only where it appears on the face of the award (and not in the arbitrator's opinion) that the arbitrator was so mistaken as to the law that, if apprised of the mistake, the award would be different may a court review the legal reasoning used to reach the decision. [(Citation.)] An example would be if the arbitrator in this case considered an old version of the workers' compensation statutes that had since been amended, unbeknownst to the arbitrator."

Board of Education of City of Chicago v. Chicago Teachers Union, Local No. 1, 86 Ill. 2d 469, 477 (1981).

¶ 32 In this case, plaintiffs argue that the arbitrators in this case made several gross errors of law: (A) the arbitration panel incorrectly found that plaintiffs and Walton had entered into a four-year employment agreement without a written contract, because the Statute of Frauds (740 ILCS 80/1 (West 2008)) requires contracts that cannot be performed within one year to be in writing; (B) the arbitrators ignored Illinois law regarding at-will employment and the terms of plaintiffs' employee handbook; and (C) the arbitrators disregarded Illinois law regarding how contracts are formed.

¶ 33 We address each of these arguments in turn.

¶ 34 A. Statute of Frauds

¶ 35 Plaintiffs first argue that the arbitrators disregarded the Statute of Frauds' requirement that contracts with a duration of more than one year be in writing. See 740 ILCS 80/1 (West 2008) ("No action shall be brought *** upon any agreement that is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized."). Plaintiffs argue that, because there was no written agreement that Walton be employed for four additional years in 2009, "there was no enforceable contract."

¶ 36 Walton argues that plaintiffs forfeited any argument concerning the Statute of Frauds because they did not raise it at arbitration or in the circuit court proceedings. Plaintiffs respond that the Statute of Frauds is an issue that is incapable of forfeiture and that, in any event, they raised the "substance" of the Statute of Frauds below.

¶ 37 "An arbitrator's decision should not be reversed based on contentions not presented to him and raised for the first time on appeal." *Kropp Forge Co. v. Industrial Commission*, 225 Ill. App. 3d 244, 252 (1992); see also *Pillott v. Allstate Insurance Co.*, 48 Ill. App. 3d 1043, 1046 (1977). Moreover, where a party fails to raise issues in circuit court proceedings seeking to vacate an arbitrator's award, that party may not do so for the first time on appeal. See, *e.g.*, *Wilcox Co. v. Bouramas*, 73 Ill. App. 3d 1046, 1052 (1979).

¶ 38 Plaintiffs never referenced the Statute of Frauds in either the arbitration or circuit court proceedings. They never cited the Statute of Frauds in Illinois or any other jurisdiction. Consequently, they forfeited any argument that the arbitrators could not find that Walton had a non-written employment agreement.

¶ 39 While plaintiffs did argue that the agreement was not enforceable because it was not a written employment agreement, they did so only in the context of their argument that the employee handbook required a written employment agreement. They never once said that a verbal four-year contract would have violated the Statute of Frauds. We fail to see how we can charge the arbitrators or the circuit court with error in considering an issue that plaintiffs have raised for the first time on appeal.

¶ 40 Plaintiffs also contend that we can excuse their forfeiture of this argument "in the interest of preserving a sound and inform [*sic*] body of precedent." Plaintiffs say that our interest in "[p]rotecting the Statute of Frauds regardless of what happened below" should compel us to excuse its forfeiture of the issue.

¶ 41 Plaintiffs cite the principle "that the waiver rule is a limitation on the parties," and that we should overlook a party's forfeiture in order to "achiev[e] a just result and maintain[ ] a sound and uniform body of precedent." *Michigan Avenue National Bank v. County of Cook*, 191

Ill. 2d 493, 518 (2000). While we acknowledge that oft-cited principle, our supreme court has made clear that "one of the *** most important tasks of an appellate court panel *** is to determine which issue or issues, if any, have been forfeited." *People v. Smith*, 228 Ill. 2d 95, 106 (2008).

¶ 42 It is well-established that the Statute of Frauds is an affirmative defense that a party may affirmatively waive or forfeit. See *Thomas v. Pope*, 380 Ill. 206, 209-10 (1942) ("The rule is well settled that the defense that the contract sued on is void under the Statute of Frauds must be specially pleaded and cannot be raised for the first time on appeal."); *Harvey v. McKinney*, 221 Ill. App. 3d 140, 142 (1991) ("The law in this State is well established that if a defendant wishes to assert *** the statute of frauds at trial, he is required to specifically plead it ***. If he fails to do so, he is deemed to have waived the defense, and it cannot be considered even if the evidence suggests the existence of the defense."). Plaintiff cites no authority, and we have found none, suggesting that the Statute of Frauds must be honored even when a party fails to raise that defense.

¶ 43 To the contrary, a contract entered in violation of the Statute of Frauds "may be enforced unless the defendant sets up the statute as a defense." *Cain v. Cross*, 293 Ill. App. 3d 255, 257-58 (1997); see also *Klass v. Hallas*, 16 Ill. 2d 161, 168 (1959) (trust formed in violation of Statute of Frauds "is voidable only at the election of the trustee who may waive the benefit of the statute and acknowledge the trust"); *Thomas*, 380 Ill. at 210 ("Where the Statute of Frauds is not properly invoked by the pleadings as a defense to the action, a verbal contract *** may be enforced."). As plaintiffs neglected to raise the Statute of Frauds in any proceeding below, there is no reason why the employment agreement should not be enforced.

¶ 44 Nor do any of the cases that plaintiffs cite suggest that this case is one in which we should overlook their forfeiture. Plaintiffs cite four cases to support their argument that we should excuse their failure to raise the Statute of Frauds at arbitration or in the trial court: *Michigan Avenue Bank*, 191 Ill. 2d 493; *People v. Hamilton*, 179 Ill. 2d 319 (1997); *Jackson Jordan, Inc. v. Leydig, Voit, & Mayer*, 158 Ill. 2d 240 (1994); and *Bank of America v. Ebro Foods, Inc.*, 409 Ill. App. 3d 704 (2011). None of these cases involves the Statute of Frauds, a party's forfeiture of an affirmative defense, or a party raising a defense for the first time on appeal from a trial court's denial of a motion to vacate an arbitration award. See *Michigan Avenue Bank*, 191 Ill. 2d at 518-19 (choosing to address constitutionality of Tort Immunity Act even though it was not raised in the trial court); *Hamilton*, 179 Ill. 2d at 322-23 (addressing defendant's right to receive lesser-included offense instruction for theft when charged with residential burglary); *Jackson Jordan, Inc.*, 158 Ill. 2d at 251 (deciding whether defendant was equitably estopped from raising statute of limitations because lapse of limitations period was due to defendant's delay); *Bank of America*, 409 Ill. App. 3d at 709 (addressing whether federal law preempted state requirement that corporations obtain certificate of authority to pursue civil action).

¶ 45 Without further explanation, plaintiffs contend that this case "fits within th[e] same paradigm" of these four cases, but we see no similarities between the issues in those cases and plaintiffs' attempt to raise the Statute of Frauds for the first time on appeal. If anything, plaintiffs' interest in maintaining a uniform body of precedent actually cuts against their argument that we should reach its Statute of Frauds argument. Precedent has clearly established the limited nature of our review of arbitrators' awards (*AFSCME II*, 173 Ill. 2d at 304), our obligation to hold parties to their forfeiture of issues (*Smith*, 228 Ill. 2d at 106), and parties'

abilities to waive or forfeit the defense of the Statute of Frauds (*Harvey*, 221 Ill. App. 3d at 142). To reach the merits of plaintiffs' Statute of Frauds argument for the first time on appeal from a trial court's refusal to vacate an arbitration award would run counter to each one of those well-established precedents. We refuse to do so.

¶ 46 B. Employee Handbook

¶ 47 Next, plaintiffs contend that the arbitrators made a gross mistake of law and exceeded their authority in concluding that an agreement existed despite the employee handbook's requirement that any employment agreement be in writing and signed by certain Cantor executives. Plaintiffs contend that the arbitrators "nullified the provisions of the Handbook without explanation."

¶ 48 Despite plaintiffs' attempt to frame their argument as a reason for vacating the arbitrators' award, plaintiffs' argument is essentially that the arbitrators erred in concluding that an enforceable employment agreement existed between them and Walton. But the existence and enforceability of the agreement were precisely the questions that plaintiffs and Walton agreed to let the arbitrators resolve. We may not render our own opinion on the merits of that issue where the parties agreed to be bound by the arbitrators' decision on the same issue. We reject plaintiffs' claim that the arbitrators exceeded their authority simply by resolving an issue in a manner unfavorable to them.

¶ 49 For example, in *Kalish v. Illinois Education Association*, 166 Ill. App. 3d 406, 409 (1988) the court rejected the notion that an arbitrator had exceeded his authority where the plaintiff claimed that the defendant had breached his employment agreement, thereby "empowering the arbitrator to determine whether a breach had occurred and, if so, by which party." By submitting the question of breach to the arbitrator, "the parties unreservedly submitted all questions of fact

and law relating to [that] issue to the arbitrator." *Id.* at 409-10. Thus, the court held, the arbitrator's resolution of that question could not have exceeded his authority. *Id.* at 410.

¶ 50 Similarly, in this case, the parties agreed to let the arbitrators resolve their dispute over whether plaintiffs and Walton had entered into a four-year employment agreement in 2009. Any questions of law or fact relating to that dispute, including whether the employee handbook required the parties to sign a written employment agreement, were left to the arbitrator to resolve. Even if the arbitrator's resolution of that question was erroneous, it is not our function to correct any such error.

¶ 51 In any event, the arbitrators did not err in concluding that the handbook did not preclude plaintiffs and Walton from entering into a verbal employment agreement. While the handbook said that the at-will status of any employee could only be changed by a written employment agreement, it contained disclaimers stating that it was not "a contract, express or implied, guaranteeing employment for any specific period or at any specific rate of compensation" and that Cantor could "revise[ ], add[ ] to or eliminate[ ]" any of the handbook's benefits or procedures "at any time without notice."

¶ 52 This court has held that similar disclaimers render an employee handbook unenforceable as a contract. See, *e.g.*, *Chesnick v. Saint Mary of Nazareth Hospital*, 211 Ill. App. 3d 593, 597 (1991) (hospital's handbook was not contract where it said that it was " 'not contractual in nature' " and that hospital could change handbook's provisions " 'without *** prior notification' "); *Spann v. Springfield Clinic*, 217 Ill. App. 3d 419, 424 (1991) (handbook not a contract where it said employee " 'should not consider it *** as a contract of employment' "); *Anders v. Mobil Chemical Co.*, 201 Ill. App. 3d 1088, 1094 (1990) (disclaimers stating that handbook was " 'subject to change by [the employer] unilaterally and at any time' " and that handbook did not "

'constitute a contract for employment' " meant that handbook was not enforceable contract). Thus, the arbitrators could reasonably conclude that the handbook's requirement of a written employment agreement did not create a binding obligation on either plaintiffs or Walton. At the very minimum, we cannot say that such a conclusion would be a gross mistake of law appearing on the face of the award.

¶ 53 C. Contract-Formation Law

¶ 54 Finally, plaintiffs claim that the arbitrators disregarded the law of contract formation in finding that a contract existed. Plaintiffs argue that the May 8, 2009 email "clearly establishe[d] that the parties understood that Walton would have to sign a formal written agreement in the future" and that, after the email was sent, Walton rejected the offer by counteroffering "with terms more favorable to him."

¶ 55 Again, plaintiffs' argument is nothing but an attempt to relitigate the issue of whether they entered into a binding contract with Walton. That question was precisely what the parties bargained for the arbitrators to resolve. The arbitrators' resolution of that dispute, erroneous or not, is not something we can second-guess on appeal. As we discussed above, we cannot find that the arbitrators exceeded their authority in deciding a question that the parties asked them to decide. See *Kalish*, 166 Ill. App. 3d at 409-10.

¶ 56 Nor do plaintiffs point to any errors on the *face* of the award that would require correction. In order to determine whether the arbitrators disregarded the law of contract formation, we would have to review the evidence presented at the arbitration hearing and resolve the factual dispute of whether a contract was formed. See *Kay v. Prolix Packaging, Inc.*, 2013 IL App (1st) 112455, ¶ 55 ("Whether a contract exists between the parties, the parties' intent in forming it, and the contract's terms are all questions of fact."). There can be no gross error of

fact or law on the face of the award if we have to evaluate the underlying record to determine if an error was committed. See, *e.g.*, *Beatty v. Doctors' Co.*, 374 Ill. App. 3d 558, 564 (2007) (there could be no gross error of fact or law in resolving insurer's duty to defend where "court would have to undertake an independent analysis of the underlying complaint and insurance policy in order to determine whether the arbitrators erred"). We reject plaintiffs claim that we may vacate the arbitration award because the arbitrators erred in finding that a contract existed.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we affirm the trial court's judgment denying plaintiffs' petition to vacate the arbitration award.

¶ 59 Affirmed.