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MIND OF A LAWYER. HEART OF A CONTRACTOR.

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Arbitration Review May Be Limited...But It Can't Be Waived in Washington

The Washington Supreme Court wrote an opinion interpreting the Washington Arbitration Act last week in [Optimer Int'l, Inc. v. RP Bellevue, LLC](#).

In this case, a landlord and tenant submitted themselves to an arbitration proceeding pursuant to their contract, and the loser at arbitration wasn't satisfied with the award. They sought judicial review of the holding in superior court, and were denied this review at the trial and appellate level because of a clause within the contract's arbitration provisions that "waived" the right to appeal any arbitration award.

The appellant and Supreme Court ruled that the "waiver" did not - and *can not* - waive the right to seek judicial review of an arbitration award as statutorily allowed by the Washington Arbitration Act.

To the extent this ruling contradicts a previous appellant case, [Harvey v. University of Washington](#), 118 Wn. App. 315, 76 P.3d, the Washington Supreme Court said that this case is overruled.

The limitations of the ruling in Optimer Int'l is important.

1. The case construes the Washington Arbitration Act, because that is the law in place when the arbitration took place. However, this has been replaced with the Revised Uniform Arbitration Act (RUAA), which the Supreme Court indicated they need not consider.
2. The review allowed by the Washington Arbitration Act is very limited, allowing review for only specific errors with the award (fraud, bias, etc.).

While this case does not address the RUAA, I would think we'd get a similar result under the new statutory scheme.

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