

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 24 2022

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DAMON CHARLES WILLIAMS,

No. 21-55053

Petitioner-Appellant,

D.C. No. 8:20-cv-01110-DOC-ADS

v.

MEMORANDUM*

KELLY LAIMANA; BEST WESTERN
INTERNATIONAL, INC.,

Respondents-Appellees.

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Submitted February 15, 2022**

Before: FERNANDEZ, TASHIMA, and FRIEDLAND, Circuit Judges.

Damon Charles Williams appeals pro se from the district court's judgment in his petition to confirm an arbitration award. We have jurisdiction under 28 U.S.C. § 1291 and 9 U.S.C. § 16. We review de novo a district court's decision to vacate an arbitration award. *Lagstein v. Certain Underwriters at Lloyd's, London*, 607

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

F.3d 634, 640 (9th Cir. 2010). We affirm.

The district court properly vacated the arbitration award because the record showed by clear and convincing evidence that the award was procured by fraud. *See* 9 U.S.C. § 10(a)(1) (setting forth grounds on which a court may vacate an arbitration award). Moreover, the fraud was not discoverable by due diligence before or during the proceeding and was materially related to the submitted issue. *See Pac. & Arctic Ry. & Navigation Co. v. United Transp. Union*, 952 F.2d 1144, 1148 (9th Cir. 1991) (providing requirements for establishing fraud).

The district court did not abuse its discretion by awarding attorney's fees as a sanction against Williams or in its determination of the amount of the award. *See Holgate v. Baldwin*, 425 F.3d 671, 675-76 (9th Cir. 2005) (setting forth standard of review and describing grounds for Rule 11 sanctions; a district court does not abuse its discretion unless its decision is based on an erroneous view of the law or a clearly erroneous assessment of the evidence); *Hudson v. Moore Bus. Forms, Inc.*, 836 F.2d 1156, 1163 (9th Cir. 1987) ("The district court has wide discretion in determining the appropriate sanction for a Rule 11 violation.").

We reject as without merit Williams's contentions that the motion to vacate was time-barred or filed in an improper venue.

Appellee Best Western International, Inc.’s request for judicial notice, set forth in its answering brief, is denied as unnecessary.

AFFIRMED.