Construction Arbitration: The Pros and Cons

Insight

Most parties involved in a construction project have a contract that defines their responsibilities, and many of these construction contracts also contain arbitration clauses, according to Ward and Smith.

Morgan Stanley Lawsuit Highlights Pitfalls of Emailed Employee Contracts

Insight

A lower court had ruled that an employment-arbitration agreement between Morgan Stanley and the employee was enforceable, even though the former sales assistant claimed she never read a 2015 email.

Site Cannot Compel Arbitration Based on Amended

Terms Without User Notification of Change

Insight

The court's opinion offers some lessons on building a record that establishes that users have been given notice of a later-added arbitration clause and that an actual mailing or attempt to mail have been directed personally to the user, according to Proskauer Rose.

When Your Contract Includes an Arbitration Clause: Who Decides the Arbitrability of the Dispute?

Insight

Parties wishing to ensure resolution of "gateway" questions of arbitrability by a specific decision-maker —whether the court or arbitrator —should spell out their preference as clearly as possible in the arbitration clause, according to Williams Mullen.

Fifth Circuit Overturns Arbitration Order Where Employer Failed to Countersign Agreement

News

The 5th U.S. Circuit Court of Appeals has reversed a Texas federal court's order compelling arbitration in a sexual harassment and discrimination case because one party failed to sign an agreement to arbitrate, reports Karl Bayer in the Disputing blog.

Drafting the Arbitration Provision in Commercial Contracts: Back to Basic

Insight

A good practice is for the arbitration clause to be detailed and to specify a variety of terms, advise John P. DiBlasi and Jacqueline I. Silvey in an article for National Arbitration and Mediation.

An Arbitrator’s Power May Be Greater Than That of a Judge

Insight

Although an arbitration agreement can be written (double-spaced) on one side of a cocktail napkin, in some cases it may grant greater authority to an arbitrator than a judge has, writes Narges Kakalia of Mintz Levin.

Reducing the Cost of Arbitrating Large Complex Cases

Insight

The Streamlined Three-Arbitrator Panel Option allows parties to utilize a single arbitrator for the preliminary and discovery stages of a case, the AAA explains.

Benefits and Challenges of Robotized Arbitration

Insight

Big data and e-discovery can assist counsel in document management and reduce the risk of human error during discovery, write Winston Maxwell and Gauthier Vannieuwenhuyse

of Hogan Lovells.

Are Your Employees' Electronically-Signed Agreements Enforceable?

Insight

In several recent cases, employees have disputed that they electronically acknowledged an agreement with their employer," writes Drew York for Gray Reed & McGraw.

Gig Worker's Hopes of Arguing Case in Court Are Dashed By Arbitration Agreement

Insight

The April 25 decision is a solid win for gig employers and could provide a template for how other similar businesses should structure their own arbitration agreements, according to Fisher & Phillips LLP.

Arbitrability Basics: An Illustration of the ‘Autonomy’ Principle

Insight

When considering an arbitration clause in a contract, one must always bear in mind the “separability” or “independence” of the arbitration agreement &mdaqsh; the autonomy principle, writes Narges Kakalia for Mintz Levin.

Do You Know Who Will Decide Whether Your Next Dispute Is Subject to Arbitration?

Insight

In a client alert, Pepper Hamilton surveys the effects of incorporating an arbitration provider’s rules or common arbitration provisions on who determines questions of arbitrability.

Dissecting Common Basic

Arbitration Clauses – You Can Build a Better One

Insight

All too often, parties to arbitration make agreements that leave the decisions on most of their options to others or to chance, warns Daniel Pascucci for Mintz Levin..

Supreme Court to Clarify Applicability of Arbitration Act to Transportation Contracts

Insight

The case will be important for in-house and private transactional attorneys who draft contracts with transportation sector independent contractors, as well as litigators handling employee misclassification cases, according to Holland & Knight.

Long-Running Construction

Defect Fight in Texas Ends With Defense Win

News

A decade-long construction defect battle involving a South Padre Island, Texas, luxury condominium complex damaged during Hurricane Dolly has been resolved in a take-nothing defense win secured by attorneys of the West Mermis law firm for the general contractor.

Claim of Fraudulent Inducement of a Construction Contract Does Not Invalidate Arbitration Clause

Insight

Pepper Hamilton LLP’s Constructlaw blog discusses an Ohio case in which a plaintiff sued a building company and attempted to have the arbitration clause in a construction contract declared unenforceable.

Sexual Harassment Roundtable:

Practical Guidance for Employers

Webinar, March 1, 2018, 1 p.m. EST

Sexual harassment continues to be a significant workplace problem that has moved front and center with continuing prime-time media coverage.

‘Home Country’ Arbitration Clause More Trouble Than It’s Worth?

Insight

The “home country” provision provides that the party initiating arbitration must sue the other party in its home country, explains a post by Skadden, Arps, Slate, Meagher & Flom.

On Remand, District Court Breaks New Ground by Vacating Arbitrator’s Class

Certification Award

Insight

A federal district court has the authority to vacate an arbitrator’s class certification award based on the due process rights of absent class members, according to a post on the website of K&L Gates.