Republicans Introduce Bills to Scrap New Bank Arbitration Rule

News

The new Consumer Financial Protection Bureau rule would ban banks and other financial institutions from forcing arbitration clauses on customers to prevent them from bringing or joining class-action suits, reports *The Los Angeles Times*.

Should I Have an Arbitration Clause in My Construction Contract?

Insight

Paul W. Norris of Stark & Stark writes there are numerous factors to consider in determining whether mandatory arbitration is the preferred dispute resolution mechanism, or whether the state court system is preferred.

CFPB Hits Back at Efforts to

Kill Rule Easing Bank Lawsuits

News

Under the new rule, financial firms are restricted from forcing consumers to resolve their disputes through arbitration, a practice that has been used by the industry for years to keep grievances tied to payday loans, credit cards and other products out of courts, reports Bloomberg.

Consumer Watchdog Makes It Easier to Sue Banks and Other Companies

News

The government's consumer watchdog has finalized a rule that will make it easier for people to challenge financial companies in court, reports *The Washington Post*.

Post M&A Disputes: Breach of Indemnification Clauses in

M&A Contract

Insight

Baker McKenzie's Global Arbitration News has posted an article discussing the difficult questions raised in both substantive and procedural law by indemnification clauses in share purchase agreements.

Drafting and Negotiating IP & IT Provisions in M&A Transactions

Event, June 28, 2017, 1 p.m. EDT

Practical Law will present a free 75-minute webinar discussing IP and information technology considerations in drafting and negotiating M&A agreements.

Tips for Drafting Arbitration Clauses in Smart Contracts

Insight

While arbitration may be a preferable alternative to court for smart contract disputes, it doesn't happen on its own – it typically requires a properly drafted arbitration clause, notes Steptoe & Johnson's Blockchain Blog.

Using Arbitration Agreements to Reduce the Costs of Litigation and the Risk of Class Action Claims

Insight

The Foley article explains how arbitration works, what type of arbitration agreements are generally enforceable, what features that have or can cause problems, and how such provisions can reduce the risk of class actions.

Insight on Waiving Contractual Right to Arbitration

Insight

Bass, Berry & Sims attorney Chris Lazarini provided insight on factors a court should consider when determining whether a party has waived a contractual right to arbitration, the firm reports on its website.

Arbitration Clauses Extending to Non-Signatory Affiliates: Are They Enforceable?

Insight

A recent decision of the New Jersey Appellate Division considered the enforceability of arbitration agreements by non-signatories, writes Marissa Tillem in Proskauer Rose's Minding Your Business blog.

Is 'Class Arbitration' an Oxymoron?

Insight

"Class arbitration" – the utilization of a class action mechanism in an arbitration proceeding – is considered by some to be the unicorn of ADR; desirable but elusive, writes Gilbert Samberg on Mintz Levin's blog, ADR: Advice from the Trenches.

Clear Arbitration Provision Deemed Enforceable

Insight

In his Petes' Take blog for Porzio, Bromberg & Newman, Peter

J. Gallagher describes a New Jersey case in which a court ruled that a clear arbitration provision, negotiated by a sophisticated party while represented by counsel, is enforceable.

Drafting Arbitration Clauses in Construction Contracts

Insight

Patricia H. Thompson discusses the question: Should an arbitration clause be just a boilerplate provision, taken "off the shelf," or should it be specifically negotiated and crafted for the particular construction project and to accommodate the parties' requirements?

Health Law: Is Your Arbitration Agreement Enforceable?

Insight

A recent decision of the Arizona Court of Appeals provides guidance for evaluation of the enforceability of arbitration agreements in the health care field, reports Snell & Wilmer in its Health Law Checkup blog.

Court: Arbitration Agreement Included In Product Manual Is Unenforceable

Insight

A recent ruling in a federal count stated that a contractual term, like an arbitration clause, is binding only when the terms are reasonably conspicuous, rather than in a manner that de-emphasizes its provisions.

Court Finds Contract and Arbitration Clause Unenforceable Due to Fraud in the Inception

News

The court cited a California Court of Appeals decision for the proposition that it was enough that defendants, as the party drafting the contract, drafted the contract "'in such a way as to not apprise' the other party of its intentions."

11th Circuit: Arbitration Clauses Are Like Makeup – They Only Cover So Much

News

The arbitration clause which the non-party to the agreement is seeking to enforce is explicitly limited to disputes between the parties, the court found.

When an Arbitration Clause Sounds Permissive But Is Not: Does 'May' Really Mean 'Must'?

Insight

Narges Kakalia of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo asks and then answers some pointed questions about arbitration in an article on the firm's ADR Advice website.

Justices Will Hear Challenges

to Mandatory Employee Arbitration

News

The U.S. Supreme Court has agreed to decide whether companies can use employment contracts to prohibit workers from banding together to take legal action over workplace issues, reports *The New York Times*.

Contract Drafting for Dispute Resolution

Insight

John M. Newman of the Cecil C. Humphreys School of Law at the University of Memphis has compiled a guide to drafting for dispute resolution.