Circuit Split Widens Over Enforceability of Arbitration Agreements Containing Class/Collective Action Waivers

Insight

Polsinelli shareholder James C. Sullivan writes about how unsettled the law is on employer/employee arbitration provisions containing class/collective action waivers.

Patent Infringement Claim Exempts Related Counterclaims from Mandatory Arbitration

Insight

The U.S. Court of Appeals for the Federal Circuit determined that a defendant's breach of contract counterclaims were related to the plaintiff's patent infringement claims and thus were exempt from compulsory arbitration under the supply agreement. reports Andrea Coronado for McDermott Will & Emery.

U.S. Appeals Court Strikes Down Ernst & Young Class Action Waiver

News

The court found that the arbitration agreement violated the National Labor Relations Act by making workers arbitrate work-related claims as individuals in separate proceedings.

Arbitration Saves Money and Patents in International Disputes

Insight

If parties to a license or industry dispute resolution agreement devote appropriate time and effort to preparing an arbitration provision to meet their specific objectives, arbitration can be a valuable tool in resolving patent disputes, writes Kirk Watkins of Womble Carlyle Sandridge & Rice, LLP.

No Arbitration For Lawyer

Accused of Breaches in Deal With Client

Insight

A California appellate court closely parsed the language in an arbitration clause and reversed an order compelling arbitration of a dispute between a lawyer and his client-turned-business-partner, reports Karen Rubin in Thompson Hine's blog, The Law for Lawyers Today.

Time to Update Your Client Arbitration Agreements

Insight

The failure to incorporate new standards into fee agreements means not only that non-conforming provisions will be deemed unenforceable, writes Edward F. Donohue III of Hinshaw & Culbertson LLP.

Contract Indemnity and Duty to Defend vs. Insurance Duty to Defend

Insight

An explicit contractual duty to defend against allegations of

negligence or breach by the indemnitor may well be construed to require such a defense from the outset, even when parties are still arguing over ultimate liability, writes Stan Martin of Commonsense Construction Law LLC.

What U.S. GCs Should Know About Drafting International Arbitration Clauses

Insight

Kevin Perry and Joanne Elieli of of Cooley offer some insight for American general counsel on the drafting of international arbitration clauses, covering preliminary considerations and specific drafting issues.

Q&A on SCOTUS and Arbitration

Article

In an article posted on their firm's website, Matthew T. Furton and Julie L. Young, partners in Locke Lord, discuss some recent rulings on arbitration by the U.S. Supreme Court, particularly as they apply to insurance and reinsurance.

Want to Sue Your Bank? Regulators Push to Make It Easier

News

The Consumer Financial Protection Bureau proposed a rule Thursday that would ban arbitration clauses, which would affect the entire financial industry and the hundreds of millions of bank accounts, credit cards and other financial services Americans use, reports the Associated Press.

The End of Consumer Arbitration As We Know It?

Article

As a result of the passage of the Dodd-Frank Act in 2010, the use of mandatory pre-dispute arbitration in consumer transactions has become tenuous, according to an article written by Maurice Shevin for Sirote & Permutt, PC.

Agreement to Arbitrate May Not Require a Written

Contract

Article

From two different courts in two different states on two very different claims come the same concept: an agreement to arbitrate may be binding even without a signed contract, according to a report by Stan Martin on the Commonsense Construction Law website.

Employer’s Failure to Sign Agreement Torpedoes Its Motion to Compel Arbitration

Article

A fundamental principle of contract law is that a written contract is an agreement in writing that serves as proof of the parties’ obligations, writes Virginia Whitehill Guldi of Zuckerman Spaeder LLP. What happens, however, when the parties forget some of the niceties of formalizing a written contract?

International Sales Contracts: Square Peg, Round

Hole

Article

The article covers what law applies, where will disputes be resolved, arbitration of foreign disputes, who pays the costs of dispute resolution, and miscellaneous important contract provisions.

Agreements to Arbitrate Are Simple, Right?

Article

The protracted time for a construction case to get to trial and the attendant cost and expense has led the construction bar away from the courthouse and into the arbitration room, writes Ira M. Schulman of Pepper Hamilton LLP.

Are they Worth Price of Paper They’re Printed On? – Ubersization of Arbitration Clauses

Article

Vanessa L. Goddard, of counsel with Steptoe & Johnson, provides some tips that make arbitration agreements more

likely to be upheld by courts in the employment context.

Arbitration Under Fire: Brace for Less Contract Freedom and More Class Actions

Article

Encouraged by consumer groups and trial lawyers, federal regulators are pushing for limits on arbitration provisions in consumer contracts, writes George Calhoun in Ifrahlaw's FTC Beat.

'Belt and Suspenders' Overreach in Contracts May Prevent Satisfaction

Article

Often, drafters opt for a "belt and suspenders" approach, which is not only a terrible fashion faux pas but may result in an overreach nullifying the effectiveness of the risk management strategy.

Arbitration Provisions, Unconscionability, and Employment Contracts

Article

In a recent California contract case, a court found the agreement in question was found to be unconscionable in places, but that didn’t doom the arbitration provision contained within it, writes Stacey Lantagne in ContractsProf Blog.

Read This Before You Sign Any Contract

Article

A coalition of lawmakers led by Senators Patrick Leahy and Al Franken have introduced legislation to strengthen worker and consumer protections against binding arbitration.