Handbook Contract Disclaimers & Mandatory Arbitration Policies

Article

A New Jersey court recently used the so-called contract "disclaimer" language in an employer's handbook to preclude the employer from enforcing a mandatory arbitration program contained in that same handbook, reports Kevin C. Donovan in a Wilson Elser client alert.

Review Of Arbitration Awards: Lessons for the Construction Industry from the Tom Brady Case

Article

Richard W. Foltz, Jr. and James M. Kwartnik, Jr. of Pepper Hamilton discuss whether members of the construction industry contemplating review of arbitration awards can draw any lessons from the Tom Brady matter.

American Rule Prevails on Petition to Vacate Arbitration Award

Article

While parties can modify the American Rule in their contracts, they cannot preclude either party from seeking review of an arbitration award when they have effectively incorporated the FAA into their contracts, reports Squire Patton Boggs.

New Federal Bill Seeks to Limit Use of Arbitration Agreements

Article

Employers are advised to follow developments in the legislature and government agencies to curtail the use of arbitration agreements, writes James G. Ryan on the website of Cullen and Dykman LLP.

Clickwrap, Browsewrap and

Mixed Media Contracts

Article

Two lawyers describe a case in which a signed contract did not include an arbitration clause, but instead included an Internet link to terms and conditions that included such a clause.

Dallas Law Firm Gardner Haas Adds Litigator Jeremy Camp as Partner

NEWS

Commercial litigator Jeremy Camp has joined trial law firm Gardner Haas PLLC, moving over from Dallas' Brewer Attorneys & Counselors, formerly Bickel & Brewer.

Three Appellate Courts Remand for Trial on Existence of Agreement to Arbitrate

Article

For contract negotiators, it is critical to obtain (and retain) a signed copy of the final agreement including the arbitration clause, writes Liz Kramer in Stinson Leonard

Street’s ArbitrationNation.com.

Confusing Contracts Language as Litigation Strategy?

Article

Myanna Dellinger of the University of South Dakota School of Law has posted a discussion of a recent case in which a judge faulted Uber with presenting its drivers with a contract that was “likely, frankly, to engender confusion.”

Litigation, Arbitration Lawyer William Joins Hogan Lovells

NEWS

William (Bill) Regan has joined Hogan Lovells’ New York office as partner in the Litigation and Arbitration practice group.

Choose Words Carefully in Dispute-Related Contract Clauses

Article

A couple of words here or there in a contract can make a huge difference, particularly when those words relate to what happens if there is a breach or some other dispute between the parties, writes Shep Davidson.

Remedies for the Rogue Arbitrator

White Paper

Most arbitrations run smoothly, the paper says, but "arbitrators should be ready for the exceptional case, which can be occasioned by another arbitrator or counsel.

USSC Rejects Refusal to Enforce Arbitration Provision

Article

Arbitration agreements that waive class actions or class arbitration are enforceable. And state-court judges must enforce them.

Pre-Dispute Arbitration Clauses: Taking the Alternative Out of Dispute Resolution

White Paper

Binding individual customers to mandatory arbitration before a dispute arises, rather than encouraging its voluntary use, is harmful to public interest and consumer protection.

CFPB Proposes Banning Some Arbitration Clauses, Resurrecting Consumer Contract Class Actions

NEWS

The announcement follows the CFPB's publication of a three-year study on arbitration that concluded that consumers generally are better served through litigation.

Health Care Arbitration Agreements: Five Ways to Improve Enforceability

White Paper

Because the arbitration laws stack the deck against a facility, there is no foolproof way to draft an arbitration agreement; what may be found enforceable by one judge may be found unenforceable by another.

Agreement to AAA Rules Confirms an Arbitrator's Authority to Determine Jurisdiction

NEWS

Two recent cases confirm that incorporation of AAA Rules into an arbitration agreement evidences an intent to allow the arbitrator to determine what issues are arbitrable – including arbitration, reports *The National Law Review*.

What Every Contractor Needs To Know About Mediation

White Paper

It is rare that a construction claim goes to trial without some effort at mediation first. Indeed, a substantial percentage of construction contracts require mediation as a precondition to filing suit or demanded arbitration.

California Upholds Controversial Arbitration Clause Within Consumer Contract

NEWS

The California Supreme Court ruled recently in a case involving an arbitration clause in a consumer contract that because the buyer could not negotiate the provisions of the sales contract, he had established ‘”ome degree of procedural unconscionability.”

Arbitrator Exceeded Authority

in Multiple-Party, Multiple-Contract AAA Arbitration

NEWS

The 5th Circuit has found that an arbitrator exceeded his authority in a multiple-party, multiple-contract AAA arbitration by acting in accordance with one arbitration agreement but contrary to others.

AAA Revises Construction Industry Arbitration Rules and Mediation Procedures

White Paper

Pillsbury Winthrop Shaw Pittman has posted an article about the American Arbitration Association's revised Construction Industry Arbitration Rules and Mediation Procedures which became effective July 1, 2015.