Business Lobby Prods 9th Circuit to Revisit Decision Curbing Consumer Arbitration

News

The briefs come in the wake of the 9th Circuit's June 28 rulings in which plaintiffs claimed they couldn't be forced into arbitration because they sought injunctions against corporate defendants.

The Arbitration Section in Your Employee Handbook Is Not an Agreement to Arbitrate

Insight

An employer needs to be able to prove acceptance by each employee of an "offer" of arbitration, points out Mintz, Levin.

Eighth Circuit Issues a Reminder: Arbitration

Agreements Must be Contracts

Insight

If the arbitration agreement is entirely separate from the handbook, any disclaimers contained in the handbook are less likely to impact enforcement of that agreement, according to Littler Mendelson.

Don’t Overreach by Retaining the Unilateral Right to Modify An Arbitration Agreement

Insight

If a contract is too one-sided, it can be ruled illusory and unenforceable, warns Shepard Davidson in the Burns Levinson In-House Advisor blog.

U.S. Supreme Court to Rule on Important International Arbitration Issue

Insight

The answer to the question depends on where in the United

States the dispute is being litigated, according to China Law Blog.

Manufacturers Revisit Mandatory Arbitration Agreements

News

Two recent court decisions dealing with mandatory arbitration agreements highlight why some manufacturers may gain by requiring pre-dispute employment arbitration agreements.

Eighth Circuit Says a Delegation Clause Isn’t Valid (and Calls Wrap Contract Formation Into Doubt)

Insight

The ruling tosses all manner of “wrap” agreements into doubt, writes Henry Allen Blair.

Court Holds Delta’s Privacy Policy Isn’t a Contract

Insight

The key to Delta’s victory may have been a novel theory that its privacy policy should not be treated as a contract with a consumer, according to Manatt, Phelps & Phillips.

Don’t Assume That Closely Related Agreements Will Be Interpreted As One Contract

Insight

Even very closely related agreements still may be viewed as completely independent if there is a claim that only one of them has been breached, warns Burns & Levinson.

Defining the Limits of Arbitral Authority

Insight

Sometimes arbitrators issue awards that impose their own view of a “just” remedy at the expense of the painstakingly negotiated provisions in the parties’ contracts, writes Robert J. Kaler of Holland & Knight.

Ninth Circuit Enforces Online Arbitration Clause That Tested ‘Outer Limits’ of Reasonable Conspicuousness in Consumer Contract

Insight

The class action complaint in *Holl* alleged that UPS systematically overcharged its retail customers.

Avoiding Mishaps When Drafting Agreements at the End of Mediation

Insight

Holland & Knight offers some tips for preparing a memorandum of understanding or similar agreement executed at the conclusion of the mediation.

Employers May Compel Arbitration Even Where Employee Failed to Sign Arbitration Agreement

Insight

The plaintiff’s acceptance of its terms could be inferred from her failure to opt-out within 14 days outlined in the policy and by her continued employment, the court ruled.

Deborah Hankinson Honored Among Best Lawyers in Dallas for ADR Practice

News

Attorney Deborah Hankinson has been selected for the 14th time to D Magazine’s list of the Best Lawyers in Dallas for her practice in conflict resolution.

Waiving Class-Wide

Arbitrations in Contracts

Insight

It is clear from recent Supreme Court decisions that class action arbitration waivers do not violate the law, according to a Faegre Baker Daniels website post.

What Did I Agree To? Importance of Reviewing Arbitration Provisions

Insight

The case presented a conflict between the parties' contractually-adopted arbitration rules and an individual party's statutory rights under the FAA.

Keeping Boilerplate Coupled to the Transaction: The Ongoing Struggles with 'Wrap' Arbitration Provisions

Insight

The relevant hyperlink concerning arbitration was "neither spatially nor temporally coupled with the transaction," the

court found.

Arbitration Award ‘Irrational’ Because It Disregards Contract’s Plain-Text to Reach a Just Result

Insight

The Ninth Circuit has ruled in a contract arbitration case that incorporated multiple Federal Acquisition Regulation clauses that govern the recovery of expenses in the event a contractor is terminated for convenience.

‘Just What Was Needed’: Another Way to Waive a Right to Arbitrate

Insight

At least two New York State trial courts found that an unexcused default in responding to a summons and complaint can be deemed a waiver of a contractual right to arbitrate, according to Mintz, Levin.

Ex-Winston Lawyer Can’t Be Forced to Arbitrate Job Claims

News

Bloomberg Law is reporting that a former Winston & Strawn LLP intellectual property attorney can litigate—and can’t be forced to arbitrate—her pay, bias, and retaliation claims.