

When Arbitration Is Favored Despite USERRA Violations

Juan C. Enjamio and Robert Scavone Jr. of **Hunton & Williams** report that the Eleventh Circuit recently addressed a novel issue: What should courts do when faced with an employment contract containing provisions that run afoul of a statute aimed at protecting the rights of men and women who serve in the armed forces?

The Eleventh Circuit answered this question in *Bodine v. Cook's Pest Control Inc.*, and held that an arbitration agreement in an employment contract is enforceable despite the fact that certain provisions of the arbitration agreement violate the Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA).

They explain that Congress enacted USERRA in part “to prohibit [employers from] discriminat[ing] against persons because of their service in the uniformed services.”

Rodney Bodine brought suit against his former employer under USERRA and state law, alleging, inter alia, that Cook's discriminated against him because of his military service. Bodine argued that the entire arbitration agreement of his employment contract was void under USERRA's nonwaiver provision because the statute of limitations and attorneys' fees provisions of the arbitration agreement conflicted with USERRA.

The appellate court affirmed the district court's order and concluded that “USERRA's nonwaiver provision should not be read to automatically invalidate an entire agreement with USERRA-offending terms.”

Read the article.

