

# **Make Sure Your Agreement Addresses the Availability of Class Arbitration**

The U.S. Supreme Court has not addressed whether the availability of class arbitration is a substantive “gateway” issue for the courts if the parties have not explicitly delegated the decision to the arbitrator or whether it is a procedural question to be decided by arbitrators, points out Moore & Van Allen in a paper published on its MVA Litigation Blog.

“In the absence of a decree from the Supreme Court on this issue, companies could find themselves facing unfavorable, but reviewable, court determinations in some jurisdictions, while being more tightly bound in other jurisdictions by arbitrator determinations subjecting them to class arbitration against their will,” the paper says. “There are, however, steps that companies can and should take to minimize the risk that this conundrum will manifest and derail their dispute resolution strategies.”

**Read the white paper.**