Does an Arbitrator Have Authority to Compel Production of Third-Party Documents?

Insight

If a case is subject to arbitration, it is likely there will be a dispute about whether the arbitrator has the authority to compel production of third-party documents or witnesses for deposition.

Fake Mineral Leases Thwarted by the Texas Legislature

Insight

The 2019 Texas legislature enacted a new Property Code Section 5.152 to protect mineral and royalty owners from a certain species of fraudulent transactions.

Court Enforces Arbitration Clause in Clickwrap Agreement

News

The defendant’s terms of service, which were hyperlinked in

the sign-up box, contained a clause providing for arbitration of disputes with a class-action waiver.

SCOTUS Clarifies Vague Arbitration Clauses Affecting Class Disputes for Growing Businesses

Insight

If class arbitration is not explicitly addressed in an arbitration agreement, it cannot be compelled, writes Patrick K. Burns in a blog post for PilieroMazza.

Court Compels Arbitration Based on Clause Incorporated Into Guaranty Agreement

News

The case involved a leasing agreement that contained an arbitration provision, but the personal guaranty did not.

Biglaw Firm Hit by Law Student Protests Over Arbitration

News

DLA Piper partner Vanina Guerrero, who claims she was sexually assaulted and retaliated against by a fellow partner, said she is unable to bring those claims in court because of a mandatory arbitration agreement.

Lessons in Drafting and Implementing an Enforceable Mandatory Arbitration Agreement

News

The Court found that the arbitration agreement's execution involved a high degree of procedural unconscionability.

Never Too Late to Arbitrate?

Tips on Getting Your Agreement On

Insight

Three recent court decisions raise a few issues to keep in mind for employers to keep in mind when drafting arbitration agreements for employees.

Contractually Mandated Pre-Litigation Dispute Resolution Mechanisms Are Fraught With Peril

Insight

Forcing parties to engage in a process that only can work if all of them want to participate seems unlikely to result in anything other than delay and added expense, writes Shepard Davidson.

‘Click to Accept’ Arbitration: A Cautionary

Tale

Insight

An employee’s electronic acceptance of an arbitration agreement may not, by itself, be enough to prove that the employee has agreed to arbitrate.

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.

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.