Employer's Failure to Sign Agreement Torpedoes Its Motion to Compel Arbitration

A fundamental principle of contract law is that a written contract is an agreement in writing that serves as proof of the parties' obligations, writes **Virginia Whitehill Guldi** of **Zuckerman Spaeder LLP**. What happens, however, when the parties forget some of the niceties of formalizing a written contract?

For one answer, she offers the recent decision in the case of ***Shank v. Fiserv, Inc.***, in which the Eastern District of Pennsylvania addressed Fiserv's motion to dismiss and compel arbitration at the outset of the case.

In that case, employee Shank had been dismissed after returning from a medical leave. The company cited a reorganization, but the plaintiff claimed proffered reason was pretextual and that she had been fired in violation of various federal laws, including the Americans with Disabilities Act, the Family Medical Leave Act, and Title VII.

"Fiserv sought to dismiss the case and force arbitration, citing a 'Mutual Agreement to Arbitrate Claims' that Ms. Shank had signed when she was hired and that would have contractually obligated her to arbitrate her claims. However, Fiserv's argument had a flaw, said Ms. Shank, because it did not sign the agreement," Guldi wrote.

The court agreed with the plaintiff.

Read the article.