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BLOGS
Arbitration

Supreme Court Upholds Class Action Waivers in Employment Agreements

In a landmark non-franchise decision, the United States Supreme Court held, 5-4, that employers can require employees to individually arbitrate employment law claims without violating federal labor laws. *Epic Sys. Corp. v. Lewis*, 2018 WL 2292444 (U.S. May 21, 2018). Employees of Epic Systems Corporation entered into an arbitration agreement that required them to resolve employment disputes through individual arbitration and waive their right to participate in class actions. A former Epic employee brought an action in federal court against the company, on behalf of himself and similarly situated employees, alleging that Epic had violated federal law requiring overtime pay. Epic moved to dismiss the claim citing to the arbitration clause that prohibited class actions. The lower courts denied Epic's motion, finding that a class action waiver was unenforceable under the Federal Arbitration Act (FAA) and that the FAA was not pre-empted by the National Labor Relations Act (NLRA).

The Supreme Court majority held that the FAA plainly allows employers and employees to agree to arbitrate employment law claims on an individual basis, and that those rights are not superseded by a provision of the NLRA permitting employees to engage in concerted activities for the purpose of collective bargaining. The Court reasoned that the NLRA does not reflect a clearly expressed congressional intent to displace the FAA, as the NLRA does not discuss or mention class actions. Ultimately this decision expressly allows employers to require employees to individually arbitrate claims they may have against their employer. In the wake of the decision, employers should consider eliminating their exposure to employment law class actions by entering into arbitration agreements that require all employment disputes to be subject to individual arbitration.

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