

NINTH CIRCUIT STRIKES DOWN INJUNCTION AGAINST CALIFORNIA'S LAW ON MANDATORY ARBITRATION OF STATE LAW EMPLOYMENT CLAIMS

In U.S. Chamber of Commerce et al. v. Rob Bonta et al., case number 20-15291, the Ninth Circuit on Wednesday struck down an injunction that stopped California from enforcing A.B. 51, its 2019 law barring businesses from requiring workers to arbitrate work-related claims premised on California law. However, the Court did hold that certain provisions of the law that allow criminal penalties against employers are invalid.

The Ninth Circuit concluded that A.B. 51 is not, for the most part, preempted by the Federal Arbitration Act (FAA) and does not violate the U.S. Supreme Court's robust precedent supporting arbitration. "We are asked by plaintiffs to hold that the FAA requires parties to arbitrate when but one party desires to do so," the Court explained. But, "... nothing in the statutory text of the FAA or Supreme Court precedent authorizes or justifies such a departure from established jurisprudence, and we decline to so rule." On that basis, the Ninth Circuit struck down the District Court's injunction.

The Ninth Circuit did find that the provisions of the law that make it a criminal misdemeanor for employers to require employees or applicants to agree to arbitrate work-related claims as a condition of employment, and that exposed employers "to potential civil sanctions" are preempted by the FAA. The Court reasoned, "[t]he imposition of civil and criminal sanctions for the act of executing an arbitration agreement directly conflicts with the FAA and such an imposition of sanctions is indeed preempted."

Effective immediately, California employers should cease requiring employees or applicants to sign arbitration agreements covering claims arising under California employment laws. California employers must also carefully consider the risks and benefits of seeking to enforce such arbitration agreements previously signed by employees or applicants. We stand ready to assist in navigating this shifting legal landscape.