

LEGAL ALERT

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EMPLOYMENT LAW UPDATE

Arbitrate Your Employment Disputes: The U.S. Supreme Court Gives Broad Approval to Arbitration Agreements

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Litigation is obviously burdensome and dreaded by employers just about as much as taxes. Can an organization avoid litigation? Yes. While tax evasion is still illegal, litigation avoidance is not.

The United States Supreme Court ruled recently in *Circuit City v Adams* that employers can prevent an employee from filing a job-related lawsuit in court by requiring the employee to sign an arbitration agreement as a pre-condition to employment. In other words, arbitration agreements in non-union employment are enforceable even if the employee is compelled to sign the agreement as a condition of employment.

In a decision that resolved conflicting opinions among lower appellate courts, the U. S. Supreme Court ruled that the Federal Arbitration Act applies

to employment agreements unless the employee works in the transportation industry. It also concluded that the federal law pre-empts state laws that prohibit or limit an employer's ability to compel arbitration agreements in employment contracts. The Court reached this conclusion even though 22 state attorneys general objected to Circuit City's argument that federal law preempts state anti-arbitration laws. Even the conservative wing of the Court, which often votes to give states more authority, voted to support the broad application of the Federal Arbitration Act recognizing the enforceability of arbitration agreements in employment.

The Michigan Court of Appeals had already ruled in *Rembert v Ryan's Family Steak Houses, Inc.* (1999), that predispute arbitration agreements involving state employment discrimination

claims could be enforced if they met certain procedural safeguards. However, the Michigan court specifically ruled that such agreements were not binding if the statute being enforced prohibited arbitration. Since the United States Supreme Court has ruled that the Federal Arbitration Act pre-empts conflicting state laws, Michigan statutes that prohibit arbitration will no longer have any effect for employees covered by the Federal Arbitration Act.

The implications of the Court's ruling on employers are significant. Arbitration typically takes less time and fewer resources. Therefore, employers willing to accept arbitration for resolution of their disputes can experience cost-savings by requiring employees to settle claims through arbitration rather than the courts. Further, arbitration procedures are generally considered private

matters, unlike lawsuits that are public.

So what is the catch? Of course, there are limitations on what employers may do. Arbitration agreements are only enforceable if they provide fair procedures and do not waive substantive rights of the employee. Thus, the language and contours of the arbitration agreement are very important.

There are other limitations as well. Arbitration agreements in employment contracts may

not be enforceable on transportation workers. The Federal Arbitration Act exempts “contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce.” The Supreme Court held that in substance this exemption only applies to transportation workers. However, the Court offered little guidance regarding the scope of this exclusion.

Given the cost of dealing with employee lawsuits,

investing in an enforceable arbitration agreement could reap great rewards in the future. Members of the Labor and Employment Law Department at Smith Haughey Rice & Roegge can assist you in integrating arbitration agreements into your organization's goals and policies.

Smith Haughey Rice & Roegge has offices in Grand Rapids, Lansing and Traverse City.

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