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# Private Employee has no Right to Pursue Pattern or Practice Claim; Thus, no Entitlement to Class Action Procedural Mechanism

**1 min read**

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The Second Circuit Court of Appeals issued its ruling today in the matter of *Parisi v. Goldman, Sachs & Co. et al*., No. 11-5229-cv (2nd Cir., Mar. 21, 2013).

In this case, the district court denied the employer's motion to compel arbitration relating to the employees' gender discrimination claims. The case was originally brought on behalf of the individual plaintiff-employees as well as other similarly situated individuals, on the grounds that the employer engaged in a pattern and practice of gender-based discrimination against female employees in violation of Title VII.

The employer moved to compel on the basis of the arbitration agreement, and on the grounds that the U.S. Supreme Court previously held that a party cannot be compelled to arbitrate on a class-wide basis where the arbitration clause is silent as to the arbitration of class claims. The employee claimed that she did not understand that she was waiving her right to assert a class claim for discrimination when she signed the agreement.

The district court denied the motion on the grounds that though the arbitration clause in the employment agreement was valid, it did not provide for arbitration on a class-wide basis. The court ultimately concluded that the agreement's preclusion of class arbitration would make it impossible for the employees to arbitrate a Title VII pattern or practice claim. Accordingly, the clause operated as a waiver of a substantive right under Title VII.

The employer appealed. The Second Circuit Court of Appeals reversed, as it disagreed that a substantive statutory right to pursue a pattern or practice claim exists. The Court stated that "since private plaintiffs do not have a right to bring a pattern or practice claim of discrimination, there can be no entitlement to the ancillary class action procedural mechanism."

The Court found that the district court erred when it denied the motion to compel. The arbitration rules applicable to the employee, in this case, afford sufficient flexibility and informality in terms of adducing evidence, and the Court opined that the employee will likely have little difficulty in presenting evidence of discriminatory patterns, practices, or policies.

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