

SCOTUS Green Lights Class Action Waivers in Major Win for Employers

2 min read

May 23, 2018

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The [United States Supreme Court ruled](#) earlier this week that employees must submit claims to arbitration on an individualized basis when their employment agreements require it, even when those claims could be brought as class or collective action under federal legislation such as the Fair Labor Standards Act. Writing for the majority, Justice Neil Gorsuch held that parties to an arbitration agreement are bound by their agreement, as the Federal Arbitration Act envisioned. The Court cited the long history of supporting private arbitration agreements as an efficient and cost-effective means of handling disputes between parties, including parties to an employment agreement who have a dispute over wages.

The Plaintiffs had argued that the requirement to arbitrate claims individually instead of through class or collective actions conflicted with the National Labor Relations Act's focus on collective activity. Nothing in the NLRA, the Court observed, granted employees the right to bring class or collective claims. Likewise, the Court disagreed that there was any *Chevron* deference (deference to an administrative tribunal such as the NLRB) that required collective treatment of claims outside of the law the NLRB was charged to enforce. In other words, Plaintiffs could not use the NLRA to craft an argument that they were entitled to litigate collectively under the FLSA.

The opinion was the result of three cases that came before Court. One, the Ernst & Young case, involved a class-wide challenge to the company's use of an FLSA exemption. Because the parties had an agreement to arbitrate employment claims through individual arbitration, the company moved to compel arbitration. The employer was successful before the district court, only to have the appellate court overrule it. But the High Court fully embraced the mandate of the Federal Arbitration Act and remanded the case where arbitration will now be compelled over the individual wage claim only. We can expect a flurry of motions to compel individualized arbitrations to hit the dockets in class and collective claims currently pending throughout the country.

This represents a major victory for employers. Barring amendments to laws such as the FLSA to carve out class/collective treatment from the Federal Arbitration Act, this opinion will have a significant impact on the use of employment agreements to stem the tide of costly, time-consuming collective and class actions in federal

court. We recommend a carefully crafted employment agreement with a properly tailored arbitration provision that requires arbitration of all employment claims on an individual, not class or collective, basis. Grant the arbitrator the ability to award all benefits set forth in the statute so that full relief can be granted. These provisions should go a long way to limiting an employer's exposure to future federal class and collective claims.

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Topics

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