



Lawyers React to Oral Arguments in U.S. Supreme Court Arbitration Case

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In an interview with *SHRM*, **Josh Nadreau** and **Rich Meneghello** provide their reactions to the oral arguments in the U.S. Supreme Court case of *Henry Schein Inc. v. Archer and White Sales Inc.* Josh explains that he believes the Court is poised to agree with Henry Schein and decide that, “in the case of an ambiguous delegation provision, the issue of ‘who decides if a case is arbitrable’ should be put to the arbitrator, even if the agreement prevents the arbitrator from ultimately hearing the merits of the dispute.” Josh also adds that he thinks “this court, which has been very receptive to arbitration generally, is unwilling to create an exception...that could swallow the rule.”

For his part, Rich provides some important background on the case and explains that the Supreme Court is answering this more nuanced question that was raised in the appeals court on remand: “[d]oes an agreement that carves out certain claims – but generally delegates questions of arbitrability to an arbitrator – require that the arbitrator decide whether the carved out claim is arbitrable.”

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