



# Business Groups Bring Legal Challenge to California's Prohibition on Mandatory Arbitration Agreements

Insights

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A coalition of business groups led by the U.S. Chamber of Commerce just filed a lawsuit against California Attorney General Xavier Becerra and other state officials seeking to block AB 51, a recently passed statute which will make it unlawful for California employers to require employees to sign arbitration agreements beginning January 1, 2020.

In addition to the U.S. Chamber, the December 6 lawsuit was brought by the California Chamber of Commerce, the National Retail Federation, the California Retailers Association, the Home Care Association of America, and the California Association for Health Services at Home. The lawsuit seeks a declaration that AB 51 is preempted by the Federal Arbitration Act (FAA) and an injunction against the state enforcing AB 51. The case was filed in the U.S. District Court for the Eastern District of California in Sacramento.

The lawsuit contends that AB 51 is contrary to a long line of U.S. Supreme Court cases holding that states may not interfere with the arbitration process. Although AB 51 states that its intent is not to prevent the enforcement of arbitration agreements that are valid under the FAA, the lawsuit argues otherwise. The groups contend that AB 51 is nonetheless preempted because it outlaws the formation of arbitration agreements by imposing civil liability and criminal penalties on employers that require arbitration agreements with their employees. It cites a 2017 U.S. Supreme Court case which held that the FAA does not just prevent states from denying enforcement of arbitration agreements, it also prevents states from placing restrictions on the way arbitration agreements are formed.

Presumably the plaintiff business organizations will ask the court for a preliminary injunction blocking the enforcement of AB 51 pending proceedings in the lawsuit, but that request has not yet been filed. Unless the court grants such a request prior to January 1, 2020, employers will need to comply with AB 51 beginning on that date.

This blog will monitor developments in this lawsuit and provide updates as they occur.

## ***Related People***





**James J. McDonald, Jr.**

Partner

949.851.2424

Email