



Federal Court Blocks California's Ban On Mandatory Arbitration Agreements

Insights

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California employers just received a last-minute reprieve from complying with a newly enacted law that aims to prevent them from utilizing mandatory arbitration agreements with their employees – at least for now. A federal court just this morning granted a temporary restraining order requested by a coalition of business groups that presses pause on the new law before it could take effect on January 1. But the battle is just beginning, so California employers will want to pay particular attention to upcoming developments to ensure they are in compliance with the current state of employment arbitration agreement law.

Brief Background And Today's News

As we recently reported, a coalition of business groups led by the U.S. Chamber of Commerce filed a lawsuit earlier this month seeking to block AB 51 from ever taking effect. That law, signed into effect in October, would make it unlawful for California employers to require applicants and employees to sign arbitration agreements beginning January 1, 2020.

The plaintiffs asked the court to grant a preliminary injunction blocking the enforcement of AB 51 pending proceedings in the lawsuit. They also filed a request for a Temporary Restraining Order (TRO), which would halt the law from being enforced while the litigation over the preliminary injunction request was taking place. Earlier today, the court granted the TRO, effectively preventing the state from enforcing AB 51 until the request for a preliminary injunction is decided.

At the time the law passed, we predicted that “the law could very well be blocked by a court before it ever takes effect” because “similar recent attempts at restricting arbitration have been struck down as conflicting with a strong federal law favoring it.” And that turned out to be exactly what happened. In this morning’s ruling, the court held that the plaintiffs have raised serious questions regarding whether the new law is preempted by the Federal Arbitration Act as construed by the United States Supreme Court. The court also noted that the plaintiffs’ “argument that allowing the statute to take effect even briefly, if it is preempted, will cause disruption in the making of employment contracts is also persuasive.”

Next Steps

At least for the time being, the status quo remains in effect for California employers. It is still lawful to continue requiring employees to sign arbitration agreements. But the litigation surrounding AB 51

is moving quickly, so California employers will need to monitor developments closely over the coming weeks.

The court will next hold a hearing on the preliminary injunction request on January 10, 2020. At that time, the court could either (1) grant the preliminary injunction, further preventing AB 51 from being enforced by the state while the litigation continues on the merits; or (2) deny the preliminary injunction and thereby allow AB 51 to be immediately enforced. While the future of the law and this litigation remains uncertain, today's news is an important first step.

We'll keep you posted on any legal developments in this fight over the new law, and you can stay updated on the latest news at our [California Employers Blog](#) and through [our legal alert system](#). For more information, contact your Fisher Phillips attorney or one of the attorneys in any of our California offices:

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This alert provides an overview of a specific state law change. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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