



EMPLOYERS SCORE BIG WIN AT U.S. SUPREME COURT – CLASS ACTION WAIVERS IN ARBITRATION AGREEMENTS ARE UPHELD

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On May 21, 2018, the Supreme Court made its long awaited ruling on enforcement of class action waivers in arbitration agreements. This decision resolved a critical split of opinion among Federal Courts of Appeal.

By way of background, mandatory employer-sponsored arbitration has become exceedingly popular over the last fifteen years. As part of these arbitration agreements, many employers have inserted "class action waivers." These waiver provisions provide that the employee executing the arbitration agreement also waives his or her right to pursue any claim as part of a class action. These provisions are most relevant in the labor and employment context with respect to Fair Labor Standards Act ("FLSA"). The net effect is that an employee covered by an arbitration agreement containing a class waiver must pursue his or her claim individually, rather than joining a group of employees as part of a class action. In an FLSA case where individual relief may be nominal, but class relief may be great, class waivers can make pursuit of wage claims on an individual basis impractical. Notably, in 2012, the National Labor Relations Board ("NLRB") found that class action waivers were not enforceable because they infringed on the rights of employees to participate in protected concerted activity under the National Labor Relations Act ("NLRA").

Learn more about the United States Supreme Court's decision on class-action waivers in arbitration agreements [here](#).

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Labor and Employment



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