



# MARK SHOFFNER PROVIDES GUIDANCE ON EMPLOYEE CLASS ACTION WAIVERS IN THE TEXAS LAWBOOK

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Partner [Mark A. Shoffner](#) authored *The Texas Lawbook* article titled, “Is the End Near for Employee Class Actions in the 5th Circuit?” The piece examines the currently-unresolved issue of enforceability of employee class action waivers, both at the state level in Texas and nationally.

Shoffner highlights a pair of recent cases – *Convergys Corporation v. NLRB* and *LogistiCare Solutions, Inc. v. NLRB* – in which, for the first time, a Texas court upheld an employee class action waiver absent an arbitration agreement. In these matters, employers required employees to sign class action waivers, without an arbitration agreement in place, creating a so-called “naked” class action waiver. The National Labor Relations Board argued that these agreements illegally interfered with an employee’s right to engage in concerted activity. However, the 5th Circuit rejected that argument and held that the right to participate in a class action lawsuit is a right that can be waived and that such a waiver did not violate federal law.

Shoffner noted that class action waivers are valuable tools for employers to avoid or even eliminate their exposure to employee class action litigation under the FLSA, ADEA, and other employment statutes.

The Supreme Court is expected to rule soon on the validity of class action waivers in arbitration agreements in *Murphy Oil v. NLRB*. If these waivers are deemed enforceable, Texas employers should strongly consider adding them to their employment handbooks, policies, or contracts.

To read the full article, please click [here](#).

To view the article on *The Texas Lawbook*, please click [here](#).

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