



u.s. supreme court rules that class action waivers in employment arbitration agreements are enforceable

MSK Client Alert

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Last week, in an important win for employers, the U.S. Supreme Court resolved a circuit-split on whether class action waivers in employment arbitration agreements are enforceable under the Federal Arbitration Act (FAA), holding that they are.

The Court decided three cases, *Epic Systems Corp. v. Lewis*, *Ernst & Young LLP v. Morris*, and *National Labor Relations Board v. Murphy Oil USA, Inc.*, and answered the question of whether class or collective action waivers contained in employment arbitration agreements violate the National Labor Relations Act (NLRA). In 2012, the National Labor Relations Board (NLRB) ruled that employers violate the NLRA when they require employees, as a condition of employment, to agree to arbitration provisions containing class or collective action waivers, or clauses stating that employees must arbitrate any employment-related claims on an individual basis only (rather than on behalf of a class of other employees). The U.S. Courts of Appeals for the Second, Fifth, and Eighth Circuits did not follow the NLRB's ruling. The U.S. Courts of Appeals for the Seventh and Ninth Circuits reached the opposite result.

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