

Enforcement of Arbitration Clauses

Given the preference for binding arbitration over court litigation in many commercial contracts, arbitration clauses are found in contracts of all kinds, including consumer, commercial, and employment contracts. Wiley assists communications and other clients in realizing the advantages of arbitration by seeking judicial enforcement of arbitration clauses. We have developed and promoted innovative arbitration theories in recent cases.

Administrative Charge Class Action

In a case where wireless telephone consumers brought a class action alleging that their wireless telephone accounts were improperly assessed an administrative charge, Wiley secured dismissal of the action on the grounds that the service contract required individual arbitration and therefore precluded the plaintiffs from going directly to court as a class. The court agreed with Wiley's argument that the Federal Arbitration Act preempted a state supreme court decision that had declared a similar arbitration clause unconscionable, and it required that the arbitration clause in the service contract be enforced. Other courts, including the Ninth Circuit, have come to the opposite conclusion, holding that individual arbitration clauses are unconscionable under state law. The issue is likely to come before the Supreme Court in the near future.

Wiley attorneys have experience moving to compel arbitration and in conducting arbitration in a number of jurisdictions. Wiley attorneys also have extensive knowledge of the defenses typically advanced to escape binding and agreed-upon arbitration.

Wiley successfully defended a multi-million-dollar wholesale billing claim brought against a major telecommunications carrier. After a five-day arbitration hearing, the court not only denied most of the claimed amount, but it also granted the carrier a significant positive award. Wiley then successfully confirmed the arbitration award in state court and defended it against numerous challenges in federal court, two state courts, and bankruptcy court.