

Wiley Rein Attorneys Secure Victory in Defending the Constitutionality of the Federal Arbitration Act

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Today, on behalf of their client, Verizon Wireless, Wiley Rein attorneys secured a significant victory on appeal, defending the constitutionality and express text of the Federal Arbitration Act (FAA). Plaintiffs had argued that application of the FAA to certain state law claims violated Article III of the United States Constitution. In an opinion authored by Judge Richard C. Wesley, however, the U.S. Court of Appeals for the Second Circuit summarily affirmed the district court's decision that "the FAA neither violates Article III of the Constitution nor imposes an unconstitutional rule of decision under *United States v. Klein*, 80 U.S. 128 (1871)."

On a closely related procedural issue, the court, declining to join the shallow end of an inter-circuit split, held that Section 3 of the FAA does not grant district courts discretion to dismiss judicial proceedings when "all of the claims in an action have been referred to arbitration and a stay requested." The court reasoned that the "text, structure, and underlying policy of the FAA mandate a stay of proceedings" in such circumstances.

The ruling reaffirms, and is consistent with, the Supreme Court of the United States' favorable precedents under the FAA, and it rejects the attempt to subvert the plain text of the Act. As a result, the Second Circuit's holding now places definitively in the majority those courts that consider a stay of proceedings necessary after all claims have been referred to arbitration and a stay requested.

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Practice Areas

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Andrew G. McBride, chair of Wiley Rein's Communications Appellate & Litigation Practice, argued the case and served as the lead attorney. The Wiley Rein team also included associates Dwayne D. Sam, Jeremy J. Broggi, and Christen B'anca Glenn.