

Federal Court Strikes Down California’s “Request Arbitration, Go to Jail” Law

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On January 31, 2020, Chief United States District Judge Kimberly J. Mueller [enjoined California from enforcing AB 51](#). This new legislation prohibits employers from requiring their employees to sign arbitration agreements. Last week, the court issued its [detailed written opinion](#) explaining the basis for its decision.

As we predicted, the Court found that AB 51 is preempted by the Federal Arbitration Act (FAA) because it “singles out arbitration by placing uncommon barriers on employers who require contractual waivers of dispute resolution options that bear the defining features of arbitration.” In short, AB 51 places arbitration agreements on “unequal footing” as compared to other contracts because AB 51’s prohibition on California employers’ use of “right, forum, or procedure” waivers as a condition of employment illegally disfavors arbitration agreements.

Plaintiffs (employer trade groups, including the Chamber of Commerce and the National Retail Federation) also demonstrated that they would face irreparable harm if the injunction were not granted because California businesses would either: (1) suffer criminal and civil penalties if they continued to rely on mandatory arbitration; or (2) be deterred from relying on mandatory arbitration, which is a right guaranteed them under the FAA.

Whether the state will appeal the district court’s ruling to the Ninth Circuit remains unclear. In the meantime, employers in California may once again rest easy that they won’t be doing time in the county jail just for asking employees to sign an arbitration agreement.

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