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## Much Needed Good News for Employers: U.S. Supreme Court Holds Class Action Waivers In Arbitration Agreements Must Be Enforced!

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On May 21, 2018, the U.S. Supreme Court issued its long-awaited decision in *Epic Systems Corp. v. Lewis*, 584 U.S. \_\_\_\_ (2018). The question before the U.S. Supreme Court was whether the Federal Arbitration Act (“FAA”) requires the enforcement of arbitration agreements providing for individualized proceedings – e.g., arbitration agreements containing class action waivers. The majority opinion, written by Justice Neil Gorsuch, provides an unequivocal answer: Yes, arbitration agreements providing for individualized proceedings must be enforced if they are governed by the FAA.

Justice Gorsuch summarized the fundamental issue before the Court in his opening paragraph:

“Should employees and employers be allowed to agree that any disputes between them will be resolved through one-on-one arbitration? Or should employees always be permitted to bring their claims in class or collective actions, no matter what they agreed with their employers?”

(Slip Op. at \*1.) The majority of the Court answers the first question with a clear “yes” and the second question with a clear “no.”

The U.S. Supreme Court’s decision provides much needed certainty about the status of class action waivers in employment arbitration agreements. Over the last few years, a split had developed between the Federal Circuit Courts and between state and federal courts regarding the enforceability of class action waivers in employment arbitration agreements. California employers were in the predicament that such class action waivers were enforceable in state court under the California Supreme Court’s decision in *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal. 4<sup>th</sup> 348 (2014), but often unenforceable in federal court under the Ninth Circuit’s decision in *Morris v. Ernst & Young, LLP*, 834 F.3d 975 (9th Cir. 2016).

The U.S. Supreme Court removed any uncertainty. The Court expressly overruled the Ninth Circuit's *Morris* decision. Class action waivers in arbitration agreements governed by the FAA are enforceable and employers are free to include them in their arbitration agreements.

We recommend that businesses review their existing arbitration agreements and contact counsel to determine whether they are taking full advantage of the U.S. Supreme Court's ruling.

Clients with questions about this e-Alert or related issues are welcome to contact the article authors, or the Rutan & Tucker attorney with whom you are regularly in contact.

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