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## Landmark Supreme Court Ruling Favoring Waivers of Class Action Lawsuits

Last week, the United States Supreme Court delivered a big win for employers ruling that employers can require employees to waive their rights to pursue class action litigation relating to their employment.

This issue came to a head a few years ago when the National Labor Relations Board declared that class action waivers violate the National Labor Relations Act. The NLRB reasoned that such waivers inhibit protected union concerted activities, which included employees' rights to sue their employers in class action litigation, even in non-unionized settings. Last week's ruling overturns that decision and broadly allows class action waivers in arbitration agreements (and possibly even outside of arbitration agreements). In doing so, the Court reinforced the liberal federal policy favoring arbitration, including an employer's right to require employees to waive their ability to bring class action litigation against their employer.

Such class action waivers have been increasingly popular over the years given the rise of class action claims relating to minimum wage and overtime pay under the Fair Labor Standards Act and background checks under the Fair Credit Reporting Act just to name a few. The cost of such large-scale litigation can be catastrophic to employers of any size. In fact, the Court specifically recognized that it is "well known that [class actions] can unfairly place pressure on the defendant to settle even unmeritorious claims" given the high stakes and higher litigation costs involved. In other words, class action waivers help level the playing field for employers that might otherwise be forced to settle class action litigation, not because they have done anything wrong, but because the cost of proving they are right is simply too much.

In light of the Court's ruling, all employers should consider having all or a portion of their workforce sign arbitration agreements that require litigation of any disputes to be done exclusively through arbitration and in single plaintiff cases. Taking these proactive measures can be crucial in defending against what can become "bet the company" class action litigation.



**If you have any questions or would like additional information about these class action waivers and implementing arbitration agreements for your workforce, please contact:**

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