



## U.S. Supreme Court Rules Employers can Prohibit Employees from Filing Class Action Lawsuits

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The United States Supreme Court gave employers a big win this week by ruling, in a 5-4 vote, that employers can enforce agreements that require employees to arbitrate disputes individually and waive the right to pursue such claims in collective or class actions.

The opinion addresses three cases that were before the Court: *Epic Systems Corp. v. Lewis*, *Ernst & Young LLP v. Morris*, and *National Labor Relations Board v. Murphy Oil USA*. In each case, an employee who had signed an employment contract containing an agreement to arbitrate brought suit in federal court, seeking the right to bring individual and collective claims. The employers argued that the agreements prevented class action litigation because the employees agreed to individually arbitrate their claims. However, the employees claimed that, because the National Labor Relations Act (NLRA) provides employees the right to join together for “mutual aid and protection,” prohibiting collective or class action lawsuits should be considered an illegal restriction of their rights under the NLRA.

Writing for the majority, Justice Gorsuch agreed with the employers’ argument that the Federal Arbitration Act, which states that an agreement to arbitrate “shall be valid, irrevocable, and enforceable,” controls. In the Federal Arbitration Act, Congress has instructed federal courts to enforce arbitration agreements according to their terms—including terms providing for individualized proceedings.”

This case is the Court’s latest attempt to determine the breadth of the enforceability of contracts that require disputes to be resolved in individual arbitrations rather than in court. For example, in 2011, in the case of *AT&T Mobility LLC v. Concepcion*, the Court ruled that the Federal Arbitration Act allows companies to avoid class actions by requiring individual arbitrations in their consumer contracts. Similarly, in the case of *American Express v. Italian Colors Restaurant*, the Court held that class action waivers are enforceable even where the cost of individually arbitrating a claim exceeds the potential recovery.

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Given the outcome of the Supreme Court decision, employers who want to prevent employees from filing class action lawsuits, including those for unpaid wages and overtime under the Fair Labor Standards Act (FLSA), may do so by requiring employees, as a condition of employment, to sign individual arbitration agreements.

If you have any questions or would like assistance with drafting an arbitration agreement, please contact a member of Foster Swift's Labor and Employment Practice Group.