

## Arbitration in the Fifth - April 2026

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**PRACTICES** International Arbitration, Litigation

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In April 2026, the Fifth Circuit Court of Appeals' *Crescent City Surgical Operating Co. v. Interstate Fire & Casualty Co.* considered the standard for granting a stay of continuing litigation after some, but not all, defendants were referred to arbitration. In the Southern District of Texas, *Madison v. Niagara Bottling, LLC* reviewed the framework for evaluating a party's reliance on security measures in establishing electronically signed agreements.

### Opinion of the Fifth Circuit

*Crescent City Surgical Operating Co. v. Interstate Fire & Casualty Co.*, No. 25-30044, 2026 WL 1091579 (5th Cir. April 22, 2026). Order denying stay vacated. Two foreign and two domestic insurers moved to compel arbitration. The district court granted the motion to compel as to the two foreign insurers and denied it as to the two domestic insurers. The district court also denied a motion to stay the litigation pending completion of the foreign insurer arbitration. Because the foreign insurers received only partial relief, they were aggrieved parties with standing to appeal. In deciding whether to stay litigation pending arbitration involving non-signatories, the court considers only whether "(1) the arbitrated and litigated disputes involve the same operative facts, (2) the claims asserted in the arbitration and litigation are inherently inseparable and (3) the litigation has a critical impact on the arbitration." Considering these factors, the district court abused its discretion when it denied the request to stay the litigation.

### Opinions of United States District Courts

#### Motions to Compel Arbitration

*Rotolo v. Energy Erectors, Inc.*, No. CV 25-2213, 2026 WL 904510 (E.D. La. April 2, 2026) (Fair Labor Standards Act). Motion to compel granted. The parties' arbitration agreement indicated that the company including its subsidiaries were bound to arbitrate and that the agreement bound them "without any requirement to sign the agreement." The subsidiaries were expressly bound by the agreement and were not "non-signatories." Plaintiff's argument under the Federal Arbitration Act's transportation worker exemption was rejected. The court reasoned: "Plaintiff orders goods on Defendants' behalf for use by other employees of Defendants, transports those goods to the employees and they are utilized by the employees and cease to reenter commerce. Under these facts, Defendants' employees are the end consumers of the goods, and Plaintiff is therefore not playing a role in the 'free flow of goods across borders'."

*Carter v. Quintairos, Prieto, Wood & Boyer, P.A.*, No. CV 25-2273, 2026 WL 1077436 (E.D. La. April 21, 2026) (employment). Motion to compel denied. The court determined that the employee manual containing the arbitration clause was, by its terms, a "unilateral expression of company policy and procedures" and was "not a binding contract." Also, the "Acknowledgment & Release Form" signed by the employee acknowledged that the manual "can be accessed on-line" and did "not constitute consent to be bound by the arbitration clause within" the manual.

*Younes v. NCP Cardiac Cath Lab*, No. CV 26-127, 2026 WL 973280 (W.D. La. April 10, 2026) (limited partnership). Plaintiff argued that the parties' arbitration agreement did not allow for multi-party arbitration. The parties' agreement included a delegation clause. The court held that it could not "entertain challenges that, as here, 'essentially go to the procedure of arbitration, specifically the arbitrator selection process, and to the alleged unfairness of that process' before an award is issued."

*Hendrix v. Allstate Ins. Co.*, No. 4:25-CV-00698-P-BP, 2026 WL 942672 (N.D. Tex. March 18, 2026), report and recommendation adopted, 2026 WL 940295 (April 7, 2026) (employment). Motion to compel granted. Defendants established the arbitration agreement and employee's assent by providing "an 'audit trail' from one of their databases and that record when employees sign various electronic agreements" and a declaration vouching for the authenticity of the agreement as a business record. Plaintiff's arguments that her post-employment damages and reputational damage did not arise out of her employment and were not covered by the arbitration agreement was rejected.

*Horton v. LeafFilter North LLC*, No. 3:25-CV-2318-X-BN, 2026 WL 1142385 (N.D. Tex. April 27, 2026) (Telephone Consumer Protection Act). Motion to compel denied without prejudice. Defendant sought to compel arbitration based on a "hybrid sign-in-agreement." The court found that it was "unclear that an IP address associated with a device belonging to [plaintiff] interacted with the [defendant's] website."

*Ali v. Abu Omar Halal LLC*, No. CV H-25-3410, 2026 WL 962635 (S.D. Tex. April 9, 2026) (FLSA). Motion to compel granted. The parties' agreement stated, in relevant part, that "[a]ll disputes arising out of or related to this Agreement or the Employee's employment shall be resolved exclusively through binding arbitration[.]" Broad arbitration clauses have an "expansive reach." The language was sufficient to cover pre-agreement claims. "The Fifth Circuit generally recognizes six theories in which a non-signatory is bound to an arbitration agreement: '(a) incorporation by reference, (b) assumption, (c) agency, (d) veil-piercing/alter ego, (e) estoppel, and (f) third-party beneficiary.'" The court found that the individual defendant signed the parties' agreement as president of the defendant company and could enforce the arbitration agreement. A binding promise on both sides to arbitrate all contract claims does not lack consideration.

*Madison v. Niagara Bottling, LLC*, No. CV H-25-5701, 2026 WL 1042477 (S.D. Tex. April 15, 2026) (employment). Motion to compel denied without prejudice to allow amendment related to Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021. The court explained the law related to electronic employment agreements as follows:

The case law suggests the following framework for evaluating cases in which a party relies on security measures to establish the validity of an electronic signature. The court first must assess whether the moving party ruled out the possibility that anyone but the opposing party signed the arbitration agreement, such as through the use "unique, secret credentials" that no agent of the moving party could have possibly accessed. If the moving party does not provide such evidence—but instead offers only an employee who "vouches for the authenticity of an agreement purportedly signed by the plaintiff as a business record," then only "legally sufficient," not legally conclusive, evidence is in the record. The court next must evaluate "any contravening evidence from" from the opposing party. If the opposing party states that he or she does not "recall" signing the arbitration agreement, then the court can compel arbitration. But if the opposing party avers that he or she "never intended to enter into a binding arbitration agreement," or outright denies completing the arbitration agreement

or related employment documents then the court must resolve the material factual dispute after an evidentiary (or *Shattenkirk*) hearing. (citations omitted)

*CTI III, LLC v. Peters*, No. CV H-26-1465, 2026 WL 1110704 (S.D. Tex. April 23, 2026) (employment). Motion to compel granted. Employee signed two agreements with the employer on the same day: A Voluntary Arbitration Agreement (“Arbitration Agreement”) and a Confidentiality and Intellectual Property Assignment Agreement (“CIPAA”). The CIPAA contained an entirety clause and the Arbitration Agreement indicated that it “can only be modified or revoked by a writing signed by the parties that specifically states an intent to revoke or modify this Agreement.” Once the existence of an arbitration agreement was shown, the burden shifted to the party opposing arbitration to show that the agreement was invalid or the dispute was outside its scope. The employee did not meet that burden and the CIPAA did not specifically state the intent to revoke the Arbitration Agreement.