

## Arbitration in the Fifth - February 2025

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March 13, 2025 Odean Volker

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**PRACTICES** Litigation, International Arbitration

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In February, the Eastern District of Louisiana continued the task of revisiting certain orders compelling arbitration as to domestic insurers following Louisiana Supreme Court's interpretation of a state statute. The Southern District of Mississippi considered the appropriate rate for post-judgment interest following confirmation of an award, and the Southern District of Texas rejected creative arguments by non-signatories seeking to compel arbitration.

### Opinions of United States District Courts

#### Motions to Compel Arbitration

*3501 N. Causeway Associates, LLC v. Certain Underwriters at Lloyd's, London*, No. CV 22-3787, 2025 WL 388627 (E.D. La. Feb. 4, 2025) (appeal filed) (insurance). Order compelling arbitration reconsidered as to domestic insurers and motion to compel denied. Louisiana Revised Statute § 22:868 invalidates arbitration agreements in domestic insurers' insurance contracts. The court held that "that the doctrine of equitable estoppel is a matter of state law, not federal law." Louisiana law "unambiguously rejects the use of equitable estoppel to subject domestic insurers to the [New York] Convention." A stay of the litigation against the domestic insurers was denied.

*Apex Hosp. Group, LLC v. Indep. Specialty Ins. Co.*, No. CV 23-2060, 2025 WL 457874 (E.D. La. Feb. 11, 2025) (appeal filed) (insurance). Order compelling arbitration reconsidered and motion to compel denied. Louisiana Revised Statute § 22:868 invalidates arbitration agreements in insurance contracts. "[D]omestic insurers [in Louisiana] can no longer be subject to the [New York] Convention through equitable estoppel". Whether "a plaintiff can be compelled to arbitrate with a domestic insurer based on the plaintiff's arbitration agreement with a foreign insurer is a matter of state law, not federal law."

*Ramsey v. Indep. Specialty Ins. Co.*, No. CV 23-0632, 2025 WL 624031 (E.D. La. Feb. 26, 2025) (insurance). Case reopened and order compelling arbitration vacated. Louisiana Revised Statute §22:868 invalidates arbitration contracts in insurance contracts of the domestic insurers. Equitable estoppel is governed by state law, which dictates that the Louisiana Supreme Court, not the Fifth Circuit, controls on the issue of equitable estoppel.

*Hardaway v. Okees Used Auto Sales, Inc.*, No. 3:24-CV-330-HTW-LGI, 2025 WL 586666 (S.D. Miss. Feb. 24, 2025) (auto purchase). Motion to compel granted. Statutory claims may be subject to arbitration unless Congress has explicitly stated otherwise. Seller assigned the installment purchase agreement to a third party. That third party was allowed to enforce the arbitration agreement contained in the installment purchase agreement.

*Williams-Tucker v. Tex. Health Res.*, No. 6:25-CV-00024-JDK, 2025 WL 540017 (E.D. Tex. Feb. 17, 2025) (employment). Motion to compel granted. When considering a motion to compel arbitration, the court must address two questions. First, whether there is a valid agreement to arbitrate, and second, whether the dispute in question falls within the scope of the arbitration agreement. As to

the first question, the court should apply ordinary state-law principles that govern the formation of contracts. The second question is answered by applying the federal substantive law of arbitrability.

*AKM Enterprises, Inc. v. Hayes*, No. 4:23-CV-4144, 2025 WL 593385 (S.D. Tex. Feb. 24, 2025) (alleged trade secret misappropriation). Motion to compel denied. Certain defendants sought and obtained an order compelling arbitration based on their employment agreements. Other defendants then sought to compel arbitration based on the co-defendants' employment agreements which they argued also contained a delegation clause. Parties cannot delegate to an arbitrator a dispute over the existence of an arbitration agreement. Even if an arbitration agreement contains a delegation clause, "courts must decide at the outset whether an enforceable arbitration agreement exists at all." Defendants also argued direct benefits estoppel. When alleged liability "arises solely from the contract or must be determined by reference to it—equity prevents a person from avoiding the arbitration clause that was part of that agreement." When the substance of the claim arises from general obligations imposed by law, direct-benefits estoppel is not implicated.

*WesternGeco, L.L.C. v. Magseis FF LLC*, No. H-22-3080, 2025 WL 643069 (S.D. Tex. Feb. 27, 2025) (services agreement). Motion to compel denied. The parties' entered into a service agreement, service order and letter agreement. The arbitration clause in the service agreement could not be reconciled with the forum selection clause in the letter agreement. Resolving the parties' forum dispute depended on whether one agreement amended a prior agreement or was a separate, supplemental agreement. "An agreement to arbitrate is superseded by a later-executed agreement containing a forum selection clause if the clause 'specifically precludes' arbitration ... but there is no requirement that the forum selection clause mention arbitration."

## Motions to Confirm/Vacate

*Wells Fargo Clearing Services, LLC v. Graham*, No. 3:24-CV-373-KHJ-MTP, 2025 WL 394979 (S.D. Miss. Feb. 4, 2025) (note). Award confirmed. The parties contracted to a post-default interest rate of 5.44%. The court ordered interest from the award date to the judgment date at the contracted for default rate. No express reference was made in the note, arbitral award or arbitration rules to post-judgment interest. Therefore, post-judgment interest was at the statutory rate.

*Quintas v. Granite Constr. Inc.*, No. CV H-22-0662, 2025 WL 581038 (S.D. Tex. Feb. 21, 2025) (employment). Award confirmed and motion to vacate denied. Mere speculation that an arbitrator failed to consider evidence is insufficient for purposes of vacatur. "[A]rbitrators exceed their power only when they act 'contrary to ... express contractual provisions.'" Plaintiff's "evidentiary arguments" failed to show evident partiality or misconduct and failed to establish that the arbitrator exceeded her powers. Finding no evidence to support that the arbitrator's conduct contributed to procedural unfairness, the court noted the "well-detailed award in which [the arbitrator] specifically considers both parties evidence and provides a detailed analysis supporting her decision."

## Other Arbitration-related Opinions

*St. Paul Commodities, Inc. v. Oleo-X, LLC*, No. 1:24-CV-145-TBM-RPM, 2025 WL 639346 (S.D. Miss. Feb. 27, 2025). Motion to transfer venue denied. The first filed action was in the Southern District of Mississippi. The second filed action, seeking vacatur of an award, was filed in the Southern District of New York. The Federal Arbitration Act's venue provisions are permissive, allowing the general venue statute to remain applicable in actions involving arbitration awards. Venue was appropriate in Mississippi absent "compelling circumstances." None of the public interest factors weighed in favor of transfer, one weighed against, and the rest are neutral, movant therefore did not convince the court that compelling circumstances warranted transfer.

**Opinions of the United States Bankruptcy Courts**

*Goldberg v. Foley & Lardner, LLP*, No. 22-90032, 2025 WL 660059 (Bankr. S.D. Tex. Feb. 26, 2025) (legal services). Motion to compel granted. A bankruptcy trustee stands in the shoes of a debtor for purposes of an arbitration clause and is bound by the clause to the same extent as a debtor. A bankruptcy court may refuse to enforce an arbitration agreement “when the underlying nature of a proceeding derives exclusively from the provisions of the Bankruptcy Code and the arbitration of the proceeding conflicts with the purposes of the Code.” While one of the claims was a core proceeding, it was premised exclusively on prepetition conduct as were other claims. The court declined exercise its discretion to deny arbitration. Arbitrability was delegated to the arbitrators through the incorporation of the JAMS rules.