

Sungaila in American Lawyer on Employers Requiring Class Action Waivers

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PRACTICES Class Action Defense, Litigation

The American Lawyer quoted Haynes Boone Partner M.C. Sungaila on an anticipated Supreme Court ruling in *Epic Systems v. Lewis* on whether employers can require workers to sign arbitration agreements that include class action waivers.

Here's an [excerpt](#):

The court is expected to settle whether a National Labor Relations Act provision allowing for workers to engage in collective actions trumps the Federal Arbitration Act's dictate that arbitration agreements are irrevocable. Notably, in its 2011 ruling *AT&T Mobility v. Concepcion*, the high court ruled that a clause in a California state contract law failed to trump the FAA. ...

Employers have already used the class action waivers in arbitration agreements, and those waivers have survived previous challenges in some circuits but lost in others. ...

Sungaila, a partner at Haynes Boone who drafted an amicus brief for Epic Systems on behalf of the International Association of Defense Counsel, said she will welcome the high court's clarification. Given the circuit split, as it stands: "You don't know what circuit you might be hailed into. You really don't have any certainty no matter where you are geographically," Sungaila said.

She expects a ruling that favors employers. "People are optimistic, but obviously they [the justices] are taking their time since it was argued the first day of their term," Sungaila said.

But if the justices do deliver a ruling that helps employers, will she have to cope with a smaller workload?

Sungaila laughed and said: "I never underestimate the creativity of each side of the bar. If we win on this, it doesn't mean that there won't be another new theory."

To read the full article, click [here](#). (Subscription required)