

Labor Law Bulletin

Labor and employment law trends
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Illinois Supreme Court Upholds Mandatory Arbitration of Employment Claims

The Illinois Supreme Court recently upheld a unilaterally implemented employer policy requiring that employment-related disputes be resolved exclusively through arbitration. *Melena v. Anheuser-Busch, Inc.*, No. 99421 (March 23, 2006).

Background

One year after Joann Melena was hired at Anheuser-Busch's Mt. Vernon, Illinois distribution center, the Company implemented a new "Dispute Resolution Program" which included binding arbitration by a neutral arbitrator of all employment-related claims. Thereafter, Melena was injured at work and filed a workers' compensation claim. While on disability leave, she was terminated. She filed a lawsuit in state court claiming she was fired for filing the workers' compensation claim. The Company asked the court to dismiss the suit arguing that it should be resolved exclusively through the arbitration process created by the Dispute Resolution Program. The trial court disagreed with the employer. So did an appellate court, holding that Melena did not enter into the arbitration agreement "knowingly and voluntarily." The Illinois Supreme Court decided to review the case.

The Illinois Supreme Court Decision

The Illinois Supreme Court held that the Company's mandatory arbitration procedure constituted an enforceable contract to which Melena was bound. As an initial matter, the Court reasoned that Melena had not been required to give up any substantive right to be free from retaliation but, instead, she agreed only to submit her claims to an arbitral forum.

The state supreme court also looked at whether there is a heightened "knowing and voluntary" standard before an employee can be forced to accept an agreement to arbitrate. Reviewing the split in the federal courts on this issue, the Illinois Supreme Court decided that basic contract principles of offer, acceptance and consideration apply. The court found nothing special about the substantive right to recover for retaliatory discharge that prevents an individual from waiving a judicial forum or jury trial. Because Melena continued to work after the Dispute Resolution Program was announced, the court found that she had accepted the terms of the program even though her only other choice would have been to quit her job.

Impact of Decision

Mandatory arbitration can serve as an effective way to reduce the frequency, cost and risk of jury trials and court litigation. However, employers sometimes shy away from implementing these programs because of concerns about

their enforceability. At least in Illinois, the *Melena* decision should give employers substantial comfort that the state courts will enforce properly structured agreements requiring that employment-related claims be resolved in arbitration rather than in court.

Vedder Price is highly experienced in assisting employers develop mandatory arbitration programs. If you have questions about this case, or are considering a mandatory arbitration program, please call Bruce Alper (312/609-7890) or Angela Pavlatos (312/609-7541).

VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.

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Questions or comments concerning the Bulletin or its contents may be directed to its Editor, **James S. Petrie** (312/609-7660), or the firm's Labor Practice Leader, **Bruce R. Alper** (312/609-7890), or the

Managing Shareholder of the firm's New York office, **Neal I. Korval** (212/407-7780), or, in New Jersey, **John E. Bradley** (973/597-1100).

Chicago

222 North LaSalle Street
Chicago, Illinois 60601
312/609-7500
Fax: 312/609-5005

New York

805 Third Avenue
New York, New York 10022
212/407-7700
Fax: 212/407-7799

New Jersey

Five Becker Farm Road
Roseland, New Jersey 07068
973/597-1100
Fax: 973/597-9607