



Memorandum

TO: To Our Clients

FROM: Levinson Arshonsky & Kurtz, LLP

DATE: October 15, 2019

RE: New California Law Regarding Arbitration Agreements

Governor Newsom has just signed AB 51, which seeks to add Section 432.6 to the Labor Code, outlawing mandatory employment arbitration of claims by current or former employees. AB 51, as written, prohibits mandatory arbitration agreements for *any* discrimination claims covered under the Fair Employment and Housing Act (not just sexual harassment) and for *any* claims under the Labor Code (including wage and hour and other protections). This was the same bill vetoed over and over by Governor Brown, as it was a clear violation of the Federal Arbitration Act.

While this bill has a section which states “Nothing in this section is intended to invalidate a written arbitration agreement that is otherwise enforceable under the Federal Arbitration Act,” the law is clearly an attack on pre-employment arbitration agreements.

We believe this new legislation is likely be challenged and enjoined before it goes into effect. All commercial and employment arbitration is protected by the Federal Arbitration Act. However, the new legislation is scheduled to go into effect on January 1, 2020.

This bill has no effect on pre-existing agreements as it applies to: “contracts for employment entered into, modified, or extended on or after January 1, 2020.” We highly recommend that all employers conduct an internal employment law audit to ensure that arbitration agreements are up to date and executed by every employee.

We will keep you updated as to the validity of AB 51 and the status of the challenges that are sure to come. The text of AB 51 can be found at:

[leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB51](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB51)

This material is for informational purposes only and does not constitute legal advice. If you have any questions regarding these new laws and applicability to your business, please contact:

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