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Eye On The Law

US SUPREME COURT SURPRISES EXPERTS WITH RECENT DECISIONS ON ARBITRATION AGREEMENTS

UNION'S ARE ALIVE – STARBUCKS, AMAZON, APPLE

THE ARBITRATION LANDSCAPE IS CHANGING

- **Recent decisions suggest that the US Supreme Court may be moving away from a generalized pro-arbitration stance based on long established policy dating as far back to the *Steelworkers Trilogy* in 1960. Instead, the Supreme Court seems to be reaching decisions based on strict textual interpretation of the Federal Arbitration Act (FAA).**
- **For example, *Badgerow v. Walters* resolves a key question about awarding arbitrations in federal courts by applying FAA Sections 9 and 10 - "a court may look only to the application actually submitted to it in assessing its jurisdiction."**
- **Clients with arbitration agreements or those considering them should examine arguments relating to strict analyses of the FAA rather than relying on generalized, long established Supreme Court deference to arbitration as a matter of public policy.**

WHY WORKERS UNIONIZE

In our last issue of Eye on the Law we discussed strategies employers can use to attract and keep talented employees. In addition to a means of insuring a productive, skilled workforce these tactics are important because, dissatisfaction with treatment by management remains the primary reason that pushes workers to unionize. *Starbucks, Amazon and Apple, three giants previously thought to be untouchable in terms of employee collective action, have experienced heightened union activity in recent months.* Three important considerations are:

- **The #MeToo movement**

- **The #BlackLivesMatter movement**
- **The Fight for $15 movement**

These movements, propelled by the collective indignation of their proponents, facilitate a culture of protest, which lends itself well to unionization. Other conditions, such as perceived disparate pay (many articles about CEO compensation packages), perceived unfair policies, and low levels of employee trust can cause employees to look to unions for help or create their own union.

Chris Smalls, the leader of the Amazon Labor Union, described Amazon's long working hours, short breaks, and discriminatory and haphazard hire-and-fire practices in in an interview on the Daily Show. Ultimately, the pushes for union representation at behemoths like Starbucks, Amazon and Apple may provide impetus for workers at smaller workplaces to do the same.

IMPORTANT LEGISLATION AND COURT ACTIONS

- **May 17, 2022 Governor Lamont signs new law about "Captive Audience" meetings.**
  - **Effective July 1, 2022, it shall be unlawful for all employers to discipline or terminate, or threaten to discipline or terminate, an employee for refusing to attend employer-sponsored meetings, listen to a speech or view communications primarily intended to convey the employer's opinion about religious or political matters, including decisions to join/not to join a labor organization.**
  - **While we think the statute, as it relates to labor organizations, is likely to be challenged on federal preemption grounds, it is an indicator of union political power. See this article for more information.**
- **June 24, 2922 *Roe v. Wade* overturned**
  - **The US Supreme Court overturned the constitutional abortion right established roughly 50 years ago in *Roe v. Wade*.**
  - **This paves the way for many states to rollback abortion rights. According to the Guttmacher Institute, 26 states may move to ban/limit abortion.**
  - **Please see the court decision here. More to follow in the next *Eye.***

We are excited to introduce an extremely talented intern. Ekow Bentsi-Enchill, a Computer Science major at Yale is applying to law school, following in the footsteps of his father, who was a prominent lawyer in Ghana. We are grateful to work with him and eager to watch him become more immersed in the law.

If you have concerns about these or any other workplace or litigation issues, please contact David Ryan at david.ryan@ryan-ryan.net or by telephone at 860.460.7139 (mobile) or 203.752.9794 (office).

If you would like to forward this email to a friend or colleague, please feel free to do so or tell us to add them to our list.

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