

Refusing to Sign: The Shades of Gray of Employment Arbitration Agreements

01/14/19

Arbitration agreements are useful tools for employers, but what can employers do if an employee refuses to sign the agreement? While some states permit employers to terminate employees for refusing to sign an arbitration agreement, New Jersey law is uncertain.

In a recent case, Cator v. WRDC Corp., the court considered whether an employee can be terminated for refusing to sign an arbitration agreement. The employer adopted a policy requiring both new and current employees to sign an arbitration agreement that mandated that all claims brought against the employer be brought in front of an arbitrator. The plaintiff refused to sign the agreement and was suspended from work as a result. The plaintiff filed a complaint against her employer, alleging violations of the New Jersey Law Against Discrimination (LAD). She specifically argued that the LAD gives her the right to file a discrimination claim in court and the agreement constituted a waiver of that statutory-protected right. She further argued that her employer prohibiting her from returning to work after her refusal to sign the agreement constituted unlawful retaliation under the LAD. The court agreed with the plaintiff, holding that the employer violated her right to a jury trial and retaliated against her when she refused to waive this right.

Cator is an unpublished law division case, which means its precedential value is very limited. As a result, another court hearing the same issue is not required to follow the Cator court's reasoning. Nevertheless, Cator serves as a cautionary tale for employers, demonstrating that employers should exercise care when asking current employees to sign arbitration agreements.

Takeaway: Employers should proceed with caution when requesting current employees to sign arbitration agreements.

Attorney

- Ashley Morin

Practice

- Employment Law