

Employment Law Update: Governor Murphy Signs New Law Regarding Employment Contracts and Settlement Agreements

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On March 18, 2019, Governor Murphy signed a law that prohibits the enforcement of any provisions in an employment contract that waive any substantive or procedural rights or relief regarding discrimination, retaliation, and/or harassment.

The new law also prohibits employers from enforcing non-disclosure provisions regarding discrimination, retaliation, and/or harassment in employment contracts and settlement agreements with current and former employees. However, if an agreement contains a non-disclosure provision and the employee reveals information regarding the agreement in such a way that the employer is identifiable, the non-disclosure agreement will become unenforceable against the employer and the employer may discuss the matter/agreement.

The law does not prohibit employers from requiring their employees to sign: (1) a restrictive covenant, with non-compete and/or non-solicitation provisions; or (2) a non-disclosure agreement regarding proprietary information.

Plaintiffs attorneys will interpret the new law to prohibit arbitration agreements and class action waivers in the employment context. However, the law will likely be challenged by employers as interfering/conflicting with the Federal Arbitration Act, which permits parties to agree to arbitration as a form of dispute resolution.

Additionally, guidance through regulations and/or case law will need to be issued to determine whether the law invalidates class action waivers that employers have required employees to sign (such waivers were upheld as valid by the U.S. Supreme Court in the summer of 2018).

More guidance will also be needed to determine the scope of the law as it is vague. We will continue to follow this law and will update you on developments in its interpretation. If you have any questions regarding the new law, please contact the [Employment Law](#) Department at 732-352-9858.

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