

## Litigation Alert

December 15, 2015

### ***DIRECTV v. Imburgia*: Supreme Court Again Preempts State Law That Barred Waiver of Classwide Arbitration**

On December 14, 2015, the United States Supreme Court considered a contract provision preventing classwide arbitration and providing that, “[i]f the law of your state would find this agreement to dispense with class arbitration procedures unenforceable, then this entire [arbitration provision] is unenforceable.” The Supreme Court held that “the law of your state” included the Federal Arbitration Act (FAA). Therefore, even though California state law would invalidate the waiver of classwide arbitration, the FAA, as the Court had previously held, preempted California law, so the waiver of classwide arbitration was enforceable.

This decision demonstrates the Court’s continuing interest in arbitration and its strong inclination to uphold arbitration provisions, including ones that ban classwide arbitrations.

#### **Facts:**

Amy Imburgia signed a contract with DIRECTV, which contained provisions that (1) mandated arbitration, (2) prohibited class-action arbitration and (3) specified that it was governed by the FAA. The contract also contained a clause indicating that, “if the law of your state would find this agreement to dispense with class arbitration procedures unenforceable, then this entire [arbitration provision] is unenforceable.”

When Ms. Imburgia filed a class action lawsuit against DIRECTV, it moved to compel arbitration on an individual basis. She argued that California state law, which prohibited waivers of classwide arbitration, applied to the contract and thus made the entire arbitration clause unenforceable. DIRECTV argued that the “law of [the] state” included the FAA, which the Supreme Court had previously held preempted California state law. See *AT&T Mobility LLC v. Concepcion*, 563 U.S. 321 (2011).

#### **Ruling**

The Supreme Court reversed and remanded the California Court of Appeal ruling in a 6-3 decision written by Justice Breyer.

The Supreme Court held that “the law of [the] state” included only valid state law that has not been preempted by federal law. Furthermore, if the Supreme Court invalidates a state law, the law will no longer retain independent force. The California Court of Appeal could not interpret “law of your state” to constitute a “specific exception” to the contract’s general adoption of the FAA. “The Federal Arbitration Act is a law of

the United States . . . Consequently, the judges of every state must follow it.” *DIRECTV v. Imburgia*, 577 U. S. \_\_\_\_ (2015) at \*5. Thus, since the California Court of Appeal’s interpretation is preempted by the FAA, the court must enforce the arbitration agreement.

The entire decision is available here: *DIRECTV v. Imburgia*.

## Contact Information

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