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**NINTH CIRCUIT REVERSES ITSELF AND REMOVES LAST  
BARRIER TO ARBITRATION  
(September 4, 2002)**

**Summary**

Yesterday, the Ninth Circuit Court of Appeals, the federal appellate court that covers California and the western states, reversed itself and ruled that the mandatory arbitration of federal discrimination claims is permissible. This decision was a 180 degree shift from the court's previous rulings, which prohibited a court from compelling the arbitration of Title VII discrimination, retaliation or harassment claims.

**Details**

Donald Lagatree applied to a law firm but wasn't hired because he refused to sign a pre-employment agreement to arbitrate. The Equal Employment Opportunity Commission sued the law firm on Lagatree's behalf.

Although the district court denied most of Lagatree's claims, it did issue an injunction prohibiting the law firm from requiring applicants to arbitrate federal discrimination claims; that ruling was based on the Ninth Circuit's 1998 ruling in *Duffield v. Robertson Stephens & Co.*, where it ruled that courts could not force federal Title VII claims into arbitration.

On appeal to the Ninth Circuit, the law firm argued that the *Duffield* decision was wrong, particularly in light of the United States Supreme Court's decision last year in *Circuit City Stores v. Adams*, where the Court expressed its strong approval of the arbitration process. The Ninth Circuit agreed and reversed its *Duffield* ruling, thus making the compulsory arbitration of federal discrimination claims permissible.

The full decision is called *E.E.O.C. v. Luce, Forward, Hamilton & Scripps* and it can be found [here](#).

**What This Means**

This is good news for employers who have arbitration agreements with their employees because the last barrier to unenforceability has now been eliminated.

If California employers wish to create enforceable arbitration agreements with their employees, they need only follow certain procedural safeguards that were established by the California Supreme Court two years ago. (Here is a link to our [E-Update](#) that explained the six required factors for an enforceable arbitration agreement.)

This E-Update was authored by [Joe Connaughton](#). If you have any questions about this E-Update, please contact the author or any PPS&C attorney.

This E-Update is offered as general information to our clients and friends. The Update is not intended as legal advice applicable to any specific situation and should not be taken as such.

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