

GOVERNOR SIGNS BILL PROHIBITING MANDATORY ARBITRATION AGREEMENTS FOR EMPLOYEES

This Alert is a brief summary of Assembly Bill 51 ("AB-51") and its implications. The bill and its effects will be covered in more detail at Stradling's year-end employment law updates:

*November 13 – Santa Barbara Hilton Garden Inn
November 14 – Santa Maria Country Club
(Sponsored by Your People Professionals)
November 19 – Newport Beach Stradling Office*

*For more information, please email
Scott Feuchter at sfeuchter@sycr.com
Attendance is limited*

On October 10, 2019, Governor Newsom signed AB-51 which prohibits employers from **requiring** their employees to enter into binding arbitration agreements. It also creates a private right of action against anyone who requires or coerces an employee to enter an arbitration agreement as a condition of their employment or retaliates against employees who refuses to do so. This new law applies to arbitration agreements entered into, modified or extended on or after January 1, 2020.

AB-51 does not apply to agreements that are voluntarily entered into or are entered into prior to January 1, 2020.

The law extends beyond prohibiting strictly mandatory arbitration agreements. It also expressly prohibits arbitration agreements that rely on opt out provisions: If an employer's arbitration agreement is structured so that it applies unless the employee opts out, the agreement violates AB-51.

There is no doubt that AB-51 will be challenged in court, including based on the claim that it is preempted by the Federal Arbitration Act which

favors the binding arbitration of disputes. Meanwhile, employers will be left to decide whether to comply with AB-51 or to continue to require that employees enter into mandatory employee arbitration agreements based on the presumed unenforceability of AB-51. Employers should consult with their legal counsel regarding what approach is right for them.

Please contact Jeff Dinkin or Sean Piers at Stradling if you would like discuss the application of AB-51 to your situation.

Jeff Dinkin
805.730.6820
jdinkin@sycr.com

Sean Piers
805.730.6804
spiers@sycr.com

(You can obtain a full copy of AB-51 at https://leginfo.ca.gov/faces/billNavClien.html?bill_id=201920200AB51)