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Client Advisory

Overview

On July 27, 2009, the Massachusetts Supreme Judicial Court issued an important opinion on the arbitration of claims of employment discrimination. The case is Warfield v. Beth Israel Deaconess Medical Center, Inc., SJC-10375, 2009 WL 2195791 (Mass. July 27, 2009).

Plaintiff Carol A. Warfield ("Warfield"), former chief of anesthesiology at Beth Israel Deaconess Medical Center, Inc., filed a lawsuit against her employers alleging gender discrimination and retaliation in violation of M.G.L. c. 151B, as well as factually related common-law claims. The defendants moved to dismiss and compel arbitration based on an arbitration provision in Warfield's employment agreement. The Superior Court denied the motion and the defendants appealed. The Supreme Judicial Court affirmed the lower court's decision, holding that the terms of the agreement were "insufficiently clear to constitute an enforceable agreement by Warfield to arbitrate her claims that the defendants violated her rights under G.L. c. 151B." Id. at *6.

The Arbitration Clause at Issue

The relevant portion of the arbitration provision in Warfield's employment agreement reads:

"Arbitration. Any claim, controversy or dispute arising out of or in connection with this Agreement or its negotiations shall be settled by arbitration."

The Analysis and the Court's Conclusion

The Supreme Judicial Court relied on the Commonwealth's strong public policy outlawing discrimination in arriving at its conclusion. While the Court stated that parties are free to agree to arbitrate claims of statutory discrimination, if parties want to accomplish this they must, "at a minimum, state clearly and specifically that such claims are covered by the contract's arbitration clause." Id. at *5. The Court concluded that the agreement was not sufficiently clear to enforce arbitration of Warfield's claims arising under M.G.L. c. 151B. The Court also concluded that Warfield's common law claims were so "integrally connected to her c. 151B claims," that they should be resolved in one judicial proceeding. Id. at *7.

Application

If the parties to an employment agreement (and arguably an employment application or an employee handbook) intend that potential claims of discrimination, including retaliation claims, are to be subject to arbitration, the parties must explicitly state in the employment agreement, or other relevant document, that such claims are covered by the arbitration clause.

For more information on arbitration provisions, please contact your Rose, Chinitz & Rose attorney.