

California's Arbitration Ban Challenged in Federal Court

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As expected, California's effort to ban employers from requiring employees and applicants to sign an arbitration agreement has been challenged in federal court. [The lawsuit](#) was filed by a business coalition that includes the U.S. Chamber of Commerce and the National Retail Federation.

[AB-51](#) was signed into law in October along with [a constellation of other new laws](#) targeting employers in the state. The bill prohibits "any person" from requiring an applicant or employee to "consent to the waiver of any right, forum, or procedure for a violation of the California Fair Employment and Housing Act or [the Labor] code." Any person violating this prohibition is subject to a misdemeanor.

Although the statute expressly states that the law does not intend to invalidate a [written arbitration agreement](#) that is otherwise enforceable under the Federal Arbitration Act (the "FAA"), it's unclear how it could survive federal preemption in its current form. The lawsuit that was filed on Friday seeks to invalidate the law on that basis. Former California Governor Jerry Brown vetoed similar bills on precisely that ground: they "[plainly violate federal law.](#)"

While it may take some time for the lawsuit to work its way through the court, employers should keep an eye out here for any developments, as this case is likely to have far-reaching implications

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