

Employer Fails to Show that Former Employee Had Express or Implicit Agreement to Arbitrate

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[*Mar v. Perkins*, 102 Cal. App. 5th 201 \(2024\)](#)

Winston Mar brought an action against SierraConstellation Partners, LLC and its CEO (collectively, the “Sierra defendants”), alleging that the LLC had to purchase his partnership interest within 120 days of written notice of his dissociation. In response, the Sierra defendants filed a motion to compel arbitration, arguing that Mar was an employee bound by the arbitration agreement in the LLC’s handbook. The trial court denied the motion to compel, and the Court of Appeal affirmed, holding that the Sierra defendants did not meet their burden to show an express or implied-in-fact agreement to arbitrate was formed. The company’s handbook included a signature line for employees, which Mar had refused to sign. When Mar told the LLC’s Chief People Officer he would not sign the arbitration agreement, the Chief People Officer responded that if he continued to work for the Sierra defendants, he would be deemed to have accepted the terms of the Employee Handbook, including the arbitration agreement. The Sierra defendants argued that because Mar continued to work for the Sierra defendants after refusing to sign the arbitration agreement, he was implicitly bound by the arbitration agreement. The Court rejected this argument, holding that “Where an employee promptly and unequivocally rejects an arbitration agreement as a modified term of employment, mutual assent to arbitrate is lacking.”

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