

UBER Arbitration Pact Tossed

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The assault on company-employee arbitration pacts by the National Labor Relations Board (NLRB) continues. On June 13, an NLRB Administrative Law Judge (ALJ) ruled an Uber Technologies arbitration agreement was unlawful. Uber required its software engineers to sign an agreement that compelled arbitration of claims against the company. Specifically, the ALJ held that the language in the agreement was “ambiguous” as to employees’ rights to file charges with the NLRB or otherwise access NLRB “processes.” Notably, the judge ruled this way even though a provision in the agreement explicitly stated that employees interested in filing an administrative charge with the NLRB could do so at “www.nlr.gov” – the agency’s own website! [The ALJ ordered Uber](#) to rescind or revise its policy to more clearly state (somehow) that employees can access NLRB processes. Uber may appeal the decision to the full NLRB, but it has not done so yet. Activity on this front has been heavy lately, as this comes on the heels of a [similar decision by the NLRB](#) rendered in April. In addition, the U.S. Supreme Court is in the midst of hearing arguments in a case in which [employers are challenging the NLRB’s view](#) that class action waivers in compulsory employment arbitration pacts violate the National Labor Relations Act. This case serves as another reminder for companies using or considering an arbitration program to resolve workplace disputes with its employees that the NLRB aggressively scrutinizes such agreements. Accordingly, care must be taken when drafting and implementing the agreements so they account for recent NLRB decisions and guidance. Failure to do so may result in the program being partially or wholly invalidated.

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