The Morrison Law Journal
April 2024
Volume XIV, Edition 4

A Loss for Employers Seeking Arbitration: California Court of Appeal Rules Against Solar Panel Giant Sunrun, Inc. in Its Bid to Require Arbitration for Employee Claims Where the Arbitration Agreement Had a Carve-Out for Private Attorney General Act (PAGA) Claims

By: Edward F. Morrison, Jr., Esq.
Larry A. Schwartz, Esq.

In a significant decision from the California Court of Appeal, Mondragon v. Sunrun, Inc. (2024) Westlaw 1731764, the California Court of Appeal (Second District) ruled that Angel Mondragon, formerly employed with Sunrun, Inc. ("Sunrun"), was not required to arbitrate his employment claims against Sunrun, even though Mondragon had signed an arbitration agreement as a condition of Mondragon's employment.

In the "Mondragon" employment agreement, the employment agreement required arbitration for most employment-related disputes, but it specifically excluded representative claims filed under the California Private Attorney General Act ("PAGA").[1] Mondragon filed a PAGA claim against Sunrun, arguing that there were various *Labor Code* violations affecting both him and other employees. Sunrun responded to Mondragon's PAGA complaint by filing a Motion to Compel Arbitration of Mondragon's individual claims under PAGA, arguing that the arbitration agreement's exclusion applied only to representative PAGA claims involving other employees. The Trial Court denied the Motion and Sunrun appealed.

On appeal, the Court of Appeal affirmed. First, the Court of Appeal noted that Sunrun's arbitration agreements referenced particular ADR organizations' rules (American Arbitration Association), but the Court of Appeal ruled that the language in the arbitration agreement did not clearly delegate authority to decide arbitrability to the arbitrator. Given that, the Court of Appeal agreed with the Trial Court that it was the Trial Court that was to decide whether claims were subject to arbitration. The Court of Appeal further interpreted the language of Sunrun's arbitration agreement, concluding that all PAGA claims were excluded from arbitration, regardless of whether the claims were individual or non-individual claims. Essentially, the Court of Appeal construed California PAGA statute as treating all PAGA actions as inherently representative.

The Mondragon case is important in that it underscores how important it is that the arbitration agreement set forth which tribunal or court is to determine arbitrability in the first place. The Mondragon decision also casts doubt on the enforceability of an arbitration agreement if there are exclusions or carve outs (or at least complicates the picture).

---

[1] Quoting the Employment Agreement: "Parties understand and agree that the following disputes are not covered by this Agreement:…."claims brought by Employee in state or federal court as a representative of the state of California as a private attorney general under the PAGA (to the extent applicable) …."

About the Authors: Edward F. Morrison, Jr. is the founding partner and Larry A. Schwartz is Of Counsel to The Morrison Law Group, a professional corporation. Their biographies can be viewed at morrisonlawgroup.com.

Publication Note: The Morrison Law Group wishes to disseminate this publication to all clients and colleagues of the Firm who wish to receive it. Should any recipient desire to be removed from the distribution list, or wishes to have a colleague added, please contact Jim Van Dusen at The Morrison Law Group at 213 356-5504 .

Disclaimer Note: The legal article presented above is intended to provide general information which may be of interest or use to clients and colleagues of The Morrison Law Group and should not be construed as legal advice on any matter.