

Employment & Labor Alert



TX Employers Beware: Fifth Circuit Says Your Arbitration Agreements May Be Unenforceable

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If your company requires employees to sign mandatory arbitration agreements (and you should), here's a wake-up call: if you (the employer) didn't sign it, too, then it may not be worth the paper it's printed on.

In a recent [Fifth Circuit case](#), the court refused to enforce an arbitration agreement because the employer never signed it, even though the employees had. The agreement clearly required signatures from *both* sides — and that was the employer's downfall. This decision (*Mertens v. Benelux Corp.*) underscores a simple but critical rule under Texas law: If your agreement requires signatures from both parties, you must actually sign it — or you may lose the right to compel arbitration. The Fifth Circuit reaffirmed that when the language and structure of the contract show both parties must sign, courts will hold employers to that requirement.

What Texas Employers Should Do Now

1. Review your arbitration agreements.

If they include signature lines for both parties or language that says or implies both parties must sign, make sure you're collecting *all* required signatures.

2. Don't rely on "intent" or past practice.

In *Mertens*, the employer argued it intended to enforce the agreement — but the court said the contract's wording controlled, not after-the-fact explanations.

3. Train managers and HR teams on proper execution.

A legally valid arbitration agreement is only as strong as your execution process.

4. When in doubt, get it signed.

The Fifth Circuit has upheld unsigned agreements *only when the contract did not require a signature block at all* (as in [Flores v. BJ's Restaurant](#)). But when your agreement expressly requires signatures? No signature = no enforcement.

Bottom Line

If you operate in Texas (or anywhere in the Fifth Circuit), don't leave your arbitration agreements unsigned. Courts are taking the language of these agreements seriously — and employers who don't are paying the price.

For questions regarding this development, or any other employment and labor questions, please contact your GableGotwals attorney or a member of [our Employment & Labor Group](#).



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