



FOR IMMEDIATE RELEASE

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WLF Urges Supreme Court to Provide FAA Guidance to California's Courts

(OTO, LLC v. Kho)

“California’s courts plainly need to be told—again—how to apply the Federal Arbitration Act.”

—Corbin K. Barthold, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation today filed an *amicus curiae* brief urging the U.S. Supreme Court to review a California Supreme Court ruling inconsistent with the Federal Arbitration Act.

The FAA establishes a federal policy favoring arbitration. To operate properly, however, the FAA must apply consistently across the nation. The California Supreme Court has repeatedly created *inconsistency*. It has done so in this case by striking down an arbitration agreement that, in its view, provided the parties *too much* procedure. It declared the agreement unconscionable on the ground that it set forth rules that look more like ordinary civil litigation than like California’s administrative wage-dispute resolution process.

WLF’s brief argues that the California Supreme Court’s ruling is nothing more than a thinly veiled attempt to ban wage-dispute arbitration altogether, in gross defiance of the FAA. The brief also places the ruling in context, showing that it is simply the latest in a long line of recent California high court decisions that discriminate against arbitration. Finally, the brief discusses the California courts’ improper use, when looking at arbitration clauses, of a special, distorted version of the contractual unconscionability defense.

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