



FOR IMMEDIATE RELEASE

June 15, 2022

Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

Supreme Court Clarifies That The FAA Preempts California Law That Precludes Dividing Claims

(Viking River Cruises, Inc. v. Moriana)

“Today’s decision is yet another welcome rebuke to California’s ongoing hostility to arbitration.”

—Cory L. Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—The U.S. Supreme Court held today that a rule of California law that precludes the division of claims under California’s Private Attorneys General Act (PAGA) is inconsistent with the Federal Arbitration Act (FAA). The decision was welcome news for Washington Legal Foundation (WLF), which filed an *amicus* brief in the case urging reversal. WLF’s brief was prepared with the pro bono assistance of Peder Batalden, Felix Shafir, and John Querio of Horvitz & Levy LLP.

The FAA establishes a federal policy favoring arbitration. To operate properly, however, the FAA must apply consistently nationwide. The California courts have repeatedly created inconsistency. This case is the latest in a long line of decisions from California refusing to follow the FAA’s directive that arbitration contracts be enforced as written.

Here the California Court of Appeal declined to enforce a representative-action waiver in the parties’ arbitration agreement based on the California Supreme Court’s decision in *Iskanian v. CLS Transportation Los Angeles*. In *Iskanian*, the court held that because PAGA claims are not divisible into constituent claims, courts need not enforce PAGA representative-action waivers.

The Supreme Court reversed, explaining that a “state rule imposing an expansive rule of joinder in the arbitral context would defeat the ability of parties to control which claims are subject to arbitration.” That, in turn, would allow parties to add “new claims to the proceeding,” effectively coercing parties into withholding PAGA claims from arbitration.

Celebrating its 45th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

###