

California Appeals Preliminary Injunction Against State Ban on Employment Arbitration Agreements

By Scott P. Jang & Samia M. Kirmani

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Meet the Authors



Scott P. Jang

Principal
(415) 394-9400
Scott.Jang@jacksonlewis.com



Samia M. Kirmani

Principal
(617) 367-0025
Samia.Kirmani@jacksonlewis.com

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The State of California has filed a notice of appeal of the district court's decision granting a preliminary injunction enjoining the State from enforcing Assembly Bill 51 (AB 51) against employment arbitration agreements governed by the Federal Arbitration Act (FAA).

On January 31, 2020, the U.S. District Court for the Eastern District of California in *Chamber of Commerce of the United States, et al. v. Becerra, et al.*, No. 2:19-cv-2456, [granted the request for a preliminary injunction](#) enjoining the State from enforcing AB 51. On February 7, 2020, the court [issued its written order](#) detailing its [reasoning for granting the preliminary injunction](#). It ruled that the four factors required for a preliminary injunction were met:

1. The likelihood of the plaintiffs succeeding on the merits of the case;
2. The likelihood of irreparable harm to the plaintiffs absent a preliminary injunction;
3. The balance of the equities; and
4. Whether an injunction is in the public interest.

Now, the State has filed a notice of appeal of the district court's decision to the U.S. Court of Appeals for the Ninth Circuit. (The State employed a similar strategy as to [pending litigation concerning Assembly Bill 5](#), which relates to independent contractors.) The district court's preliminary injunction will remain in place pending the appeal.

The State may move to stay the injunction pending the outcome of the appeal, as it attempted in the Assembly Bill 5 litigation (which was denied). That would allow it to enforce AB 51. Because the district court ruled all four factors for a preliminary injunction were met, however, a grant of a stay of the injunction by the Ninth Circuit appears unlikely as that would effectively eviscerate the preliminary injunction.

We will continue to monitor developments pertaining to AB 51. Meanwhile, Jackson Lewis attorneys are available to discuss the implications of the latest ruling and to assist in drafting California-compliant employment arbitration agreements.

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