

Don't bury arbitration agreement in handbook

The Court of Appeal of California has ruled that an arbitration agreement hidden deep in the recesses of an employee handbook can't be enforced. The provision didn't stand out, didn't require a signature and could be changed by the employer at any time. The court said that rendered it unconscionable.

Recent case: Perry went to work for the Vista Del Mar Child and Family Services. He received a thick employee handbook that clearly stated that it was not a contract. Perry was fired after he tried to report what he believed were violations of state and federal laws.

He sued and the agency asked the court to move the case to arbitration. Perry urged the court to keep the case and claimed the agreement to arbitrate was unconscionable.

He pointed out that the clause was buried in the handbook and wasn't even set out with bold type or a different font size. Language in the handbook stated it was not an employment contract and that the employer could change anything it wanted at any time without notice. Although Perry did sign an acknowledgment on the last page of the handbook that said he had received it, there was no separate signature line following the arbitration clause.

The court agreed with Perry that the arbitration clause wasn't valid. (*Sparks v. Vista Del Mar Child and Family Agency*, No. B234988, Court of Appeal of California, 2nd Appellate District, 2012)

Note: Getting an arbitration clause to stick in California is not a do-it-yourself task. Get expert legal advice. If your agreement appears in your handbook, now is a good time to have your attorney review it and recommend ways to make it stick. There's no point in having an arbitration agreement that's unenforceable.