

Do your employees know what's in arbitration pacts?

Do you use an arbitration agreement to limit exposure to expensive and time-consuming employment litigation? If so, be aware that how you present that agreement to the employee and the employee's language fluency may affect the viability of the contract.

Simply put, the more difficult you make it for an employee to review the contract and gain a thorough understanding of its specifics, the less likely a court will enforce it.

Recent case: After three years on the job, HR told José he needed to sign an arbitration agreement. José spoke little English and read even less. He believed that because someone from HR presented the document, he had no choice but to sign it. The agreement prevented José from suing his employer over any employment-related issues, and instead required arbitration, with each party paying its own costs.

José sued, alleging various wage-and-hour violations. His former employer asked the court to order arbitration.

The court refused, concluding the arbitration agreement was unconscionable and thus invalid. It said the agreement was presented as a requirement and the worker had limited ability to understand what he was signing. José's case now goes to trial. (*Ortiz v. Roberts Tool*, Court of Appeal of California, 2018)