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Litigation

U.S. Supreme Court Rejects “Wholly Groundless” Exception Which Had Limited Enforcement of Arbitration Agreements

In its first opinion day of 2019, the U.S. Supreme Court issued a unanimous decision in *Henry Schein Inc. v. Archer & White Sales Inc.*, strengthening the ability of private parties to resolve their disputes through arbitration. For context, the Court has long ruled that contractual parties using an arbitration agreement can stipulate that the “gateway” issue of whether the underlying dispute is arbitrable should be resolved by an arbitrator as opposed to a court. (Note: this is distinct from the underlying dispute issue itself, such as whether someone was properly fired or breached a contract.) In recent years, however, several lower courts have ruled that as an exception to this general rule, when the claim of arbitrability is “wholly groundless,” a court can decide the gateway issue instead of an arbitrator, notwithstanding the contract language. In *Henry Schein*, however, the U.S. Supreme Court rejected the “wholly groundless” exception and ruled that an arbitrator always gets to decide this gateway issue when the contract so provides. It likely did not escape the justices’ attention that the *Henry Schein* parties had been litigating their gateway issue for seven years, highlighting the delay that can come through giving courts, and not arbitrators, the ability to resolve these issues.

The ruling is positive for any company wishing to save the time and expense of litigating gateway questions of arbitrability, and it is also a positive ruling for companies wishing to keep sensitive claims out of court.

Michael Best lawyers are experienced in helping companies draft arbitration agreements well-positioned to survive judicial scrutiny in this rapidly evolving legal environment.

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