

Insights

NO CONSENSUS IN SIGHT: ENFORCEABILITY OF ERISA PLAN ARBITRATION PROVISIONS AT THE CLOSE OF 2023

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SUMMARY

This column, published in the Journal of Pension Benefits, discusses the need for the Supreme Court to deliberate the issue of the enforceability of arbitration provisions in ERISA Plans.

The enforceability of arbitration provisions in Employee Retirement Income Security Act (ERISA) plan documents remains uncertain at the close of 2023. Following denial of motions to enforce arbitration provisions, defendants in cases pending in the Tenth and Third Circuits petitioned for review by the Supreme Court in 2023. The Supreme Court declined to certify either petition, leaving enforceability in flux.

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