

Are Arbitration Agreements Right For You?

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Whether an arbitration agreement is right for your business is not a “one size fits all” answer. Businesses should take a step back and evaluate whether an arbitration agreement is right for *them*. It starts with your objective.

- Are you trying to avoid a class action?
- Publicity of lawsuits?
- A runaway jury?
- All of the above?

These are all good reasons. However, businesses should weigh the advantages *and* disadvantages of arbitration. Advantages of arbitration include: a faster resolution of disputes, limiting exposure from juries that may give substantial monetary awards, less publicity because arbitrations are generally private, and having some say in selecting the arbitrator.

There are also significant disadvantages, including: arbitrations are costly (but typically less than a court proceeding), arbitrations are binding and the ability to appeal bad decisions is extremely limited, arbitrators can be “arbitrary,” successfully dismissing a plaintiff’s claim(s) is less likely in arbitration, and the discovery process is more limited than what is allowed in court.

Watch what you wish for if you include a class waiver. You may avoid a class action lawsuit, but you may invite multiple arbitrations on the same

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issue resulting in duplicating your costs and expenses. You should carefully evaluate these issues because arbitration is not a panacea to avoid litigating in court.