

Happy spring season!

After a bad winter in most of the state, I know you all are excited about getting out and enjoying some nice weather. You can even sit outside and read this issue of the *Journal*. In it you will find articles on Home Equity Loans, Protecting Children, and Debt Defense. And, of course, there are more than twenty cases discussed in the Recent Developments Section.

And speaking about recent developments, there is a very recent Supreme Court decision you should be aware of. The Supreme Court issued a unanimous opinion in *Morgan v. Sundance*, a case that presented the question of whether an arbitration-specific waiver rule that imposes different requirements for those arguing waiver of the contractual right to compel arbitration than for waiver of other contractual rights violates the Federal Arbitration Act.

The Supreme Court took this case to determine whether the Eighth Circuit, along with eight other circuits and many state supreme courts, erred by including a prejudice requirement in its test for arbitration waiver even though prejudice doesn't have to be shown to establish waiver of other contractual rights. Today's unanimous opinion, written by Justice Kagan, answers that question with an emphatic "yes!"

The Court noted, "But the FAA's 'policy favoring arbitration' does not authorize federal courts to invent special, arbitration-preferring procedural rules." "Accordingly, a court must hold a party to its arbitration contract just as the court would to any other kind. But a court may not devise novel rules to favor arbitration over litigation." "If an ordinary procedural rule—whether of waiver or forfeiture or what-have-you—would counsel against enforcement of an arbitration contract, then so be it. The federal policy is about treating arbitration contracts like all others, not about fostering arbitration."

This is a very significant opinion that may have ramifications in many areas besides waiver. The opinion may be found here, https://www.supremecourt.gov/opinions/21pdf/21-328_m6ho.pdf.

Finally, this is the last issue of the 25-3 Board, written by Xiong "Jady" Yujie and her staff. I congratulate all of them for doing an outstanding job. The new Student Editor-in-Chief, Libby Spann and her staff, will have some big shoes to fill.

Richard M. Alderman
Editor-in-Chief