

SYDNE SHIMKUS EXPLORES ARBITRATION CARVE OUT CLAUSE “TIPS AND TRAPS” IN TCBA’S BULLETIN

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Associate Sydnie A. Shimkus contributed to the Tarrant County Bar Association (TCBA) Bulletin article titled, “Arbitration Carve Out Clauses: Tips and Traps.” The piece explores how a single phrase in an arbitration agreement can open up a client to expedited discovery, depositions and an evidentiary hearing before a matter is sent by a trial judge to arbitration. The piece explores federal and state precedent regarding preliminary injunctions – which can negate some of the key advantages of arbitration as a method of dispute resolution – discovery and cost-containment.

The article concludes by summing up its survey of the issue:

Although there is a lack of consistency amongst the Texas courts in their treatment of requests for judicial relief pending arbitration, it appears that courts will issue injunctive and other forms of relief when the parties have specifically considered the relief in the arbitration clause. If the arbitration clause does not limit the relief to a temporary restraining order, or uses other general language, a plaintiff may be able to seek a temporary injunction, along with the discovery and hearing permitted by that process. The plaintiff may also be able to carry an order into arbitration which not only preserves the status quo but also contains a finding of likelihood of success on the merits.

To read the full article, please click [here](#) and navigate to page 18.

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