

Fifth Circuit Finds Jurisdiction Over Post-Award Proceedings Under FAA

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While the Federal Arbitration Act (“FAA”) does not provide federal subject matter jurisdiction, federal courts may nevertheless have jurisdiction over proceedings to compel arbitration if the underlying claim is “predicated on an action that ‘arises under’ federal law.” See *Vaden v. Discover Bank*, 556 U.S. 49, 62 (2009). In addition to actions seeking to enforce arbitration agreements, the Fifth Court recently confirmed the same principle applies equally to post-award proceedings to confirm or vacate an award. See *Quezada v. Bechtel OG & C Construction Services, Inc.*, No. 19-20042, ___ F.3d ___, 2020 WL 205951 (5th Cir. Jan. 14, 2020)

Quezada involved an employment dispute in which the parties had previously agreed to resolve all “workplace disputes” through arbitration. After her termination, the employee filed a demand with the American Arbitration Association under the Americans with Disabilities Act (“ADA”), asserting discrimination, failure to accommodate, and retaliation. Despite finding “that the termination did not violate the ADA,” the arbitrator issued a substantial award in favor of the employee for back pay, front pay, damages, attorney’s fees, and interest. The employer sought to vacate the award under the FAA, and the employee moved to confirm the award in district court. The court found that it had jurisdiction over the suit under 28 U.S.C. § 1331 based upon the underlying ADA claims, but that the employer was not entitled to relief from the award under the narrow grounds provided by the FAA. The employer then appealed.

The Fifth Circuit found that the Supreme Court had adopted the “look-through approach” in *Vaden* to determine whether subject matter jurisdiction exists in a Section 4 petition to compel arbitration. Finding that the FAA was intended to provide “a single, comprehensive statutory scheme,” the Court held that the “look-through approach” was equally applicable to post-award proceedings “brought under Sections 9, 10, and 11” of the FAA relating to the enforcement of and relief from awards. In doing so, the Fifth Circuit joined the First, Second, and Fourth Circuits which had reached the same conclusion, and disagreed with the Third and Seventh Circuits. In dissent, Judge Ho found no textual support in the FAA to apply the “look through” approach used under Section 4 to post-award proceedings, and therefore subject matter jurisdiction was lacking.

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