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Supreme Court Limits Federal Jurisdiction To Confirm Or Vacate Arbitral Awards

Client Alert | March 31, 2022

Click for PDF Decided March 31, 2022 ***Badgerow v. Walters*, No. 20-1143 Today, the Supreme Court held 8-1 that federal jurisdiction to confirm or vacate an arbitral award under Sections 9 and 10 of the Federal Arbitration Act must exist independent of the underlying controversy—that is, courts cannot "look through" to the underlying dispute to establish federal subject-matter jurisdiction. Background:** Under the Federal Arbitration Act (FAA), a party to an arbitration agreement may ask a federal court to confirm or vacate an arbitral award. 9 U.S.C. §§ 9, 10. A Louisiana resident initiated an arbitration against her Louisiana employer, alleging unlawful termination under federal and state law. After the arbitrators dismissed the claims, the plaintiff sued in state court to vacate the arbitral award. The defendant removed the case to federal court based on the underlying federal employment claims and asked the court to confirm the arbitrators' decision. The Fifth Circuit held that the federal court had jurisdiction by "looking through" the plaintiff's petition to the underlying federal employment claims. **Issue:** Do federal courts have subject-matter jurisdiction to confirm or vacate an arbitral award under Sections 9 and 10 of the Federal Arbitration Act when the only basis for jurisdiction is that the underlying dispute involved a federal question? **Court's Holding:** No. Federal jurisdiction to confirm or vacate an arbitration award must exist independent of the underlying controversy, and it is not sufficient for federal jurisdiction that the underlying claim the parties arbitrated arose under federal law.

> *"Congress has made its call. We will not impose uniformity on the statute's non-uniform jurisdictional rules."*

Justice Kagan, writing for the Court **What It Means:**

- Today's decision resolves a circuit split over whether the Court's decision in *Vaden v. Discover Bank*, 556 U.S. 49 (2009)—which held that federal courts should look through to the underlying claims to determine whether they have jurisdiction over a petition to *compel* arbitration under FAA Section 4—applies to petitions to *confirm* or *vacate* arbitral awards under FAA Sections 9 and 10.
- The Court ruled that *Vaden*'s "look through" approach was based on textual indicia unique to Section 4, which Congress did not include in Sections 9 and 10. Therefore, the Court declined to extend *Vaden* to Sections 9 and 10.
- The Court's holding that the "look through" approach is limited to petitions under Section 4 means that federal courts will lack jurisdiction over many petitions under Sections 9 and 10. In practice, unless there is a federal question on the face of the petition, or complete diversity between the parties and the amount of the arbitral award exceeds $75,000, federal courts are not likely to have jurisdiction over petitions to confirm or vacate an arbitral award.
- The Court's decision does not extend to the enforcement of international arbitration awards under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, because the FAA independently confers federal jurisdiction over those cases.

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- The decision demonstrates the Court's commitment to applying statutes as written. The Court refused to allow policy concerns to override the "evident congressional choice" to "respect the capacity of state courts to properly enforce arbitral awards." In contrast, Justice Breyer, writing in dissent, acknowledged that he was looking beyond "the statute's literal words" to its "purposes" and "the likely consequences" flowing from a non-uniform approach to assessing jurisdiction over petitions filed under the FAA.

The Court's opinion is available here. Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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