



Update from Washington

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States introduce laws to force delivery network companies to carry minimum insurance

ALSO: PUSHING BACK AGAINST FORCED ARBITRATION

WASHINGTON UPDATE

AAJ recently created a Take Justice Back petition to Ticketmaster calling upon the corporation to end forced arbitration immediately. After receiving criticism from Taylor Swift fans and other music enthusiasts for its predatory forced arbitration tactics, Ticketmaster has not changed course. The trial lawyer community can help amplify our message.

Please tell Ticketmaster to do the right thing and end forced arbitration. Sign our petition today at <https://aaj.mobi/TicketmasterPetition>. If we all stand together, we will win. You can also help by retweeting our petition on Twitter, sharing on Facebook, and posting the call to action directly to your personal social media channels. We really appreciate your support in our efforts to end forced arbitration.

AAJ State Affairs update: Delivery networks

Several states have introduced legislation to establish insurance minimums for Delivery Network Companies (DNCs). DNCs are companies that operate online apps or platforms that allow users to order goods for delivery, such as UberEats, DoorDash, and GrubHub. The level at which the insurance minimum is set in this legislation varies; it's too low sometimes to be meaningful, while it's more robust other times.

AAJ State Affairs is working with state trial lawyer associations (TLAs) to ensure that if legislation moves forward to enact minimums, those minimums are meaningful, and to flag additional potentially effective legislative options (such as simply amending the state Transportation Network Company (TNC) minimums to also apply to DNCs). TNCs are companies that operate online apps and platforms, such as Uber and Lyft, that allow passengers to order a ride from a nearby driver.

We are also closely monitoring legislation relating to uninsured motorist/underinsured motorist (UM/UIM) minimums for TNCs. Some states have introduced legislation to sharply reduce

their existing UM/UIM minimums, while other states have introduced legislation to establish minimums. We are also monitoring these bills for any signs of movement beyond the UM/UIM space and into legislative efforts to reduce liability minimums.

States are currently split in terms of whether TNC or DNC drivers are considered independent contractors by statute, affecting TNC/DNC potential for vicarious liability. Some states presume that a driver is a contractor when certain criteria are met, but we've increasingly seen states try to take this further and legislate that drivers "shall not" be considered employees as a matter of law, or even that TNCs simply shall not be subject to vicarious liability. This last approach is of particular concern since in the last few years, a small number of states have designated or considered designating TNCs as common carriers, who are subject to vicarious liability in a broader range of circumstances. However, TNCs could avoid this liability, even if designated as common carriers, if they obtain the special statutory protections they seem to be seeking. AAJ State Affairs is in close communication with state TLAs to help them respond effectively to this sort of legislation.

AAJ Legal Affairs: Fighting forced arbitration

Carmona, et al. v. Domino's Pizza, LLC (9th Circuit, No. 21-55009) (filed Feb. 1, 2023) – Last month, AAJ filed as amicus curiae in the Ninth Circuit Court of Appeals in support of drivers pursuing a class action lawsuit against Domino's Pizza to recoup work-related expenses. In a brief authored by Gerson H. Smoger of Smoger and Associates, AAJ argued that the drivers, who made in-state deliveries of out-of-state goods to Domino's locations, were nevertheless transportation workers involved in the stream of interstate commerce and therefore exempt from the Federal Arbitration Act.

Coinbase v. Bielski (SCOTUS, No. 22-105) (filed Feb. 28, 2023) – AAJ filed an amicus brief in support of respondent Abraham Bielski before the Supreme Court on February 28, which was authored by

Gupta Wessler PLLC. Coinbase previously moved to compel arbitration of plaintiff's EFTA claims, which the Ninth Circuit denied. The cryptocurrency exchange platform now seeks a ruling from the Supreme Court that their immediate appeal of that order mandates a stay of all district court proceedings in the case. AAJ's brief argued that district courts properly retain discretion to proceed with litigation while an appeal of the court's denial of a motion to compel is pending. AAJ previously filed an amicus brief in the Ninth Circuit proceedings in October 2022.

MacClelland v. Celco Partnership (9th Circuit, No. 22-105) (to be filed by Mar. 24, 2023) – AAJ will file an amicus brief in support of California consumers who filed a class action alleging that Verizon (d/b/a Celco Partnership) falsely advertised a company service fee as a tax or government regulation. Verizon moved to compel arbitration of the action in July 2022. If enforced, the arbitration agreement would prohibit non-individualized relief, including a restriction on counsel of choice and a staggered arbitration calendar that would delay claims past the statute of limitations. The Northern District of California denied Verizon's motion to compel in July 2022, and Verizon immediately appealed to the Ninth Circuit.

All AAJ amicus curiae briefs are available at <https://www.justice.org/AmicusBriefs>. For more information about AAJ's legal affairs program, please email legalaffairs@justice.org.

AAJ Trial Lawyers Care award nominations

If you are the driving force behind a community service project that goes above and beyond – or if you know another AAJ member who is – please submit a nomination for AAJ's 2023 Trial Lawyers Care award at <https://aaj.mobi/TLCNomination>.

We present this award at the AAJ Annual Convention. Every year, we're inspired by the stories that we hear of trial lawyers giving back to their communities. 🌟