CLMS Management Services LP, et. al. v. Amwins Brokerage of Georgia LLC, et al.

Year: 2020
Court: United States Court of Appeals Ninth Circuit
Case Number: 20-35428

In it brief, UP urges the Court to follow the Second Circuits lead in enforcing state anti-arbitration laws against foreign insurers just as they are enforceable against domestic insurers. As current Washington state law and Federal law (McCarran-Ferguson Act) stands, state anti-arbitration laws supersede acts of Congress and allows policyholders to exercise their rights to take insurance disputes to court. However, the District Court decided that the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards makes foreign insurers exempt from adhering to Washington's law and UP argues the following points rejecting that ruling.

I. Like Many States, Washington Has Made the Reasonable Policy Judgment That Insurers Should Not Impose Mandatory Arbitration Provisions on Their Policyholders.

II. The McCarran-Ferguson Act Gives the States Plenary Authority to Regulate the Business of Insurance, Including Both Domestic and Foreign Insurers.

III. Washington May Apply Its Anti-Arbitration Law to Both Domestic and Foreign Insurers.

This brief was authored pro bono by David S. Watnick, Mark W. Mosier, and Jordan V. Hill of Covington Burling LLP