Supreme Judicial Court Holds That Doctor Is Not Required to Arbitrate Discrimination Claims

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Yesterday, the Supreme Judicial Court held in *Warfield v. Beth Israel Deaconess Medical Center*, that a broad arbitration clause in an employment agreement did not apply to discrimination claims under Massachusetts General Laws Chapter 151B. While the Court recognized that such claims could be subject to arbitration, it explained that the agreement to arbitrate must specifically and unambiguously include such claims.

In 2000, Carol Warfield entered into a written employment agreement to become the anesthesiologist-in-chief at the Beth Israel Deaconess Medical Center. The agreement provided that "any claim, controversy or dispute arising out of or in connection with this Agreement or its negotiations shall be settled by arbitration." After the hospital terminated her employment in 2007, Warfield sued her employer and two supervisors in Massachusetts Superior Court, alleging gender discrimination and retaliation under Chapter 151B. The defendants moved to dismiss the case and to compel arbitration, pursuant to the terms of the employment agreement. The Superior Court denied the motion, and the defendants immediately appealed that decision.

The Supreme Judicial Court agreed with the trial court that Warfield was not bound to arbitrate her discrimination claims. It concluded that the Commonwealth's strong public policy against discrimination outweighed the general presumption in favor of arbitration. While the Court explained that an employer and an employee could agree to arbitrate discrimination claims, such an agreement must be stated in "clear and unmistakable terms" because it constitutes a waiver of the comprehensive administrative and judicial remedies conferred by Chapter 151B. In this instance, the Court held that the arbitration clause in Warfield's employment agreement did not encompass her discrimination claims because it did not specifically list such claims.

The *Warfield* decision means that Massachusetts employers who require arbitration of employment disputes need to review their employment agreements or dispute resolution policies. Although arbitration clauses typically require arbitration of "any and all disputes," that type of language is now insufficient to compel arbitration of discrimination claims under state law. Employers may need to amend their policies or revise their employment agreements to specifically include claims under Chapter 151B.