



Timothy Hegarty quoted in ‘Kindred’ Case Highlights SCOTUS’ Clash With States Over Arbitration, New Jersey Law Journal

The U.S. Supreme Court has declared its frustration with state courts that fail to share its views on arbitration, but opinions differ on whether its latest ruling on the subject will compel the New Jersey Supreme Court to change directions. The justices’ May 15 decision in *Kindred Nursing Centers v. Clark* was seen as a rebuke to state courts that strike down arbitration agreements. New Jersey’s Supreme Court finds itself squarely in the middle of the conflict with a series of decisions limiting application of arbitration clauses in recent years.

In the *Kindred Nursing* case, the justices overturned a ruling by the Kentucky Supreme Court that invalidated arbitration agreements in connection with two suits filed against a nursing home operator. Rejecting the Kentucky Supreme Court’s holding that an arbitration clause is invalid without a clear statement by two nursing home residents that they authorized their representatives to waive the right to a jury trial, the justices said the Federal Arbitration Act pre-empts any state rule that discriminates on its face against arbitration.



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