Kavanaugh Backs Arbitration in First Supreme Court Ruling

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This courtroom sketch depicts attorney Brenda G. Bryn, far right standing, speaking in front of Associate Justice Neil Gorsuch, Associate Justice Sonia Sotomayor, Associate Justice Stephen Breyer, Associate Justice Clarence Thomas, Chief Justice of the United States John Roberts, Associate Justice Ruth Bader Ginsburg, Associate Justice Samuel Alito Jr., Associate Justice Elena Kagan and Associated Justice Brett Kavanaugh at the Supreme Court in Washington on Oct. 9, 2018. Also present as a guest of the court is retired Associate Justice Anthony Kennedy, lower right hand corner seated. (Dana Verkouteren via AP)

WASHINGTON (CN) – Justice Brett Kavanaugh issued his first majority opinion Tuesday for the U.S. Supreme Court, supporting contract provisions that compel disputes to be arbitrated.

The case stems from an antitrust suit dental-equipment distributor Archer and White Sales brought against manufacturer Henry Schein Inc.

Though both a federal judge and the Fifth Circuit shot down Schein's bid to send the case to arbitration, the Supreme Court was unanimous Tuesday in reversing.

Critically the lower courts ruled that Schein's argument for arbitration was wholly groundless, but Kavanaugh emphasized Tuesday "that the 'wholly groundless' exception is inconsistent" with Supreme Court precedent as well as the text of the Federal Arbitration Act.

"We are not at liberty to write the statute passed by Congress and signed by the president," the 10-page opinion states. "When the parties' contract delegates the arbitrability question to the arbitrator, the courts must respect the parties decision as embodied in the contract."

Kavanaugh highlighted the 1960 case Steelworkers v. American Manufacturing as an example of longstanding precedent that says the "court has no business weighing the merits of the grievance" in arbitration.

Archer and White failed to persuade the court that, as a practical and policy matter, it would be a "waste of time and money" to send arbitrability questions to an arbitrator if the argument is "wholly groundless."

"Archer and White assumes that it is easy to tell when an argument for arbitran of a particular dispute is wholly groundless," Kavanaugh wrote. "We are dubious. The exception would inevitably spark collateral litigation – with briefing, argument, and opinion writing – over whether a seemingly unmeritorious argument for arbitration is wholly groundless, as opposed to groundless. We see no reason to create such a time-consuming sideshow."

Kannon Shanmugam, an attorney for Schein with the firm Williams & Connolly, did not return a request for comment. Archer & White was represented by Dan Geyser of Dallas. He also did not respond to a request for comment.