UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Pedro Rios, et al. v. HRB Digital LLC, et al.

Rios · No. 25-cv-03530-EMC · Decided October 27, 2025

SUMMARY

The United States District Court for the Northern District of California denies HRB Digital LLC and HRB Tax Group, Inc.'s motion to compel arbitration in a putative class action concerning the alleged interception and disclosure of taxpayer information through tracking pixels. The court finds that the plaintiffs assented to HRB's Online Services Agreement but concludes that the arbitration provision is procedurally and substantively unconscionable, focusing particularly on its mass-arbitration and staged-bellwether procedures. The court therefore declines to compel arbitration.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Edward M. Chen
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 27, 2025
DOCKET	25-cv-03530-EMC
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under the Federal Arbitration Act to compel arbitration and stay the putative class action based on an arbitration provision in HRB's Online Services Agreement. The court denied the motion after determining that the arbitration agreement was procedurally and substantively unconscionable and that unconscionability permeated the agreement.
STANDARD OF REVIEW	The court applied the Federal Arbitration Act's enforcement standard and California contract-formation and unconscionability principles. Defendants, as the parties seeking to compel arbitration, bore the burden of proving the existence of a valid agreement by a preponderance of the evidence; plaintiffs bore the burden of proving unconscionability as a defense.
PRECEDENTIAL VALUE	unpublished

TOPICS

arbitration | unconscionability | class actions | consumer protection | civil procedure

PRACTICE AREAS

arbitration | consumer protection | contracts | civil procedure

QUESTIONS PRESENTED

1. Whether the court or an arbitrator should decide plaintiffs' unconscionability challenge when the arbitration agreement contains no delegation provision.
2. Whether HRB's arbitration agreement is procedurally unconscionable under California law.
3. Whether the agreement's staged mass-arbitration process and statute-of-limitations tolling provisions are substantively unconscionable.
4. Whether the unconscionable provisions can be severed or instead permeate the entire arbitration agreement.
5. Whether defendants' motion to compel arbitration and stay the action should be granted.

HOLDINGS

1. When an arbitration agreement contains no clear and unmistakable delegation provision, the court, rather than the arbitrator, decides threshold arbitrability issues including unconscionability.
2. The arbitration agreement was procedurally unconscionable to a sufficient degree because it was presented as a nonnegotiable adhesion contract and imposed substantial surprise and oppression through a lengthy, dense agreement, a burdensome opt-out, and an unexpected mass-arbitration scheme.
3. An arbitration opt-out provision is not categorically dispositive of procedural unconscionability; it is only one factor in the analysis.
4. The staged bellwether and mass-arbitration provisions were substantively unconscionable because they capped the number of arbitrations, barred later claimants from filing until earlier rounds were completed, created potentially years-long delays, and provided no effective accountability or remedy for delay.
5. The agreement's statute-of-limitations tolling provisions were substantively unconscionable because tolling depended on an undefined 'fully complete Notice,' allowed HRB to challenge tolling after imposing delay, and provided claimants no comparable remedy or judicial-review mechanism.
6. The court refused to sever the unconscionable terms because unconscionability permeated the arbitration agreement, rendering the entire arbitration clause unenforceable.

KEY QUOTATIONS

> *"The "final clause of § 2 . . . permits agreements to arbitrate to be invalidated by generally applicable contract defenses, such as fraud, duress, or unconscionability.""* (at 5)

> *"In the absence of a delegation provision in an arbitration clause, the court — and not an arbitrator — resolves Plaintiffs' unconscionability challenges."* (at 7)

> *“Thus, the existence of an opt-out clause does not automatically render an arbitration agreement procedurally conscionable; even if an agreement is not adhesive, it can still be found sufficiently surprise-laden or oppressive to implicate procedural unconscionability.”* (at 15-18)

> *“Because unconscionability permeates the entire arbitration agreement, severance would be an ineffective half-measure or, potentially, a reward for bad faith corporate actors.”* (at 28)

> *“For the foregoing reasons, the HRB Defendants’ motion to compel arbitration is DENIED.”* (at 28)

FACTUAL BACKGROUND

Plaintiffs used HRB's online tax-preparation platform and accepted HRB's Online Services Agreement in January 2024. They allege that HRB's use of Meta tracking pixels and Google analytics code disclosed confidential taxpayer information without consent. The agreement required individual arbitration, imposed a staged bellwether process when 25 or more similar claims involved coordinated counsel, and made tolling dependent in part on submission of a fully complete notice of dispute. Plaintiffs' counsel sent 2,481 notices and related tax-information consent forms, but HRB initially rejected the submissions as improper before later accepting them while reserving its rights.

PROCEDURAL HISTORY

Plaintiffs filed a putative nationwide class action alleging that HRB unlawfully intercepted and disclosed confidential taxpayer information to Meta and Google through tracking pixels and analytics code. Plaintiffs' counsel sent HRB notices of dispute on behalf of approximately 2,481 claimants, and the parties disputed whether those notices complied with the Online Services Agreement. HRB moved to compel arbitration and stay the action; plaintiffs opposed on unconscionability and California-law grounds. The district court denied the motion.

DISPOSITION

other

CASES CITED

- Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425, 432 (9th Cir. 2015)
- Chiron Corp. v. Ortho Diagnostic Sys., Inc., 207 F.3d 1126, 1130 (9th Cir. 2000)
- Wilson v. Huuuge, Inc., 944 F.3d 1212 (9th Cir. 2019)
- First Options of Chi., Inc. v. Kaplan, 514 U.S. 938, 944 (1995)
- Berman v. Freedom Fin. Network, LLC, 30 F.4th 849, 856-57 (9th Cir. 2022)
- Pandolfi v. AviaGames, No. 23-cv-05971-EMC, 2024 WL 4051754 (N.D. Cal. Sept. 4, 2024), aff'd, No. 24-5817, 2025 WL 2463742 (9th Cir. Aug. 27, 2025) (mem.)
- Sandoval-Ryan v. Oleander Holdings LLC, 58 Cal. App. 5th 217, 223 (Cal. Ct. App. 2020)
- Ramirez v. Charter Commc'ns, Inc., 16 Cal. 5th 478, 492-93 (2024)
- Chavarria v. Live Nation Ent., Inc., 120 F.4th 670, 681 (9th Cir. 2024)

- Pinnacle Museum Tower Ass'n v. Pinnacle Mkt. Dev. (US), LLC, 55 Cal. 4th 223, 246 (2012)
- Serpa v. Cal. Surety Investigations, Inc., 215 Cal. App. 4th 695, 703 (2013)
- Ronderos v. USF Reddaway, Inc., 114 F.4th 1080, 1089-90 (9th Cir. 2024)
- OTO, LLC v. Kho, 8 Cal. 5th 111, 126-27 (2019)
- MacClelland v. Cellco P'ship, 609 F. Supp. 3d 1024, 1034, 1040-42 (N.D. Cal. 2022)
- Armendariz v. Found. Health Psychcare Servs., Inc., 24 Cal. 4th 83, 114, 122 (2000)
- Sanchez v. Valencia Holding Co., LLC, 61 Cal. 4th 899, 910-12 (2015)
- Mohamed v. Uber Techs., Inc., 848 F.3d 1201, 1211 (9th Cir. 2016)
- Poublon v. C.H. Robinson Co., 846 F.3d 1251, 1261-62, 1272 (9th Cir. 2017)
- Baghdasarian v. Macy's Inc., No. 24-3438, 2025 WL 999082, at *2 (9th Cir. Apr. 3, 2025) (mem.)
- Gentry v. Superior Court, 42 Cal. 4th 443, 470 (2007)
- Swain v. LaserAway Med. Grp., Inc., 57 Cal. App. 5th 59, 69 (2020)
- Haydon v. Elegance at Dublin, LLC, 97 Cal. App. 5th 1280, 1288-89 (2023)
- Johnson v. Stoneridge Creek Pleasanton CCRC LLC, No. A-165800, 2023 WL 7125117, at *2-3 (Cal. Ct. App. Oct. 30, 2023)
- Booker v. Charter Commc'ns, LLC, No. B322812, 2025 WL 1910954, at *6 (Cal. Ct. App. July 11, 2025)
- Smith v. Folsom Invs., L.P., No. C097549, 2023 WL 8794888, at *4 (Cal. Ct. App. Dec. 20, 2023)
- Arnold v. Antelope Manufactured Home Cmty., LP, No. C097244, 2024 WL 1081934, at *5 (Cal. Ct. App. Mar. 13, 2024)
- Pedregon v. Amazon.com, Inc., 2023 WL 357736 (N.M. Ct. App. 2023)
- Hill v. Walmart Inc., 32 F.4th 811, 816 (9th Cir. 2022)
- In re Kirkland, 915 F.2d 1236, 1239 (9th Cir. 1990)
- In re Watts, 298 F.3d 1077, 1082-83 (9th Cir. 2002)
- Curtis v. Irwin Indus., Inc., 913 F.3d 1146, 1155 (9th Cir. 2019)
- Rosenberg v. Superior Court, 67 Cal. App. 4th 860, 868 (1998)
- Prudential Ins. Co. of Am. v. Small Claims Court of City & County of San Francisco, 76 Cal. App. 2d 379, 383-84 (1946)
- Discover Bank v. Superior Court, Discover Bank v. Superior Court, 36 Cal. 4th 148 (2005)
- Heckman v. Live Nation Ent., Inc., 120 F.4th 670, 689-90, 692-93 (9th Cir. 2024)