

BUSINESS NEWS

Big banks score win with scrapping of rule

President Donald Trump and Republicans in Congress handed Wall Street banks a big victory by effectively killing off a politically popular rule that would have allowed consumers to band together to sue their banks.

The 51-50 vote in the Senate, with Vice President Mike Pence casting the deciding vote, means bank customers will still be subject to what are known as mandatory arbitration clauses. These clauses are buried in the fine print of nearly every checking account, credit card, payday loan, auto loan or other financial services contract and require customers to use arbitration to resolve any dispute with his or her bank. They effectively waive the customer's right to sue.

The banking industry lobbied hard to roll back a proposed regulation from the Consumer Financial Protection Bureau that would have largely restricted mandatory arbitration clauses by 2019.

Wisconsin's Foxconn vote faces a delay

A state senator negotiating with Foxconn to establish a massive electronics plant in Wisconsin says a key vote on a contract was delayed because taxpayer funds could be exposed if the Taiwanese company doesn't fulfill its end of the deal.

Gov. Scott Walker signed a \$3 billion incentives package for Foxconn to build a flat screen manufacturing complex in Mount Pleasant. The Wisconsin Economic Development Corp. is working on a contract to execute the incentives.

The State Journal newspaper reports that state Sen. Tim Carpenter said the agency can't guarantee taxpayer funds will be recouped if Foxconn violates the agreement because of the deal's structure.

The agency's CEO, Mark Hogan, has declined to explain why the scheduled vote was delayed.

— Wire services

YOUR MONEY

Shortage slows new mall

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Representatives of the developer for the new Tumon Bay Mall say they need to look for other construction companies to work with after the current one reported a lack of workers for the project.

Phillip Schrage, Grandview Development's lead for leasing and marketing, on Thursday told the Guam Land Use Commission that the project's general contractor, BME & Sons Inc., is short on skilled temporary foreign labor because of the ongoing H-2B visa denials.

"It's looking nice, but we still got a ways to go," Schrage said of the mall development.

No active construction could be seen outside of the Tumon mall Thursday. There were no construction vehicles or equipment on site.

Schrage said the first phase of the nearly 180,000 square-foot mall is complete, and the developer is looking to hire two or three local contractors for phase two.

Phase one included much of the civil and exterior work, such as landscaping and parking. The mall is expected to have 711 parking spaces, with spaces that are compliant with the Americans with Disabilities Act, and bus parking.



The Tumon Bay Mall building stands silent in Tumon on Thursday. RICK CRUZ/PDN

Phase two is relative to interior work and touch-ups on the exterior. The developer is unsure when phase two can begin because it is still looking for manpower, but the phase is expected to take nine months to complete.

Schrage also said his team still is looking for anchor tenants for the mall.

Grandview Development is the sister company of Goodwind Development, which owns the Micronesia Mall in Dededo. Macy's is the Micronesia Mall's anchor tenant.

41 foreign workers left

In recent years, Guam typically saw on average 1,500 H-2B visa workers.

As of Thursday, there are only 41 H-2B workers left, according to the Greg Massey, administrator for Guam Department of Labor's Alien Labor Processing and Certification Division.

Gov. Eddie Calvo has reached out to federal officials to discuss Guam's situation but has received little response. He recently called on the halt of military buildup construction until the foreign labor issue is resolved.

"I wish we weren't in the predicament we're in," said commission chairman John Arroyo. Commissioners accepted Grandview Development's status report and said they hoped the H-2B visa issue could be resolved soon.

Judge requests info on labor visa case

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U.S. District Court Chief Judge Frances M. Tydingco-Gatewood on Wednesday ordered additional briefing in the case filed by businesses against the federal government for denying visas for skilled foreign workers on Guam.

The plaintiffs in the case include the Guam Contractors Association and 11 businesses that have used laborers under the federal government's H-2B visa program.

They sued a year ago after federal immigration officials started denying nearly all requests for the use of temporary skilled foreign labor under the program. Plaintiffs have argued the denials amounts to an improper change to the program, but the federal government has argued Guam has long abused the program.

The number of H-2B workers on Guam has dwindled, from more than 1,000 in recent years, to fewer than 100 in recent months. Most of the plaintiffs no longer have H-2B workers on the payroll.

U.S. District Court Magistrate



The federal government continues to reject most H-2 worker visa applications. FILE

Judge Joaquin Manibusan has recommended that the plaintiffs should not be granted a temporary injunction, requiring the government to issue visas. Manibusan has concluded that the plaintiffs are unlikely to win their case.

The chief judge said she will hear arguments on the objections to Manibusan's report and recommendation, and on the motion to dismiss, on Nov. 9, at 2:30 p.m.

Tydingco-Gatewood said, based on a preliminary review of the filings associated with the pending motions, she believes additional briefing with respect to seven questions may be useful.

The seven questions include:

1. What deference, if any, is to be given to decisions on H-2B visa applications;
2. What deference, if any, is to be given to an interpretive rule guiding this kind of decision;
3. What deference, if any, is to be given to a change in an interpretive rule guiding this kind of decision;
4. What showing must be made to establish the existence of an interpretive rule, the application of an interpretive rule, and the change of an interpretive rule;
5. How, and when, a change in interpretive rule might appropriately account for "serious reliance interests;"
6. What constitutes a "serious reliance interests" in the context of visa applications, and specifically, H-2B applications; and
7. Whether this case, featuring claims focusing on denials of fiscals 2015 and 2016 visa applications, may now be moot.

The chief judge ordered the parties to answer these questions no later than Nov. 2, at 3 p.m.

Nearly all of the plaintiffs have lost all of their H-2B workers since suing in October 2016.