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Brownstein Files Amicus Brief Urging U.S. Supreme Court to Protect the Neutrality of Arbitrators

On July 5, 2016, Brownstein Hyatt Farber Schreck filed an amicus brief on behalf of the Medical Device Manufacturer's Association urging the United States Supreme Court to grant certiorari to protect businesses' and individuals' right to a neutral and unbiased arbitrator. The case, *Masimo v. Michael Ruhle et al.*, No. 15-1408, raises the issue of when an arbitration award may be vacated for "evident partiality" of the arbitrator. Arguing on behalf of the small, innovative businesses that form the Medical Device Manufacturer's Association, the amicus brief takes the position that Supreme Court review of the "evident partiality" standard is vital to protect the integrity of the arbitration system.

The brief supports the petition by medical testing company Masimo Corp., which urges the Supreme Court to overturn the Ninth Circuit decision to uphold a \$5.3 million arbitration win despite substantial claims that the arbitrator was biased. A district court judge had vacated the arbitration award based on the claims. However, the Ninth Circuit concluded, in conflict with other courts, that an arbitrator's refusal to refer a disqualification motion to a neutral decision-maker, reliance on a party's disqualification motion as a basis for imposing punitive damages, and other similar circumstances did not establish "evident partiality."

Businesses incorporate arbitration clauses into their contracts for a variety of reasons, including that arbitration provides a desirable alternative to more costly and time-consuming litigation. By agreeing to arbitrate, however, the parties never expected to forfeit their right to present their case to a neutral decision-maker. Yet, as the amicus brief argues, the Ninth Circuit decision strikes a blow to parties' well-settled expectations, and erodes trust and confidence in the arbitration process generally.

Shareholder [Makin Delrahim](#) and associate [Kerry LeMonte](#) co-authored the amicus brief, which is available [here](#).

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*This document is intended to provide you with general information regarding *Masimo v. Michael Ruhle et al.* The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.*