

## UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



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### FINAL JUDGMENT

October 22, 2018

Before:

WILLIAM J. BAUER, Circuit Judge  
AMY C. BARRETT, Circuit Judge  
AMY J. ST. EVE, Circuit Judge

No. 17-3609	<p>PAMELA HERRINGTON, individually and behalf of all others similarly situated, Plaintiff - Appellee</p> <p style="text-align: center;">v.</p> <p>WATERSTONE MORTGAGE CORPORATION, Defendant - Appellant</p>
<b>Originating Case Information:</b>	
District Court No: 3:11-cv-00779-bbc Western District of Wisconsin District Judge Barbara B. Crabb	

Because the district court erred in invalidating the waiver clause in the parties' arbitration agreement, we vacate the district court's order enforcing the arbitration award. On remand, the district court should conduct the threshold inquiry regarding class or collective arbitrability to determine whether Herrington's agreement with Waterstone authorizes the kind of arbitration that took place. If the district court determines that the agreement allows such an arbitration, our decision leaves the district court free to confirm the award. If, however, the district court determines that Herrington's agreement with Waterstone requires single-plaintiff arbitration, it should vacate the award and send the dispute to the arbitrator for a new proceeding.

The above is in accordance with the decision of this court entered on this date. Appellant and appellee shall share costs.