

# Who decides on arbitrability and the validity of the arbitration agreement under the FAA?

## Whether the claim falls within the scope of the arbitration agreement

[*Henry Schein, Inc., et al. v. Archer & White Sales, Inc.*, 586 U. S. \_\_\_\_ (2019)]  
[*AT&T Technologies, Inc. v. Communications Workers*, 475 U.S. 643 (1986)]

Court has to compel parties to arbitrate IF the parties agreed that tribunal has the power to decide on its own jurisdiction.

## Whether there is a valid arbitration agreement

[*Rent-A-Center, West, Inc. v. Jackson*, 561 U.S. 63 (2010)]

If party challenges validity of the contract which contains the arbitration agreement.

In such case the challenge of the main contract does not extend to the arbitration agreement because of the principle of severability.

Court will compel the parties to arbitrate.

If party challenges specifically the validity of the agreement to arbitrate.

Court must consider the challenge before ordering compliance with the arbitration agreement.