



Giving harassment, discrimination victims their day in court

AB 51
Asm. Gonzalez

SUMMARY OF THE BILL

AB 51 would ensure that a worker is not forced into arbitration and stripped of the right to take harassment, discrimination, and labor claims to court.



must be voluntary, not the result of coercion or simply to get a job. Employers are using forced arbitration agreements to deny employees basic workplace protections, and workers are powerless to stop it.

PROBLEM

A woman receives unwanted sexual advances from her boss, who threatens retaliation unless she acquiesces. Shocked and disgusted by this behavior, she files a lawsuit as a victim of sexual harassment only to be told she cannot bring such a claim in court. The judge refuses to hear her claim and sends her to the company's private arbitration process. This is the story of Gretchen Carlson, the former Fox News anchor who sought justice against her former boss, Roger Ailes.

Her story is repeated again and again among workers with far less celebrity – in government and in private industry, in the farm fields and in fast food joints. Up and down California, mandatory waivers of rights are agreements that workers are required to sign as a condition of employment. These documents generally prohibit a worker from filing a claim to a state agency or court and require that any potential claims be submitted to the employer's arbitrator.

Forcing workers to sign these waivers lets companies keep harassment, discrimination, and labor violation claims out of court, effectively cloaking them in secrecy and, in some cases, allowing serial harassers and repeat violators to continue their conduct for years. Requiring workers to waive their basic rights as a condition of employment is fundamentally unfair. All contracts

A study by the Economic Policy Institute found that the share of workers subject to forced arbitration has more than doubled in less than a decade, and now exceeds 55 percent.

Secrecy is another key reason for the increased use of forced arbitration. Unlike in court, where workers can stand together and collectively file claims, the arbitration process makes victims of workplace harassment stand alone and keeps the process secret. The few workers that win in arbitration, win significantly smaller awards. The deck is stacked against them.

SOLUTION

AB 51 ensures that a worker is not required as a condition of employment to waive the right to a day in court on claims involving sexual assault, harassment, discrimination, pay equity or retaliation. It also prohibits employers from firing or threatening workers because they refuse to consent to such a waiver.

SUPPORT: California Labor Federation AFL-CIO, Consumer Attorneys of California

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