



"Fighting for Employee Rights"

MEDIA ADVISORY

February 27, 2019

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Congress Introduces the Forced Arbitration Injustice Repeal (FAIR) Act

Legal commentators available

Los Angeles – Advocates and elected officials on Thursday morning will herald the introduction of the **Forced Arbitration Injustice Repeal (FAIR) Act**. This comes less than a week since the groundbreaking news that Google will stop forcing arbitration on any employee claiming a dispute of any kind – not just sexual harassment.

About 50% of employed Americans working without a union are subject to arbitration agreements – waiving their civil right to sue their employer in public court. More Americans are challenging the rampant practice that denies a fair hearing of cases involving: wage theft, whistleblowing, harassment, discrimination, wrongful termination, and more. Law students have named and shamed major law firms for forcing clerks to sign the agreements. When Chipotle workers were forced to arbitrate wage-theft claims, the company tried to avoid paying arbitration fees thereby preventing proceedings from moving forward, but that didn't stop the workers. They have since won a ruling forcing Chipotle to engage with the workers' claims. Our organization, CELA, has introduced new legislation in Sacramento's state senate this session to mandate remedies for when an employer uses arbitration as little more than a stalling tactic.

Why are workers organizing against mandatory arbitration?

- A large body of research shows the practice stacks the deck in favor of employers. Data shows workers are less likely to win their cases, and when they do win, they tend to get much lower damages than they would in court.
- Workers are forced to arbitrate behind closed doors. The secrecy protects serial harassers – often perpetuating more harassment. Legal scholars studying the process say the private nature of it makes it easy for firms to prevent disclosure of evidence, allegations, and settlements. In a hypothetical sexual harassment case, a victim (and arbitrator) would have a difficult time learning whether a manager had a history of harassment, and a harder time proving the case.

- Pursuing justice through the courts – rather than private arbitration – is a source of bargaining power for employees. It allows workers to act collectively and creates a strong incentive for employers to manage their employment relations in a way that reduces the potential for legal risks.

Let me know if you'd like to set up an interview with an experienced commentator. They can provide a range of analysis.

ABOUT CELA: The California Employment Lawyers Association (CELA) exists to protect and expand the legal rights and opportunities of all California workers and to strengthen the community of lawyers who represent them. We accomplish this through education and advocacy for worker justice. We are a statewide organization of over 1,200 California attorneys. We cosponsor legislation and, for decades, CELA has filed briefs and argued as amicus curiae before the California Supreme Court.