

February 16, 2016

Dear Member of Congress:

As organizations dedicated to eliminating sex discrimination in the workplace and promoting policies that benefit women and working families, we urge you to support the Restoring Statutory Rights and Interests of the States Act of 2016 (“Restoring Statutory Rights Act”), introduced by Senator Patrick Leahy (D-VT). The Restoring Statutory Rights Act would restore the rights of workers to pursue their state and federal law claims and obtain remedies in court rather than forcing arbitration of their claims. For women and all workers, access to courts is critically important to pursue remedies of civil rights violations under Title VII of the Civil Rights Act of 1964 and family and medical leave claims under the Family and Medical Leave Act of 1993.

The practice of forced arbitration is widespread and damaging. In a 2010 survey, 27 percent of employers—covering over 36 million employees, or one-third of the non-union workforce—reported that they required forced arbitration of employment disputes.¹ Although arbitration can be a valid and effective method of dispute resolution when both parties *voluntarily* agree to arbitrate, forced arbitration clauses that limit an employee’s legal rights in a non-negotiable contract are abusive and erode employees’ traditional legal safeguards. For example, the ability to obtain key evidence necessary to prove one’s case is often restricted or eliminated in arbitration proceedings, and it can be nearly impossible to appeal adverse decisions by arbitrators.

Forced arbitration of state and federal employment discrimination laws is especially harmful to women workers. In 2015, nearly 64,000 discrimination claims were filed with the Equal Employment Opportunity Commission (EEOC) under Title VII, and more than 41 percent of those charges were for sex-based discrimination.² Sex-based discrimination, including sexual harassment, remains a persistent problem for women in the workplace. Nearly 83 percent of sexual harassment charges filed with the EEOC are filed by women.³ In a national survey by *ABC News* and the *Washington Post*, one in four women reported experiencing sexual harassment, compared to one in ten men.⁴

Mandatory arbitration of claims under state or federal family and medical leave laws could have a disproportionate impact on women as well. Nearly 56 percent of employees who took time away from work to deal with a serious personal or family illness, or to care for a new child under the FMLA in 2012 were women.⁵ Women are also more likely than men to take leave under state paid family leave programs in California, New Jersey and Rhode Island.⁶

Without action from Congress, mandatory arbitration will continue to be a barrier to justice for workers. The Restoring Statutory Rights Act would reinstate workers’ ability to enforce their rights in a court of law. We urge you to cosponsor this bill. Please contact Sarah Fleisch Fink, Senior Policy Counsel, or Vasu Reddy, Policy Counsel at the National Partnership for Women & Families, with any questions.

Sincerely,

National Partnership for Women & Families

National Women's Law Center

1 National Employment Lawyers Association. (n.d.). *Advocacy: Forced Arbitration*. Retrieved 9 February 2016, from <https://www.nela.org/NELA/index.cfm?event=showPage&pg=mandarbitration>

2 U.S. Equal Employment Opportunity Commission. (n.d.). *Title VII of the Civil Rights Act of 1964 Charges (includes concurrent charges with ADEA, ADA and EPA): FY 1997 – FY 2014*. Retrieved 11 February 2016, from <http://www.eeoc.gov/eeoc/statistics/enforcement/titlevii.cfm>; U.S. Equal Employment Opportunity Commission. (n.d.). *Sex-Based Charges: FY 1997 – FY 2015*. Retrieved 11 February 2016, from <http://www.eeoc.gov/eeoc/statistics/enforcement/sex.cfm>

3 U.S. Equal Employment Opportunity Commission. (n.d.). *Charges Alleging Sexual Harassment: FY 2010 - FY 2015*. Retrieved 11 February 2016, from http://www.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment_new.cfm

4 Langer, G. (2011, November). *One in Four U.S. Women Reports Workplace Harassment*. ABC News. Retrieved 10 February 2016, from <http://abcnews.go.com/blogs/politics/2011/11/one-in-four-u-s-women-reports-workplace-harassment/>

5 Klerman, J., Daley, K., & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report* (p. 60). Abt Associates Publication. Retrieved 10 February 2016, from <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>

6 National Partnership for Women & Families. (2015, February). *First Impressions: Comparing State Paid Family Leave Programs in Their First Years*. Retrieved 10 February 2016, from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/first-impressions-comparing-state-paid-family-leave-programs-in-their-first-years.pdf>