



February 3, 2016

Co-sponsor The Restoring Statutory Rights and Interests of the States Act of 2016:
Restore Civil Rights Compromised by Forced Arbitration

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, we urge you to co-sponsor The Restoring Statutory Rights and Interests of the States Act of 2016 (The Restoring Statutory Rights Act) introduced by Senator Patrick Leahy (D VT). The Restoring Statutory Rights Act ensures that where the law provides a remedy to consumers or employees through the court system, the aggrieved individuals are actually able to pursue a claim in court rather than being forced into the rigged arbitration system.

The Leadership Conference believes that constitutional and statutory rights require fair and equal access to the courts in order to enforce those rights and prevent and remedy injustice. However, in recent years, corporations have used forced arbitration as a tool to evade accountability, minimize access to the courts, and erode many of the protections afforded by law. The Restoring Statutory Rights Act restores these protections and enables plaintiffs to enforce their civil and consumer rights in court.

Forced arbitration clauses are buried in the fine print of many legal documents, consumer contracts, nursing home admissions forms, job applications, and employee handbooks. These forced arbitration clauses strip consumers and employees of the ability to take their cases to court and instead force the claims to be heard individually in a private arbitration tribunal chosen and designed by the very corporation their claim is against. Once a claim is forced into arbitration, there is nothing requiring the arbitrator to follow the law in making his or her decision; the arbitrator's decision is final and there is no appeal to a court of law even if the arbitrator is partial to the corporation, disregards the facts, or misinterprets the law. These procedures essentially allow corporations to evade accountability if they break the law.

Civil and human rights are especially vulnerable to the dangerous impact of forced arbitration. Forced arbitration clauses often preclude consumers and employees joining together to form a class action to enforce their civil rights, which results in claim suppression. Moreover, forced arbitration does not allow public scrutiny of alleged discrimination, nor does it allow for the creation of judicial opinions that help develop the law and provide further guidance on emerging trends. As a result, landmark civil rights laws such as those protecting employees from race, gender, and age discrimination have been rendered meaningless. For example, in *Morgan v. United Healthcare Services Inc.*, No. 12-676, 2013 WL 1828940 (S.D. Ohio Apr. 30, 2013), a pregnant employee was forced into arbitration after she suffered a miscarriage and then was fired upon returning to work for taking seven consecutive days off. She attempted to hold her employer accountable in court

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for violating the Family and Medical Leave Act and the pregnancy discrimination laws of her state, but as a result of a forced arbitration clause she was unable to do so.

The Restoring Statutory Rights Act corrects this imbalance and ensures that consumers and employees retain and can enforce their civil rights. If enacted, we believe this bill will be pivotal in exposing and remedying discrimination and civil rights violations. Consumers and employees will retain access to the courts and their ability to remedy injustice when it occurs.

We ask that you co-sponsor this important legislation. To do so, you can contact Alex Givens at Alexandra_givens@judiciary-dem.senate.gov, (202) 224-6465 or Josh Hsu at Josh_hsu@judiciary-dem.senate.gov, (202) 224-8415 in Senator Leahy's office. If you have any questions, please contact either of us, or Leadership Conference Legal Director Lisa Bornstein at (202) 466-3311 or Bornstein@civilrights.org.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President