



DEPARTMENT OF THE ATTORNEY GENERAL

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Hawaii Joins Bipartisan Coalition Urging Congress to Help Protect Employees from Sexual Harassment

HONOLULU — Acting Attorney General Russell Suzuki joined a bipartisan coalition of 56 states and territories today urging Congress to end secret, forced arbitration in cases of workplace sexual harassment. Too often employees are required to sign employment contracts containing arbitration agreements mandating that sexual harassment claims be resolved through private arbitration instead of the judicial process. The secrecy surrounding these proceedings can protect serial violators and provide inadequate relief to victims.

The attorneys general letter sent Monday to leaders in the United States House of Representatives and the United States Senate asks Congress to pass appropriately-tailored legislation to ensure that sexual harassment victims have a right to their day in court.

“Congress today has both opportunity and cause to champion the rights of victims of sexual harassment in the workplace by enacting legislation to free them from the injustice of forced arbitration and secrecy when it comes to seeking redress from egregious misconduct condemned by all concerned Americans,” states the letter cosponsored by Florida Attorney General Pam Bondi and North Carolina Attorney General Josh Stein.

Attorneys general from the states, D.C. and five U.S. territories joined the letter: Alabama, Alaska, Arizona, Arkansas, Colorado, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South

Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

A copy of the letter is attached.

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February 12, 2018

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Majority Leader
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Hon. Kevin McCarthy
Majority Leader
H-107, The Capitol
Washington, DC 20515

Hon. John Cornyn
Majority Whip
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Washington, DC 20510

Hon. Nancy Pelosi
Minority Leader
H-204, The Capitol
Washington, DC 20515

Hon. Charles E. Schumer
Minority Leader
322 Hart Bldg.
Washington, DC 20510

Hon. Steny Hoyer
Minority Whip
1705 Longworth Office Building
Washington, DC 20515

Hon. Richard J. Durbin
Minority Whip
711 Hart Bldg.
Washington, DC 20510

RE:Mandatory Arbitration of Sexual Harassment Disputes

Dear Congressional Leadership:

As the duly-elected and appointed Attorneys General and chief legal officers of our respective states, District of Columbia, and territories, we ask for your support and leadership in enacting needed legislation to protect the victims of sexual harassment in the workplace. Specifically, we seek to ensure these victims' access to the courts, so that they may pursue justice and obtain appropriate relief free from the impediment of arbitration requirements.

Access to the judicial system, whether federal or state, is a fundamental right of all Americans. That right should extend fully to persons who have been subjected to sexual harassment in the workplace. Yet, many employers require their employees, as a condition of employment, to sign arbitration agreements mandating that sexual harassment claims be resolved through arbitration instead of judicial proceedings.

These arbitration requirements often are set forth in clauses found within the "fine print" of lengthy employment contracts. Moreover, these clauses typically are presented in boilerplate "take-it-or-leave-it" fashion by the employers. As a consequence, many employees will not even recognize that they are bound by arbitration clauses until they have been sexually harassed and attempt to bring suit.

While there may be benefits to arbitration provisions in other contexts, they do not extend to sexual harassment claims. Victims of such serious misconduct should not be constrained to pursue relief from decision makers who are not trained as judges, are not qualified to act as courts of law, and are not positioned to ensure that such victims are accorded both procedural and substantive due process.

Additional concerns arise from the secrecy requirements of arbitration clauses, which disserve the public interest by keeping both the harassment complaints and any settlements confidential. This veil of secrecy may then prevent other persons similarly situated from learning of the harassment claims so that they, too, might pursue relief. Ending mandatory arbitration of sexual harassment claims would help to put a stop to the culture of silence that protects perpetrators at the cost of their victims.

We applaud Microsoft Corporation for recently announcing that it will discontinue arbitration requirements with respect to sexual harassment claims and for supporting legislation to ensure that victims of sexual harassment be accorded the right of access to our judicial system. As Microsoft's President and Chief Legal Officer has fairly noted, "[b]ecause the silencing of voices has helped perpetuate sexual harassment, the country should guarantee that people can go to court to ensure these concerns can always be heard."

Congress today has both opportunity and cause to champion the rights of victims of sexual harassment in the workplace by enacting legislation to free them from the injustice of forced arbitration and secrecy when it comes to seeking redress for egregious misconduct condemned by all concerned Americans. We are aware that the Senate and the House are considering legislation to address this issue. Whatever form the final version may take, we strongly support appropriately-tailored legislation to ensure that sexual harassment victims have a right to their day in court.


Sincerely,



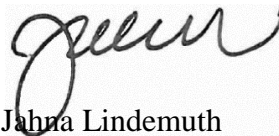
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Florida Attorney General



Steve Marshall
Alabama Attorney General



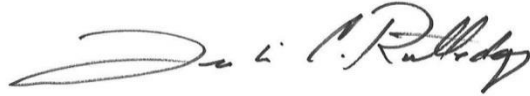
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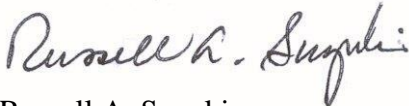
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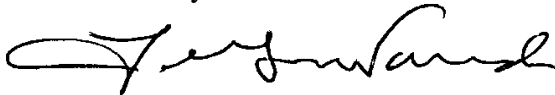
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