
# INVESTOR STATEMENT IN SUPPORT OF ENDING FORCED ARBITRATION FOR SEXUAL HARASSMENT CLAIMS

We, as investors representing **$[TBD]** in assets, issue this statement in support of publicly traded companies ending the practice of forced arbitration for employee sexual harassment claims by the year 2020.

Forced arbitration requires workers, as a condition of employment[1], to sign an agreement that they will only settle disputes with the employer through private arbitration - with no judge, no jury, and almost no government oversight. The practice eliminates the option of going to court and legally prevents the employee from discussing the issue with anyone outside of the arbitration proceedings. Research has demonstrated that arbitration rulings favor employers[2] that likely benefit from maintaining ongoing relationships with arbitrators. When valid sexual harassment claims are routinely mishandled and employees are barred from publicly sharing their experiences, companies unintentionally protect serial harassers, silence victims, and create a culture of acceptance regarding sexual harassment.

In addition to the clear social harm resulting from this practice, as investors we urge companies to end this practice for the following reasons:

- **Forced arbitration prevents the public, including investors, from having access to a company's history of sexual harassment claims and how they were handled.**
  Without this information, investors are unable to assess whether a company provides a safe, respectful, and inclusive environment for its employees - a well-known indicator of profitability and positive shareholder returns[3].

- **Forced arbitration creates a costly culture of acceptance for sexual harassment.**
  A typical Fortune 500 company loses over $14 million per year because of absenteeism, low productivity, and staff turnover as a result of sexual harassment.[4] While arbitration may save the employer on legal bills, sexual harassment makes it harder for everyone in the company to get work done and that, not legal bills, is what costs employers the most in the long run.

- **All employees are made more vulnerable by forced arbitration of sexual harassment claims, especially women, African Americans, and low wage workers.**
  A recent study found that women and African-American workers are more likely to be subjected to forced arbitration and that the practice is more common in low-wage workplaces.[5] This suggests that forced arbitration disproportionately impacts vulnerable communities.

- **Ending the practice inspires brand loyalty from a generation of socially savvy, values-motivated consumers, which is critical for long-term business success.**
  The #MeToo movement is influencing and educating the next generation of consumers, who care now more than ever before about workplace safety for women and how companies are handling sexual harassment claims. Eliminating forced arbitration for these claims is quickly becoming an indicator of a company's responsiveness to customers' values and workplace safety for its women employees. Doing so also demonstrates that a company intends to remain a relevant actor in modern business by being attuned to the needs of its employees, expectations of its customers, and major shifts in the cultural landscape.

- **Ending the practice offers a competitive edge in hiring.**
  A company's success is dependent upon its ongoing ability to attract top talent. Most sexual harassment claims are brought by women and ending this practice demonstrates that a company is committed to the wellbeing of its women employees. As the public becomes increasingly aware of the issue, and more companies end this practice, talent will increasingly seek employment where the safety and well-being of female employees is prioritized.

- **Ending the practice is easily done.**
  In recent years, several large, publicly traded companies swiftly ended this practice[6] in response to employee and consumer requests.

# ENDNOTES

1. An agreement that requires an employee to opt out of a waiver or take any affirmative action in order to preserve their rights is deemed a condition of employment.

2. Alexander J.S. Colvin, "An Empirical Study of Employment Arbitration: Case Outcomes and Processes" *Cornell University, ILR School* (February 2011), http://digitalcommons.ilr.cornell.edu/articles/577.

3. Dr. Andrew Chamberlain, "Does Company Culture Pay Off? Analyzing Stock Performance of 'Best Places to Work' Companies," *glassdoor (March 2015),* https://www.glassdoor.com/research/app/uploads/sites/2/2015/05/GD_Report_1.pdf.

4. Lynn Parramore, "$MeToo: The Economic Cost of Sexual Harassment," Institute for Economic Thinking (January 2018), https://www.ineteconomics.org/research/research-papers/metoo-the-economic-cost-of-sexual-harassment.

5. News from EPI Press Release, "Women and African Americans are More Likely to be Subject to Mandatory Arbitration," *Economic Policy Institute* (April 6, 2018), https://www.epi.org/press/women-and-african-americans-are-more-likely-to-be-subject-to-mandatory-arbitration.

6. Jena McGregor, "Google and Facebook ended forced arbitration for sexual harassment claims. Why more companies could follow." *The Washington Post* (November 12, 2018), https://www.washingtonpost.com/business/2018/11/12/google-facebook-ended-forced-arbitration-sex-harassment-claims-why-more-companies-could-follow/?utm_term=.e48ef74dc789.