

House Judiciary Committee Advances Forced Arbitration Injustice Repeal Act (Fair Act)

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On Tuesday, September 10, 2019, the U.S. House Committee on the Judiciary adopted H.R. 1423, the Forced Arbitration Injustice Repeal Act ("FAIR Act"), which would effectively prohibit mandatory arbitration agreements in all employment, consumer, antitrust and civil rights cases. During the Committee markup, several Congress members defended their support for the bill by recognizing Wigdor LLP client [Karen Ward](#), who is a victim of forced arbitration. Ms. Ward sat in the audience alongside her attorneys, Wigdor LLP Partner [Michael J. Willemin](#) and Associate [Julia L. Elmaleh-Sachs](#).

Ms. Ward, a former Partner at the global accounting firm Ernst & Young ("EY"), was forced by EY to arbitrate her claims of sexual harassment and gender discrimination after she was fired in retaliation for complaining about routine sexual harassment by her male boss, as alleged. Since then, Ms. Ward has been billed an astonishing \$185,000 by the arbitrators, with her case still only in the discovery phase. In July 2019, a bipartisan group of [67 New York State Legislators](#) signed and sent a letter to EY's Global Chairman condemning the firm's use of forced arbitration to perpetuate injustice against women.

Ms. Ward was joined in the audience by several other women who have been subjected to burdensome mandatory arbitration provisions, along with representatives from several victims' rights advocacy groups, including the [American Association for Justice](#), [End Forced Arbitration](#), [Public Citizen](#) and [Public Justice](#).

During the Judiciary Committee markup, Rep. Jamie Raskin (D-MD) said of Ms. Ward's case:

"And how many cases are being chilled, deterred and just squelched by virtue of the fact that people are being charged for the right to even enter into their claims? If she had gone to court, it would have been \$500 in order to file her case. And here they are charging her more than \$185,000 to pay for the arbitrators under the terms of the contract. So this is an insult to the Constitution. It's an insult to everything we believe in as Americans."

Rep. Tom McClintock (R-CA) said of Ms. Ward's case:

"I was very disturbed to hear the case of an aggrieved party who has paid \$185,000 so far to have a decision. That is outrageous."

During a Special Order Hour following the FAIR Act markup, Rep. Carolyn Maloney (D-NY) said of Ms.

Ward's case:

“Ernst & Young and other firms with similar employment contract terms claim that forced arbitration is more efficient and streamlined. They don’t tell you that the process is hidden from the public... and they don’t tell you how secrecy surrounding arbitration settlements only helps perpetuate the problem of harassment or discrimination in the workplace, and it is costly emotionally and financially, as her case illustrates with the \$185,000 costs so far... Passing the FAIR Act is an important step toward empowering all employees to report workplace misconduct and retain the option of seeking the remedy that they so choose. And it creates an incentive for every employer to focus on preventing these incidents before they occur.. So Ms. Ward’s fight has shone a light on this disturbing and unfair corporate behavior, and I am proud to fight alongside her and with my likeminded colleagues in the Women’s Caucus and in Congress to change this and to support and pass the FAIR Act.”

Thank you, [@RepRaskin](#) for taking a stand against forced arbitration and supporting our client Karen Ward, who so far has been billed \$185,000 just to have her sexual harassment/gender discrimination case against Ernst & Young heard in arbitration. [#FAIRAct](#) [#EndForcedArbitration](#)
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– Wigdor LLP (@WigdorLaw) [September 10, 2019](#)

The FAIR Act will now proceed to the full House of Representatives for a vote.