

Sexual Harassment Claims, Individual and Classwide, Can No Longer Be Forced to Arbitration by Employers

February 10, 2022

Employers will no longer be able to enforce mandatory arbitration provisions or class action waivers where an employee alleges workplace sexual harassment or sexual assault. The Senate passed H.R. 4445 today, “Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021,” sending it to President Biden to sign into law.

The law amends the Federal Arbitration Act to ban agreements requiring arbitration where the agreement was signed before the alleged sexual harassment or sexual assault. In other words, an employee can sign an arbitration agreement consenting to arbitration after the illegal conduct has occurred.

Courts, and not arbitrators, will be charged with deciding whether the arbitration agreement or class action waiver should be enforced under the “Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021.” The act will apply to any claims that arise or accrue on or after the date of President Biden’s signature.

Authored By



Allison Oasis Kahn

Related Practices

Labor & Employment

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.