



Maine Women's Lobby

THE VOICE OF MAINE WOMEN

Testimony of Whitney Parrish

Maine Women's Lobby

In support of LD 1250

An Act To Prohibit Sexual Harassment as a Subject Matter of Mandatory Arbitration in Employment Contracts

April 3, 2019

Senator Bellows, Representative Sylvester, and distinguished members of the Joint Standing Committee on Labor and Housing: my name is Whitney Parrish, Director of Policy and Program for the Maine Women's Lobby. The Maine Women's Lobby is a nonprofit, nonpartisan, statewide membership organization devoted to raising the economic, social, and political status of Maine's 678,000 women and girls.

I am pleased to speak to you today in support of the intent of LD 1250, *An Act To Prohibit Sexual Harassment as a Subject Matter of Mandatory Arbitration in Employment Contracts*.

As has been mentioned, LD 1250 only covers sexual harassment claims, while there is opportunity to also cover retaliation, gender and race discrimination, and disability accommodation claims. Regardless, we are supportive of the intent of the bill because it highlights the importance of eliminating mandatory arbitration as it pertains to sexual harassment.

Workers win less often in arbitration than in court, and when they do win, they get less money than they would in court.ⁱ Arbitration is secret and shields wrongdoing from public view, which is particularly insidious with sexual harassment claims and allows for harassment to continue unchecked. For context, when we are discussing sexual harassment, we are discussing a type of sex discrimination that occurs when an employee experiences unwelcome or offensive sex-based conduct, which could include lewd jokes or comments, undue attention, unwelcome touching, physical threats, or even physical assault.ⁱⁱ No occupation is immune from sexual harassment, but we do know that the incidence of harassment appears to be higher in workplaces with stark power imbalances between workers and employers, and is exacerbated by the devaluation of work performed by women.ⁱⁱⁱ Seventy percent (70%) of individuals

ⁱ Gerstein, Terry. "End Forced Arbitration for Sexual Harassment. Then Do More." New York Times. 2018. Accessed at <https://www.nytimes.com/2018/11/14/opinion/arbitration-google-facebook-employment.html>

ⁱⁱ *The Facts on Forced Arbitration*. The Employee Rights Advocacy Institute for Law and Policy. Accessed at <http://employeeightsadvocacy.org/wp-content/uploads/2017/12/The-Institute-Faces-of-Forced-Arbitration-Sexual-Harassment-Fact-Sheet.pdf>

ⁱⁱⁱ #MeTooWhatNext: Strengthening Workplace Sexual Harassment Protections and Accountability. National Women's Law Center. 2017. Accessed at <https://nwl.org/resources/metoowhatnext-strengthening-workplace-sexual-harassment-protections-and-accountability/>

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who experience sexual harassment at work never report it to a manager or supervisor.^{iv} Seventy-five percent (75%) of employees who speak up about workplace mistreatment experienced some form of retaliation,^v so it's not shocking that we do not have many people who are able to come forward and talk about these incredibly embarrassing, traumatizing, and often lifechanging violations. As in all cases of power-based personal violence, victims often think they will not be believed and that they will be blamed for their own victimization. They also fear the very real negative repercussions to their personal and professional lives if they do speak up.

Many times, female-identified individuals will seek counsel because of unlawfully low wages, only to discover that their treatment was part of a broader pattern of harassment and discrimination based on their sex and other factors like race, place of origin, and disability. The rampant and abhorrent sexism, racism, and economic exploitation that intertwine in these situations cannot be separated, so it is imperative to look at eliminating mandatory arbitration beyond sexual harassment claims. We strongly support the intent of LD 1250 and urge you to keep it in mind as you consider other proposals to eliminate mandatory arbitration in employment contracts. Thank you for your time.

^{iv} U.S. EEOC, Select Task Force on the Study of Harassment in the Workplace Report of Co-Chairs, Chair R. Feldblum & Victoria A. Lipnic. 2016. Accessed at https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm

^v Ibid.

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