

FORD & HARRISON^{LLP}
THE RIGHT RESPONSE AT THE RIGHT TIME

LEGAL ALERT



Legal Alert: Legislation Prohibiting Employment-Related Predispute Arbitration Agreements Introduced in Congress

2/19/2009

Legislation has been introduced in Congress that would make predispute arbitration agreements in employment, consumer, and franchise disputes and disputes arising under civil rights statutes unenforceable. The legislation does not apply to arbitration provisions in collective bargaining agreements.

The Arbitration Fairness Act of 2009 (H.R. 1020) was introduced in the House of Representatives on February 12, 2009. The legislation states that a series of U.S. Supreme Court decisions have changed the meaning of the Federal Arbitration Act so that it now extends to disputes between parties of greatly disparate economic power, "such as consumer disputes and employment disputes."

The legislation criticizes several aspects of private arbitration and states, "mandatory arbitration is a poor system for protecting civil rights and consumer rights because it is not transparent." Further, the legislation states, "[m]any corporations add to their arbitration clauses unfair provisions that deliberately tilt the systems against individuals, including provisions that strip individuals of substantive statutory rights, ban class actions, and force people to arbitrate their claims hundreds of miles from their homes."

The legislation has 36 co-sponsors. It has been referred to the House Committee on the Judiciary.

Similar legislation was introduced in 2007, but was not passed. The chances of the legislation being enacted are not clear; it faces strong opposition by the business community. If it is enacted, however, this legislation would dramatically alter non-union employee dispute resolution procedures. We will continue to keep you updated on the status of this legislation.

If you have any questions regarding this legislation or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.