

The Employee Rights Advocacy[®]
INSTITUTE
For Law & Policy

2017
Annual
Report

THANK YOU FOR TEN YEARS OF CHAMPIONING WORKERS' RIGHTS!

It is my pleasure to present the 2017 Annual Report of The Employee Rights Advocacy Institute For Law & Policy (The NELA Institute). As the public interest organization of the National Employment Lawyers Association (NELA), we bring a unique voice to the fight for equality and justice in the American workplace. From resisting the assault on workers' rights by the Trump Administration and its allies in Congress to building awareness of the connection between forced arbitration and sexual harassment in light of the #MeToo Movement, The NELA Institute plays a vital role in championing workers' rights today.

At the same time, we have been laying the groundwork to become an even more powerful force in safeguarding, defending, and advancing employee rights. In the wake of the 2016 election, NELA and The NELA Institute launched the Chaw Legacy Fund To Advance The Institute's Future, a special fundraising initiative to build our capacity to bring about the change we want to see in the American workplace. Inspired by the vision, integrity, and excellence of Teri Chaw, who retired as NELA and The NELA Institute's Executive Director in July 2017 after 27 years of incomparable service, the Chaw Legacy Fund will seed a new executive leadership team for The NELA Institute, which will continue to work alongside NELA in pursuit of our common goals. It is a privilege to honor Teri for the meaningful role she played in advancing the field of plaintiffs' employment law, and once again I extend our heartfelt gratitude to her for the remarkable legacy she has given us.

As we enter our second decade, The NELA Institute is well-positioned for success. In January 2018, we joined our NELA colleagues in welcoming Terry O'Neill as NELA's new Executive Director. Terry is the former president of the National Organization for Women and a longtime leader in the progressive movement. She is also serving as Executive Director of The NELA Institute and one of her first priorities is leading both organizations in a joint strategic planning process to shape our shared future. I look forward to your getting to know Terry as we all work together to transform the American workplace.

In ten years, The NELA Institute has developed a strong record of accomplishment. Of all of our achievements, however, we are the most proud to have earned your support. Our work would not be possible without you and the hundreds of other visionaries of employee rights who have generously committed your time, energy, and financial resources to make a difference in the lives of ordinary working people. On behalf of all of us at The NELA Institute, thank you very much for your inspiring and unshakable dedication to the ideals underlying our nation's civil rights and employment laws.



Patricia A. Barasch
President

ENDING FORCED ARBITRATION IN THE WORKPLACE

The mission of The Employee Rights Advocacy Institute For Law & Policy (The NELA Institute) is to advocate for employee rights by advancing equality and justice in the American workplace.

Forced arbitration is one of the most significant threats to the protection, enforcement, and vindication of employee rights. Employers take unfair advantage of the unequal bargaining power they hold over employees and job seekers to deprive millions of America's workers access to the civil justice system as a condition of employment. Forced arbitration silences workers whose rights have been violated and shields employers from public accountability when they break the law. This insidious business practice undermines our country's hard-won civil rights and employment laws, jeopardizing every individual's right to earn at least a living wage in an environment free of discrimination, harassment, retaliation, and capricious employment decisions.

Through public education, research, and advocacy, The NELA Institute has championed the important cause of ending forced arbitration in the workplace for our entire ten year history. Our goals are to raise awareness of the dangers of forced arbitration, protect employees—including immigrant, low wage, and other workers particularly vulnerable to unlawful employment practices—and ultimately end forced arbitration in the workplace.

In 2017, thanks to the efforts of Elizabeth Colman, The NELA Institute's 2017–2018 Paul H. Tobias Attorney Fellow, we added significantly to our collection of public education resources on forced arbitration which we have made available at no charge on our website.

Taking “Forced” Out Of Arbitration

The Facts On Forced Arbitration: How Forced Arbitration Harms America’s Workers is a growing series of fact sheets outlining how forced arbitration enables a range of employer misconduct. The NELA Institute published the first two installments in 2017. *Forced Arbitration Silences Sexually Harassed Workers And Leaves Them Exposed* describes how forced arbitration keeps workplace sexual harassment a secret. Originally published in June 2017, we updated and reissued the piece in December in light of the #MeToo Movement.

Forced Arbitration Gives Employers A License To Steal explains how forced arbitration hides rampant wage theft. Wage theft is especially harmful to immigrants and low-wage workers, as well as others who may be vulnerable to unlawful employment practices.

Bringing to life the information in these fact sheets are **The Faces Of Forced Arbitration**. The NELA Institute has been working to amplify the experiences of real people who have been impacted negatively by their employers’ use of forced arbitration. We launched this project in June 2017 with accounts of rampant sexual harassment in the workplace. In 2018, we will be expanding *The Faces Of Forced Arbitration* to include stories of workers who were cheated out of their wages, were discriminated against because of race or national origin, or otherwise suffered from illegal employment conduct.

Another key aspect of The NELA Institute’s online efforts to educate the public about forced arbitration is exposing employers that impose forced arbitration on their workforces. **Workers Beware: Forced Arbitration Can Happen To You** currently identifies nearly 80 companies who have used forced arbitration to shield themselves from their obligations to their employees.

The Faces Of Forced Arbitration and *Workers Beware* features of The NELA Institute website are interactive through a story sharing tool. We welcome the submission of stories of employees who have been

bound by workplace forced arbitration clauses. Similarly, the public is invited to add to *Workers Beware* by using another online form to report employers that impose forced arbitration on their employees.

Please visit The NELA Institute website at www.employeeightsadvocacy.org to take advantage of these various public education tools. You can also download complimentary copies of Taking “Forced” Out Of Arbitration: How Forced Arbitration Harms America’s Workers. Published in 2016, it is an easy-to-read pamphlet intended for a broad audience, including workers. Taking “Forced” Out Of Arbitration is available in English, Chinese, and Spanish. Hard copies are available upon request.

Groundbreaking Report Exposes Widespread Use Of Arbitration Clauses In Employment Contracts

In October 2017, The NELA Institute released *The Widespread Use Of Arbitration Clauses In Employment Contracts: America’s Top 100 Companies*. This innovative work, which was the first of its kind, exposed the disturbing trend of wealthy, powerful employers using the force of their size to deny workers with little to no bargaining power any meaningful rights.

Authored by Loyola University New Orleans College of Law Professor John E. Cooney, Jr., and the NELA Institute Board of Directors, the report finds that 80 percent of Fortune 500 companies have employment contracts, nearly half of which contain class and collective action waivers. The report also finds that at least half force arbitration on employees.

By identifying which of America’s most powerful companies have employment contracts, the report makes a unique and essential contribution to the public’s understanding of the power of employers over workers.

You can download the report at <http://employeeightsadvocacy.org>



Use Of Workplace Arbitration Among
s re-issued in March 2018, exposes
ne print in employment contracts to
way to enforce their civil and workplace

essor Imre S. Szalai, also a member of The NELA Institute
100 companies use arbitration in their employment
tion bans. Among those companies that use arbitration to
employees as a condition of employment.

ve imposed arbitration on employees, this report makes a
g of the magnitude of the threat arbitration poses to America's

[nelapublications.org/publications/widespread-use-of-workplace-arbitration/](https://www.nelapublications.org/publications/widespread-use-of-workplace-arbitration/).

The Future Of Employee Rights Adv

The Paul H. Tobias (PHT) Attorney Fellowship Program exemplifies NELA and The NELA Institute's commitment to the future of employee rights advocacy by cultivating the next generation of attorneys who represent workers. Named in honor of NELA's Founder and first Executive Director for the boundless inspiration he has provided to plaintiffs' employment lawyers for more than 50 years, the PHT Fellowship provides a new lawyer who embodies Paul's indomitable spirit the opportunity to work on cutting-edge issues at The NELA Institute for two years.

Elizabeth Colman, a 2015 graduate of Golden Gate University School of Law, joined us as the fourth PHT Fellow in November 2016. She has made a number of meaningful contributions to our efforts to end forced arbitration in the workplace. Among her responsibilities is the development of our public education resources such as *The Faces Of Forced Arbitration*, *The Facts On Forced Arbitration*, and *Workers Beware: Forced Arbitration Can Happen To You*. Elizabeth researches and writes frequently about forced arbitration for a variety of forums including The NELA Institute blog. For example, in 2017 she authored several articles on the recently-decided United States Supreme Court decision in the three consolidated cases addressing the validity of class, collective, and joint action bans imposed on employees as part of employer-mandated forced arbitration clauses. We invite you to visit our website to read *Supreme Court To Determine Whether Forced Arbitration Trumps Federal Law*, *Class And Collective Action Bans Help Keep Low-Wage Workers Trapped In Poverty*, and *Horton Comes To A Head: U.S. Supreme Court Poised To Resolve Conflict Regarding Workers' Rights To Act Collectively*.

As the PHT Fellow Elizabeth also prepares the *Employee Rights Briefing*, our monthly newsletter designed to keep you up-to-date on breaking news and emerging trends impacting America's workers. To subscribe, please visit our website at www.employeeightsadvocacy.org

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We are grateful to Thomas J. Henderson, Board member from 2008–2018. Tom's many contributions and leadership have been invaluable to the growth of The NELA Institute. Thank you, Tom!

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Through **The Employee Rights Advocacy Scholarship Program**, since 2008 NELA and The NELA Institute have awarded more than \$240,000 in scholarships enabling nearly 270 employee rights advocates to attend one of NELA's nationally renowned continuing legal education (CLE) programs. Unlike other CLE providers, NELA offers programs that are designed specifically for attorneys who represent workers within a highly supportive, generous, and collegial professional network with the same aims—leveling the playing field for individuals whose workplace rights have been infringed and advancing equality and justice in the American workplace.

Scholarship recipients are public interest and legal services attorneys, law students who are deeply committed to practicing plaintiffs' employment law, and attorneys in private practice without the financial resources to receive this specialized training.

In 2017 we provided more than \$15,000 in scholarships to a geographically diverse group of 15 employee rights advocates who attended one of NELA's three CLE programs during the year. NELA presented its Annual Convention, *Be The Change*, in San Antonio on June 21–24, along with a two-day seminar, *Litigating Wage & Hour Cases: Challenges & Opportunities*, on March 31–April 1 in Silver Spring, MD, and its three-day Trial Boot Camp on October 12–14 in Chicago.

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The NELA Institute gratefully acknowledges the visionaries of employee rights who made financial contributions to support our work.

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Members of the Visionary Circle make an annual commitment of \$1,000 or more to support the ongoing work of The NELA Institute.

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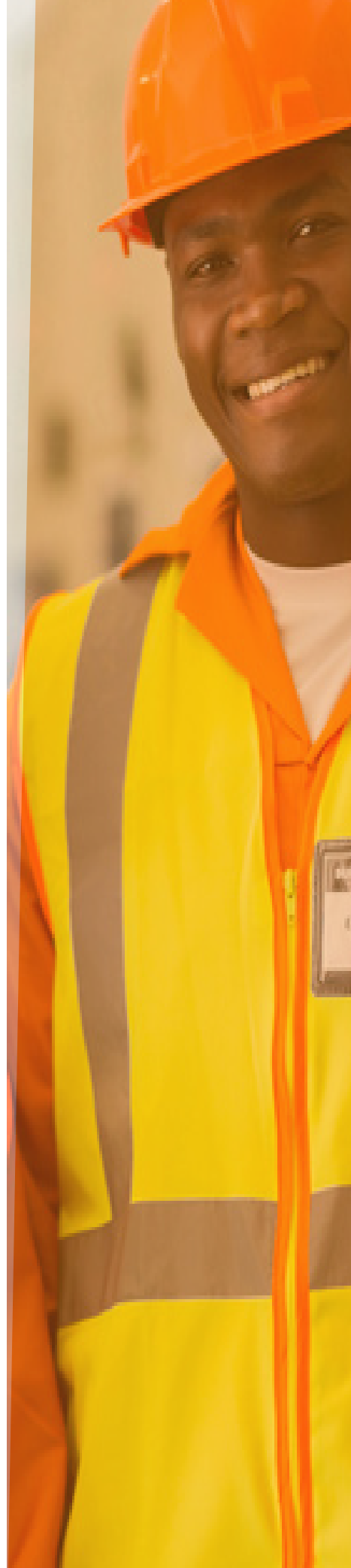
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THE CHAW LEGACY FUND TO ADVANCE THE INSTITUTE'S FUTURE

The Chaw Legacy Fund is inspired by the vision, integrity, and excellence of Teri Chaw, who retired as NELA and The Institute's Executive Director after 30 years of dedicated service. We are proud to recognize Teri for the meaningful role she played in advancing the field of labor law and to extend our heartfelt gratitude to the generous and dedicated supporters of this special fundraising initiative who are helping to move the movement for workers' rights into the future.

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the NELA Institute's Executive Director in July 2017 after 27
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2017 FINANCIAL REPORT

Revenue

Restricted Contributions	\$205,347
Grants	\$100,000
Cy Pres Awards	\$63,596
Unrestricted Contributions	\$28,090
Other Income	\$1,713
In-kind Contributions	\$52,293
Total	\$451,039

Program & General Expenses

Personnel	\$130,254
General & Management	\$15,614
Fundraising	\$32,703
Program Expenses	\$37,351
Total	\$215,922
Net Revenue	\$235,117
Reserves (12/31/2017)	\$571,546

The Institute is a tax-exempt charitable and educational organization under Section 501(c)(3) of the Internal Revenue Code. It is incorporated in California as a public benefit organization.

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