The Employee Rights Advocacy Institute For Law & Policy (The Institute) advocates for employee rights by advancing equality and justice in the American workplace.
It is my pleasure to introduce the 2018 Annual Report of The Employee Rights Advocacy Institute For Law & Policy (The Institute). I am honored to be part of an extraordinary community of employee rights advocates dedicated to advancing equality and justice in the American workplace. We strive to bring about a future in which every individual is paid a wage that provides at the very least a healthy standard of living in an environment free of discrimination, harassment, retaliation, and capricious employment decisions. As you read this report, I hope that you will share my pride in The Institute’s record of accomplishment and that you will be inspired to join us in carrying out our ambitious plans.

In 2018, we marked the tenth anniversary of The Institute’s establishment as the charitable public interest arm of the National Employment Lawyers Association (NELA). At a joint meeting in early November 2018, following several months of hard work and deliberation, the NELA Executive Board and the Board of Directors of The Institute agreed on a new joint strategic plan to steer both organizations for the next five years. We are more committed than ever to The Institute being a powerful and influential force for workers’ rights, leveling the playing field for workers seeking justice, and partnering with NELA to transform the American workplace. Everything NELA and The Institute does—legal training, technical support, research, public education, and advocacy for workers’ rights—is intended to further our shared goals:

- Access to fair and impartial courts with a right to trial by jury and the revocation of forced arbitration.
- Effective enforcement of the right to a workplace free from discrimination, harassment, retaliation, and worker exploitation.
- Access for all workers to effective representation to enforce their rights.
- A fair, independent, and diverse judiciary, including professional and demographic diversity.

The Institute remains at the forefront of the movement to end forced arbitration in the workplace. Our portfolio of legal research and analysis on the subject continues to expand. For example, in June 2018, we published Forced Arbitration: A Race To The Bottom, which addresses the “what, how, and why” of forced arbitration and reveals that at least 52 of America’s Fortune 100 companies use forced arbitration in their employment contracts. Like all of The Institute’s research, this report is available at no charge on our website, which I encourage you to visit regularly. There you will also find our newest resource, Justice Denied: How The U.S. Supreme Court Forced America’s Workers Into Arbitration, an interactive timeline series which allows users to explore six aspects of the forced arbitration issue through a comprehensive review of the legal case history.

These outstanding projects, as well as a number of other resources on forced arbitration, are the excellent work of Elizabeth Colman, our 2017-2018 Paul H. Tobias Attorney Fellow. Following the conclusion of her initial two-year fellowship in November 2018, Elizabeth was appointed to a newly created one-year position—Senior Paul H. Tobias Attorney Fellow & Policy Advocate. Elizabeth will remain on The Institute’s staff through the end of 2019.

Our 2019-2023 strategic plan also calls for The Institute to expand our research, public education, and advocacy to have an even greater impact on workers’ rights. Importantly, The Institute is broadening the scope of our work to heighten public awareness about discrimination, harassment, retaliation, wage theft, and how workers can fight back. In addition, The Institute is weighing in on high-impact employment cases in the U.S. Supreme Court by submitting amicus curiae briefs advocating for workers’ rights. Our first amicus brief was filed in conjunction with NELA in April 2019 in Fort Bend County, Texas v. Davis, a case which resulted in a unanimous Supreme Court decision in favor of the employee. Furthermore, The Institute is teaming up with NELA to dramatically raise the visibility of the issues we care about by investing in a robust communications effort to amplify our collective voice in public conversations that shape employment law. It is a bold agenda, and America’s workers deserve no less.

What makes it possible for us to be so ambitious is the commitment of supporters like you—visionaries of employee rights who generously contribute time, energy, and financial resources to make a difference in the lives of ordinary working people. I am encouraged every day by your unwavering belief that our country’s workplaces can and should reflect our highest ideals. On behalf of all of us at The Institute, thank you very much for joining us in the fight for equality and justice.
The Institute has championed the cause of ending forced arbitration for more than a decade. Forced arbitration is one of the most significant threats to the protection and vindication of workers’ rights. It silences individuals whose workplace rights have been violated and shields employers from public accountability when they break the law. More than 60 million of America’s non-union private-sector workers are bound by forced arbitration clauses that bury claims of employer wrongdoing behind closed doors. Many of those clauses also silo workers in individual arbitration, making it especially hard for low-wage workers to vindicate their rights when they have been harmed on the job.

The Institute is an important voice for workers in the fight against the injustices of forced arbitration. We have developed and are continually adding to a set of resources that help educate a variety of audiences about the dangers of forced arbitration to individual workers and to our civil justice system. Through online tools that offer real world examples of people hurt by forced arbitration, as well as academic and legal research, The Institute makes invaluable contributions to the broader conversations surrounding forced arbitration.

**Forced Arbitration Harms Real People: Workers Beware**

Discussions about forced arbitration are often filled with legal jargon that makes it hard for non-lawyers to understand. Therefore, we collect stories of workers who have been negatively impacted by forced arbitration and share them with the public in a number of ways.

**Workers Beware: Forced Arbitration Can Happen To You** exposes employers that take unfair advantage of the unequal bargaining power they have over employees and job seekers to foist forced arbitration
on their workforces. In 2018, we expanded this online catalog of employers on the Workers Beware page of The Institute’s website to include 137 companies—from 24 Hour Fitness and Aetna to WeWork and Xerox—which have used forced arbitration to unfairly protect themselves from their obligations to their workers.

Another feature on our website, The Faces Of Forced Arbitration, amplifies the experiences of specific employees who have been forced into arbitration, or who have been deterred altogether from challenging their employers’ misconduct because of a forced arbitration clause. To supplement these stories, we have been developing a series of fact sheets –The Facts On Forced Arbitration–outlining the ways in which forced arbitration allows certain types of unlawful behavior to persist. The first two in this series, Forced Arbitration Silences Sexually Harassed Workers And Leaves Them Exposed and Forced Arbitration Gives Employers A License To Steal, are currently available. Four new fact sheets will be available in fall 2019.

FORCED ARBITRATION: A RACE TO THE BOTTOM

In June 2018, The Institute published Forced Arbitration: A Race To The Bottom, a report examining how America’s wealthiest and most powerful companies use fine print to subvert workers’ rights.

Written by Paul H. Tobias Attorney Fellow Elizabeth Colman, this report supplements The Widespread Use of Arbitration Among America’s Top Companies, the first edition of which The Institute released in September 2017. That report shared the groundbreaking findings of Imre Szalai, Loyola University New Orleans College of Law’s Judge John D. Wessel Distinguished Professor of Social Justice, also a member of The Institute Board of Directors. Prof. Szalai’s research found that 80 of the companies in the Fortune 100 have used arbitration clauses in their employment contracts since 2010. Of those, 39 explicitly precluded employees from joining together in any class, collective, or joint legal action to enforce their workplace rights.

In March 2018, The Institute re-issued Prof. Szalai’s report with one new key finding: at least half of Fortune 100 companies required employees to submit workplace disputes to binding arbitration as a condition of employment. In discussing forced arbitration’s many problems, Forced Arbitration: A Race To The Bottom explains why the implications of this new discovery are so dangerous for workers and shares for the first time the finding that at least 52 Fortune 100 companies use forced arbitration in their employment contracts. Forced Arbitration: A Race To The Bottom also presents the “what, how, and why” of forced arbitration, explaining what it is, how it works (or doesn’t), and why ending forced arbitration should be a priority. It also explains some of the steps that states and the federal government can take to address the harm caused by forced arbitration.

You can download this report on our website at: www.employeerightsadvocacy.org.
NELA and The Institute understand the indispensable role that employee rights advocates play in advancing equality and justice in the American workplace. We also recognize that we have a special responsibility to cultivate the next generation of lawyers who are dedicated to representing workers. The Institute’s fellowship and scholarship programs reflect our enduring commitment to ensuring that workers receive high quality legal representation to enforce their workplace rights.

**THE PAUL H. TOBIAS ATTORNEY FELLOWSHIP PROGRAM**

Paul H. Tobias, NELA’s Founder and First Executive Director, is a pioneer in the field of plaintiffs’ employment law. For more than 50 years, Paul has been the source of boundless inspiration for generations of employee rights advocates. Named in his honor, the Paul H. Tobias (PHT) Attorney Fellowship Program exemplifies NELA and The Institute’s commitment to securing the future of the field. The PHT Fellowship provides a new lawyer who embodies Paul’s indomitable spirit with the opportunity to work on cutting-edge issues at NELA and The Institute for two years.

Elizabeth Colman, our fourth PHT Fellow, completed her initial two-year fellowship in November 2018 and immediately began a new one-year term in the newly created position of Senior PHT Attorney Fellow & Policy Advocate. We are delighted that Elizabeth will remain on staff until the end of 2019 when she leaves NELA and The Institute to continue her career as an employee rights advocate.

As the 2017-2018 PHT Fellow, Elizabeth, a 2015 graduate of Golden Gate University School of Law, made a number of exceptional contributions to our efforts to end forced arbitration in the American workplace. We are proud of her work on *Forced Arbitration: A Race To The Bottom*, discussed above, a unique and essential addition to the public’s understanding of the magnitude of the threat forced arbitration poses to America’s workers. Elizabeth is responsible for a number of the other public education resources on forced arbitration you can find on our website, including *The Faces Of Forced Arbitration, The Facts On Forced Arbitration, and Workers Beware: Forced Arbitration Can Happen To You*. She 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.

As Senior PHT Fellow & Policy Advocate, Elizabeth is playing a larger role in furthering our public education and awareness efforts. Among other tasks, she is preparing educational materials, analyzing public policy initiatives relevant to the interests of workers, and drafting communication pieces such as press releases and op-eds related to our public policy priorities. Elizabeth also participated in the selection process for the 2019-2021 PHT Fellow, who will join us at the end of 2019.
In 2018, The Institute provided more than $10,000 in scholarships to a geographically diverse group of ten employee rights advocates who attended one of NELA’s three CLE programs during the year. NELA presented its signature program, the 2018 Annual Convention, Connect • Build • Advance, in Chicago on June 27-30. The Annual Convention covered a range of employment law topics over three days, and provided a number of formal and informal networking opportunities. In 2018, NELA also offered a two-day seminar, ESI & Technology For The Plaintiffs’ Employment Lawyer in Vienna, VA near Washington, DC on April 13-14. On October 12-13 in Scottsdale, AZ, NELA produced Harnessing The #MeToo Momentum, which offered a holistic approach to understanding the challenges experienced by workers facing harassment and other unlawful workplace behavior, including analyzing the ways these challenges affect different sectors of the workforce.

THE EMPLOYEE RIGHTS ADVOCACY SCHOLARSHIP PROGRAM

I very much appreciated the opportunity to attend the NELA conference. It was very helpful and informative as I think about how to expand my non-profit’s legal program work into advocacy on behalf of low-wage workers and [victims of] sexual harassment.

–2018 Scholarship Recipient
The Institute gratefully acknowledges the visionaries of employee rights who made financial contributions to support our ongoing work in 2018.

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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 corporation.

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### PROGRAM & GENERAL EXPENSES

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Net Revenue $107,101
Over Expenditures
Reserves $677,898 (12/31/2018)
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