



## Office of the San Diego City Attorney

**Mara W. Elliott**  
City Attorney

March 24, 2023

The Honorable Scott Wiener  
California State Senate  
1021 O St., Suite 8620  
Sacramento, CA 95814

*Re: Support – Senate Bill 365 (Wiener): Forced Arbitration Appeals*

Dear Senator Wiener:

The San Diego City Attorney's Office is pleased to support Senate Bill (SB) 365.

SB 365 prevents corporations from using a common delay tactic against workers and consumers – in both private and public enforcement actions – when a trial court rules that a forced arbitration agreement is invalid. Current law allows corporate defendants to pause a worker or consumer's case by simply filing an appeal. Specifically, this bill allows a worker's or consumer's case to move forward if a company files an appeal, rather than putting the case on a years-long hold while the appeal is being heard.

The San Diego City Attorney's Office is a proud defender of consumers' and workers' rights. Our Affirmative Civil Enforcement (ACE) Unit frequently takes action on behalf of San Diegans and Californians who have been wronged by the unfair tactics of corporations and employers. For example, we were the first law enforcement agency in the nation to take action against rampant misclassification in the emerging "gig economy" by suing Instacart for back pay, an action that led to a \$46.5 million settlement providing full restitution to the workers. Our joint effort with other California agencies against Uber and Lyft for similar violations of the law is ongoing.

Forced arbitration provisions have become a large and growing feature of consumer transactions and employment relationships. More than half of America's workforce has been forced to sign arbitration agreements as a condition of employment. Under these agreements, consumers and workers whose rights have been violated cannot pursue their claims in court or with a state agency. Instead, they must submit their claims in a private arbitration proceeding that overwhelmingly favors businesses and employers.

In some cases, these forced arbitration provisions are ruled unenforceable because the court finds that the agreement is “unconscionable” or otherwise invalid. Existing law gives an aggrieved party (typically the defendant corporation) the right to a full appeal when a court orders the case dismissed or denies the defendant’s petition to compel a case to private arbitration. The law, however, does not afford workers and consumers the same luxury.

SB 365 would allow consumers, workers, and public entities to continue their court cases when a trial court rules that a forced arbitration agreement is invalid. Employees and other plaintiffs deserve meaningful access to justice at the time their rights are violated, not years later.

For these reasons, the San Diego City Attorney 's Office strongly supports SB 365 (Wiener) and urges passage of this bill.

Sincerely,



Mara W. Elliott  
San Diego City Attorney