

Ex-Worker Says EY Sex Bias Arbitration Costing Her \$185K

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By **Braden Campbell**

Law360 (July 17, 2019, 8:16 PM EDT) -- A former Ernst & Young worker arbitrating sex bias claims against the accounting firm asked a New York federal judge Wednesday to let her pursue the dispute in court instead, saying it's "despicable" that she's racked up six-figure arbitration fees when she would have paid the judiciary a few hundred dollars.

Karen Ward, whose U.S. Equal Employment Opportunity Commission **charge** painted EY as a boys' club that demeans women and denies them fair pay, filed a declaratory judgment suit in Manhattan federal court seeking to nullify the agreement that directed the dispute to arbitration.

Had she been allowed to pursue her sex bias claims against the accounting firm in the Southern District of New York, she would have paid only a \$450 filing fee, Ward said. But after the arbitration panel hearing the dispute ordered her and EY to split costs, she's on the hook for \$185,000 and counting, she said.

"Under the relevant law, a claimant is not required to arbitrate his or her claims when the cost simply to have the claims heard is hundreds of thousands of dollars more than the costs that would be incurred to pursue his or her claims in court," Ward said.

Ward filed a complaint with the EEOC last year accusing EY of firing her for speaking out about rampant sexism in the workplace. She alleged male colleagues demeaned her and other women, and that the firm denies women the pay and opportunities it gives men.

Ward, who agreed to bring job-related claims in arbitration as a condition of her employment, said Wednesday that she asked the firm to waive the agreement, but it declined. After filing for arbitration, Ward asked that the presiding tribunal make EY cover the costs, but she lost that bid too, she said. She has since racked up nearly \$200,000 in costs, most recently getting a bill for about \$137,000 last week, she said.

These costs render the agreement unenforceable, Ward said, citing U.S. Supreme Court precedent saying claims can be arbitrated "so long as the prospective litigant effectively may vindicate [his or her] federal statutory cause of action in the arbitral forum." The court would elsewhere muse that "the existence of large arbitration costs could preclude a litigant ... from effectively vindicating her federal statutory rights," Ward said.

"Ms. Ward has already been subject to massive costs that effectively preclude her ability to vindicate her statutory rights," Ward said, noting that her costs may continue to rise with the case only in the discovery phase.

Ward's attorney, Michael Willemin of Wigdor LLP, said it's "immoral and unconscionable" to make a sexual harassment victim "hire three private individuals and pay them on an hourly basis just to have their claims heard."

"The amount of costs that have been billed have reached the level such that the arbitration agreement is simply invalid," he told Law360.

EY called Ward's claims "baseless" Wednesday.

"Ward was paid fairly and equitably for her work throughout her tenure at EY," it said. "Under the terms of the partnership agreement she signed, Karen Ward agreed that any disputes with EY would be resolved by arbitration."

Ward is represented by Willemin and Julia Elmaleh-Sachs of Wigdor LLP.

Attorney information for EY was not available Wednesday.

The case is Karen Ward v. Ernst & Young US LLP, case number 1:19-cv-06667, in the U.S. District Court for the Southern District of New York.