


Uber Rape Accusers to Firm's Board: Free Us From Arbitration

 [bloomberg.com/news/articles/2018-04-26/uber-rape-accusers-to-firm-s-board-free-us-from-arbitration](https://www.bloomberg.com/news/articles/2018-04-26/uber-rape-accusers-to-firm-s-board-free-us-from-arbitration)

Fourteen women who claim their Uber drivers sexually assaulted or harassed them wrote to the startup's board Thursday to insist that their class-action lawsuit be allowed to go forward in open court.

The women recount being assaulted, groped and raped by their drivers in the letter. One said her driver "pulled out his penis and masturbated during the ride," while another recalled waking up in the back seat of the vehicle as the driver was "engaging in oral sex on me without my consent."

The plea sent directly to Uber Technologies Inc.'s 11-member board comes as the ride-hailing giant faces a deadline to respond in court to the women's complaint against the company. Uber contends the women consented to closed-door arbitration when they signed up for its app and has disputed that the process would silence them.

Still, arbitration would move the fight to hold the company responsible for its drivers' actions out of the public eye and limit the potential legal consequences. Uber has sought arbitration in other cases involving alleged sexual violence against its passengers by drivers, as well as in battles with its drivers seeking better compensation.

"Silencing our stories deprives customers and potential investors from the knowledge that our horrific experiences are part of a widespread problem at Uber," according to the letter, which was obtained by Bloomberg News from the New York law firm representing the women, Wigdor LLP. It was signed with 12 of the women's first names, plus two others identified as "K.B." and "Jane Doe 6."

Mandatory Arbitration

The women point out in the letter that forced arbitration clauses are now under attack as part of the #MeToo movement. In December, Microsoft Corp. stopped asking its employees to resolve sexual harassment complaints in forced arbitration. The law firm Orrick Herrington & Sutcliffe, which has represented Uber board member Travis Kalanick, said last month that it would no longer require its employees to sign mandatory arbitration agreements.

State lawmakers in New York and Washington recently passed measures restricting the use of so-called non-disclosure agreements for sexual harassment claims after the attorneys general of all 50 states urged legislative action in February to ensure that victims can bring lawsuits before judges rather than being forced into arbitration. Congress is weighing a proposal to outlaw mandatory arbitration for harassment claims nationwide.

'Dark Alley'

Arbitration clauses have proliferated in corporate America and aren't unique to Uber. Typically they prevent people from joining together to bring class-action lawsuits that can force companies to change their practices under the threat of big monetary damages. Instead, consumers and employees with grievances are required to pursue their complaints individually. People involved in arbitration are usually free to discuss their cases publicly, but the process is conducted behind closed doors before a privately appointed judge.

"Secret arbitration takes away a woman's right to a trial by a jury of her peers and provides a dark alley for Uber to hide from the justice system, the media and public scrutiny," according to the letter.

Wigdor initially filed its class action in November on behalf of two unidentified women, arguing that Uber put thousands of women at risk and put profit over safety. When Uber moved for arbitration, the firm added seven more women to the case. Now, Jeanne Christensen, the lawyer for the women, says she will add another five women.

Background Checks

"The board has an obligation to prevent this violence from happening again and you can't say that you value women's rights at the same time that you say that these types of cases have to go into confidential arbitration," Christensen said.

The women suing aren't just seeking a payout from the company to compensate them for their individual losses. They're demanding that Uber it take steps, like enhancing background checks, to make incidents less likely.

In April, Uber said it would begin conducting annual background checks on its drivers and receiving updates when new infractions are added to a driver's record. Uber hasn't revealed how many reports it's received of sexual assaults on its platform.

Susan Fowler, the former Uber software engineer who wrote an explosive blog post last year about sexual harassment that she faced at the company, has become an outspoken opponent of forced arbitration agreements. She wrote on Twitter in March, "Uber is pushing women who were sexually assaulted by their Uber drivers into arbitration, taking away their constitutional right to justice in the court system. That's not the right thing."

Dara Khosrowshahi, who took over as Uber's chief executive officer in September, replied: "I will take a look at your suggestion -- I will take it seriously but we have to take all of our constituents into consideration."

Uber's board is composed of high-profile investors including David Trujillo at TPG and Matt Cohler at Benchmark; former corporate executives John Thain and Ursula Burns; and Saudi Arabia's Public Investment Fund managing director, Yasir Rumayyan. Arianna Huffington, an advocate for women and the CEO of a wellness company, also sits on the board. "She can't say that she's a defender of women's equality if she's also saying that rape victims have to go

to forced arbitration," Christensen said in an interview.