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LEGISLATIVE ACTION ALERT

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Trump Administration Sides With Employers Over Workers On Arbitration Agreements

POLITICS By Dave Jamieson 06/16/2017 06

WASHINGTON – The Trump White House will stand with corporations over workers in a looming Supreme Court battle involving arbitration agreements, according to a copy of an amicus brief obtained by HuffPost on Friday. Arbitration agreements prevent workers from pursuing class-action lawsuits for back wages and other damages from their employers. Before former President Barack Obama left office, his administration had argued that such agreements run afoul of collective bargaining law. But in an unusual move, the Trump administration is undercutting that argument and backing corporations.

In the brief, Trump's acting solicitor general, Jeffrey B. Wall, says his office has "reconsidered the issue and has reached the opposite conclusion" as Obama's solicitor general in the case, known as Murphy Oil. Celine McNicholas, a labor lawyer at the left-leaning Economic Policy Institute, said what the White House was doing was extremely rare: flipping the government's official position in an ongoing Supreme Court case.

"This was something folks had been fearing," McNicholas said. "I do think that the decision to switch sides is a real departure from the standard practice." She added, "It's incredibly troubling that an administration that ran [a campaign] on leveling the playing field and giving workers rights is going to literally stand with employers and corporate interests."

Arbitration agreements have become widespread and controversial in recent years, since they require workers to waive their rights to sue as a group. Workers have much less power when they have to take on their employers as individuals. Individual cases also are much less attractive to plaintiffs' lawyers, since the payouts are far smaller. Earlier this year, the Supreme Court put a review of three arbitration cases on its docket. In Murphy Oil, one of those three cases, the Obama administration had been representing the National Labor Relations Board, which had deemed the arbitration agreements illegal. But Reuters reported Friday that the NLRB would instead have to represent itself in the case, a sign that President Donald Trump's Justice Department might be switching sides.

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