



## **Memorandum of Support for A306 (Cruz) / S14 (Gounardes)**

NELA/NY writes in strong support of **A306/S14 (2023-2024)**, which makes it illegal for employers to force survivors of unlawful employment discrimination and harassment who settle their claims, to promise never to apply to work for the employer or its affiliates again.

The National Employment Lawyers Association (NELA) is a national organization of attorneys dedicated to the vindication of employees' rights. NELA/NY, incorporated as a bar association under the laws of New York State, is NELA's New York State affiliate. Many of our members represent survivors of unlawful discrimination and harassment.

Survivors of employment discrimination and harassment often choose to settle their claims rather than undergo the expense, uncertainty and trauma of jury trial. However, employers often insist that as a condition of settling such claims, the survivors promise never to apply to work for the employer again. These employers often demand clauses that bar the survivor from ever applying to any of the employers' successors, affiliates, assigns, parents, subsidiaries and any other related companies. The clauses also often state that if the survivor ever accepts such employment, she is in violation of the settlement agreement and is subject to immediate termination.

As a result of these punitive clauses, survivors of unlawful discrimination and harassment who choose to settle their claims, suffer further negative economic consequences since their employment opportunities are restricted simply by virtue of their having chosen to settle their employment discrimination claims. Moreover, many survivors are not represented by counsel and are unaware that they are bound by these punitive and retaliatory clauses.

Requiring survivors of unlawful discrimination and harassment to give up rights to future employment in exchange for settling their claims also violates the oft-stated public policy in favor of pre-trial resolution of claims. These clauses should be banned, and releases that purport to contain such clauses should be void.

Therefore, NELA NY strongly supports **A306 (Cruz) / S14 (Gounardes)**

