

Letter to the Editor

Stakes are high for many workers

Your article on the U.S. Supreme Court's remand of *Sonic Calabasas A Inc. v. Moreno* to the state Supreme Court — which must now reconsider the decision in light of *AT&T v. Concepcion* — quotes an attorney who states that “people don't really care that much about whether small-stakes claims go to Berman hearings,” as opposed to arbitration. (“*Supreme Court sends arbitration case back to state high court*,” Nov. 1) A small value claim, however, is not equivalent to a small stakes one, when an employer's failure to pay even a small amount of earned wages can mean eviction or hunger for low-wage workers. The tens of thousands of workers who rely each year on the administrative wage claim (Berman) process care very much indeed whether their claims are heard before the Labor Commissioner.

My organization, Bet Tzedek, is one of 18 legal-aid providers whose amicus brief before the state Supreme Court described the unique statutory protections provided by the administrative forum that are simply unavailable in arbitra-

tion or in court. These protections are intended to make the Berman process accessible and affordable, even for the poorest of California's workers. Crucially, the process is designed to obviate the need for counsel. The Labor Commissioner plays an active role in investigating claims, facilitating early resolution through settlement conferences, and enforcing and collecting judgments.

State Bar statistics cited in our brief indicate that two out of three low-income clients with meritorious cases seeking representation are turned away by the private bar, and that there is one legal-aid attorney for every 8,361 low-income Californians. In this context, arbitration agreements that purport to waive workers' ability to access the Berman process would leave many with no viable mechanism for enforcing their right to recover earned wages. The stakes are high for many Californians.

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