

**Testimony before  
The United States Congress, House Committee on the Judiciary Hearing on  
How Forced Arbitration Silences Victims of Sexual Violence & Sexual Harassment**

Andowah A. Newton  
November 16, 2021

Chairman Nadler, Ranking Member Jordan, and Distinguished Members of the Judiciary Committee,

Thank you for inviting me here today—it is an immense honor. While it is very difficult for me to provide this testimony, responding to a Congressional subpoena is a duty that I take seriously.

**I. My Background**

My name is Andowah Newton, and my personal background is quintessentially American. My father and mother, seated behind me, immigrated from Ghana and Panamá, fifty and sixty years ago, respectively. They met when they were both in graduate school in New York City, where I was born a few years later. Two of my younger brothers, Edward and Alex, are also seated behind me.

I realize that I may not fit the image of someone rendered powerless and treated inhumanely due to forced arbitration—a legal executive with over 20 years’ experience in business and law, specializing in commercial litigation for the past 15 years, with degrees in Accounting and French from Georgetown, a law degree from Cornell, and a French law degree from The Sorbonne. I have worked in the United States, France, and The Netherlands as a Certified Public Accountant, auditor, internal controls analyst, or attorney for companies such as Johnson & Johnson, PwC, Estée Lauder, and large law firms; clerked for the First Vice President Judge of the International Criminal Court; and audited or represented clients such as Sony Music, Viacom, Thomson Reuters, KPMG, Deloitte, Chubb, and Wells Fargo.

But none of my achievements has protected me from the years of intense retaliation, dehumanization, and degradation to which LVMH, my current employer, has subjected me. Forced arbitration has given them the opportunity to treat me this way and get away with it.

**II. Exemplary Performance at LVMH Moët Hennessy Louis Vuitton Inc.**

In December 2014, I was offered the position of *Director, Litigation Counsel* for the American affiliate of LVMH Moët Hennessy Louis Vuitton—the \$330 billion<sup>1</sup> French

---

<sup>1</sup> R. Cormack, *At \$329 Billion, LVMH Is Now the Most Valuable Company in Europe*, Robb Report, March 2, 2021. <https://robbreport.com/lifestyle/news/lvmh-is-now-the-most-valuable-company-in-europe-1234599368/>

conglomerate of 75 luxury brands<sup>2</sup> such as Dior, Dom Perignon, Fendi, Givenchy, Rihanna’s Fenty, Marc Jacobs, Sephora, Tiffany, and Veuve Clicquot. I was ecstatic—it was my “dream job,” resulting from years of hard work. LVMH’s internal recruiter told me that in the first two weeks of the position’s posting, several hundred attorneys had already applied, and I was their number one choice.

Although I attempted to negotiate several aspects of my employment agreement, LVMH quickly made it clear that no aspect—including the forced arbitration agreement they attached—was negotiable. The “opportunity of a lifetime” was a “take-it-or-leave-it” offer and LVMH made sure to remind me of the hundreds of other candidates ready to take the position if I declined.

I accepted the offer and performed my job to high acclaim, receiving glowing accolades and flawless evaluations. My boss, the U.S. General Counsel, wrote: “[Andowah]...reflects the highest degree of honesty and ethics in all she does,” is “a client’s dream,” achieves “excellent results,” and “handles all matters efficiently with a calm demeanor.” I was promoted to *Vice President, Legal Affairs* two years after I joined.<sup>3</sup>

### **III. LVMH Director Sexually Harasses & Assaults Me**

Against the backdrop of achieving professional success at LVMH, I was being sexually harassed by the Director of Property & Facility Operations. Lloyd Doran is a white male about thirty years older than me, who joined the Company about a decade before me. He supervised a large staff of employees, reported directly to an SVP only one level down from the CEO, and was part of the most senior executives’ inner circle.

I barely knew him when he began leering at me every time he saw me. He would walk by my office very slowly, skimming the doorway. He would visually examine my body the moment I was within sight, undressing me with his eyes. He made a lewd remark to me. His behavior escalated to lurking directly outside my office for such excessive and distracting periods of time that it caught the attention of a colleague who confronted him. At work gatherings, he pointedly leered at me as soon as I entered the room. He would suddenly appear near me. The fact that he monitored all the security videos and oversaw the security and building staff made me especially concerned with the stalking.

---

<sup>2</sup> LVMH’s brands include Tiffany, Louis Vuitton, Christian Dior, DFS, Le Bon Marché, La Grande Épicerie, Fendi, Marc Jacobs, Fenty Beauty by Rihanna, Givenchy, Sephora, Starboard Cruise Services, Berluti, Charles & Keith, Bulgari, Céline, Emilio Pucci, House of Bijan, Kenzo, Loewe, Loro Piana, Moynat, Nicholas Kirkwood, Rimowa, Chaumet, FRED, Guerlain, Kenzo, Fresh, Make Up For Ever, Hublot, TAG Heuer, Zenith, Acqua di Parma, Givenchy Parfums, Kenzo Parfums, Make Up For Ever, Parfums Christian Dior, Perfumes Loewe, Maison Francis Kurkdjian, Marc Jacobs Beauty, Kat Von D Beauty, Cheval Blanc (hotels), Caffè-Pasticceria Cova, Feadship, Les Échos, Hennessy, Belvedere, Veuve Clicquot, Dom Pérignon, Krug, Ruinart, and Moët & Chandon, among others.  
<https://www.lvmh.com/houses/>

<sup>3</sup> I believe I was the first and only Black person ever to attain that position or higher in the Company’s history. In 2020, the Company hired another Black VP (of Diversity and Inclusion), and a Black SVP.

Although I repeatedly rebuffed the advances of LVMH's Director of Operations, my rejections had no effect.

One day, he entered my office to show where artwork would be hung. Suddenly, with no warning, he lunged towards me—thrusting his pelvic area into my face as I sat at my desk. He then pinned his entire body horizontally on top of mine. I exclaimed in shock while trying to unpin my body from under his. After I was able to stand up, he pretended that he had done nothing wrong, and did not face me as I chided him.

At a work gathering several months later, he publicly tried to force me to greet him with a kiss. When I refused both attempts, leaning back and emphatically saying "No," he embarrassed me in front of my colleagues.

His sexual harassment, attempted assault, and assault made me feel scared, demeaned, and ashamed. I found myself constantly agitated, distressed, and hypervigilant, preoccupied with avoiding the trauma of encountering him. I avoided the stairwells and listened for the ding of the elevators. I avoided working very late in the office, and when I had to, I barricaded myself inside my office to try to feel safe.

Once, at a Company event, I sought a colleague's assistance after panicking when I realized the predator had been seated at my table. I became keenly aware of his whereabouts at Company gatherings to avoid being near him. When he continued to lurk outside my office, I became anxious to the point that I had tremendous difficulty concentrating on my work, sometimes losing focus entirely. It was persistent, disruptive, stressful, and suffocating. Like many sexual assault and harassment survivors, I have since been diagnosed with PTSD.

You would think all you need to do to stop violations like this would be to report it. I, too, thought that would end it. But I was woefully mistaken. I was about to receive a horrifying lesson over several years on how the power of forced arbitration could be wielded against survivors to prolong pain and trauma without resolving anything. In my case, LVMH weaponized forced arbitration to intimidate me into silence. Instead of stopping the predator, LVMH rebuked me for accusing the predator, suggested that I apologize to him, promoted him while visibly alienating me, pursued court sanctions against me, and are now suing *me* for attorneys' fees for their efforts to force my case into arbitration. Believing that the forced arbitration agreement would protect them from both the court of public opinion and a jury, instead of ending the harassment, they brutally retaliated against me.

#### **IV. Relying on the Power of Forced Arbitration, LVMH Launches a Vengeful Campaign of Retaliation and Intimidation Against Me**

Bolstered and protected by the forced arbitration agreement they attached to my employment agreement, LVMH reacted to my reports of sexual assault and harassment by launching an intense campaign of retaliation, intimidation, and aggressive psychological warfare against me which continues to this day. Reversing the roles, they

have treated me like / am the villain, and the predator like he was the victim worthy of LVMH's protection.

Spearheaded by LVMH's U.S. CEO Anish Melwani, SVP HR Gena Smith, SVP Legal Affairs & General Counsel Louise Firestone, VP Legal Affairs & Employment Counsel Frank Martinez, and LVMH's outside counsel Rex Sessions of Winston & Strawn, LVMH responded to my repeated reports as follows:

- Completely ignored my verbal reports of harassment and assault and failed to do anything to stop it;
- Ignored my written report of the harassment;
- Refused to do anything about the harassment, giving the excuse that my reports were made to Legal instead of HR, even though I followed the Anti-Harassment Policy;
- Instructed me to personally confront the predator, despite the concerns I expressed about doing so;
- Scolded me when I followed their instructions by confronting him by email to tell him to stop harassing me;
- Reported *me* to HR for telling the predator to stop harassing me, and then investigated *me*;
- Disregarded the testimony of my colleague who had witnessed some of the predator's behavior and confronted the predator;
- Suggested that *I* apologize to the predator, per his request, because *he* "couldn't sleep...or eat" and "was afraid of losing his job," while they dismissed my inability to properly focus, concentrate, sleep, or eat due to the harassment;
- Repeatedly refused to reprimand the predator or tell him to stop harassing me or modify his conduct in any way because he supposedly "needed to be able to do his job as he saw fit"; and
- Blamed me for "misinterpreting" the attempted assault, calling it "mere flirtation," based on my supposedly "misunderstanding French culture," even though the predator is American. They told me: "This is what executives do in a French company," but in the years that I worked and studied in France, I was never sexually harassed or assaulted by a colleague.
- My boss, LVMH's General Counsel, chastised me for allegedly making her look bad by reporting the harassment and supposedly not making the HR manager conduct a better investigation.
- LVMH's General Counsel also justified the predator's misconduct because, as professional women, there are supposedly "certain things we have to put up with" and "certain sacrifices we have to make."

This was just the *beginning* of LVMH's retaliation campaign. They repeatedly rejected my requests to engage an experienced, unbiased outside investigator because they claimed it would be a waste of time and resources. A few days later, they suddenly reversed their position and paid for an outside investigator, former NY Justice Betty Ellerin, who I later shockingly learned was known in the legal community for championing women's rights.

She appeared to be unable to keep the facts straight and insisted that the incidents would be “hard to prove.” She also suggested that I should be grateful for and flattered by the harassment. To my dismay, she asked me if I wanted to keep my job, and warned that I would look like a “troublemaker” and “son of a bitch.”

While the investigation was still pending, LVMH *promoted* the predator and publicly announced his promotion to all employees at a Company event. They *promoted* the man that sexually assaulted and harassed me before the investigation was even complete. That is bad enough on its own. It was also contradictory to the Anti-Harassment policy.

Although the investigator initially proposed addressing the sexual harassment and assault by issuing the predator an internal restraining order, her final report was whitewashed after conferring with her client, LVMH, and concluded that no sexual harassment or violation of Company policy had taken place, even though the policy defines “leering” as harassment and the predator’s assault and harassment violated New York City, New York state, and federal law. The report also confused, downplayed, and disregarded important facts, such as the testimony of my colleague who witnessed some of the harassment, while inappropriately magnifying self-serving, irrelevant, and inaccurate statements by LVMH’s in-house Employment Counsel.

LVMH refused to let me see the outside investigator’s report or the initial report written by the HR manager. When LVMH’s SVP HR read me the concluding paragraph, I informed her that I continued to feel unsafe and feared for my safety in the office. I asked whether LVMH understood that and would ask him to change any of his behavior whatsoever. LVMH’s SVP HR became infuriated and exclaimed: “NO, because he did *nothing* wrong!” She then encouraged me to meet and interact with the predator, suggesting that I should try to get back into *his* good graces.

Emboldened by LVMH’s actions, the predator came to my floor and strutted around the hallway outside my office more often than ever. LVMH’s General Counsel called him to her office more frequently, even though that meant he was once again by my office, and she tried to get me to directly interact with him when it was totally unnecessary.

LVMH’s General Counsel also began lowering my evaluation ratings and inserting negative, hypocritical, and even snarky comments in my annual evaluations. She excluded me from sensitive or high-profile projects, discussions, and decisions in which I previously was involved or led, decreased my autonomy, attempted to take over some of my matters, and warned that she would be “watching” and “keeping an eye on” me. This year, LVMH lowered my annual salary increase by 33% and my annual bonus by 40%, at a time when the Company’s profits are surging.

Due to LVMH’s failure to stop the harassment and their continuing retaliation campaign, I was left with no choice but to file a Complaint in New York state court in April 2019.<sup>4</sup> Even though LVMH had required me to sign a forced arbitration agreement, New York had passed a law in 2018 banning forced arbitration and

---

<sup>4</sup>[https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=tXkHlfQI6z\\_PLUS\\_CB9GinbXYRA==](https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=tXkHlfQI6z_PLUS_CB9GinbXYRA==)

permitting survivors to sue in court. LVMH had also permitted “all employees” to “file a Complaint in state court” through a Revised Anti-Harassment Policy issued in 2018 and required all employees to sign.

Realizing that forced arbitration might no longer shield them to the full extent intended, LVMH reacted to my lawsuit by threatening my attorneys, then immediately asking the court to force my case into arbitration. They also tried to jeopardize my career and livelihood by seeking sanctions against me personally, just for filing the lawsuit. Referring to me like a criminal, they insisted that I not be treated “with impunity.” They revealed my salary and home address to the public, exposing me to further assault and harassment, and endangering my physical safety.

But LVMH decided that that wasn’t enough punishment for me. As I was working in my office the day after my Complaint was filed, an email from the CEO, addressed to all employees, appeared in my Inbox. In it, the CEO essentially called me a liar and inferred that I couldn’t be trusted, even though LVMH continued to rely on my advice for multi-million-dollar matters. He misstated when LVMH became aware of the assault and harassment, denied any retaliation, and mischaracterized the nature and outcome of the investigator and HR manager’s findings, falsely stating that “neither...investigation found any evidence” and deliberately omitting the witness’s testimony. He concealed LVMH’s repeated objections to even conducting an investigation and their eventual manipulation of it. He also fabricated the existence of a mechanism to report sexual harassment anonymously, pretending that a system recently created solely for anti-corruption-type compliance issues suddenly had a secondary function of receiving sexual harassment reports. He concluded his tirade with “none of us should let this stand in our way of conducting business as usual.”

LVMH repeated similar lies to the press and in court filings. They took advantage of the fact that I didn’t name the predator in the NY state Complaint to deceptively claim that he was in a much lower position than me and insinuate that he reported to me.

At the holiday celebration that year, LVMH made the predator a guest of honor, seating him near the CEO, SVPs, and other guests of honor, toasting him and parading him about as if he were a hero. And, unlike the holiday celebrations before I filed the Complaint, they seated me in a corner tucked behind a large column, cast aside and hidden away from view.

Certain colleagues took the CEO’s cue and displayed outright hostility toward me during other company events, meetings, calls, and in emails. Some, with whom I previously had collegial relationships and friendships, began distancing themselves or avoiding being seen with me. It was incredibly isolating and devastating. The following year, I had to be hospitalized twice for multiple days due to a serious physical issue likely triggered by the unbearable trauma and stress LVMH incessantly inflicted on me.

LVMH permitted the predator to work there until his retirement, almost two full years after I made the formal written report, without any restrictions or even an admonishment. While he was promoted, celebrated, embraced, and allowed to save face and avoid public accountability, I was excluded, scolded, humiliated, punished, and attacked.

LVMH's reaction to my Complaint was appalling, demeaning, and degrading. But they knew they would get away with all of it because forced arbitration was their silver bullet.

## **V. Forced Arbitration Enables Harassers, Silences Survivors, and Has Emboldened LVMH to Further Retaliate**

Having my case forced into arbitration<sup>5</sup> has been a devastating blow: it is now 3x less likely, on average, to succeed and any damages awarded are likely to be 5x less, on average, than they would have been in court.<sup>6</sup> Some estimate that employees prevail in only 1.6% of forced arbitrations.<sup>7</sup> Unlike judges in court, arbitration fees are usually paid by employers. There will be no public accountability rendered by a jury, and no public oversight or scrutiny. There is also no right to appeal and most arbitration rulings are secret. My case will be more difficult to establish because discovery will be limited. I will not be protected by the Rules of Evidence. I have already witnessed first-hand some of the additional ways in which forced arbitration excessively favors employers and is biased and unjust against survivors.

Forced arbitration of my case has also emboldened LVMH. Just after the appellate court's decision, they ramped up their retaliation, gaslighting me by inferring that the sexual assault and harassment were figments of my imagination. Their retaliation became so relentless that I had to take unpaid medical leave earlier this year to cope with and heal from their personal attacks.

In June, LVMH cruelly retaliated again by filing a separate case in arbitration against me for attorneys' fees. The \$330 billion company with \$60 billion in annual profits which flagrantly subjected me to sexual harassment, assault, and retaliation wants *me* to pay them hundreds of thousands of dollars for the privilege of being sexually assaulted and harassed by them. Those are attorneys' fees that *they decided* to spend, and could have avoided spending, simply by telling the predator to stop harassing me. LVMH would not have had the audacity to behave with such a disregard for the law if it had to face a public jury trial rather than an arbitration.

The secretive nature of forced arbitration not only enables companies to retaliate in the manner LVMH has; it allows them to use forced arbitration as an intimidation tactic to silence survivors and prevent them from knowing whether their harassers

---

<sup>5</sup> The trial court denied LVMH's motion to force arbitration, finding that I had a right to sue LVMH in court on multiple legal grounds but LVMH quickly appealed and obtained a reversal.

<https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=D8uHdTJ71qY5Y62RDz07AA==>. My case's arbitrability, however, remains in question because the appellate court referred the issue of LVMH's revised Anti-Harassment Policy and its effect on the arbitrability of my case to an arbitrator. <https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=60Pyxce4oOnFK7LMSZvovw==>.

<sup>6</sup> Rebecca N. Morrow, *Taxing Employers for Imposing Mandatory Arbitration, Class Action Waiver, and Nondisclosure of Dispute Provisions*, 74 SMU L. Rev. 59 (2021)

<https://scholar.smu.edu/cgi/viewcontent.cgi?article=4872&context=smulr>

<sup>7</sup> Abha Bhattarai, *As Closed-Door Arbitration Soared Last Year, Workers Won Cases Against Employers Just 1.6% of the Time*, The Washington Post, Oct. 27, 2021

<https://www.washingtonpost.com/business/2021/10/27/mandatory-arbitration-family-dollar/>

harassed others, thereby enabling these wrongdoers to continue abusing colleagues and perpetuating a system of unfettered harassment.

By repeatedly attempting to leverage forced arbitration to silence me, LVMH potentially endangered other employees. Had I not filed the Complaint in court, LVMH would have permitted the predator to continue working there, potentially harassing others, to this day. While I wanted the harassment to stop and not continue to escalate, one of my main goals in reporting the harassment was to prevent the predator from harming others, especially the interns half my age who pass through the company for short periods of time, making them especially vulnerable. I told the Employment Counsel: "I can't possibly be the first one he has harassed. You don't start by harassing the middle-aged Head of Litigation." The Employment Counsel's silence spoke volumes. Because of forced arbitration and confidential settlements, I may never know if the predator sexually assaulted or harassed others, or if LVMH retaliated against others for reporting sexual harassment.

No survivor actually wants to sue their employer. We just want the harassment to stop. Survivors know that the minute we sue, our job security disappears, our career prospects are damaged, our personal lives suffer irreparably, and we will repeatedly be re-traumatized. Employers know this and leverage it. In my case, my personal life and career have stalled and been derailed at a very critical time. I have lost friendships inside and outside of work. And for the first time in my life, I have had to seek individual therapy from several medical providers to cope with the sexual assault, harassment, and venomous retaliation.

So if a survivor ends up suing, it is usually with extreme reluctance and only when the employer has so woefully failed to address the harassment and egregiously mistreated the survivor that they are left with no other choice. Had LVMH responded in a manner that acknowledged what I had suffered at their employee's hands, respected me as a human being, not demeaned me, desecrated my character, or tried to intimidate me into silence, there would have been no need for a lawsuit. I kept thinking: if they can do this to me, what have they done and what *will* they do to others? I thought of my niece, my friends' children, my cousins, and the young professionals and students I have mentored throughout my life. I don't want them to have to endure what I have had to endure at LVMH.

So, let's stop repeating the narrative that banning forced arbitration would increase litigation. It would actually *reduce* litigation in the long run because the potential of facing a jury, the public, and a large damage verdict would incentivize companies to stop sexual harassment rather than sweep it under the rug. There would be no need to file a claim in the first place. By contrast, the low-dollar confidential settlements or damages that forced arbitration produces wrongly incentivize companies to ignore sexual harassment and silence survivors. That, in turn, endangers others in the workplace and perpetuates harassment and the resulting claims. Under any scenario, however, our ultimate goal should be less workplace harassment, not less litigation.



The “pre-harassment” aspect of forced arbitration is particularly disturbing. It is absurd that LVMH has forced me to arbitrate, in 2021, based on an agreement they required me to sign in 2014—before the assault and harassment occurred. Even when businesses of equal bargaining power agree to arbitrate their disputes, they usually prefer to do so *after* the dispute has arisen, not beforehand. In 2014, I could not imagine that I would be sexually harassed at my “dream job,” especially knowing that its customers and employees are mostly women. And I definitely did not think that if I ever were harassed, LVMH would do nothing to stop it and instead retaliate.<sup>8</sup>

I want to be clear that I do not think that arbitration itself is bad. In the commercial setting amongst entities with equal bargaining power, I have seen that it can be an extremely useful tool. But it is totally inappropriate when human and constitutional rights are involved. Saving *the employer’s* time and money should not be the primary goal when someone has been sexually assaulted or harassed; rather, it should be accountability and preventing further harm. The ongoing situation of harassment and retaliation in which I find myself at LVMH is a stark reminder that the gross imbalance in negotiating power and resources inherent in any employment situation make it such that the employee, regardless of their position, intellect, or achievements, will always be the “David” and the employer the “Goliath.”

The most important word in this bill is “forced.” It gives survivors the *choice* to determine if arbitration is best for them rather than having their employer dictate what is best. Creating *real* choice is as important as creating transparency. Even those knowledgeable about arbitration can be deprived of choice when there is a power imbalance.<sup>9</sup> The practical, long-term effect of permitting survivors to sue is creating a safer workplace by eliminating a culture and practice of perpetual harassment and silencing. “Sunlight is the best disinfectant.”

Before concluding, I want to state that my remarks reflect my personal opinions only and have not been made in any professional capacity.

Thank you for “unsilencing” me by inviting me here today. You each stand in a position of far more privilege and power than most Americans could ever dream of. I hope you use those advantages to protect us, and your loved ones, by ending forced arbitration.

---

<sup>8</sup> My personal opinion is that any bill should apply to arbitration agreements that predate the bill's enactment. Without retroactive application, only workers who begin new jobs after the bill is enacted would be protected. In my case, the appellate division forced it into arbitration because it found that the New York law was not retroactive, even though the harassment continued after the law's enactment.

<sup>9</sup> That is why one tax law professor suggests taxing employers who use forced arbitration because she asserts that it is an off-balance sheet asset.

<https://scholar.smu.edu/cgi/viewcontent.cgi?article=4872&context=smulr>