



CONSUMER LOBBY DAY 2019

RESTORE CONSUMERS' & WORKERS' ACCESS TO JUSTICE: END FORCED ARBITRATION

Pass the Forced Arbitration Injustice Repeal Act (the FAIR Act) H.R. 1423, S. 610

Key Points:

- **Congress should restore the rights of harmed and wronged consumers, workers, and small businesses to seek justice against corporate misconduct.** Corporations insert take-it-or-leave-it terms into their everyday standard-form contracts that block harmed consumers, workers, and small businesses from seeking justice in court.
- **Congress should end this rigged process, which is used to silence consumers.** Arbitration proceedings are often conducted in secret, with no right to due process, and without access to a judge or jury.
- **Congress should protect our right to hold lawbreakers accountable.** Companies that break the law can hide behind arbitration proceedings, which have built-in incentives to side with corporations.

Forced arbitration clauses prevent access to justice

- **These clauses are everywhere.** Forced arbitration clauses are in contracts for products and services such as credit cards, child care, cell phones, car loans, home construction, student loans, payday loans, health insurance policies, and nursing homes.
- **Forced arbitration prevents similarly harmed consumers from banding together.** Forced arbitration clauses often contain terms that block consumers with similar harms (e.g. charged with illegal fees) or victims of widespread unlawful conduct (e.g. systemic discrimination or harassment) from banding together in class actions so they can effectively hold powerful corporate wrongdoers accountable.
- **Corporate lawbreakers escape accountability.** Forced arbitration hampers consumers' and workers' ability to vindicate their rights under federal and state laws.

Forced arbitration is a rigged system that lacks transparency

- **No impartial judge or jury.** Corporations select the arbitration firms. Private arbitrators do not have to follow the law or facts, or explain their decisions. Meanwhile, arbitrators rely on corporations for repeat business, increasing likelihood of bias.



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- **Proceedings and decisions are secret.** Typically, court proceedings and decisions are open and public. In arbitration, decisions are made out of the public eye. Many corporate arbitration clauses include gag clauses that require secrecy, even if a case highlights important problems that the public should know.
- **Few or no due process protections.** Arbitrators set the rules for the proceedings, and they aren't required to follow the law. Wrongdoers are able to shield evidence of their conduct that they would have to turn over in court. Arbitration decisions cannot be appealed in most cases, even if an arbitrator ignores facts or the law.

THE "FAIR ACT" WOULD:

- **BAR** the use of forced arbitration as a way to handle claims of consumer, civil rights, employment, and antitrust violations.
- **ENSURE** that consumers, workers, and small business can choose to go before a judge and jury after a dispute arises.
- **RESTORE** fairness and meaningful access to justice for wronged American consumers, workers, service members, veterans, small businesses, ordinary investors, older Americans, and students.
- **RESTORE** the congressional intent behind the Federal Arbitration Act (FAA), enacted in 1925 to facilitate disputes between commercial entities of similar sophistication and bargaining power.
- **INCREASE** accountability and transparency in our justice system, making our economy stronger and safer.

Consumer Lobby Day is a joint project of leading national, state and local consumer groups. For more information about CLD or the policies described on this fact sheet, please contact CLD@consumerfed.org