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National Association of Consumer Advocates and the National Consumer Law Center Support Reintroduction of Landmark Legislation to Restore Consumers, Workers, and Small Businesses' Access to Justice

(WASHINGTON) The National Association of Consumer Advocates (NACA) and the National Consumer Law Center (NCLC), on behalf of its low-income clients, strongly endorse the Arbitration Fairness Act (“AFA”) introduced by U.S. Sen. Al Franken (D-Minn.) and Rep. Hank Johnson (D-Ga.) yesterday that would restore transparency and access to our civil justice system and preserve important civil rights, employment, antitrust, and consumer protections.

Corporations from sketchy payday lenders to shrewd Wall Street banks and powerful corporations have found a way to cheat, steal, and defraud Americans without ever being held accountable for their actions. Predispute binding mandatory (or forced) arbitration clauses are everywhere in employment contracts and consumer 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. Buried in the fine print of these contracts, forced arbitration clauses prohibit individuals and small businesses from holding big banks and corporations accountable in court, even when corporations violate the law.

Most Americans haven’t even heard of forced arbitration and do not fully understand how these clauses can be used to deny their access to court. A [recent arbitration study by the Consumer Financial Protection Bureau](#) confirmed that 75 percent of consumers surveyed did not know if they were subject to an arbitration clause in their credit card contract. Among consumers whose contract included an arbitration clause, fewer than 7 percent recognized that they could not sue their credit card issuer in court. But corporations and financial predators are well aware that using fine-print terms in contracts is an effective license to steal and evade the law. The CFPB study explains that individuals rarely use arbitration to resolve their disputes and that forced arbitration clauses act as a barrier to consumers getting relief from class actions. Roughly 34

million consumers could have been eligible for at least \$1.1 billion in cash payments based on its review of class actions relief during a five-year period.

“We should never have to give up our Constitutional rights just to do the everyday things in our lives. The Arbitration Fairness Act stands up for consumers, servicemembers, workers and all Americans and restores our right to hold corporations accountable when they break the law.” said NACA’s legislative director Ellen Taverna.

The Arbitration Fairness Act of 2015 would make forced arbitration unenforceable in civil rights, employment, antitrust, and consumer disputes. It would also restore the congressional intent behind the Federal Arbitration Act (FAA), which was enacted in 1925 to facilitate arbitration of disputes between commercial entities of similar sophistication and bargaining power. A series of decisions by the U.S. Supreme Court have broadly interpreted the FAA to give a green light for corporations and Wall Street banks to insert abusive forced arbitration clauses in one-sided, non-negotiable contracts. The AFA restores the balance between individuals and powerful corporate interests by reinstating American’s ability to *choose* to hold corporations accountable for wrongdoing in a courtroom or in arbitration.

"Companies that violate the law should not be allowed to use forced arbitration before a biased, secretive, and lawless system as a get-out-of-jail-free card," said Lauren Saunders, associate director of NCLC.

The time is now for Congress to ban forced arbitration for all America’s consumers, servicemembers, workers and small businesses.

Links

Summary of the Arbitration Fairness Act of 2015:

http://www.franken.senate.gov/files/documents/150429_AFAOnePager.pdf

Full bill: <http://www.franken.senate.gov/files/documents/150429AFABillText.pdf>

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Since 1969, the nonprofit **National Consumer Law Center® (NCLC®)** has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. www.nclc.org

The National Association of Consumer Advocates (NACA) is a nonprofit association of more than 1,500 consumer advocates and attorney members who represent hundreds of thousands of consumers victimized by fraudulent, abusive and predatory business practices. As an organization fully committed to promoting justice for consumers, NACA’s members and their clients are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means. www.consumeradvocates.org