Advocates Applaud Bill to Restore Access to the Courts and End Forced Arbitration

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Livestream the House Judiciary hearing on Forced Arbitration on Feb. 11 at 10am here.

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Washington, D.C. – Robinhood may be able to thwart access to the courts for customers harmed in the recent GameStop incident. By inserting a “forced arbitration” clause in its contract, Robinhood took away a right provided in the Seventh Amendment by making it nearly impossible for harmed customers to have their day in court. This is just the latest of hundreds of companies, including Uber, Wells Fargo, Equifax, Sterling Jewelers, and Fox News, accused of wrongdoing that have used forced arbitration clauses to deprive people of access to the courts. But Congress now has the opportunity to right that wrong. Today, Representative Hank Johnson (D-GA-4) reintroduced the Forced Arbitration Injustice Repeal (FAIR) Act in the House and Senator Richard Blumenthal (D-CT) is expected to reintroduce it in the Senate next week. The FAIR Act would restore access to the courts for consumers, workers, and small businesses harmed when companies violate the law.

“I applaud Senator Blumenthal and Congressman Johnson for re-introducing the FAIR Act to restore our constitutional right to our day in court,” said Lauren Saunders, associate director of the National Consumer Law Center. “On behalf of our low income clients, the National Consumer Law Center is proud to support this bill.”

“Companies use fine-print forced arbitration clauses to deprive people of an impartial judge, forcing disputes into a biased, secretive and lawless forum before arbitrators who do not have to follow the facts or the law, who are typically paid by the company, and where there is no right of appeal. The FAIR Act stops forced arbitration and restores access to the courts for survivors of sexual harassment, national guard members terminated from their jobs for serving their country, seniors in nursing homes and consumers ripped off by Wall Street or predatory lenders,” Saunders added.

Importantly, the FAIR Act does not eliminate arbitration. It allows people to choose to arbitrate claims after a dispute arises, but prevents companies from using fine-print clauses to force people to commit ahead of time to arbitrate. “People should have the choice, when they have been harmed, of exercising their constitutional right of access to the courts or taking their dispute to an arbitrator. The FAIR Act restores choice and our constitutional rights,” Saunders said.

For additional information on the use and impact of forced arbitration clauses visit NCLC’s Forced Arbitration page.