Sterling Jewelers, Wells Fargo Scandals Show Why Forced Arbitration Must End

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Advocates Support Bills to Restore Americans' Right to Day in Court

Washington – Advocates at the National Consumer Law Center applauded today's introduction in the Senate and House of Representatives of six bills to curtail forced arbitration, a practice that companies increasingly use to hide illegal conduct and avoid accountability for their wrongdoing. The bills were announced at a press conference attended by several victims of forced arbitration, including former Fox News anchor Gretchen Carlson, who brought charges of sexual harassment against former the Fox News chairman; a customer ensnared in the Wells Fargo fake account scandal; and a service member who was fired by his former employer when he told them he was being deployed to Afghanistan.

"The Wells Fargo fake account scandal and the latest news of widespread sexual harassment of Kay Jewelers employees show how forced arbitration clauses help companies hide illegal conduct and avoid accountability for their wrongdoing," said Lauren Saunders, associate director at the National Consumer Law Center. "Wells Fargo is still trying to force victims of two million phony accounts to go one by one against the bank in secret, lawless arbitrations instead of before single, public impartial judge. Much of the evidence of apparent rampant sexual abuse of female Kay Jewelers employees was kept from the public and even other victims through the gag orders imposed in forced arbitration."

"Companies use fine print forced arbitration clauses to take away Americans' day in court, deprive them of an impartial judge, and leave them at the mercy of an arbitrator who earns a living from repeat business from companies accused of violating the law," said Saunders. "And many forced arbitration clauses also include class action bans that prevent victims from banding together to confront widespread corporate violations of the law that harm thousands or even millions of people."

The National Consumer Law Center announced its support, on behalf of its low income clients, for the six bills introduced today to address forced arbitration in several different contexts:

- The **Arbitration Fairness Act** prohibits forced arbitration of claims by individuals, employees, and small businesses in consumer, civil rights, labor and antitrust cases.
- The **Restoring Statutory Rights and Interests of the States Act** restores the right to enforce federal civil rights and other statutes.
- The **Court Legal Access and Student Support (CLASS) Act** stops forced arbitration by colleges that receive federal financial aid.
- The **Mandatory Arbitration Transparency Act** ends secrecy requirements for arbitration.
- The **Justice for Servicemembers Act** prohibits forced arbitration of claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA), which prohibits employment discrimination against servicemembers and veterans.
- The **Justice for Victims of Fraud Act** would close the "Wells Fargo loophole" by stopping forced arbitration of claims about checking and credit card accounts fraudulently opened without a customer's consent.

Today's actions follow a campaign launched last week to demand that Wells Fargo stop using forced arbitration clauses and to urge Wells Fargo customers to switch to another bank until the bank restores access to the courts. A letter to Wells Fargo's CEO details not only the two million bogus accounts the bank created but other misconduct including illegally repossessing at least 413 vehicles of military servicemembers on active duty; Illegally foreclosing on homes of 239 active duty servicemembers; and unfair and deceptive overdraft fee practices that resulted in a $203 million judgment.

More information on NCLC's body of work regarding arbitration and access to justice is available at: https://www.nclc.org/issues/arbitration-a-access-to-justice.html.

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