



September 9, 2019

The Honorable Jerrold Nadler, Chairman
The Honorable Doug Collins, Ranking Member
Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Dear Chairman Nadler, Ranking Member Collins, and Members of the Committee:

The National Association of Consumer Advocates, a national nonprofit organization engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means, strongly supports the Forced Arbitration Injustice Repeal Act (FAIR Act), H.R. 1423. The FAIR Act would end the unjust use of forced arbitration clauses in consumer and worker contracts. Congress should pass this bill.

Specifically, the FAIR Act would bar forced arbitration from deciding the outcome of consumer, civil rights, employment, or antitrust violations. It would restore to harmed consumers and workers the right to choose to go to court before a judge and jury when they are financially or physically harmed.

Forced arbitration clauses, hidden in fine-print corporate contracts, block consumers, workers, and small businesses from seeking justice in open court and gives corporations the power to force legitimate complaints into secretive, biased, and lawless arbitration proceedings. Corporations write the arbitration rules, including choosing the arbitration firm and location for the arbitration. The process encourages and facilitates arbitrator bias in favor of the more powerful party. Meanwhile, arbitrators' decisions are rarely appealable, even when arbitrators make clear and egregious errors.

Particularly heinous are forced arbitration clauses that prevent individuals from joining their claims together to seek accountability for wrongful corporate actions that cause widespread or systemic harm. Class and collection actions are a critical device for American consumers, workers, and small businesses to seek remedies when ripped off or exploited by corporations. They resolve widespread and systemic harm related to violations of state and federal consumer protection, civil rights, investor rights, workplace rights and fairness, fair competition laws, and other protections. For decades, consumers' and workers' ability to band together has effectively halted illegal corporate conduct, prevented risky behavior, and compensated injured victims.

The unconscionable costs of pursuing serious claims individually means the systemic wrongdoing goes unchecked. As a result, financially harmed consumers and workers are left without any remedies at all. Meanwhile, the illicit business practices can cause even more damage to people, the marketplace, and the economy.

It wasn't always this way. The Federal Arbitration Act was enacted in 1925 to ensure that certain corporations with equal bargaining power could use arbitration to resolve complex legal matters. The law was never envisioned as one that would allow corporations to force arbitration and remove consumers' and workers' power to choose how to get their complaints heard.

The FAIR Act would not bar arbitration, but it would give consumers and workers the true ability to choose how to seek justice when they are harmed. Congress can make arbitration fair and voluntary again with passage of this legislation.

We urge you to support and vote for the FAIR Act. Thank you for your time and consideration of this important bill.

Sincerely,

Christine Hines
Legislative Director
National Association of Consumer Advocates