

September 16, 2025

Hon. Chuck Grassley, Chairman
Hon. Dick Durbin, Ranking Member
U.S. Senate Judiciary Committee
Washington, DC 20510

Hon. Jim Jordan, Chairman
Hon. Jamie Raskin, Ranking Member
U.S. House Judiciary Committee
Washington, DC 20515

Re: Forced Arbitration Injustice Relief Act (FAIR Act)

Dear Chairman Grassley and Ranking Member Durbin, and Chairman Jordan and Ranking Member Raskin:

The undersigned organizations write to strongly support passage of the Forced Arbitration Injustice Repeal (FAIR) Act. The Act would give workers, consumers, servicemembers, ordinary investors, small businesses, and others the freedom to seek accountability in court when they are harmed.

Predispute arbitration clauses in one-sided agreements for goods, services, and employment force people to bring legal claims in private, secretive arbitration proceedings instead of in court. The FAIR Act would restore their rights by prohibiting the use of forced arbitration as a way to resolve consumer, employment, antitrust, and civil rights disputes. The bill would facilitate arbitration in these contexts on a purely voluntary basis, to be agreed to as a forum by all parties only after a dispute arises. Access to the court system is one of the remaining institutions that can empower Americans to protect themselves from the worst scams, fraud, discrimination, and the increasing risk of health, safety, and financial abuses.

We have long observed the impact of forced arbitration on the marketplace. Indeed, hundreds of millions of people are subject to forced arbitration clauses, whether or not they are aware of it. The clauses are present in the boilerplate terms and conditions governing necessities such as bank accounts, loans, cell phones and internet service, employment conditions, small business merchant accounts, nursing home admissions, and online products such as digital wallets and peer to peer payment providers. In 2022, Congress protected victims by passing the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act, which allowed individuals alleging sexual assault or harassment to choose between pursuing claims in court or arbitration.

An arbitration clause removes an individual's choice to go to court and to be heard by a judge and jury. Instead, the corporate manufactured one-sided rules of private arbitration displace the due process protections that are assured in our courts. For example, arbitration often limits the ability to obtain evidence necessary to prove one's case and may eliminate the right to appeal decisions. Meanwhile, privately hired arbitrators are incentivized to favor corporate repeat players in their decision making.

Forced arbitration clauses often include deeply unfair terms, most notably, provisions that prohibit individuals with similar claims from banding together in class or collective actions. Class actions are critical for consumers, small businesses, and workers to seek justice for systemic harms that would be too difficult or expensive for them to pursue on an individual basis. Forced arbitration clauses can also suppress legal protections, by, for example, reducing the time allowed to file claims, removing individual's right to enforce state and federal protections, and removing access to common law and statutory remedies.¹

Under these conditions, consumers, workers, and small businesses are often unable to go to court to enforce longstanding protections against unfair and deceptive, discriminatory and anticompetitive practices, and even pervasive fraud. Conversely, through forced arbitration, corporate employers have, in many cases, been able to quash serious claims of systemic misconduct, including harassment and discrimination, misclassification of workers, and wage theft.

In recent years, forced arbitration has become even more one-sided and unfair for consumers, workers, and small businesses. Some corporations have created additional hurdles by tacking on “pre-dispute dispute resolution clauses” that require harmed individuals to complete more steps to resolve or prove the validity of their claims before they can even initiate arbitration, which further delays or denies justice.² In other cases, corporations have unilaterally added arbitration clauses or rewritten arbitration rules in the middle of a dispute.³ Notably, after consumers brought claims against it, ticketing and event promotion company Live Nation sought to retroactively modify its terms of use to change its arbitration rules and its chosen arbitration provider to be significantly more disadvantageous to consumers.⁴ After that tactic failed, Live Nation, once again revised, instead of removing, its forced arbitration requirements and class action ban.⁵

Meanwhile, as corporations continue to weaponize their terms and conditions against their customers, the federal regulatory and law enforcement system charged with protecting the health, safety, privacy, and financial well-being of Americans is fracturing. Federal agencies operating with slashed staff and changed priorities are rolling back protections for consumers, workers, and small businesses, creating regulatory gaps and allowing large corporations to act with impunity. Consumer and worker enforcement of laws in court is thus more critical than ever for protecting our communities.

¹ See, Andrea J. Boyack, *Abuse of Contract: Boilerplate Erasure of Consumer Counterparty Rights*, 110 Iowa L. Rev. 497 (2025).

² See e.g., *Bielski v. Coinbase*, No. 22-15566 (9th Cir. 2023), available at <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/12/05/22-15566.pdf>.

³ Public Justice, *Story v. Heartland*, https://www.publicjustice.net/case_brief/story-v-heartland/.

⁴ *Heckman v. Live Nation Entertainment, Inc.*, No. 23-55770 (9th Cir. 2024), available at <https://cdn.ca9.uscourts.gov/datastore/opinions/2024/10/28/23-55770.pdf>.

⁵ Live Nation Terms of Use, effective Aug. 12, 2005, <https://help.livenation.com/hc/en-us/articles/10468828916113-Terms-of-Use>.

Study after study confirms that consumers are mostly unaware of arbitration clauses, do not understand their meaning and consequences, and are unable to meaningfully consent to the take-it-or-leave-it terms.⁶ In fact, according to a 2023 empirical study, the overwhelming majority of people mistakenly believed that, despite a forced arbitration clause, they could still go to court or that an arbitrator's erroneous decision could be appealed.⁷ Even when they are aware, most people oppose arbitration clauses.

The free market system needs transparency and accountability, which the public court system provides, in order to succeed. We urge every member of Congress to support and pass this legislation. Thank you for your consideration.

Sincerely,

20/20 Vision

Alliance for Justice

American Association for Justice

American Economic Liberties Project

Americans for Financial Reform

Center for Auto Safety

Center for Consumer Law & Economic Justice

Center for Economic Integrity

Center for Economic Justice

Center for Justice & Democracy

Center for LGBTQ Economic Advancement & Research (CLEAR)

Center for Progressive Reform

Center for Responsible Lending

Committee to Support the Antitrust Laws

Consumer Action

Consumer Federation of America

Consumer Reports

Consumer Watchdog

Consumers for Auto Reliability and Safety

DC Consumer Rights Coalition

Economic Action Maryland Fund

Economic Policy Institute

Farmworker Association of Florida

Food & Water Watch

Housing and Economic Rights Advocates

⁶ See, Roseanna Sommers, *What do Consumers Understand About Predispute Arbitration Agreements? An Empirical Investigation*, PLOS ONE, Feb. 23, 2024, <https://doi.org/10.1371/journal.pone.0296179>; Boyack, at 497.

⁷ Id., Sommers.

Impact Fund
Indiana Community Action Poverty Institute
Jacksonville Area Legal Aid
Justice in Aging
Kansas Holistic Defenders
Long Term Care Community Coalition
Mobilization for Justice
National Association of Consumer Advocates
National Association of the Deaf
National Center for Law and Economic Justice
National Consumer Law Center (on behalf of its low-income clients)
National Consumer Voice for Quality Long-Term Care
National Consumers League
National Employment Law Project
National Employment Lawyers Association
National Institute for Workers' Rights
National Organization for Women
National Urban League
NETWORK Lobby for Catholic Social Justice
New Jersey Citizen Action
New Yorkers for Responsible Lending
Northwest Workers' Justice Project
Oregon Consumer Justice
Oregon Consumer League
People's Parity Project
Progress Now Colorado
Protect Borrowers (formerly Student Borrower Protection Center)
Public Citizen
Public Justice
Public Justice Center
South Carolina Appleseed Legal Justice Center
The Sikh Coalition
Tzedek DC
Virginia Citizens Consumer Council
Woodstock Institute

cc: Members of the Committee