

Arbitration - Protect Yourself

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Forced Arbitration

The Federal Arbitration Act, enacted in 1925 was originally designed to help resolve commercial disputes between businesses. It is providing the legal basis for the broad use of arbitration clauses in consumer contracts today. Mandatory binding arbitration has become standard business practice in many consumer contracts. They are found in applications for loans, car leases, employment contracts, insurance and credit card applications.

WHAT IS MANDATORY BINDING ARBITRATION?

Arbitration is a process that seeks to resolve disputes without formal legal action. A formal law suit, which can hold a consumer accountable, is replaced with a costly private justice system where high costs and abuse of the law have been clearly documented.

Arbitration is inherently biased and favors business, not consumers that is why it is used. Arbitrators are often on contract with businesses against consumers who have claims brought against them. By prearrangement, most companies can choose the arbitrator and venue of a dispute. Additionally, arbitrators are motivated to rule in a way that will attract future company business to them.

The following are issues with the arbitration process:

- * A single arbitrator or a panel, not a judge, decides disputes.
- * Arbitrators are not required to have any legal training and need not follow the law.
- * Arbitration disputes are secret and there is no right to public access.
- * Their decisions may be legally incorrect.
- * There is virtually no right to appeal for the consumer.
- * Arbitrators make money from repeat business of the companies in arbitration.
- * Court rules of evidence and procedure do not apply.
- * Consumers are not entitled to the right of discovery or given due process.
- * Forced arbitration violates your 7th amendment right to a trial by jury.

Consumers pay much more for arbitration proceedings than they would for a public court proceeding. Arbitration fees can range between several hundred and thousands of dollars per hour. This can be prohibitively expensive for a consumer who is already suffering from financial problems. Arbitration saves neither time nor money for the consumer.

I am not a lawyer and I am not giving legal advice. However, if it were up to me, I would not participate in a binding arbitration process; the ultimate decision is up to you though. If you choose not to participate, this will force creditors into court where the rule of law applies; your constitutional right to a trial by jury is intact and you are given due process. An award given to a creditor in arbitration is not enforceable unless they go to court and get a judgment. Arbitration is used as a scare tactic to coerce debtors into paying.

I would like to make clear that I am not endorsing the idea of trying to escape your financial obligations, just the process of forced arbitration. I think that if a creditor wants to take legal action against you, it should be done in a court of law. It should not be done in an arena that favors big business and finance. In a court of law, the playing field is level and both parties have a chance to present their side of the story to a neutral third-party. Alan Barnes IAPDA Certified Debt Arbitrator

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