

Advocates Applaud Bill to Give Fake Account Victims Their Day in Court

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Bill would prohibit forced arbitration of claims over bank and credit card accounts opened without consent

(WASHINGTON) Advocates at the National Consumer Law Center (NCLC) applauded a bill introduced today in the Senate and House that would prevent banks from blocking victims of bank fraud from court by U.S. Senator Sherrod Brown and Congressman Brad Sherman. The Justice for Victims of Fraud Act of 2016 comes on the heels of efforts by Wells Fargo Bank to prevent courts from hearing claims brought by customers who have sued the bank over phantom bank accounts opened in their names without consent. Wells Fargo filed the motion to force arbitration in U.S. District Court in Utah on November 23, according to Reuters.

"It's outrageous that Wells Fargo is pushing disputes about its phony accounts out of the public courts and into a secretive, biased and lawless forced arbitration," said National Consumer Law Center Associate Director Lauren Saunders. "Forced arbitration is a rigged system used by big banks and other corporate wrongdoers to avoid accountability."

Consumers first started bringing class actions against Wells Fargo for creating phony accounts back in 2013. But the bank used forced arbitration clauses to kick the cases out of court and to block the consumers from bringing the case as a class action to help all of the victims of the fake account scandal. "Wells Fargo used forced arbitration clauses with class action bans to stop both courts and arbitrators from addressing the millions of fake accounts the bank created," Saunders explained. "Only after the CFPB imposed a \$100 million fine on Wells Fargo did the few consumers who hired attorneys get secret settlements on the condition they not disclose the details of their cases."

In forced arbitration, consumers lose the right to argue their case before an impartial judge and jury. Instead, big banks and abusive lenders hire a private arbitrator, who often makes a living off of bank fees, to decide the dispute behind closed doors, allowing the violator to avoid turning over incriminating evidence and to prevent an appeal if the arbitrator ignores the facts or the law. Additionally, any award or settlement agreement is often sealed so that the facts cannot be shared with the public, making it difficult to track problems with goods or services.

In May, the CFPB proposed a rule that would prohibit forced arbitration clauses that prohibit consumers from banding together in class actions. Class actions are critical to consumer rights because, in many cases, individual damages are too small to justify the time and expense of hiring an attorney. Enabling courts to order wrongdoers to repay all of their victims also deters businesses from considering predatory or illegal behavior.

More information on NCLC's body of work regarding arbitration and access to justice is available at: <https://nclc-old.ogosenet.net/issues/arbitration-a-access-to-justice.html>.