



1107 9th Street, Suite 625 • Sacramento, CA 95814 • (916) 498-9608 • mail@consumercal.org

April 26, 2017

Senator Hannah Beth-Jackson
Chair, Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, CA 95814

RE: Senate Bill 33 (Dodd) – Arbitration Agreements – Co-Sponsor
As Amended – April 24, 2017
Senate Judiciary Committee – May 2, 2017

Dear Senator Jackson:

The Consumer Federation of California (CFC) is proud to co-sponsor Senate Bill 33, which would prohibit the a court from deferring a lawsuit to arbitration upon a petition by a financial institution when an agreement to arbitrate a consumer claim is contained in a contract created fraudulently by the petitioner without the consumer’s consent or by unlawfully using the consumer’s personal identifying information.

The need for this legislation is manifest. Dating as far back as 15 years, Wells Fargo employees illegally and secretly used their customers’ personal identifying information to open 1.5 million unauthorized bank and credit card accounts in the names of individual customers, and perhaps as many as another 500,000 fraudulent business accounts. As Wells Fargo’s customers attempted to sue to recover losses and restore their credit, the bank successfully argued that clauses included in the consumers’ initial customer agreements requiring that they waive their right to sue and to enter class actions also apply to other, surreptitiously created accounts that the bank opened by stealing their customers’ identity. The absurd result is that the bank has twice victimized its customers – first through an act of identity theft, and then enjoying further fruits of its crime when it prevented the adjudication of the harm in a court of law.

Its victims have been forced into secret, binding arbitration proceedings that provide an uneven playing field, benefiting Wells Fargo. The opaque arbitration process, in addition to being skewed in favor of corporate interests, deprives consumers of crucial information related to this large-scale wrongdoing, thereby exacerbating the misconduct, as well as undermining the public trust. These recent events have shown how corporations can use arbitration agreements and class action waivers to avoid consequences for their actions and conceal their misconduct.

A recent study of publicly available data on the few arbitration cases that consumers have filed against Wells Fargo underscores the advantages this bank enjoys when it locks the doors to the courtroom. UC Hastings Law School Professor Matthew Waldron remarked that the study demonstrates the “improbable chance that consumers will be compensated wholly or at all” in an arbitration proceeding.¹

¹ <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-wells-arbitration-20170407-story.html>

SB 33 will ensure that in the future Wells Fargo and other financial institutions will not be permitted to dodge accountability to their victims for the wrongful use of their customers' information. We urge your AYE vote on SB 33. Thank you for your consideration of this vital issue.

Sincerely,

A handwritten signature in black ink that reads "Richard Holober". The signature is written in a cursive, flowing style.

Richard Holober
Executive Director

cc: Members of the Senate Judiciary Committee
Senator Dodd