

December 11, 2007

**The Honorable Russell D. Feingold, Chairman**  
**The Honorable Sam Brownback, Ranking Member**  
**Subcommittee on the Constitution, Civil Rights and Property Rights**  
**U.S. Senate Committee on the Judiciary**  
**224 Dirksen Senate Office Building**  
**Washington, DC 20510**

**Re: Letter in Support of the Arbitration Fairness Act, H.R. 3010 and S. 1782**

**Dear Mr. Chairman and Ranking Member Brownback:**

We, the undersigned organizations, strongly support the **Arbitration Fairness Act of 2007, H.R. 3010 and S. 1782**, introduced in the House by Representative Hank Johnson (D-GA) and in the Senate by Senator Russ Feingold (D-WI). This important legislation would end the predatory practice of forcing employees and consumers to sign away their rights to legal protections and access to the courts by making pre-dispute binding mandatory arbitration unenforceable in civil rights, employment, consumer, and franchise disputes.

In the private system of binding mandatory arbitration, none of the safeguards in our legal system are guaranteed for persons attempting to enforce their civil, employment and consumer rights. There is no impartial judge or jury, but rather arbitrators who rely on the companies for repeat business. With nearly no oversight or accountability, the employers, lenders or companies – or the arbitration service selected by them – set the rules for the secret proceedings, often limiting the procedural protections and legal remedies otherwise available to individuals in a court of law. For example, in arbitration, the time for filing a lawsuit is often shortened, and disclosure of documents by the employer, lender or company can be restricted or eliminated. In addition, the “loser pays” rules and exorbitant fees in arbitration are prohibitive to many individuals. The right to an appeal is severely curtailed by the arbitration process.

A cornerstone of hard-won civil rights protections is the right for victims of workplace discrimination or harassment to have their claims heard by an impartial judge and jury in the civil justice system. Increasingly, because of the unequal bargaining positions inherent in the employment relationship, employers strip this right away from workers with impunity and require them to agree to binding mandatory arbitration as a condition of hiring or continued employment. Once forced into binding mandatory arbitration, workers lose many of the essential protections established by the civil rights laws.

In a similarly disturbing trend, binding mandatory arbitration is proliferating in everyday consumer contracts for products and services such as credit cards, cell phones, mortgages, health insurance policies and nursing homes. The inequality inherent in mandatory arbitration particularly disadvantages the most vulnerable consumers, such as victims of predatory lending. Unscrupulous lenders use binding mandatory arbitration in subprime mortgages, payday loans and credit card contracts. The use of mandatory arbitration in consumer contracts is especially injurious where it disproportionately puts the elderly, low-income, and minority families at risk. In addition, the anti-predatory lending laws passed in some states are ineffective to deal with the

prevalent abuse of binding mandatory arbitration because the Federal Arbitration Act currently preempts the state laws.

The Arbitration Fairness Act does not seek to eliminate arbitration and other forms of alternative dispute resolution agreed to voluntarily *after* a dispute arises, nor would it affect collective bargaining agreements that might include arbitration provisions. Its sole aim is to end *pre-dispute* binding mandatory arbitration, which eviscerates the enforceability of our civil and consumer rights. The protections established in our consumer protection and civil rights laws – including the Civil Rights Acts of 1964 and 1991, Title IX, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Equal Pay Act, and the Uniformed Services Employment and Reemployment Rights Act – are rendered meaningless if not enforceable in a court of law.

We strongly support the Arbitration Fairness Act of 2007, which would restore access to our civil justice system and preserve important civil, employment and consumer rights protections. We urge you and the other members of Congress to pass **H.R. 3010 and S. 1782**.

Sincerely,

**Alliance for Justice**  
**American Association for Justice**  
**American Association of People with Disabilities**  
**Americans for Democratic Action**  
**Asian American Justice Center**  
**Association of Community Organizations for Reform Now (ACORN)**  
**Campaign for Contract Agriculture Reform**  
**Center for Responsible Lending**  
**Consumer Action**  
**Consumer Federation of America**  
**Consumers for Auto Reliability and Safety**  
**Consumers Union**  
**DC Vote**  
**Demos**  
**Homeowners Against Deficient Dwellings**  
**Japanese American Citizens League**  
**Lawyers Committee for Civil Rights Under Law**  
**Leadership Conference on Civil Rights**  
**Legal Momentum**  
**National Association for the Advancement of Colored People (NAACP)**  
**National Association of Consumer Advocates**  
**National Citizen's Coalition for Nursing Home Reform**  
**National Consumer Law Center (On behalf of its low income clients)**  
**National Contract Poultry Growers Association**  
**National Council of La Raza**  
**National Employment Lawyers Association**  
**National Fair Housing Alliance**  
**National Partnership for Women & Families**  
**National Urban League**  
**National Women's Law Center**

**National Workrights Institute**  
**Organization of Competitive Markets**  
**Public Citizen**  
**Rural Advancement Foundation International – USA**  
**U.S. Public Interest Research Group**  
**Women Employed**

cc: Members of the Senate Committee on the Judiciary  
Senate Majority Leader Harry Reid  
Senate Minority Leader Mitch McConnell  
Representative Hank Johnson  
Representative John Conyers, Jr.  
Representative Lamar Smith  
House Majority Leader Nancy Pelosi  
House Minority Leader John A. Boehner