NATIONAL CONSUMERS LEAGUE
1701 K Street, NW, Suite 1200 Washington, DC 20006
Main: (202) 835-3323 Fax: (202) 835-0747 www.nclnet.org

August 16, 2023

Attorney General Kwame Raoul
Office of the Illinois Attorney General
100 W. Randolph St.
Chicago, IL 60601

Subject: Practice of Mass Arbitration

Dear Attorney General Raoul,

I write on a matter of concern to the National Consumers League (NCL), an organization advocating for consumer rights for more than a century. As you likely are aware, the practice of inserting forced arbitration clauses into consumer contracts has been an ongoing concern of consumer advocates for several decades. We believe depriving consumers of access to the courts when there is evidence of corporate wrongdoing is a violation of our constitutional rights and a false and deceptive practice.

Unfortunately, since neither the courts nor Congress has stopped this practice , forced arbitration clauses are almost ubiquitous in consumer contracts. Thus, disputes are pushed into a system that is largely under corporate control. This practice effectively circumvents the courts and undermines the potential for class action lawsuits, which have been crucial in the effort to hold corporations accountable and preserving consumer rights.

As forced arbitration clauses are a common feature in contracts for everyday services like cable, cell phone services, credit cards, mobile homes, and car sales, consumers have had to find ways to protect their own interests. They have thus begun to try to use the forced arbitration system to their advantage wherever possible. And not surprisingly, the tables have turned; once consumers began employing the arbitration process in higher numbers, corporations, which once championed this system as a means to avoid class actions, are now stuck with a problem of their own making.

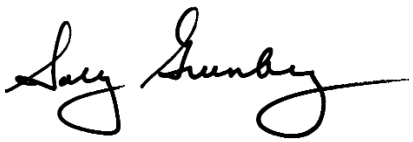
One example is demonstrated by the actions taken against Intuit by approximately 40,000 TurboTax customers. This approach has shown promise as a means for consumers to reclaim their rights and has compelled companies like Uber, DoorDash, Samsung, Chipotle, and DraftKings,to face allegations they might otherwise have dismissed.

In fact, in the arbitration context and to avoid culpability, some companies doing business in Illinois have been dodging enforcement of the Illinois Biometric Information Privacy Act (BIPA), which makes it a violation of law to engage in collecting, storing, and using biometric data (facial recognition, fingerprint, etc.) from smartphone users without giving them proper notice and consent. To avoid accountability, we have reason to believe companies are engaging in stalling tactics, including deliberately dragging out the arbitration process through incessant rescheduling of meeting dates and causing undue delay and financial burden on consumers seeking resolution for their grievances.

We would appreciate your office looking into these issues and welcome a discussion about potential reforms or actions your office can take to avoid further delays in justice and accountability. The Illinois Biometric Information Privacy Act (BIPA) was enacted to protect consumers from corporate violations, but its spirit and letter are being flouted by unscrupulous practices that result in denying consumers the redress and remedies to which they are entitled under the law.

Thank you for your attention to this matter. We look forward to your response and remain available for any further discussion.

Sincerely,



Sally Greenberg
Chief Executive Officer
National Consumers League