

EXTENSIONS OF REMARKS

FORCED ARBITRATION

SPEECH OF

HON. KEITH ELLISON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 2016

Mr. ELLISON. Mr. Speaker, I stand with Representatives JOHNSON, SÁNCHEZ, and my other colleagues to discuss a well-known scourge on the rights of everyday Americans: forced arbitration clauses.

People talk about how the rules are rigged. They say the deck is stacked in favor of powerful interests. Forced arbitration clauses are a perfect example of an unfair system. Powerful corporations rig the rules to make it more difficult for people to hold companies accountable for wrong doing.

Nearly all companies add non-negotiable clauses in contracts that people are required to sign when we open a bank account, get a credit card or a cell phone or choose a financial advisor. Virtually any product and service that requires we sign a contract that includes fine-print will limit our ability to seek damages in open court.

If consumers have a complaint, we are limited to secret arbitration forums. These arbitration forums are controlled by the corporation. The corporations decide the venue and the arbitrator. Even if the arbitrator makes a terrible ruling or makes egregious errors, the ruling likely cannot be appealed or reversed. In fact, arbitrators' decisions in prior cases are not publicly available.

How did we get to this point? How is it possible that nearly all consumer and investment contracts include forced arbitration clauses? Why are consumers forced to resolve disputes after they arise in secret courts, not in the public courts?

We should look across the street. No entity has done more to expand forced arbitration clauses than the Supreme Court. Numerous anti-consumer rulings have restricted people's freedom to take a company to court.

Last year the Supreme Court ruled that DirecTV California customers could not band together to fight an early termination fee assessed by DirecTV. Instead, each customer had to file individually and use arbitration. They could not seek a class action lawsuit.

In 2013, *American Express v. Italian Colors* preserved the monopoly powers of American Express so it could continue to charge retailers high fees. Retailers who had sought a class action lawsuit were restricted by arbitration clauses in their contracts.

In 2011, *AT&T Mobility v. Concepcion* had the same outcome; people who were offered a "free cell phone" realized they were actually charged \$30. Consumers sought damages as a class but the Supreme Court ruled that the customers had to pursue their claims individually through arbitration.

As you would expect, these anti-consumer rulings were decided on ideological lines. In fact, the late Justice Antonin Scalia wrote

many of these decisions which were unfair or onerous to consumers.

But we are not giving up. We are pushing back hard against these mandatory arbitration contracts.

Congress barred forced arbitration clauses in residential mortgage terms.

Military members now have the right to go to court for disputes involving many types of loans.

Small-business auto dealers can choose to go to court when locked in disputes with the big auto manufacturers. Unfortunately, most auto dealers have deprived their own customers of this benefit.

The Consumer Financial Protection Bureau is working on a rule that could curb mandatory arbitration in consumer contracts. The CFPB could restore our ability to join our claims together to hold financial companies accountable when they break the law.

But there is still more work to do. The Securities and Exchange Commission has the authority to eliminate forced arbitration clauses that brokerage firms and financial advisors require their customers sign. But the SEC hasn't acted.

Therefore, I have sponsored legislation, the Investor Choice Act, (HR. 1098). My bill restores the rights of investors who are simply trying to save for retirement and other life goals. The bill says investors must have access to court to seek justice if advisors and brokers, who typically have the incentive to charge outsized commissions and fees, do not act in their customers' best interests. The bill has 21 cosponsors.

I am also a proud cosponsor of the Arbitration Fairness Act, Mr. JOHNSON'S bill eliminates forced arbitration for all consumer and worker disputes;

I am also a cosponsor of the Court Legal Access & Student Support (CLASS) Act. This bill bans forced arbitration and class action prohibitions from college enrollment contracts.

Minnesota's own attorney general Lori Swanson has been a leader in trying to level the playing field for all Minnesotans. She worked to stop a corrupt arbitration provider from operating its business against consumers across the country; and she has urged federal regulators to eliminate arbitration clauses from nursing home contracts.

In closing, let me say, my colleagues and I are not seeking to do away with arbitration as a way for parties to work out their problems. We just think arbitration should be voluntary not mandatory.

I simply ask "If arbitration is so fair, why force it? Why not present it as an alleged "fair" option when a dispute has arisen—where both parties can consider all alternatives and agree on an appropriate forum?"

We know why: Because companies like forced arbitration clauses because they are a perfect tool to avoid liability for their actions.

If you want a fair system, if you want people to be able to accumulate wealth, then we need to stop these forced mandatory arbitration clauses in consumer and investor contracts.

HONORING MR. ROY DEDA UPON HIS RETIREMENT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 2016

Mr. VISCLOSKY. Mr. Speaker, today, I am pleased to applaud Mr. Roy Deda and wish him well upon his retirement. Roy has dedicated his life to public service through his career with the United States Army Corps of Engineers (USACE). He has served in numerous capacities throughout his illustrious career and is retiring from his position as the Deputy for Project Management for the Chicago District. I am grateful for his expertise and leadership, and I honor him for his many years of outstanding service to the community of Northwest Indiana and beyond.

In 1975, Roy earned his Bachelor of Science degree in civil engineering from the University of Notre Dame. He began an internship with the Chicago District that same year. Mr. Deda worked in various positions in the Construction-Operations Division for the Chicago District until 1983, when he became a civil engineer for the North Central Division's Construction and Operations Directorate. In 1993, Roy was named chief of the Construction-Operations Division for the North Central Division and then for the Great Lakes and Ohio River Division. In 1988, he returned to the Chicago District, where he took over as the chief of the Chicago District's Construction Operations Division. As the Deputy for Project Management for the Chicago District since 2002 Roy has excelled in his responsibilities and will be greatly missed upon his retirement. In addition to his remarkable work with the Army Corps, Mr. Deda is also a member of the Society of American Military Engineers, the American Society of Civil Engineers, and is involved with the National Ovarian Cancer Coalition.

During his tenure with the USACE—Chicago District, Roy Deda has been particularly instrumental in the development and implementation of projects within Indiana's First Congressional District, projects that have changed the landscape of this region. Under his leadership, the levees along the Little Calumet River were constructed, and to date, the obligation to pay substantial flood insurance premiums have been removed for more than 4,000 home and business owners. The dredging of the Indiana Harbor Ship Canal, a project many in the community believed would never occur in their lifetime, is underway and will increase the efficiencies of the canal users and significantly improve the quality of the water entering Lake Michigan. Federal, state, and local partners are working to restore the Grand Calumet River, one of our country's most polluted waterbodies, thanks to the research undertaken by the USACE under Mr. Deda's oversight.

Finally, residents of Northwest Indiana are able to recreate and enjoy the beauty of Lake

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