

# Legal Bulletin

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## **Arbitration and the Consumer** ***By Michael L. Roberts***

In December, our column “What is Arbitration?” explained the legal background leading up to why mandatory binding arbitration clauses are now enforced in Alabama. Our article also dealt with the nature of arbitration itself.

An arbitration agreement is a document requiring parties to give up their rights to sue in courts, in the event of a dispute or legal problems, and instead requiring that all final decisions be made by a private arbitrator.

Several days ago, a number of leading consumer groups issued statements and were interviewed in news media about what arbitration does to the consumer, and called for action to seek more consumer protection. A coalition called “Give Me Back My Rights” has been formed, including such consumer groups as Public Citizen, founded in 1971, Consumers Union, the publisher of Consumer Reports magazine, Consumer Federation of America, the Center for Auto Safety, the National Consumer Law Center, and the Alliance for Justice. Their objectives are to raise consumer awareness of the dangers of binding mandatory arbitration, to push for remedial and reform legislation at the state and federal level, and to highlight companies that do not require its customers to sign binding mandatory arbitration clauses.

The statement released by Public Citizen points out that binding mandatory arbitration is bad for consumers in that it is costly, requiring consumers to pay high up front fees that they would not have to file when filing a court case, and requiring consumers to pay half of expensive arbitrator fees.

Arbitration was originally developed to be an informal, expedited process to resolve routine disputes between businesses of equal knowledge and equal power. However, during the last several years, businesses have been forcing on unknowing consumers through pre-printed “take it or leave it” forms that, according to court rulings, become part of the consumer’s contract, without a consumer having to sign, or even the consumer having to know about it.

Public Citizen also explains that there is nothing wrong with arbitration if it is “voluntary” and if it is entered into by parties who knowingly decide to resolve a dispute in that manner. The problem comes when a consumer is unknowingly forced to give up rights to seek his or her remedy in court without consenting to it.

Public Citizen announced a ten-point plan designed to educate consumers, and provide tools to use the power of the marketplace and change the law. Two web sites were established by Public Citizen, including [www.givemebackmyrights.com](http://www.givemebackmyrights.com), which explains binding mandatory clauses, where they are found, and what they mean. Another web site, [www.callbeforeyoubuy.com](http://www.callbeforeyoubuy.com), is designed to provide information about purchases that may be made from businesses that do not require binding arbitration clauses.

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