Searle Institute Report Shows Mandatory Arbitration Favors Corporations Over Consumers

A Searle Civil Justice Institute report on mandatory binding arbitration clearly indicates the process is stacked against consumers and overwhelmingly favors the corporations that utilize its services. While the authors try to paint a rosy picture of the mandatory arbitration process, the data actually illustrates otherwise.

- **Business claimants win overwhelmingly more cases than consumers.** Searle's data shows that consumers won some relief in 53.3% of cases they filed; however, business claimants won relief in 83.6% of cases.
- **Business complaints receive drastically higher awards in cases they win compared to consumers.** In 41 of the 51 cases in which a business claimant won, the business recovered between 90 and 100% of the amount they claimed. Conversely, in the 119 cases won by consumers, the individual was awarded only 20% or less of their claim in 36 cases. In only 37 cases did consumers receive between 90 and 100% of the amount claimed. The rest, 46 cases, had the consumer winning anywhere between 11 and 89% of their original claim.

This data shows that businesses win far more often than consumers in mandatory arbitration and in much higher amounts. Consumers win less, and when they do prevail, receive much lower awards compared to their original claim.

- **It is likely that consumers have a much lower "win rate" than Searle's 53.3% result.** As stated above, consumers are receiving less than 20% of their claims in a large amount of mandatory arbitration cases. Therefore, if a consumer is to claim $5,000 and only win $10, this counts as a "win" by Searle's calculation, therefore inflating its 53.3% "win rate" figure.
- **Opponents of making arbitration voluntary, instead of mandatory, wrongly claim that the process is fair for consumers who don't have an attorney.** When business is the claimant, consumers have virtually no chance of prevailing without an attorney, losing 93% of the time. With an attorney, consumers can defend themselves successfully against business claimants in 38.9% of arbitrations.

Regardless of the statistics above that show how mandatory binding arbitration is stacked against consumers, Searle's **data is narrow and hardly representative of all arbitrations.** Searle looked at only 301 arbitration cases from one arbitration company (American Arbitration Association). This data is **NOT** accessible to the public; AAA selectively gave Searle data to inspect, which raises questions as to the validity of the sample.

Additionally, if Searle's determination is that arbitration is fair and a useful remedy for consumers, this does not explain why corporations and their front groups are lobbying for these clauses to be **MANDATORY** in consumer contracts. Arbitration should be **VOLUNTARY**, not forced upon consumers and hidden in contracts, even before a dispute arises.

About Searle Civil Justice Institute: This institute is a creation of the late conservative philanthropist Daniel Searle. Searle donated to a long list of conservative organizations, including American Enterprise Institute, Manhattan Institute, and the Pacific Research Foundation. All of these groups have worked to undermine the civil justice system and prevent everyday Americans from holding corporations accountable via the legal system. This report from the Searle Institute follows in that same vein.

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