

**Statement of the Honorable David N. Cicilline, Chairman,
Subcommittee on Antitrust, Commercial and Administrative Law**

**Hearing on “Justice Restored: Ending Forced Arbitration and
Protecting Fundamental Rights”**

**Thursday, February 11, 2021 at 10:00 a.m.
2141 Rayburn House Office Building**

Buried deep within the fine print of everyday contracts, forced arbitration clauses block American consumers and workers from their day in court to hold corporations accountable for breaking the law before a dispute even arises.

This private system does not have the same procedural safeguards of our justice system, is not subject to oversight, has no judge or jury, and is not bound by laws passed by Congress or the states.

And when forced arbitration is combined with non-disclosure agreements, it effectively silences the victims of rampant corporate misconduct.

For example, Kevin Ziober—who appeared before the Subcommittee last Congress—has served in the U.S. Navy Reserves since 2008. But, in the fall of 2012, he was called into active duty for deployment to Afghanistan.

Kevin notified his employer and conveyed his desire to resume working upon his return. But on his last day of work before his deployment—following his farewell party—he was fired for serving his country.

When he attempted to hold his employer accountable for violating his rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA), his company forced his claim into arbitration, citing an arbitration clause in the contract that Kevin was required to sign for employment at the company, and consequently waiving his constitutional right to a jury trial.

Unfortunately, Kevin is not alone.

The Military Coalition, which represents more than 5.5 million current and former servicemembers, notes that “service members have been unable to exercise their USERRA rights due to increased use of forced arbitration clauses buried in the fine print of employment contracts.”

As the Coalition explains, these clauses “funnel service members’ employment discrimination or wrongful termination USERRA claims into private, costly arbitration systems set up by the same employers.”

This is nothing short of a corporate takeover of our nation’s system of laws, and the American people have had enough. The overwhelming majority of voters—including 83% of Democrats and 87% of Republicans—support ending forced arbitration. It’s time to act.

With that in mind, I plan to reintroduce the Justice for Servicemembers Act, which ends the use of forced arbitration to erode these important statutory rights for servicemembers, veterans, and their families.

The Justice for Servicemembers Act will also prevent the enforcement of forced arbitration clauses in contracts covered under the Servicemembers Civil Relief Act (SCRA). This important legislation provides those serving our country with critical financial protections.

It prevents landlords from enacting eviction proceedings, mortgage holders from foreclosing on a home, and lenders from repossessing a vehicle while a member of our armed forces is on active duty. However, forced arbitration clauses embedded in mortgages and titles prevent accountability for bad actors taking advantage of active duty servicemembers.

As a nation devoted to protecting our brave men and women in uniform, we must ensure that their rights to keep their jobs and homes while serving our country—rights Congress has expressly established by law—are actually enforceable in court.

This legislation passed through the House on a bipartisan basis last Congress as part of the National Defense Authorization Act. I look forward to working with my colleagues on both sides of the aisle to continue fighting to restore the rights of those who have sacrificed so much for our country.

I also strongly support the FAIR Act—legislation introduced by Congressman Johnson that would end forced arbitration across the board in consumer, worker, civil rights, and antitrust disputes.

This legislation successfully passed out of the House last Congress with overwhelming support, and I look forward to its passage again this Congress.

Finally, I would like to thank Congressman Johnson for chairing today's hearing. My role as a manager for the impeachment trial in the Senate prevents me from fully attending today's hearing, and I appreciate my good friend Mr. Johnson's leadership on this issue.

In closing, I thank our panel of distinguished witnesses for appearing at today's important hearing, and I look forward to their testimony.

I yield back.