



United Policyholders
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June 4, 2012

Senator Noreen Evans
State Capitol, Room 4032
Sacramento, CA 95814

RE: SB 491 (Evans) - Support

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Amy Bach
Executive Director

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Chair, Board of Directors

David Baria
Mississippi State Senator

Hon. Stanley G. Feldman
Chief Justice (RET)
Arizona Supreme Court

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Dear Senator Evans:

United Policyholders writes in strong support of SB 491 (Evans), which restores limited rights to consumers to join together to challenge unfair treatment by a large corporation. The goal of this bill is to bring our standards for dispute resolution closer to the level California residents expect and deserve. We care about this bill because we are a voice and an information resource for consumers; see www.uphelp.org.

Many contracts today, ranging from credit card contracts, to automobile purchases, to nursing home admission agreements include mandatory arbitration clauses that steer grievants away from the courts and into a private system. Arbitration can work when it is voluntary and the parties have equal bargaining power and financial resources. But for individual consumers today, arbitration is a costly private system where the scales of justice favor of the big businesses that provide arbitrators with a steady source of income. Yet in a ruling entitled *AT&T Mobility LLC v. Concepcion*, a divided 5-4 U.S. Supreme Court majority ruled that the Federal Arbitration Act enabled a corporation to enforce a cellular telephone contract that provided for arbitration of all disputes, but did not permit class-wide arbitration.

The *Concepcion* ruling voided a California Supreme Court decision which had held that a mandatory individual arbitration clause prohibiting class claims was unenforceable if it was found that a company used its superior bargaining power to deliberately cheat large numbers of consumers out of small amounts of money. In *Concepcion*, the amount in dispute was \$30.22, hardly enough to make it worth the costs the consumer would have incurred in an individual arbitration proceeding. But joining together the 17 million similarly-situated AT&T Mobility customers in a class claim would have made it practical to seek justice.

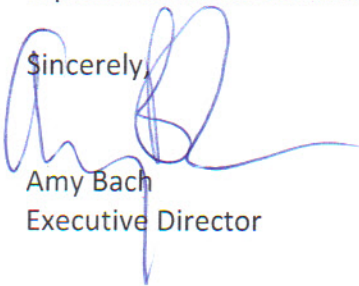
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The *Concepcion* ruling acknowledged that states may enact protections limiting mandatory arbitration language in contracts through generally applicable contract defenses. SB 491 takes up the Supreme Court's invitation to do just that. It would amend the Civil Code to void clauses in adhesive contracts that waive a consumer's right to join or consolidate claims against a corporation. A corporation would still be able to enforce an arbitration agreement, but it would not be able to force thousands of people with identical claims to litigate them in individual arbitration proceedings. This would make it more practical for Californians to seek redress against fraud and other unfair corporate behavior.

United Policyholders, ("UP") is a non-profit 501(c) (3) organization founded in 1991 that is a voice and an information resource for insurance consumers in all 50 states. UP's work is funded by donations and grants from individuals, businesses and foundations. UP participates in the proceedings of the National Association of Insurance Commissioners as an official representative of consumer interests.

Sincerely,



Amy Bach
Executive Director