



**ASSEMBLY STANDING COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION
AND ASSEMBLY STANDING COMMITTEE ON JUDICIARY**

NOTICE OF PUBLIC HEARING

SUBJECT: Arbitration

PURPOSE: To examine ways to better protect New Yorkers from unfair mandatory arbitration clauses, and to explore how the arbitration adjudicatory process can be improved.

ORAL TESTIMONY BY INVITATION ONLY

NEW YORK CITY
Wednesday, February 10, 2016
10:00 a.m.
Assembly Hearing Room 1923, 19th floor
250 Broadway, New York, NY

There is a growing trend to replace litigated cases with arbitrated cases which is resulting in unjust results for various consumer litigants, due to the vagaries of the arbitration system. The New York Times and other media outlets have reported on the issues at stake. Given that cases which formerly were brought in Court – with its attendant procedural safeguards for litigants – are now being brought via arbitration, it is more important than ever that participants in the arbitration system be given a fair hearing. This public hearing will examine ways to insure greater procedural and substantive fairness for arbitration participants.

This hearing will also explore whether, within the confines of existing United States Supreme Court holdings, e.g. *Marmet Health Care Center, Inc v. Brown*, 132 S.Ct. 1201 (2012), mandatory arbitration clauses concerning consumer and employment matters establish sufficient contract formation to allow for arbitration, given New York State common law regarding mutual assent and unconscionability.

Persons invited to present pertinent testimony to the Committee at the above hearing should complete and return the enclosed reply form as soon as possible. It is important that the reply form be fully completed and returned so that persons may be notified in the event of emergency postponement or cancellation.

Oral testimony will be limited to five (5) minutes' duration. Witnesses are encouraged not to read their statements verbatim, but to instead summarize the key points raised therein. In preparing the order of witnesses, the Committees will attempt to accommodate individual requests to speak at particular times in view of special circumstances. These requests should be made on the attached reply form or communicated to Committee staff as early as possible.

Ten copies of any prepared testimony should be submitted at the hearing registration desk. The Committees would appreciate advance receipt of prepared statements.

In order to further publicize these hearings, please inform interested parties and organizations of the Committees' interest in receiving testimony from all sources.

In order to meet the needs of those who may have a disability, the Assembly, in accordance with its policy of non-discrimination on the basis of disability, as well as the 1990 Americans with Disabilities Act (ADA), has made its facilities and services available to all individuals with disabilities. For individuals with disabilities, accommodations will be provided, upon reasonable request, to afford such individuals access and admission to Assembly facilities and activities.

Jeffrey Dinowitz
Member of Assembly
Chairman
Committee on Consumer Affairs and Protection

Helene Weinstein
Member of Assembly
Chairwoman
Committee on Judiciary

SELECTED ISSUES TO WHICH WITNESSES MAY DIRECT THEIR TESTIMONY:

1. How can we better protect New Yorkers from unfair mandatory arbitration clauses?
2. Do our current laws, rules and procedures governing arbitration, arbitrators and arbitral adjudicatory forums provide all parties with fundamental fairness in the hearing of contested matters? If not, what improvements can be made?
3. What changes, if any, should be made to rules and procedures governing arbitrator impartiality to insure fairness and accountability in arbitration proceedings?
4. Should the standard for vacating an arbitration due to conflict of interest be altered? If so, how?
5. How does the absence of written findings, in an award in a consumer or employment matter, impact the fairness of arbitration proceedings?
6. Please comment on Assembly bills A.108 and A.8191 as vehicles to further protect consumers from unfair mandatory arbitration clauses.
7. Should any other measures be enacted to ensure greater fairness for all parties to an arbitration?

HEARING REPLY FORM

Persons invited to present testimony at the public hearing on Arbitration are requested to complete this reply form and mail, email or fax it to:

Kendall Jacobsen
Committee Assistant
Assembly Committee on Consumer Affairs and Protection
New York State Capitol – Room 513
Albany, New York 12248
Email: *jacobsenk@assembly.state.ny.us*
Phone: (518) 455-4355
Fax: (518) 455-7250

- I plan to attend the following public hearing on Arbitration issues in New York State to be conducted by the Assembly Committees on Consumer Affairs and Protection and Judiciary on February 10, 2016.

- I have been invited to make a public statement at the hearing. My statement will be limited to five (5) minutes, and I will answer any questions which may arise. I will provide ten copies of my prepared statement.

- I will address my remarks to the following subjects:

- I do not plan to attend the above hearing.

- I would like to be added to the Committee mailing list for notices and reports.

- I would like to be removed from the Committee mailing list.

- I will require assistance and/or handicapped accessibility information. **Please specify the type of assistance required:**

NAME: _____

TITLE: _____

ORGANIZATION: _____

ADDRESS: _____

E-MAIL: _____

TELEPHONE: _____

FAX TELEPHONE: _____