



Councilmember Ben Bartlett
City of Berkeley, District 3

CONSENT CALENDAR
July 11, 2017

To: Honorable Members of the City Council
From: Councilmembers Bartlett, Hahn, and Davila
Subject: Support for SB 33: Bill Prohibiting Financial Institutions from Forcing Consumers to Give up Legal Rights when the Bank has Committed Intentional Fraud Against Them

RECOMMENDATION

Recommend that the Berkeley City Council send a letter to Assemblymember Tony Thurmond, and Governor Jerry Brown urging them to support SB 33.

BACKGROUND

According to the Consumer Financial Protection Bureau (CFPB), since 2011, Wells Fargo employees have created 565,000 credit card accounts and 1.5 million deposit accounts that were not authorized by their customers. The bank targeted its most vulnerable account holders such as immigrants, small business owners, college students, and senior citizens. In February 2012, after evidence emerged that the bank was committing fraud against its consumers, Wells Fargo began using forced arbitration clauses in all of its checking and savings account agreements.

When consumers attempted to enforce their legal rights against Wells Fargo over these fraudulent accounts, the bank forced them into binding and secret arbitration procedures by invoking the fine print forced arbitration clauses. In one case, *David Douglas v. Wells Fargo*, the court accepted Wells Fargo's claim that the arbitration clause from the victim's original account covered "all disputes." These even included the fake accounts that the victim never signed up for, in effect stopping all civil actions that could have shed light on Wells Fargo's illegal practices, stopped the fraud, and given customers some relief.

SB 33 would open the way for victims to sue in California state courts by restricting arbitration agreements from applying when financial institutions pick their customers' pockets.

FINANCIAL IMPLICATIONS

None.

ENVIORNMENTAL IMPLICATIONS

This is in line with the city's environmental goals

CONTACT PERSON

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Attachment:

1: Letter to Governor Jerry Brown and Assemblymember Tony Thurmond

Dear Governor Jerry Brown and Assemblymember Tony Thurmond:

The Berkeley City Council is proud to support SB 33 (Dodd), which will prohibit financial institutions from forcing consumers to give up their legal rights when the bank has committed intentional fraud against them.

According to the Consumer Financial Protection Bureau (CFPB), since 2011 Wells Fargo employees have created 565,000 credit card accounts and 1.5 million deposit accounts that were not authorized by their customers. In February 2012, after evidence emerged that the bank was committing fraud against its consumers, Wells Fargo began using forced arbitration clauses in all of its checking and savings account agreements.

When consumers attempted to enforce their legal rights against Wells Fargo over these fraudulent accounts, the bank forced them into binding and secret arbitration procedures by invoking the fine print forced arbitration clauses. In one case, *David Douglas v. Wells Fargo*, the court accepted Wells Fargo's claim that the arbitration clause from the victim's original account covered "all disputes." These even included the fake accounts that the victim never signed up for, in effect stopping all civil actions that could have shed light on Wells Fargo's illegal practices, stopped the fraud, and given customers some relief.

SB 33 will rectify this problem by giving consumers their day in court in cases where an entity commits fraud or identity theft against them. This will send a strong message to California's financial institutions: no bank is too big to take advantage of any consumer, regardless of their socioeconomic background.

Respectfully,

The Berkeley City Council

