Center for Responsible Lending

Forced Arbitration and Payday Lending

- Payday borrowers are **mostly low-income** people and are rarely in a position to spend a lot of time and money fighting for their rights as consumers.

- Class action lawsuits are a way to **amplify the voice** of individual consumers, giving them a real shot at holding wealthy financial companies - including payday lenders - accountable for patterns of abusive activity. In doing so, the class members can be made whole and, because court proceedings are public, they can **serve as a warning** both to lenders who may follow similar abusive patterns and to potential borrowers.

- Knowing this, payday lenders routinely slip forced arbitration or "**ripoff clauses**" into the fine print of loan documents. That means borrowers who sign those documents are **signing away their right** to take their claims of abuse to court. Most of these clauses specifically bar class-action lawsuits.

- Instead, these clauses say that if a borrower has a dispute with the lender, the only way they can legally get that dispute heard is in a **secret process**, behind closed doors, out of view of law enforcement or the media.

- To bring accountability to financial services companies, including payday lenders, the Consumer Financial Protection Bureau **issued a rule** stating that payday lenders and others could not include in their contracts language that forbids borrowers from taking part in class action suits.

- This rule was written after **extensive research** proving its necessity. A study by the Consumer Financial Protection Bureau of payday contracts in Texas and California found that **99 percent** of them had forced arbitration clauses. Most of them – 90 percent – also included language barring the borrower from participation in class action lawsuits.

- The study found, not surprisingly, that without a class action suit, few payday borrowers seek remedies for wrongs. Despite the fact that payday lenders are notorious for triple-digit interest rates and abusive terms, **between 20101 and 2012 only 24 payday-related arbitration claims were filed** in arbitration.

- In recent years, borrowers have alleged **violations of state usury laws, unfair and deceptive acts and practices**, even violations of the federal Racketeering Influenced and Corruptive Organizations Act, better known as RICO. But those claims have not been heard and adjudicated because of class action bans and forced arbitration.

- The CFPB study also found that just three class actions involving payday loans that went to court **returned approximately $20 million in relief** and millions in debt forgiveness to consumers.

- Those few payday borrowers who did bring cases to arbitrators rarely win. Arbitrators find in **favor of banks and lenders in 93 percent of all cases** – no surprise, since the people writing the arbitration clauses are ultimately the people they are working for.

- Payday loans carry interest rates that **average 400 percent** and require borrowers to give them access to their bank accounts.

- When the loan comes due, the lender reaches into the account and takes the money regardless of whether that leaves the borrower anything left over to **pay the rent**, buy food or otherwise cover the basics.

- Usually, it doesn't, which means the borrower has to take out another loan, and pay another fee, to get buy. The average payday borrower takes out **8 loans in a row** and payday lenders make **three quarters of their profits from borrowers who take out more than 10 loans in a year**.