



# CONSUMER ATTORNEYS OF CALIFORNIA

*Seeking Justice for All*

## Stopping Another Wells Fargo: Fraud & Identity Theft

**SB 33**

*Author:*

*Senator Bill Dodd*

### SUMMARY

SB 33 is a narrow bill that protects bank customers against fraud and identity theft. It only applies when a financial institution steals a customer's personal information (identity theft) AND commits fraud in the creation of an unauthorized account. SB 33 prohibits the bank from claiming a customer agreed to forced arbitration related to claims on the fraudulent account. It leaves intact any arbitration agreement that a consumer enters into knowingly and not as a condition of the service. Amendments made to SB 33 clarify that it applies to claims to compel arbitration on or after Jan. 1, 2018 and narrows the definition of "financial institutions," so SB 33 does not cover insurance companies and other entities. It applies to state-chartered banks, credit unions, licensed industrial loan companies, federal depository institutions, and SEC-registered investment advisors.



arbitration agreements in fraudulent accounts. By forcing arbitration, Wells Fargo kept the scandal out of public view, allowing the fraud to mushroom while the bank evaded accountability.

**Job killer?:** Foes call SB 33 a job killer.

The real job killer was Wells Fargo, which fired 5,200 employees who simply followed orders.

### SOLUTION

SB 33 narrowly prohibits forced arbitration only in cases involving fraud or identity theft related to illegally created accounts.

### BACKGROUND

**The Wells Fargo Scandal:** At least 3,500 Wells Fargo employees opened more than 2 million fraudulent bank credit card accounts without the consent of their customers. A Consumer Financial Protection Bureau investigation found that since at least 2011 "thousands of Wells Fargo employees took part in these illegal acts to enrich themselves by enrolling consumers in a variety of products and services without their knowledge or consent." As evidence emerged of the widespread fraud, Wells Fargo used forced arbitration to hide its scheme.

**"Lions Hunting Zebras":** A New York Times investigation found that Wells Fargo targeted the most vulnerable victims: Immigrants who spoke little English, older adults with memory problems, college students opening their first bank accounts, and even small businesses owners with several lines of credit.

**Secret Arbitration:** Customers have tried to sue Wells Fargo over fraudulent accounts since at least 2013. The bank forced those actions into secret, binding arbitration, even successfully arguing that customers were bound to

**CO-SPONSORS:** Consumer Attorneys of California; State Treasurer John Chiang; Consumer Federation of California

**SUPPORTERS:** Alliance of Californians for Community Empowerment; Bet Tzedek Legal Services; Black Women Organized for Political Action; CALPIRG; California Labor Federation; California Reinvestment Coalition; California Advocates for Nursing Home Reform; California Alliance for Retired Americans; California Board of the Amalgamated Transit Union; California Conference of Machinists; California Dispute Resolution Council; California Employment Lawyers Assn.; California Low-Income Consumer Coalition; California National Organization for Women; California Teamsters Public Affairs Council; California Reinvestment Coalition; California Commission on Aging; California Professional Firefighters; California College Democrats; Cal Berkeley Democrats; Center for Responsible Lending; Centro Legal de La Raza; Coalition for Humane Immigrant Rights of Los Angeles; Consumer Action; Consumer Federation of California; Consumers Union; Consumer Watchdog; Consumers for Auto Reliability and Safety; Courage Campaign; Cruz Reynoso Bar Association; East Bay Community Law Center; Engineers and Scientists of California, IFPTE Local 20, AFL-CIO; Evolve California; Housing and Economic Rights Advocates; International Longshore and Warehouse Union; The Justice & Diversity Center; Latino Democratic Club of S.F.; Law Foundation of Silicon Valley; Legal Aid Society of San Bernardino; Mexican American Bar Assn. of L.A.; National Association of Consumer Advocates; National Consumer Law Center; Our Family Coalition; Professional and Technical Engineers, IFPTE Local 21, AFL-CIO; Public Counsel; Public Law Center; Privacy Rights Clearinghouse; ReFund America Project; Riverside Legal Aid; Sacramento Central Labor Council, AFL-CIO; South Asian Network; Student Senate for California Community Colleges; The Justice & Diversity Center; Utility Worker Union of America; Veterans Democratic Club of Sacramento; Voices for Progress; Watsonville Law Center; West LA Democratic Club; Town & Country Democratic Club; JFK Democratic Club of Sacramento County; Harry S. Truman Democratic Club of Greater Sacramento; San Diego Democratic Central Committee; Del Norte Democratic Central Committee.

### CONTACTS

Nancy Peverini  
[nancy@caoc.org](mailto:nancy@caoc.org)

Saveena Takhar  
[stakhar@caoc.org](mailto:stakhar@caoc.org)