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Bank of America Corp., one of the nation's largest banks and credit card issuers, recently ended a requirement that disputes with the bank's customers be settled through binding mandatory arbitration ("forced arbitration"). The announcement by the bank followed statements by two large arbitration services that they would no longer handle consumer debt collection cases. The National Arbitration Forum ("NAF") agreed to discontinue arbitration of consumer disputes as part of a settlement entered into with the Minnesota Attorney General. NAF was the subject of much criticism and some litigation surrounding allegations, subsequently proven to be true, that NAF was owned and controlled by the same hedge fund which owned the nation's largest debt collection agencies which frequently pursued claims before the NAF. Soon after NAF's announcement, the American Arbitration Association also stated that it would no longer accept consumer debt collection cases.

While Bank of America's decision to drop forced arbitration from consumer disputes is a positive for its customers, the decision demonstrates that arbitration of consumer disputes has never been truly "voluntary," but instead is a dispute resolution process imposed or withdrawn at the whim of the business drafting consumer agreements. Hopefully, Bank of America will stand by this decision and allow consumers to continue having disputes resolved in the court system. That is the only way to ensure that consumer claims are handled in a fair, transparent, and unbiased forum.

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