Companies stacking deck of justice with arbitration

By Jessica Silver-Greenberg and Robert Gebeloff, New York Times

On Page 5 of a credit-card contract used by American Express, beneath an explainer on interest rates and late fees, past the details about annual membership, is a clause that most customers probably miss. If cardholders have a problem with their account, American Express explains, the company “may elect to resolve any claim by individual arbitration.”

Those nine words are at the center of a far-reaching power play orchestrated by U.S. corporations, an investigation by the *New York Times* has found.

By inserting individual arbitration clauses into a soaring number of consumer and employment contracts, companies can circumvent the courts, and bar customers from joining together in class-action lawsuits, realistically the only tool citizens have to fight illegal or deceitful business practices.

Over the last few years, it has become increasingly difficult to apply for a credit card, get cellphone, cable or Internet service, or shop online without agreeing to private arbitration. The same applies to getting a job, renting a car, or placing a relative in a nursing home.

Among the class-action challenges thrown out because of such a clause was one brought by Time Warner customers over charges they said mysteriously appeared on their cable bills, and another against a travel booking website accused of conspiring to fix hotel prices. A top executive at Goldman Sachs who sued on behalf of bankers claiming sex discrimination was also blocked, as were African-American employees at Taco Bell restaurants alleging a pattern of discrimination.

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