

Courtroom not the best place for aggrieved consumers | Opinion



A civil courtroom in the historic Brennan courthouse in Jersey City. (Terrence T. McDonald | The Jersey Journal)

By **South Jersey Times Guest Columnist**

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By Marcus Rayner



As the president of [an organization that is dedicated to "tort reform"](#) and otherwise ensuring that New Jersey's civil legal system is fair and unbiased, I read Bridgeton Mayor Albert Kelly's April 25 column ("The fine print of inequality") with great interest.

Kelly made an impassioned argument that consumers are being denied access to the court system due to limits on filing lawsuits, and that as a result, income inequality is increasing.

I disagree.

Framing justice so narrowly mistakes form for substance. At its core, justice is about having your rights vindicated. And there are more and better ways to get that done than to sue somebody.

When I believe a business has done me wrong, the first thing I do is tell them so. There are only a few times I can remember that my complaint was not promptly addressed. Those businesses that did not value me as a customer enough to fix my problem no longer have me as a customer. To me, this is justice.

Relying on **arbitration** — using an impartial third party rather than formal litigation — to resolve disputes is also just. The U.S. Supreme Court has repeatedly ruled that arbitration is as good at resolving disputes as litigation. It also happens to be quicker and cheaper.

The biggest opponents of arbitration are plaintiffs' attorneys, who make their living in the courtroom. These attorneys are running a smear campaign against arbitration because they know that having a faster and cheaper process for resolving disputes will cut into their bottom line.

Scaring people into believing that arbitration is being unfairly forced on consumers through "form contracts," which may require a consumer to agree to mandatory dispute resolution when buying something, is one of the anti-arbitration crowd's favorite tactics. However, no company actually forces consumers to buy its goods and services. Consumers choose to make purchases that include arbitration agreements because they want the product or service being offered and are willing to agree to certain conditions to get it.

Additionally, arbitration allows the business to sell the product or service at a lower price, which benefits consumers immensely. If you don't agree with the terms and conditions being proposed by one company, you are free to see what their competitors have to offer.

When thinking about arbitration, consumers and politicians must look beyond the rhetoric and focus on what really matters: justice.

Informal dispute resolution and arbitration allow us to answer Mayor Kelly's question — "What happens when something goes wrong?" — as fairly as and more quickly and cheaply than litigation. Pretending otherwise will benefit nobody but the attorneys who get rich dragging people into court.

Marcus Rayner is the president of the Trenton-based New Jersey Civil Justice Institute. The organization states that its mission is fighting lawsuit abuse, and its membership is made up mainly of private employers and business organizations.

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