

## Legal Matters – April, 2009

Legal Matters is a column that answers your legal questions. It is written by Barry Evans, Attorney at Law, located at 550 Egret Bay Blvd., League City, TX 77573. Barry has been practicing as an attorney for over twenty-five years. If you have any questions regarding this article, you may contact Barry Evans at 281-557-1900 or you can email him at [barryevans@msn.com](mailto:barryevans@msn.com).



### What is a BMA (Binding Mandatory Arbitration)?

When a corporation includes a BMA clause in its contracts, it means your dispute must be decided by a private legal system. Because BMA clauses are "binding," you must abide by the decision and have no right to appeal.

This private, for-profit system:

- is a lawless system. The judges, called arbitrators, do not have to follow the law or even justify their decisions.
- takes away your right to appeal a bad decision.
- normally costs as much or more than using the courts.
- prevents you from being part of most class action lawsuits.
- favors business rather than you.

Without knowing it, you may have already signed dozens of these clauses. They're everywhere: health insurance contracts, telephone contracts, car contracts, rental clauses, credit cards, bank loans, nursing homes, summer camps, house repairs—you name it.

You are stripped of your rights every time you sign any type of contract that contains a Binding Mandatory Arbitration (BMA) clause. You gave away your constitutional right to use the American court system to solve a disagreement, no matter how important the disagreement.

### How Do I Protect Myself?

- Shop around before you borrow or arrange credit.
- **BMA-Free Credit Cards:** Many credit cards issued by national banks have BMA clauses. Choose one that does not.
- AARP credit cards do not have these clauses.
- Most credit union credit cards do not have these clauses.
- Some small bank credit cards do not have these clauses.
- **Vehicle Purchases:**
- Call the dealership before you buy to find one that does not require BMA. Be willing to walk away from a dealer who insists on BMA in the loan or sales contract.
- **Home Mortgages:**
- Do not deal with home lenders who require BMA clauses!
- One tip: Freddie Mac and Fannie Mae do not allow BMA clauses. Many credit unions also do not permit them.

Arbitration was conceived as an informal, expedited process for resolving routine disputes between businesses. Sounds good, but when it is imposed on a weaker party, such as a consumer, arbitration can be used to defeat valid claims. So be aware of what you are signing.

**Editor's note:** *The information in this column is not intended as legal advice but to provide a general understanding of the law. Readers with legal problems, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances.*