

February 14, 2017

The Honorable Bob Goodlatte Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable John Conyers, Jr. Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Re: Groups Strongly Oppose H.R. 985 – the Fairness in Class Action Litigation Act of 2017

On February 15, 2017, the Committee will consider the Fairness in Class Action Litigation Act of 2017. The undersigned organizations strongly oppose this bill. If this bill were enacted into law, it would obliterate class actions in America. It was introduced less than a week ago. The fact that the Committee would even consider such sweeping, reckless legislation without holding a single hearing is an outrage.

Like last year's legislation (H.R. 1927), the bill begins with the requirement that every person in a class have "an injury of the same type and scope" before the case can proceed. This alone would sound the death knell for most class actions. Classes inherently include a range of affected individuals, and virtually never does every member of the class suffer the same "scope" of injury from the same wrongdoing. Certainly, many civil rights, discrimination and employment class actions, including cases involving refusals by companies to properly pay workers, would not satisfy these criteria.

But H.R. 985 adds another 10 pages of new, complicated provisions, each of which is designed to ensure that no class action could ever be brought or litigated. In some cases, it would do so by overturning centuries of American law. Some provisions would make it even more impossible to bring race and gender discrimination class actions. Other provisions would have a dramatic impact on cases against toxic polluters. The bill even goes so far as preventing someone from choosing their own counsel. And that's just the beginning of what's wrong with this appalling piece of legislation.

In addition, by considering this bill now, Congress is circumventing the process that Congress itself established for promulgation of federal court rules under the Rules Enabling Act, bypassing both the Judicial Conference of the United States and the U.S. Supreme Court. In fact, the Judicial Conference already has an Advisory Committee on Civil Rules, which is currently meeting to discuss possible changes to Rule 23. Interference with the proper federal court rules process is reckless and irresponsible, particularly when this proposal is so damaging to victims.

Class action lawsuits are among the most important tools to enable harmed, cheated and violated individuals and small businesses to hold large corporations and institutions accountable and deter future misconduct. H.R. 985 would annihilate that tool. We urge you to oppose this bill.

Sincerely,

9to5, National Association of Working Women
AFL-CIO
Alliance for Justice
American Antitrust Institute
American Association for Justice
American Family Voices
American Federation of State, County, and Municipal Employees
Bet Tzedek Legal Services
Brazilian Policy Center
California Employment Lawyers Association
Center for Biological Diversity
Center for Justice & Democracy
Central Florida Jobs with Justice
Comite Civico Del Valle
Committee to Support the Antitrust Laws
Connecticut Trial Lawyers Employment Law Committee
Consumer Action
Consumer Federation of America
Consumers for Auto Reliability and Safety
Consumers Union
D.C. Consumer Rights Coalition
Daily Kos
Demand Progress
Disability Rights Education & Defense Fund
District Council 37 (NY) Municipal Employees Legal Services
Earthjustice
East Bay Community Law Center
East Yard Communities for Environmental Justice
Environmental Working Group
Farmworker Association of Florida
Food & Water Watch
Fuse Washington
Homeowners Against Deficient Dwellings
Interfaith Alliance of Colorado
JASA Legal Services for the Elderly in Queens
Law Foundation of Silicon Valley
Liveable Arlington
Louisiana Bucket Brigade
Main Street Alliance

Maryland Consumer Rights Council
MFY Legal Services, Inc.
National Association of Consumer Advocates
National Center for Law and Economic Justice
National Consumer Law Center (on behalf of its low income clients)
National Consumers League
National Disability Rights Network
National Employment Law Project
National Employment Lawyers Association
New Haven Legal Assistance Association
Oregon Environmental Council
OVEC - Ohio Valley Environmental Coalition
Progressive Congress Action Fund
Public Citizen
Public Justice
Public Justice Center
Public Law Center
RootsAction.org
SC Appleseed Legal Justice Center
Sciencecorps
SEIU 775
SEIU 925
SEIU 1199 NW
Southern Poverty Law Center
Texas Watch
The Impact Fund
U.S. PIRG
Washington Community Action Network
Washington Federation of State Employees
Washington State Labor Council, AFL-CIO
Western New York Council on Occupational Safety & Health
Woodstock Institute
Workers' Rights Center
Workplace Fairness