

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