

March 8, 2017

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The undersigned organizations write to express our support for H.R. 985, the “Fairness in Class Action Litigation Act of 2017” (FICALA). We are encouraged that legislative action is underway to address the trial lawyer-driven class action abuses that have long saddled American business owners with unnecessary and burdensome litigation.

FICALA is balanced legislation that would help ensure that those who are truly harmed can use class actions and mass tort multidistrict litigation (MDL) proceedings to be made whole while addressing many of the egregious problems that plague these types of litigation. All too often, class action plaintiffs receive pennies on the dollar, while the class action lawyers walk away with millions of dollars in contingency fees. This skewed distribution structure incentivizes aggressive plaintiffs’ attorneys and litigation investors to cultivate enormous speculative putative classes, often times even when many of those class members have dissimilar injuries or no injuries at all. The result is unnecessary litigation that raises prices for consumers and leaves business owners with fewer resources to innovate and hire employees and genuinely aggrieved class members without any significant relief.

FICALA would ensure that all members of a class have actually suffered the same scope and type of harm. This legislation would put safeguards in place so that class certification decisions and coercive discovery practices are not used as means of exacting strong-armed settlements. As Justice Ruth Bader Ginsburg observed, “[a] court’s decision to certify a class ... places pressure on the defendant to settle even unmeritorious claims.”

Furthermore, FICALA addresses many of the abuses associated with MDL proceedings. This type of litigation often pulls small business owners into litigation just to keep cases in trial lawyer-friendly state courts instead of more neutral federal forums. FICALA also addresses the serious problem of personal injury claims being filed in mass tort MDL proceedings without those claims being properly investigated by plaintiffs’ counsel. Additionally, this legislation would ensure that plaintiffs, rather than lawyers, receive the lion’s share of settlements and awards in mass tort MDL proceedings.

For the above stated reasons, we urge you to vote in favor of H.R. 985 and to oppose any hostile amendments that would weaken this bill’s important provisions.

Sincerely,

Alaska Chamber
American Council of Life Insurers
American Trucking Associations
Arizona Chamber of Commerce
Business Council of Alabama

Chester County Chamber of Business & Industry
Dean Foods Company
Del Monte Foods, Inc.
Electronic Transactions Association
Food Marketing Institute
Glenwood Springs Chamber Resort Association
Greater Lexington Chamber of Commerce
Grocery Manufacturers Association
Indiana Chamber of Commerce
Kentucky Chamber of Commerce
Las Vegas Metro Chamber of Commerce
Lassonde Pappas and Company, Inc.
Lawsuit Reform Alliance of New York
Los Angeles Area Chamber of Commerce
Michigan Chamber of Commerce
Missouri Chamber of Commerce and Industry
Naperville Area Chamber of Commerce
National Association of Manufacturers
Nebraska Chamber of Commerce & Industry
New Jersey State Chamber of Commerce
Oregon Liability Reform Coalition
Pennsylvania Chamber of Business and Industry
Pharmaceutical Research and Manufacturers of America (PhRMA)
Pinnacle Foods Inc.
Post Holdings, Inc.
Rich Products Corporation
Small Business & Entrepreneurship Council
South Carolina Civil Justice Coalition
The Advanced Medical Technology Association (AdvaMed)
The Chamber of Commerce serving Johnson City/Jonesborough/Washington County
The Chamber of Medford/Jackson County
The Latino Coalition
The West Virginia Chamber of Commerce
U.S. Chamber of Commerce
U.S. Chamber Institute for Legal Reform
Virginia Chamber of Commerce