

Protecting Health, Safety and Democracy

Civil Justice Project



PUBLICCITIZEN



Join our fight to preserve the civil justice system.

Our ability to fight for consumers depends on the generosity of our supporters. We are proud to provide the following benefits to supporters of the Civil Justice Project:

COMMUNICATION WITH POLICY EXPERTS

Robert Weissman, president of Public Citizen

David Arkush, director of Public Citizen's Congress Watch Division

Allison Zieve, director of the Public Citizen Litigation Group

E-MAIL UPDATES ON CIVIL JUSTICE ISSUES

Public Citizen's supporters are provided with timely updates on preemption, arbitration, class action settlements, dangerous and deceptive products, and more.

ARTICLES, REPORTS AND WEBINARS

Our policy experts provide supporters with scholarly articles and reports, as well as online and teleconference briefings, to bring you news on emerging trends and surprising developments in the courts.

RECOGNITION FOR YOUR GENEROSITY

Public Citizen is proud to recognize supporters of the Civil Justice Project on our website; in our newsletters, literature, annual report and *Public Citizen News*; and at Public Citizen events.

Civil Justice Project

Powerful corporations are endangering consumers and maneuvering to deny them their day in court. With nearly unlimited resources, these corporations drown out the voices of Americans in the political sphere and close off their access to justice.

Public Citizen is leading the fight to protect consumers' rights. Through our Civil Justice Project, we use a three-pronged approach to advocate for the people.

LEGISLATIVE ADVOCACY

We represent people on Capitol Hill, protecting their interests and working to preserve their right to trial by jury.

LITIGATION

Our attorneys stand up for individuals in state and federal courts, and work to preserve their access to courts.

RESEARCH

Our organization-wide, independent, data-driven research shapes policy debates, influences legislation and alerts consumers about dangerous products.

Visit www.civiljusticeproject.org or call 202/588-1000.



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Public Citizen is a national, nonprofit organization based in Washington, D.C., and founded in 1971 to represent consumer interests in Congress, the executive branch and the courts.

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Fighting Corporate Preemption Theories

Public Citizen's attorneys have handled several major tort preemption cases before the U.S. Supreme Court. Our lobbying team opposes legislation that would preempt consumer remedies and assists in drafting policy proposals that protect consumers' rights under both state and federal law.

Our activities include:

- serving as lead appellate and U.S. Supreme Court counsel in *Medtronic, Inc. v. Lohr* (1996), successfully arguing that the federal law regulating medical devices does not preempt many claims for damages against device manufacturers;
- litigating the U.S. Supreme Court case *Warner-Lambert v. Kent* (2008), successfully persuading the Court to affirm the holding that an exception to a state law barring patients from suing drug companies is not preempted; and
- working with Congress on the Medical Device Safety Act to overturn *Riegel v. Medtronic, Inc.* (2008), which held that many lawsuits against device manufacturers are preempted.

Public Citizen keeps the legal community informed about the latest in our battle against corporate preemption theories and other civil justice issues on the Consumer Law & Policy Blog (www.clpblog.org). Lawyers and law professors who practice or teach consumer law contribute to the blog.



Preserving Class Action Fairness

Class actions often offer the only viable way to hold corporations accountable for practices that harm consumers. Public Citizen's efforts to defend the right to bring a class action suit include:

- our persistent opposition to “tort reform” measures and other attempts to weaken or eliminate class action lawsuits;
- proactive efforts to secure private rights of action in new consumer protection legislation; and
- the litigation of important cases involving issues ranging from certification standards to rights of appeal and the fairness of class action settlements.

In *Shady Grove Orthopedic Associates v. Allstate Insurance* (2010), Public Citizen successfully defended the rights of consumers to bring class actions in federal court notwithstanding a state law ban on class claims. The U.S. Supreme Court ruled that class actions will be available as a means of redress for plaintiffs advancing claims based on both state and federal substantive law if there is a basis for federal court jurisdiction over the case.

Eliminating Forced Arbitration

Public Citizen fights in Congress and through the courts to eliminate forced arbitration clauses in consumer and employment contracts.

Public Citizen's battle against forced arbitration takes many forms, including:

- encouraging Congress to pass the Arbitration Fairness Act, which would invalidate forced arbitration clauses in consumer, employment and franchise contracts;
- uncovering and publicizing pervasive anti-consumer bias at the National Arbitration Forum (NAF), which spurred legislative efforts and enforcement actions that played an important role in the downfall of the NAF;
- lobbying for a Consumer Financial Protection Agency with the authority to ban forced arbitration provisions in consumer financial contracts;
- advocating legislation that ends forced arbitration for nursing home admissions and auto sales; and
- litigating against one-sided arbitration clauses and corporate attempts to use arbitration to avoid class actions.

“The Arbitration Trap,” a report produced by Public Citizen, documented that California consumers lose about 95 percent of credit card arbitration cases. This report was instrumental in calling attention to the inherent unfairness of the system.



Defending the Right to Bring Medical Malpractice Actions

Each year it becomes more difficult for victims of medical errors to obtain reasonable compensation for their injuries. Public Citizen's efforts to defend patients' rights include:

- petitioning, suing and lobbying against proposals to deny medical malpractice victims and their families access to courts;
- monitoring state medical board performance so that doctors who practice substandard medicine are adequately disciplined;
- publishing research reports that dispel myths about frivolous claims and skyrocketing litigation costs; and
- urging lawmakers to enact policies that would encourage the reduction of medical errors, such as restricting the number of hours a resident physician can work.

Public Citizen publishes research on patient safety and medical malpractice myths. Recent reports include “The 0.6 Percent Bogeyman: Medical Malpractice Payments Fall to All-Time Low as Health Care Costs Continue to Rise,” “Liability Limits in Texas Fail to Curb Medical Costs” and “Back to Basics: Ten Steps to Save 85,000 Lives and \$35 Billion a Year in Health Care Delivery.”

Promoting Real Financial Reform

In the wake of the financial crisis, we have intensified our efforts to hold Wall Street accountable for harmful practices and improve the regulation of banks, credit card companies, mortgage lenders and debt collectors.

Since the financial crisis hit, Public Citizen has:

- managed the creation of a unified policy agenda for Americans for Financial Reform, an unprecedented coalition of more than 250 organizations, laying the groundwork for a strong campaign for financial reform;
- issued the report, “Bank-Rolling Congress,” which revealed that lobbyists and political action committees of major bailout recipients contributed \$6 million to federal candidates between Election Day 2008 and June 2009; and
- represented consumers by writing amicus briefs in the most recent U.S. Supreme Court cases under the Fair Credit Reporting Act, the Truth in Lending Act and the Fair Debt Collection Practices Act, and litigated cases arising under consumer statutes in lower courts.

Public Citizen represented a coalition of national consumer groups in the U.S. Supreme Court case *Jerman v. Carlisle* (2010), arguing that ignorance of the law does not excuse federal liability for debt collectors’ unscrupulous practices.



Ensuring Safe Products

Public Citizen promotes the safety of consumer products, drugs and medical devices by:

- petitioning agencies such as the Food and Drug Administration to remove unsafe products from the market and highlighting dangerous drugs, such as Darvocet, Vioxx, Avandia, Viagra and Rezulin;
- pushing for strong consumer protections, including landmark legislation to improve the Consumer Product Safety Commission — the first significant product safety law enacted in a generation; and
- litigating claims against regulatory agencies charged with ensuring the safety of cars, toys and other consumer products when they fail to fulfill their responsibilities.

Public Citizen's newsletter, *Worst Pills, Best Pills News*, and website, www.WorstPills.org, provide an expert, independent second opinion for prescription drug information.

Protecting Workers' Rights

Public Citizen defends employees' rights to free speech and a fair workplace. Public Citizen also fights to protect whistleblowers and works to end retaliation against those who speak against wrongdoing by corporations and the government.

We argued *Garcetti v. Ceballos* (2006), a landmark U.S. Supreme Court case about the free speech rights of government employees who blow the whistle on official misconduct. Since the Court in this case ruled 5-4 against free speech protections, we are advocating legislation to undo the decision.

Public Citizen is also working to:

- restore and modernize the Whistleblower Protection Enhancement Act for all federal employees and contractors, which would overturn *Garcetti* and provide access to jury trials for the first time; and
- remove unnecessary barriers to employment by challenging hiring practices that have a disparate impact on minority and female applicants but are not job-related or a business necessity.

Public Citizen successfully defended workers' rights in *Asociación de Trabajadores Fronterizos v. Department of Labor* (2005). The case settlement required the agency to spend \$6.5 million on new job training for trade-dislocated workers in Texas who previously received deficient training and called for nationwide policy changes to end each of the agency practices that the workers alleged were unlawful.



Improving Workplace Safety

Public Citizen has petitioned the Occupational Safety and Health Administration (OSHA) to set exposure standards for a number of toxic chemicals to which many workers are chronically exposed on the job.

Public Citizen has:

- accelerated OSHA's adoption of new workplace safety guidelines and won significant legal victories that resulted in new safety regulations; and
- forced OSHA to limit workplace exposure to several carcinogens, including cadmium, ethylene oxide, formaldehyde and benzene.

In a battle that spanned 15 years and three court challenges, Public Citizen compelled OSHA to issue a new rule that reduces workplace exposure to cancer-causing hexavalent chromium, resulting in a substantial reduction (more than tenfold) in the permissible exposure limit, and successfully challenged a provision in OSHA's new rule that would have limited disclosure to workers regarding levels of hexavalent chromium in their workplaces.

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For more information, visit www.civiljusticeproject.org.



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