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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: Opposition to the Fairness in Class Action Litigation Act of 2017

Dear Honorable Committee Members,

On behalf of Public Citizen's more than 400,000 members and supporters, we strongly oppose H.R. 985, the Fairness in Class Action Litigation Act of 2017. Keeping the courthouse doors open for victims of corporate wrongdoing has been central to Public Citizen's mission since our founding 45 years ago, but H.R. 985 would threaten Americans' access to justice by, among other harmful results, crippling class action lawsuits.

Tomorrow, the Committee will consider H.R. 985, less than a week after it was introduced and without holding a single hearing. From the first page, the intent of this legislation is clear: to wipe out class actions entirely, which often are the only way for consumers and employees to seek remedies for corporate harm.

Similar to last year's H.R. 1927, the bill would change the requirements for certifying a class-action lawsuit so that only individuals who have suffered the "an injury of the same type and scope" would be able to join together as a class to bring a case. Such a requirement would make certification impossible in a wide range of cases in which class litigation is the most efficient means of resolving a dispute shared by a large number of people.

H.R. 985 does not stop there. It includes another ten pages of provisions that would create significant barriers to class certification, including by requiring an early showing that every class member can be identified, providing for unnecessary delays and appeals, limiting plaintiffs' choice of counsel, and limiting attorney fees. Several provisions seem specifically designed to make it more difficult to bring cases against toxic polluters and render it virtually impossible to bring race and gender discrimination class actions.

This anti-consumer, anti-employee bill would let corporations off the hook for systemic, widespread discrimination, unfair and deceptive practices, consumer fraud, and other wrongdoing. It would devastate an important tool for deterring and remedying wrongful conduct that harms large numbers of people. When a company reaps large profits from wrongdoing that causes thousands of consumers damages of, say, \$100 each, it is not economically feasible for those consumers to bring their claims separately. This bill ensures these claims will never be brought at all, allowing the company to retain the benefit of its wrongdoing.

Should this bill become law, corporate malfeasance will multiply, and important consumer, employment, and anti-discrimination laws will become effectively unenforceable. Ensuring that class action lawsuits are available for groups of harmed individuals to band together is essential for providing an avenue for justice to be done and for efficiency in the court system.

Passage of H.R. 985 would do great harm to the American justice system.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa Gilbert".

Lisa Gilbert
Director
Public Citizen's Congress Watch division