

May 12, 2020

The Honorable Lindsay Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Committee on the Judiciary Hearing on "Examining Liability During the COVID-19 Pandemic"

Dear Chairman Graham and Ranking Member Feinstein:

The undersigned organizations fully support the nation's safe economic recovery. For that reason, we strongly oppose any legislation that would establish nationwide immunity for businesses that operate in an unreasonably unsafe manner, causing returning workers and consumers to risk COVID-19 infection. Removing legal accountability for businesses not only would jeopardize the health and safety of workers, it would also jeopardize everyone who enters those workplaces. This would be extremely damaging to the nation's economic recovery.

Any recovery requires the public to have confidence that businesses are operating as safely as possible. Establishing legal immunity for businesses that operate unsafely would do the opposite of instilling public confidence. Instead, it would introduce new anxieties to an already highly-anxious public. And it would have real-life consequences for every community, since legal liability is one of the most powerful incentives we have to ensure that businesses operate safely. When workplaces are not properly protected, patients, customers, clients, and the community are all at risk.

This concern is not hypothetical. Some essential businesses have already put employees back in the workforce without ensuring their safety.¹ As a result, infections have spread in and out of the workplace.² In some cases, this has led to renewed shutdowns, slowing the pace of recovery.³ From protecting the food supply chain to preventing needless deaths in nursing homes,⁴ it is clear that companies responsible for the health and safety of others must continue having every

¹ Zach Montague, *Coronavirus Cases at D.C. Whole Foods Highlight Risks Facing Grocery Workers*, NEW YORK TIMES (April 15, 2020), <https://www.nytimes.com/2020/04/15/us/politics/coronavirus-grocery-workers-washington.html>.

² Rachel Abrams, *Spectrum Employees Are Getting Sick Amid Debate Over Working From Home*, NEW YORK TIMES (April 21, 2020), <https://www.nytimes.com/2020/04/21/business/spectrum-employees-coronavirus.html>.

³ Christopher Collins and Sophie Novack, *COVID-19 Cases Now Tied to Meat Plants in Rural Texas Counties Wracked with Coronavirus*, TEXAS OBSERVER (April 22, 2020), https://www.texasobserver.org/east-texas-coronavirus-chicken/?fbclid=IwAR1im8139ixuHyclCFHDxDeSi-6do82msm_85DSkBRE8rxBzHZqfwjfskSY; and Lisa Kaczke *Smithfield Foods Now Largest Coronavirus Hot Spot in US, CDC in Sioux Falls to Investigate*, SIOUX FALLS ARGUS LEADER (April 15, 2020), <https://www.argusleader.com/story/news/politics/2020/04/15/cdc-sioux-falls-smithfield-foods-becomes-largest-coronavirus-hotspot-us/5138372002/>.

⁴ Ben Kessler, *17 Bodies Crowded into Tiny Morgue Found at New Jersey Nursing Home*, NBC NEWS (April 16, 2020), <https://www.nbcnews.com/news/us-news/17-bodies-crowded-tiny-morgue-found-new-jersey-nursing-home-n1185121>.

incentive to protect them. Many companies already had serious safety problems prior to the COVID-19 pandemic, but the pandemic cannot be an excuse for failing to protect workers and the public.

Moreover, greatly compounding the problem are recent trends toward deregulation and lax regulatory enforcement of workplaces.⁵ The federal Occupational Safety and Health Administration has substantially stepped back from its role to protect the health and safety of workers during this pandemic, and is dangerously relying on employers to self-police.⁶ Under these circumstances, the specter of unsafe workplaces is a significant concern. Without adequate protective equipment and other safety measures, workers will be deterred from coming back to work. Immunity would only exacerbate these problems.

In sum, we strongly oppose any legislation that would immunize businesses that fail to ensure safe workplaces. For any questions or follow-up, please contact Joanne Doroshow, Center for Justice & Democracy, joanned@centerjd.org, or Remington A. Gregg, Public Citizen, rgregg@citizen.org.

Very sincerely,

Accountable.US
AFL-CIO
AFSCME
African American Ministers In Action
Alfred E Smith Houses Resident
Association, Inc.
Alianza Nacional de Campesinas
Alliance for Justice
American Association for Justice
American Museum of Tort Law
American Muslim Health Professionals
Asian Pacific American Labor Alliance,
AFL-CIO
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
A Better Balance
BiNet USA
Blue Ridge Environmental Defense League
CAARMA Consumer Advocates Against
Reverse Mortgage Abuse
California Employment Lawyers
Association
California Reinvestment Coalition

Center for American Progress
Center for Auto Safety
Center for Biological Diversity
Center for Digital Democracy
Center for Disability Rights
The Center for HIV Law and Policy
Center for Justice & Democracy
Center for Popular Democracy
Center for Progressive Reform
Center for Science in the Public Interest
CenterLink: The Community of LGBT
Centers
Chapel Hill Organization for Clean Energy
Citizen Works
Constitutional Accountability Center
Consumer Action
Consumer Assistance Council, Inc.
Consumer Federation of America
Consumer Federation of California
Consumer Reports
Consumer Watchdog
Consumers for Auto Reliability and Safety
Cortland County Mutual Aid Network

⁵ Jeff Stein and Robert Costa, *White House Readies Push to Slash Regulations as Major Part of its Coronavirus Economic Recovery Plan*, WASH. POST (April 21, 2020), <https://www.washingtonpost.com/business/2020/04/21/white-house-coronavirus-regulations/>.

⁶ Noam Scheiber, *Protecting Workers From Coronavirus: OSHA Leaves It to Employers*, NEW YORK TIMES (April 22, 2020), <https://www.nytimes.com/2020/04/22/business/economy/coronavirus-osha-workers.html>.

Delaware Community Reinvestment Action
Council, Inc.
Demos
Earthjustice
Economic Policy Institute
Empowering Pacific Islander Communities
(EPIC)
Environmental Working Group
Equal Voice Action
Equality California
Equality North Carolina
Essential Information
Farmworker Association of Florida
Florida Silver Haired Legislature, Inc
Food & Water Action
Freedom Network USA
Friends of the Baticuitos Lagoon
Futures Without Violence
Georgia Watch
Global Witness
Government Information Watch
Green For All
Greenpeace USA
Housing and Economic Rights Advocates
Impact Fund
Indivisible
Institute for Agriculture and Trade Policy
Interfaith Center on Corporate
Responsibility
International Brotherhood of Teamsters
Justice for Migrant Women
Justice in Aging
Largo Florida Civic Association
The Leadership Conference on Civil and
Human Rights
Leading Age California
Legal Aid at Work
Long Term Care Community Coalition
Main Street Alliance
Mental Health Legal Advisors Committee
(MHLAC)
Minority Veterans of America
Modern Military Association of America
Mohegan Congregational Church and
Inmate Legal Aid Program
NAACP
NAACP Legal Defense and Educational
Fund Inc. (LDF)

National Association of Consumer
Advocates
National Center for Law and Economic
Justice
National Center for Transgender Equality
National Consumer Voice for Quality Long-
Term Care
National Consumers League
National Council of Asian Pacific
Americans
National Council of Jewish Women
National Employment Law Project
National Employment Lawyers Association
National Equality Action Team
National Lawyers Guild
National Lawyers Guild-Mass Chapter
National Partnership for Women & Families
National Wildlife Federation
National Women's Health Network
National Women's Law Center
National Workrights Institute
Natural Resources Defense Council
NC Justice Center
NETWORK Lobby for Catholic Social
Justice
New America's Open Technology Institute
New Economics for Women
Northwest Workers' Justice Project
NYPIRG
Oasis Legal Services
OCA - Asian Pacific American Advocates
OHS Section, American Public Health
Association
Open Markets Institute
Oxfam America
Partnership for Working Families
People For the American Way
People's Parity Project
Positive Women's Network-USA
Project on Government Oversight
Pride at Work
Protect All Children's Environment
Public Advocacy for Kids (PAK)
Public Citizen
Public Justice
Public Rights Project
Rights & Democracy NH
Rights & Democracy VT

Santa Clara County Wage Theft Coalition
Shriver Center on Poverty Law
Service Employees International Union
(SEIU)
Silver State Equality-Nevada
South Carolina Appleseed
SPLC Action Fund
Sugar Law Center for Economic and Social
Justice
Tax March
Texas Watch
Towards Justice
Ujima Inc.: The National Center on
Violence Against Women in the
Black Community
United For Respect
U.S. PIRG
Utility Workers Union of America, AFL-
CIO
Virginia Citizens Consumer Council
Workplace Fairness