

February 1, 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 Attacks on Civil Justice

Dear Chairman Goodlatte and Ranking Member Conyers:

On February 2, the House Committee on the Judiciary is scheduled to mark up several bills that collectively would make it more difficult for Americans to enforce their legal rights, and would place unreasonable burdens on the federal judiciary and federal enforcement officials. The undersigned organizations strongly oppose these bills as harmful and unnecessary.

H.R. 720: The Lawsuit Abuse Reduction Act (LARA).

LARA would make major, substantive changes to Rule 11 of the Federal Rules of Civil Procedure, bypassing both the Judicial Conference of the United States and the U.S. Supreme Court in the process. Rule 11 provides judges with authority to sanction attorneys for filing frivolous claims and defenses. It provides judges with discretion to decide, on a case-by-case basis, if sanctions are appropriate. LARA would remove this judicial discretion, mandating sanctions. LARA would reinstate a rule put into effect in 1983 that was so unworkable it was rescinded in 1993 after many problems and nearly universal criticism. Among those problems were: the rule had a chilling effect on the filing of meritorious civil rights, employment, environmental, and consumer cases; the rule was overused in civil rights cases as sanctions were sought and imposed against civil rights plaintiffs more than against any other litigants in civil court; and the rule burdened the already strained federal court system with satellite litigation over compliance with the rule. These burdens adversely affected cases of all types, including business-to-business civil litigation. Congress should be looking for ways to decrease, not increase, wasteful burdens on the courts, and should avoid rules changes that have a discriminatory impact on civil rights, employment, environmental, and consumer cases.

H.R. 725: The Innocent Party Protection Act.

This bill would upend long established law in the area of federal court jurisdiction, specifically addressing the supposed overuse of “fraudulent joinder” to defeat complete diversity jurisdiction in a case. It was previously known as the “Fraudulent Joinder Prevention Act.” However, this bill is not about fraud. It is a corporate forum-shopping bill that would allow corporations to move cases properly brought in state courts into federal courts. Corporate defendants support

this bill because they prefer to litigate in federal court, which usually results in less diverse jurors, more expensive proceedings, longer wait times for trials, and stricter limits on discovery. For plaintiffs, who are supposed to be able to choose their forums, this legislation would result in additional time, expense, and inconvenience for the plaintiff and witnesses. Moreover, there is no evidence that federal courts are not already properly handling allegations of so-called “fraudulent joinder” after removal under current laws. The bill would result in needless micromanagement of federal courts and a waste of judicial resources. While it purports to fix a non-existent problem, it creates problems itself.

H.R. 732: Stop Settlement Slush Funds Act.

Under existing laws, settlement terms that result from federal enforcement actions can sometimes include payments to third parties to advance programs that assist with recovery, benefits, and relief for communities harmed by lawbreakers, to the extent such payments further the objectives of the enforcement action. This bill would cut off any payments to third parties other than individualized restitution and other forms of direct payment for “actual harm.” That restriction would handcuff federal enforcement officials by limiting their ability to negotiate appropriate relief for real harms caused to the public by illegal conduct that is the subject of federal enforcement actions. This bill would be a gift to lawbreakers at the expense of families and communities suffering from injuries that cannot be addressed by direct restitution.

We urge you to oppose each of these bills. For more information, please contact Joanne Doroshow at the Center for Justice & Democracy, joanned@centerjd.org or Susan Harley at Public Citizen’s Congress Watch, sharley@citizen.org.

Very sincerely,

Alliance for Justice
 American Association for Justice
 Americans for Financial Reform
 Asbestos Disease Awareness Organization
 Brazilian Worker Center
 California Kids IAQ
 Center for Biological Diversity
 Center for Justice & Democracy
 Center for Science in the Public Interest
 Central Florida Jobs with Justice
 Coal River Mountain Watch
 Comite Civico
 Committee to Support the Antitrust Laws
 Consumer Action
 Consumer Federation of America
 Consumers for Auto Reliability and Safety
 Daily Kos
 DMV EJ Coalition

Earthjustice
East Yard Communities for Environmental Justice
Environmental Working Group
Farmworker Association of Florida
Homeowners Against Deficient Dwellings
IDARE LLC
Impact Fund
Louisiana Bucket Brigade
M&M Occupational Health and Safety Services
Martinez Environmental Group
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 Employment Lawyers Association
Natural Resources Defense Council
New Haven Legal Assistance Association
Ohio Citizen Action
Ohio Valley Environmental Coalition
Oregon Environmental Council
Progressive Congress Action Fund
Protect All Children's Environment
Public Citizen
Public Justice Center
Public Law Center
RootsAction.org
Sierra Club
Southern Appalachia Mountain Stewards
Texas Watch
The Workers' Rights Center
U.S. PIRG
Western New Council on Occupational Safety and Health
WisCOSH, Inc.
Workplace Fairness
Worksafe