

October 26, 2021

The Honorable Jerrold Nadler  
Chairman  
U.S. House Committee on the Judiciary  
Washington, DC 20515

The Honorable Jim Jordan  
Ranking Member  
U.S. House Committee on the Judiciary  
Washington, DC 20515

Dear Chairman Nadler and Ranking Member Jordon:

The undersigned organizations strongly support H.R. 4777, the Nondebtor Release Prohibition Act of 2021, and urge Congress to pass this critical legislation. H.R. 4777 would prevent companies from abusing the bankruptcy system to escape accountability for wrongdoing and cheat victims who have been harmed.

In October of 2021, pharmaceutical giant Johnson & Johnson, with a reported net worth of over \$420 billion dollars, filed for Chapter 11 bankruptcy. Those words alone should raise concern that a problem exists requiring Congress' attention. But what truly shocks the conscience is exactly what J&J has done and why.

J&J engaged in a decades-long cover-up of a lethal asbestos poisoning risk from its talc powders, including baby powder (since taken off the U.S. market). Rather than face its victims in court, J&J has decided to take advantage of a loophole in Texas law that allows companies to split in two - one with all the company's assets, the other with all the liabilities for the harm they caused. (This is allowed even if that split is done for the fraudulent purpose of wiping out legitimate claims against the company.) The company with all the liabilities then files for bankruptcy and claims (some 40,000 in this case) get dumped into bankruptcy court. Sick and dying victims then become nothing more than creditors in a bankruptcy, fighting for scraps of compensation from a relatively small sum of money that the company has allowed for them.

What makes this all the more disturbing is J&J's pattern of misconduct leading to this point. For decades, J&J's own testing showed that its talc powders could contain asbestos. The company not only withheld this information from the public but worked to influence the FDA's plans to limit asbestos in these products and sway scientific research on their health effects. Information about this cover-up was eventually released to the public in the course of litigation brought so far by victims, who are mostly women, and in a 2018/2019 Reuters investigative series. Among Reuters' findings was how the company's marketing of baby powder specifically targeted African-American women, "overweight women," and teens.

Many of these customers are now sick and dying with cancer and asbestos-caused mesothelioma. Rather than face its victims in court and allow the legal process to work properly, J&J's move is to cheat them by filing a dummy bankruptcy. This is reprehensible corporate abuse.

H.R. 4777 would address bankruptcy schemes that shield corporate wrongdoers from accountability in three ways. First, the bill requires the dismissal of a bankruptcy, after a hearing, if the judge determines the bankruptcy would place most of the liabilities into the bankrupt entity, taking away the rights of injured victims to take the wrongdoer to court. Second, the bill allows for an appeal of any order barring victims from suing the entity that holds the assets of the original wrongdoing company. Third, the bill would crack down on another bankruptcy abuse, known as “nondebtor releases.” This loophole in bankruptcy law allows bad actors (like corporate executives) to use a corporation’s bankruptcy to also shield themselves. As an example, the Sackler family, owners of Purdue, the maker of Oxycontin, is trying to use this mechanism to avoid full accountability to opioid victims through Purdue’s bankruptcy.

Unless Congress acts, we can expect other corporations engaged in misconduct to use these same brazen legal maneuvers to cover-up wrongdoing, escape responsibility, and defraud victims. We urge you to pass the Nondebtor Release Prohibition Act of 2021, H.R. 4777. (For any questions or for more information, please contact Joanne Doroshow, Executive Director, Center for Justice & Democracy, [joanned@centerjd.org](mailto:joanned@centerjd.org))

Very sincerely,

Alaska Community Action on Toxics  
Alliance for Justice  
Alliance of Nurses for Healthy  
    Environments  
American Family Voices  
Americans for Financial Reform  
Asbestos Disease Awareness Organization  
Black Women for Wellness  
Breast Cancer Prevention Partners  
Cancer Prevention and Treatment Fund  
Center for Auto Safety  
Center for Justice & Democracy  
Chapel Hill Organization for Clean Energy  
Clean Water Action  
Consumer Action  
Consumer Federation of America  
Consumer Watchdog  
Consumers for Auto Reliability and Safety  
Earthjustice  
Empire State Consumer Project  
Environmental Working Group  
Essential Information

Georgia Watch  
Greenpeace USA  
KidsAndCars.org  
National Association of Consumer  
Advocates  
National Consumer Law Center, on behalf  
    of its low income clients  
National Employment Lawyers Association  
National Women’s Health Network  
NYPIRG  
Protect All Children's Environment  
Public Justice  
SC Appleseed Legal Justice Center  
Sierra Club  
Texas Watch  
The Impact Fund  
Trillium Asset Management  
U.S. PIRG  
Until Justice Data Partners  
Women's Voices for the Earth