

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

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June 23, 2015

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chamber and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports H.R. 1927, the "Fairness in Class Action Litigation Act of 2015." This legislation would address the problem of overbroad, no-injury class actions, which cost millions of dollars to defend and typically result in settlements where nobody wins, except the lawyers.

Overbroad class actions are bad for American businesses and the American consumer. They hurt American businesses by subjecting them to burdensome and expensive litigation, and they hurt consumers by siphoning money to lawyers, resulting in higher prices for consumer products. Even the class members are rarely winners. Although these lawsuits almost always settle, the settlements rarely deliver any meaningful benefits to the class. And even when they do, the overwhelming majority of class members do not participate in the settlements because they were satisfied with the product or service being challenged. In one such case, an appellate court insisted on certifying a class of window purchasers who were mostly satisfied with their windows and then later became angry that so few class members bothered to participate in the settlement.

A number of judges have appropriately recognized that overbroad class actions have no place in our federal courts. Indeed, some federal courts have already applied the typicality requirement of Rule 23 in such a manner as to bar class certification unless everyone in the class has suffered the same alleged injury. Unfortunately, there are multiple federal courts that fail to adhere to this common sense rule.

The Fairness in Class Action Litigation Act (FICALA) would make this common sense approach the law of the land. Under H.R. 1927, class actions would only be allowed to proceed in federal court if the class representative demonstrates that all of the class members claim to have suffered the same type of injury as the class representative. For example, if the named

plaintiff brings a lawsuit claiming that an appliance malfunctioned in a certain way, he or she cannot represent a class that includes people who are satisfied with the appliance and have not encountered the alleged problem. Importantly, FICALA would not affect civil rights litigation; it is limited to lawsuits alleging economic loss or personal injury.

The Chamber strongly supports H.R. 1927 and opposes any hostile amendments that may be offered when the House Judiciary Committee considers the legislation. We look forward to working with you and your colleagues as the legislation continues to move through the remainder of the legislative process.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

R. Bruce Josten

cc: Members of the Committee on the Judiciary