

April 28, 2015

Hon. Trent Franks, Chairman
Subcommittee on the Constitution and Civil Justice
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Hon. Steve Cohen, Ranking Member
Subcommittee on the Constitution and Civil Justice
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Subject: HR 1927

Dear Chairman Franks and Ranking Member Cohen;

We are writing to you as health professionals and attorneys who have worked on behalf of the public throughout our professional careers. As you know, hazardous chemicals are routinely found in drinking water, consumer products, foods and other essential public resources. The regulatory system does not prevent these public health hazards in many cases, and access to the courts is an important recourse for many people who have been harmed.

The courts also serve as a deterrent to dangerous behavior on the part of irresponsible parties. That deterrent is often more compelling than what is imposed by the limited enforcement capabilities of government agencies. Consequently, the public health community and public advocates have a strong interest in maintaining the full rights of the public to seek justice when harm has occurred and to deter future harm.

This week HR 1927 will be considered by the Subcommittee on the Constitution and Civil Justice. This bill that would substantially reduce the ability of people who have been harmed to seek justice through class actions, an important recourse for the public. This bill would pose an especially onerous burden on communities of color and on lower income people, who are far more likely to live in areas where environmental contamination causes serious health problems.

In addition to the need for all people to have access to justice, the bill itself violates basic medical scientific principles. It requires that every person in a class have “an injury of the same *type* and *extent*”. Fundamental medical science makes it very clear that each individual responds somewhat differently to a health hazard. Responses are based on individual genetic makeup, overall health, age, gender, previous exposures to hazards and many other factors.

The variability in human responses to exposures to radiation, toxic chemicals such as benzene and lead, asbestos and other hazards are well established in the medical literature. Depending on inherent susceptibilities, individuals may experience kidney or liver damage, neurological

damage, infertility, cancer, immune system disorders and other health problems when exposed to the same hazardous agents. This variation in responses is clearly described in all medical textbooks that discuss the effects of exposure to toxic agents.

For Congress to consider trying to "legislate" away fundamental medical science by requiring "the same type and extent" of injury makes no medical sense. If the goal is to establish an impossible bar to class actions suits, that objective might be met by the bill. But the cost would be the integrity and credibility of the US Congress. Science cannot be dictated by Congress, yet that is what this bill appears to attempt to do.

For the sake of the public whom we all serve and for the sake of scientific integrity, we urge you to carefully consider the implications of HR 1927. We believe it would undermine public trust in the Congress and the public's access to justice in the United States. We strongly urge you to reconsider the wisdom of pursuing this.

Sincerely,

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