

January 6, 2016

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

We write to express our support for H.R. 1927, the “Fairness in Class Action Litigation Act of 2015” (FICALA). FICALA is a narrowly targeted bill that seeks to address one of the more prevalent types of litigation abuse: the overbroad class action designed to enrich a representative plaintiff and their attorneys by making allegations on behalf of an enormous putative class, even though many of the class members have not allegedly sustained injuries like the representative. FICALA is specifically crafted to apply to cases seeking monetary damages for personal injury or economic loss.

FICALA is a simple Act that would help stop the rampant misuse of the class action procedures, and further, would assist in curbing some of the problems with the most common type of putative class action being brought today—actions alleging violations of the Telephone Consumer Protection Act (TCPA). Because TCPA has no cap on its statutory damages of \$500/\$1500 per violation, and defaults to a four-year statute of limitation, a tsunami of TCPA litigation has flooded federal courts and is threatening to drown many well-meaning and legitimate businesses and other defendants.

Businesses that have attempted to reach out to a customer at a customer-provided telephone number are now finding themselves sued in a putative class action setting by a single representative plaintiff who claims to put at issue every telephone call, fax, and text sent by or on behalf of that company in the past four years. Making matters worse, there have long been professional TCPA plaintiffs who purchase multiple phone lines and act in ways to generate calls to those numbers, so that they can threaten or bring lawsuits. The ability to bring claims on behalf of an overbroad class has more of these plaintiffs helming multiple class action litigations, even though the scope of the damages the representative claims is not in line with those of putative class members.

FICALA would help courts and litigants eliminate the problems with overbroad classes that include persons who cannot allege they sustained injuries like the representative plaintiff by establishing a consistent rule for the similarity in type and scope of injury to be required for class membership. Moreover, FICALA would ensure that class procedures can be followed in a manageable fashion by ensuring that the scope of damages for all class members is the same.

We urge you to vote in favor of H.R. 1927 and to oppose any amendments that would limit its application to TCPA actions.

Sincerely,

ACA International
American Association of Healthcare Administrative Management
American Council of Life Insurers

American Financial Services Association
American Insurance Association
Consumer Bankers Association
Mortgage Bankers Association
National Healthcare Collectors Association
Newspaper Association of America
Professional Association for Customer Engagement (PACE)
SLSA Private Loan Committee
Student Loan Servicing Alliance (SLSA)
U.S. Chamber Institute for Legal Reform
U.S. Chamber of Commerce