

February 7, 2005

United States Senate
Washington, DC 20510

Dear Senator:

On behalf of the more than one million members of THE NATIONAL ASSOCIATION OF REALTORS[®], I urge you to vote in favor of S. 5, the Class Action Fairness Act, when the bill comes before the Senate this week. We believe that the proposed legislation would help protect responsible companies from abusive class action lawsuits and assure prompt resolution of legitimate claims.

The class certification mechanism can be an effective tool to resolve lawsuits involving plaintiffs with similar claims. However, existing laws promote abuse and cause harm to both plaintiffs and firms that must defend against abusive lawsuits. It is our belief that the ability of class action plaintiffs to file in state and local courts has forced businesses to defend suits with national implications in courts where less scrutiny may be given to the merits of the case and where defendants may settle rather than face potentially large judgments.

While real estate firms can be targets for class action litigation in operational areas such as property management and mortgage brokerage, our belief in the need for reform extends beyond our own interests. The existing rules for jurisdiction, class certification, and settlements force all firms to absorb the cost of defending unjustified class action lawsuits and pass costs along to consumers. A system set up to protect consumers ends up imposing costs on consumers as affected firms raise prices to cover the costs of forced settlements and excessive judgments. This is a consequence that consumers can ill afford to bear.

The bipartisan Class Action Fairness Act would also provide crucial consumer protections that would encourage just outcomes for class members. As recent studies have repeatedly shown, class action attorneys in state courts frequently receive more compensation from settlements than all class members combined. Importantly, the proposed legislation would prevent attorneys from collecting disproportionate settlement amounts at the expense of class members.

Again, REALTORS[®] urge you to vote in favor of S. 5, the Class Action Fairness Act. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in cursive script that reads "Jerry Giovaniello".

Jerry Giovaniello
Senior Vice President, Government Affairs