

lawsuit is, in fact, an attack on the access of regular Americans to the courts, and subverts the economic realities of contingent fee litigation that already discourages frivolous lawsuits.

Mr. Chairman, this legislation is unsurpassed in its compromise of the balance of powers between litigants in our Nation. With very little opportunity for open hearing, and with limited debate, this measure has been placed before us. A measure of this kind requires detailed analysis of the impact it may have on the American people, and one of the greatest pillars of the American Republic: The people's access to the courts—but no such review has, or will, take place. In the current rush to force this bill through the House, the interests of the American people and the American justice system will certainly be compromised on the altar of corporate greed. I urge my colleagues to join with me, and vote against this bill.

ATTORNEY ACCOUNTABILITY ACT
OF 1995

SPEECH OF

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 6, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 988) to reform the Federal civil justice system.

Mr. PACKARD. Mr. Chairman, our society is consumed by lawsuit fever—sue the producer, sue the manufacturer, sue the seller. Frivolous lawsuits clog our courts and impose tremendous costs on American workers and consumers. Americans want a legal system that promotes civil justice, not greed.

The only winners in the game of lawsuit abuse are the lawyers. Consumers lose and workers lose. Lawsuit abuse scares away jobs and stifles innovative new products. Consumers pay the tab for excessive litigation costs and jury awards through higher prices and outrageous insurance premiums. These litigation taxes cost Americans \$130 billion a year. Fairness no longer exists in our current civil justice system. Hardworking consumers should not pay the tab for legal tactics and judicial abuse.

Our Republican commonsense product liability and legal reform bill, H.R. 988, works to restore national fairness and common sense to a judicial system spinning out of control. H.R. 988 puts an end to frivolous, excessive lawsuits by capping damages at \$250,000 or three times the amount of economic damage. Furthermore, it requires plaintiffs to prove that harm was flagrantly intended by the defendant.

The commonsense product liability and legal reform bill restores accountability and responsibility. H.R. 988 provides a remedy for America's litigation fever, while ensuring that justifiable claims will be fairly tried and rewarded. Americans are tired of supporting a civil justice system that abuses their rights and freedoms as workers and consumers.

TRIBUTE TO THE DISTINGUISHED
ELECTED WOMEN OFFICIALS IN
EDUCATION OF CALIFORNIA'S
14TH CONGRESSIONAL DISTRICT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Ms. ESHOO. Mr. Speaker, I rise today during National Women's History Month to salute the remarkable women of California's 14th Congressional District who have been entrusted with the honor and sacred duty of educating our youth.

This year, as we celebrate the 75th anniversary of women's suffrage, it is fitting that we honor the women who devote their time and talents to preserving and enhancing our public education system. The efforts and public service of these remarkable women provide our district with extraordinary leadership, and our excellent school systems benefit from their unique ideas and skills. While we take time during this month to commemorate historic women and their achievements, we also take this opportunity to honor the contributions women in education are currently making to our communities.

The 14th Congressional District's distinguished women elected officials in education are: Boardmember Helen Hausman of the San Mateo County Community College District; Boardmembers Mary Mason, Judith Moss and Dolly Sandoval of the Foothill/De Anza Community College District; Boardmembers Susan Alvaro and Beverly Willis-Gerard of the San Mateo County Board of Education; Boardmembers Maria Ferrer, Anna Kurze and Andrea Leiderman of Santa Clara County Board of Education; Boardmembers Nancy Gisko, Francesca Karpel and Nancy Kehl of the Belmont Elementary School District; Boardmembers Toni Foster, Mary Freeman-Dove, Ruth Palmer and Marina Stariha of the Cabrillo Unified School District; Boardmembers Debbie Byron, Sandra James and Emily Lee Kelley of the Cupertino Union School District; Boardmember Nancy Newton of the Fremont Union High School District; Boardmembers Tracey Demma, Janet Gomes-Simms, Erika Perloff and Connie Sarabia of the La Honda-Pescadero Unified School District; Boardmembers Kerry Bouchier and Elyce Haskell of the Las Lomas Elementary School District; Boardmembers Gerri Carlton and Terri Sachs of the Los Altos School District; Boardmembers Karen Canty, Margaret Draper and Valerie Rynne of the Menlo Park City Elementary School District; Boardmembers Donnal Larson, Ann Lewis and Leslie Pantling of the Montebello School District; Boardmembers Marta Clavero-Pamilla, Rose Marie Filicetti, Nancy Mucha and Susan Ware of the Mountain View School District; Boardmembers Lynn Alvarado, Ann Baker, Sue Graham and Judy Hanneman of the Mountain View-Los Altos Union High School District; Boardmembers Julie Jerome, Diane Reklis and Susie Richardson of the Palo Alto Unified School District; Boardmembers Holly Meyers, Kathryn Reavis and Pat Steuer of the Portola Valley Elementary District; Boardmembers Lois Frontino, Donna Rutherford and Keisha Williams of the Revenswood City Elementary School District; Boardmembers Terri S. Bailard, Patricia

Brown and Magda Gonzalez-Hierro of the Redwood City Elementary School District; Boardmembers Joy L. Ferrario and Beth Hunkapillar of the San Carlos Elementary School District; Boardmembers Beverly Scott, Allene Seiling and Sarah Stewart of the Sequoia Union High School District; Boardmembers Linda Kilian, Pamela Kittler, Ellen McHenry and Margaret Quillan of the Sunnyvale School District; Boardmembers Fran Kruss and Sanda Jo Spiegel of the Whisman School District; and Boardmembers Heidi Brown, Ann Nolan and Abby Wilder of the Woodside Elementary School District. Appointed leaders include Colleen Wilcox, Superintendent of the Santa Clara County Office of Education, Martha Kanter, President of DeAnza College, and Bernadine Fong, President of Foothill College.

Mr. Speaker, I ask my colleagues to join me in honoring these remarkable women whose leadership, expertise and commitment have made California's 14th Congressional District a wonderful place to live and learn. These great leaders are fitting representatives of the many women who make history every day and are the shapers of the young women who will make history in the future.

H.R. 510, THE MISCLASSIFICATION
OF EMPLOYEES ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. LANTOS. Mr. Speaker, I rise today to say a few words about the job classification of workers, and to urge my colleagues to support H.R. 510, the Misclassification of Employees Act.

Small business men and women have contacted many of us to explain some of the important reasons why Congress should take another look at how workers are classified for Federal income and employment tax purposes, as well as for many non-tax purposes. We know that confusion with employee classification rules can lead to costly disputes with the IRS with devastating effects on small businesses. These costs include, among others, assessments of back taxes, interest and penalties for businesses which misclassify workers as independent contractors, as well as the legal costs involved with coming into compliance with or defending against an IRS audit.

There are other issues relating to the misclassification of workers that arise out of the current procedures for determining who is an employee and who is an independent contractor, including the effect of misclassification on the unsuspecting worker, the effect of misclassification on the honest businessman trying to compete with a competitor who has misclassified his workers, and the effect of misclassification on the Federal budget deficit. H.R. 510 would remedy some of the unintended effects that arise out of the current procedures for determining who is an employee and who is an independent contractor.

I would like to make clear from the outset, however, that I agree with and recognize the appropriate and valuable roles of those who work as independent contractors. This country has benefited greatly from the spirit and independence of the self-employed individual and

I do not think there is anyone who wants to stifle the creativity of these individuals. It is the misuse of the independent contractor status and its serious adverse effect on both employer and worker that concerns me.

My colleague, CHRIS SHAYS, and I became interested in the classification of workers several years ago when we served together on the Employment and Housing Subcommittee of the Government Operations Committee. We found that the current means of determining employment status has had several negative effects: First, it results in similarly situated employers being treated very differently under tax law; second, it allows—and actually encourages—businesses to undercut competitors through unfair practices; third, it leaves some workers exploited and unprotected; and fourth, it deprives the Federal Government of significant revenue.

Under current law, workers are classified as either employees or independent contractors in one of three ways. First, some workers are explicitly categorized as either employees or independent contractors by statute. Second, workers may be classified as independent contractors under statutory "safe harbors" enacted in section 530 of the Revenue Act of 1978. Third, if a worker is not classified statutorily, and cannot be classified under the statutory "safe harbor," then the worker is classified by applying a very subjective common law test. Most workers fall under this third category.

Current law allows some employers to misclassify workers if they have a "reasonable basis" for classifying employees as independent contractors. Thus, an employer may rely upon a prior IRS audit, including audits not made for employment tax purposes, in holding a reasonable basis for classifying workers. It makes no sense to permit the wrongful classification of workers based on a previous audit which may have had nothing to do with the issue of worker classification. Our legislation eliminates the "safe harbor" provisions which allow the misclassification of employees to continue. We thus restore a level playing field and eliminate the unfair competitive advantages which arise due to the misclassification of workers.

Because the common law test is extremely subjective, employers have trouble in properly determining worker classification, and revenue agents often classify workers differently even where the underlying circumstances of their employment are the same. Since a large part of the misclassification of workers is due to a lack of understanding of the laws, clearer rulings and definitions will eliminate a tremendous amount of uncertainty in this area. Our legislation eliminates the restrictions on the IRS to draft regulations and rulings on the employment status of workers for tax purposes.

Employers who have unintentionally misclassified workers should be given the incentive to come into compliance. Therefore, our legislation offers a 1-year amnesty to employers who have misclassified workers on the basis of a good faith interpretation of common law or of section 503. This provision removes the devastating possibility of large assessments for back taxes, interest and penalties and insures compliance in the future.

Misclassification can have a devastating effect on the unsuspecting worker. As a contractor, he or she may receive a higher take-home

pay and may be allowed to deduct more business expenses from income taxes. But the loss of financial benefits and of the many protections which are provided to employees can be catastrophic in cases of illness, unemployment and retirement. For example, there is no unemployment compensation for the independent contractor to fall back on between jobs. Health insurance is an individual responsibility and is usually far more costly than an employer's group policy. In the case of work-related injury or illness, there is no worker's compensation available. Our legislation would require prime contractors to notify legitimate independent contractors of all their tax obligations and other statutory rights and protections.

Mr. Speaker, our investigation found that the economic incentives for businesses to misclassify workers as independent contractors are huge. An employer who misclassifies a worker as an independent contractor escapes many obligations, including paying social security taxes, unemployment taxes and workers compensation insurance, withholding income taxes and providing benefits such as vacation, sick and family leave, health and life insurance, pensions, et cetera. Most employers are honest, but the law abiding employer is put at a serious disadvantage since he or she cannot compete on a level playing field with those who illegally cut their labor costs. Law abiding employers will not be able to compete fairly until we provide more clear, objective standards by which businesses and the Government can determine whether an individual is an employee or an independent contractor.

Lastly, Mr. Speaker, billions of dollars in Federal and State tax revenues are being lost as a result of the intentional misclassification of workers. This is one of the few remaining areas where we can help balance the Federal budget deficit without further cutting Government services or levying new taxes. A recent Coopers and Lybrand study found that at least \$35 billion in legitimate tax revenue over the next 9 years will be lost by the Federal Government due to the misclassification of employees. At a time when critical services are on the chopping block, we can no longer allow this waste and abuse to continue. We must take steps to curb the continued misclassification of employees.

H.R. 10

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. HASTINGS. Mr. Speaker, H.R. 10 will strip American citizens of their ability to hold wrongdoers accountable and, when necessary, to punish reckless or other outrageous behavior on the part of manufacturers of dangerous products.

There is no explosion in punitive damages claims. In fact, such claims are extremely rare. In one comprehensive study conducted by the U.S. Supreme Court, only 355 punitive damage awards in product liability cases have been awarded over the last 25 years, and a number of those involved asbestos.

Mr. Speaker, Americans would be much worse off if they were unable to hold wrong-

doers accountable. Punitive damages make Americans safer and have removed from the market products like flammable children's pajamas, asbestos, and the Dalkon shield. H.R. 10 is unwise and unnecessary.

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HON. ANNA G. ESHOO

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IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Ms. ESHOO. Mr. Speaker, I rise today during National Women's History Month to salute the remarkable women of California's 14th Congressional District who have been elected to govern it.

This year, as we celebrate the 75th anniversary of women's suffrage, it is fitting that we honor those women who devote their time and talents to local and State government. The efforts and public service of these remarkable women provide our district with extraordinary leadership. While we take time during this month to commemorate historic women and their achievements, we also take this opportunity to honor the contributions women in government are currently making to our communities.

Our region is blessed with superbly capable women leaders. These distinguished women are: State Assemblywoman Jackie Speier; Mary Griffin of the San Mateo County Board of Supervisors; Blanca Alvarado and Dianne McKenna of the Santa Clara County Board of Supervisors; city council members Nanette Chapman and Mayor Dianne Fisher of Atherton; Nancy Levitt, Pam Rianda, and Mayor Adele Della Santina of Belmont; Barbara Koppel and Lauralee Sorenson of Cupertino; Mayor Rose Jacobs Gibson, Myrtle Walker, and Sharifa Wilson of East Palo Alto; Mayor Naomi Patridge and Deborah Ruddock of Half Moon Bay; Patricia Williams and Margaret Bruno of Los Altos; Toni Casey and Mayor Elayne Dauber of Los Altos Hills; Bernie Nevin of Menlo Park; Susan Ayers, Suzanne Hayes-Kane, and Angela Meyer of the Midcoast Community Advisory Council; Dena Bonnell, Mayor Patricia Figueroa, and Maryce Freelen of Mountain View; Liz Kniss, Jean McCown, Micki Schneider, and Lainie Wheeler of Palo Alto; Beverly Fields, Maeva Neale, and Meredith Reynolds of the Pescadero Municipal Advisory Council; Nancy Vian of Portola Valley; Judy Buchan, Mayor Daniela Gasparini, Georgia LaBerge, Diane Howard, and Janet Steinfeld of Redwood City; Sally Mitchell of San Carlos; Robin Parker, Frances Rowe, and Mayor Barbara Waldman of Sunnyvale; and Susan Crocker, Carol Fisch, and Barbara Seitle of Woodside.

Mr. Speaker, I ask my colleagues to join me in saluting these remarkable women and the extraordinary contributions they are making to their communities and our country. These gifted leaders are fitting representatives of the many women who make history every day, and their efforts on behalf of the people of California's 14th Congressional District are invaluable and appreciated by all.