TRUMP’S CIVIL JUSTICE SCORECARD

Tracking everything the Trump Administration has said or done to diminish your rights (and legal accountability for corporate misconduct).

(March 1, 2018)

In little more than a year, the Trump Administration has already quietly destroyed many of your legal rights. Who asked for that? No one. No one sent Mr. Trump to Washington to rig the civil courts against everyday Americans. (And needless to say, no one likes a hypocrite.¹)

Unfortunately, this Administration has been on a relentless push to do just that. The examples below are among the many “under the radar” ways the Trump Administration has been harming the public’s health, safety and economic security.²

Here are the top civil justice attacks so far – both actions and statements. They are listed chronologically (most recent first). Those most targeted or endangered are highlighted. Workers and injured patients lead (5 actions each), followed by consumers (4), investors (3), farmers, students and #MeToo survivors (1 each). And two actions threaten just about everyone.

We’re sure this is only the beginning, so we promise to keep a running count. Stay tuned.

2018

22. Patients (February 12)
Trump’s Fiscal Year 2019 budget recommends that the federal government strip injured patients of their legal rights, radically preempt state laws and restrict the power and authority of local courts to compensate victims in medical malpractice cases.³

21. Everyone (January 25)
The U.S. Justice Department issued a new policy limiting use of agency “guidance,” which will help insulate reckless corporations from government lawsuits over violations of health, safety, civil rights or environmental laws.⁴
20. **Everyone** (February 15)
The Associate Attorney General – who was former Chief Counsel for Regulatory Litigation at the U.S. Chamber of Commerce (a major class action opponent) – announced that the U.S. Justice Department was “looking to get involved” in or undermine private class action settlements.5

2017

19. **Workers** (December 14)
After Trump appointed anti-worker members to the National Labor Relations Board, the Board severely narrowed workers’ abilities to sue companies for labor violations committed by those companies’ franchisees or contractors.6 Less than three months later, the ruling was vacated when it was discovered that one of Trump’s new members improperly participated in the case.7

18. **Consumers** (November 1)
Trump signed into law a repeal of the Consumer Financial Protection Bureau rule that had allowed defrauded consumers to join with others to bring class action lawsuits against banks over financial products and services.8

17. **Consumers** (October 23)
The U.S. Treasury Department issued a report attacking the legal rights of consumers cheated by financial institutions to sue in court or join with other consumers in class action lawsuits against banks and financial companies.9

16. **Farmers** (October 19)
The U.S. Department of Agriculture made it more difficult for independent farmers, such as poultry growers, to file lawsuits against big agricultural companies over unfair, deceptive and retaliatory practices.10

15. **Investors** (October 7)
The U.S. Treasury Department recommended that the U.S. Securities and Exchange Commission consider preventing cheated investors who have been misled or deceived from going to court, forcing investors into private, rigged arbitration systems and barring them from joining with others in class action lawsuits.11

14. **Retirement Investors** (August 30)
The U.S. Department of Labor allowed negligent financial services advisors and companies to force retirement investors into secret, rigged arbitration systems to resolve disputes while preventing them from joining other ripped-off investors in class action lawsuits.12

13. **Consumers** (July 24)
The White House issued a “Statement of Administration Policy” supporting a bill to overturn a Consumer Financial Protection Bureau rule that allowed defrauded consumers to join with others in class action lawsuits against banks over financial products and services.13
12. Consumers (July 17)
Acting Comptroller of the Currency and Trump appointee Keith Noreika sent a letter pressuring the Consumer Financial Protection Bureau to delay a rule allowing consumers cheated by financial institutions to join with other consumers in class action lawsuits against banks and financial companies.14

11. Investors (July 17)
U.S. Securities and Exchange Commission member Michael Piwowar, in a major policy reversal, encouraged companies to approach the SEC about allowing them to place forced arbitration clauses into company charters, preventing cheated investors from suing in court.15

10. Students (June 16)
The U.S. Department of Education moved to prevent students defrauded by for-profit colleges, like Trump University, from suing in court or joining with other defrauded students in class action lawsuits.16

9. Workers (June 16)
In a major policy change, the U.S. Justice Department’s Office of the Solicitor General switched sides before the U.S. Supreme Court. The Solicitor General filed a new brief arguing that employees, as a condition of employment, could be required to sign contracts waiving their legal rights to go to court or to join with other harmed workers in class action lawsuits. (The prior Administration had sided with workers in the same case.)17

8. Patients (June 14)
The White House issued a “Statement of Administration Policy” supporting a bill to strip injured patients of their legal rights, radically preempt state laws and restrict the power and authority of local courts to compensate victims in medical malpractice, nursing home and drug injury cases.18

7. Workers (June 7)
The U.S. Department of Labor withdrew an Obama-era guidance document that had allowed workers to hold big companies as well as their franchisees or subcontractors liable for wage and hour infractions.19

6. Workers (June 7)
The U.S. Department of Labor withdrew an Obama-era guidance document that had “made it easier for employees or federal and state governments to sue companies for misclassifying workers as contractors rather than employees.”20

5. Nursing Home Patients (June 5)
The Centers for Medicare and Medicaid Services moved to strip legal rights from abused and neglected nursing home patients, forcing them into secret, rigged arbitration systems controlled by the negligent nursing home.21
4. #MeToo Survivors (March 27)
Trump moved to take away the legal rights of many sexual harassment, sexual assault and discrimination survivors, preventing them from suing federal contractors in court and forcing survivors into secretive, rigged arbitration systems to get justice.\(^2\)

3. Patients (March 8)
The U.S. Justice Department’s Solicitor General filed a U.S. Supreme Court brief arguing that the court should slam the courthouse door on many victims of product injuries by dramatically changing the law of personal jurisdiction (which the court agreed to do).\(^3\)

2. Workers (March 6)
The U.S. Justice Department’s Solicitor General filed a U.S. Supreme Court brief arguing against a Montana Supreme Court decision that had allowed railroad workers to sue out-of-state railroads for on-the-job injuries.\(^4\)

1. Patients (February 28)
In his first State of the Union address, Trump called for laws that strip injured patients of their legal rights and restrict the power and authority of local courts to compensate victims in medical malpractice cases.\(^5\)

NOTES

\(^1\)“Mr. Trump will see you in court,” *Bloomberg*, April 25, 2016, [https://www.bloomberg.com/graphics/2016-trump-lawsuits/](https://www.bloomberg.com/graphics/2016-trump-lawsuits/)


\(^3\)“The Budget proposal includes: a cap on non-economic damage awards of $250,000 (increasing with inflation over time); a three-year statute of limitations; allowing courts to modify attorney’s fee arrangements; allowing evidence of a claimant’s payments from other sources (e.g., workers’ compensation, auto insurance) to be introduced at trial; creating a safe harbor for clinicians following evidence-based clinical practice guidelines; and authorizing the Secretary to provide guidance to States to create expert panels and administrative health care tribunals to review medical liability cases.” White House, *An American Budget: Major Savings and Reforms* (February 2018), [https://www.whitehouse.gov/wp-content/uploads/2018/02/msar-fy2019.pdf](https://www.whitehouse.gov/wp-content/uploads/2018/02/msar-fy2019.pdf). \(^\text{See also},
\text{Center for Justice \& Democracy, “A ‘Retort’ To The White House Budget’s Medical Malpractice Proposals,” February 15, 2018, [https://centerjd.org/content/retort-white-house-budgets-medical-malpractice-proposals](https://centerjd.org/content/retort-white-house-budgets-medical-malpractice-proposals)}\)

\(^4\)Memorandum from U.S. Associate Attorney General Rachel L. Brand, “Limiting Use of Agency Guidance Documents In Affirmative Civil Enforcement Cases,” January 25, 2018,


24 See BNSF Railway Co. v. Tyrrell, http://www.scotusblog.com/case-files/cases/bnsf-railway-co-v-tyrrell/; Amicus brief supporting petitioners (March 2017), https://www.justice.gov/sites/default/files/briefs/2017/03/10/16-405tsacunited_states.pdf. (Robert Nelson and Brent Tyrrell’s widow had pursued lawsuits against BNSF in Montana courts after Nelson suffered a serious knee injury and Tyrrell contracted cancer and died from chemical exposure – harms sustained while working for BNSF in states other than Montana. The Montana Supreme Court held that the victims’ cases could go forward in its state courts since the railroad company did business in Montana and “maintained substantial, continuous, and systematic contacts with Montana,” including operating over 2,000 miles of railroad track and employing more than 2,000 employees in the state.)