



Dear Senator,

We write to urge you to oppose the confirmation of Judge Neil Gorsuch as an Associate Justice of the Supreme Court.

Judge Gorsuch's past decisions and writings demonstrate a longstanding and consistent hostility to the rights of investors and consumers. His lifetime appointment to the Supreme Court would undermine access to the courts, exposing Americans to greater risk from fraud and abuse. Judge Gorsuch's stated views suggest his appointment would also help financial companies' efforts to eliminate the rules necessary to protect the economy from another financial calamity induced by Wall Street's recklessness.

In particular, Judge Gorsuch's writings and decisions demonstrate an extraordinary resistance to victims' ability to seek redress if they are treated unlawfully by large corporations. He has expressed hostility toward class actions,¹ and an expansive view of the applicability of forced arbitration clauses,² a tool commonly used by companies to avoid accountability if they break the law. Joining together in a class action is often the only chance for consumers or investors to fight back against widespread fraud and scams, and it is a particularly important tool for protection against big bank and other financial sector wrongdoing. Because consumer and investor claims are typically complex, costly to litigate, and result from small losses to large numbers of individuals, it is often economically impossible for individuals to pursue their claims separately. In addition to returning money to those harmed by lawbreaking, class actions act as a crucial incentive for companies to follow the law. For these reasons, class actions are essential to the effective and even-handed administration of justice.

We also find Judge Gorsuch's opposition to the *Chevron* doctrine alarming.³ For decades, the *Chevron* doctrine has required courts to defer to regulatory agencies' subject-matter expertise when faced with legal ambiguities. If Judge Gorsuch's drive to overrule this vital precedent prevails, it would greatly increase industry's ability to thwart stronger regulation through lawsuits and remake the law in favor of corporate interests, especially those of financial firms. Moreover, given that Judge Gorsuch's own record favors narrow interpretations of corporate legal obligations,⁴ expanding the authority of the Supreme Court to disregard agencies' views on the scope of legal protections is troubling. For these reasons, adopting Judge Gorsuch's stated

¹ Gorsuch, et al., *Settlements in Securities Fraud Class Actions: Improving Investor Protection*, Washington Legal Foundation Working Paper (2005).

² See *Ragab v Howard*, 841 F.3d 1134 (10th Cir. 2016) (Gorsuch, J., dissenting).

³ See *Gutierrez-Brizuela v. Lynch*, 834 F. 3d 1142 (10th Cir. 2016) (Gorsuch, J., concurring).

⁴ See, e.g., *TransAm Trucking, Inc. v. Admin. Review Bd.*, 833 F. 3d 1206 (10th Cir. 2016) (Gorsuch, J., dissenting); *MHC Mutual Conversion Fund, L.P. v. Sandler O'Neill & Partners, L.P.*, 761 F. 3d 1109 (10th Cir. 2014); *Compass Environmental, Inc. v. OSHRC*, 663 F.3d 1164 (10th Cir. 2011) (Gorsuch, J., dissenting); *Novell, Inc. v. Microsoft Corp.*, 731 F. 3d 1064 (10th Cir. 2013).

views on the *Chevron* doctrine as the law of the land would profoundly undermine effective regulation of the financial system.

Judge Gorsuch's record strongly suggests that his elevation to Supreme Court would tilt the legal system against consumers and investors in favor of banks and other large financial institutions. We urge you to vote against his confirmation.

Sincerely,

Americans for Financial Reform