

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
December 11, 2007

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Chairman, Senate Judiciary Committee
Hearing on "The Sunshine in Litigation Act: Does Court Secrecy
Undermine Public Health and Safety?"
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Today's hearing will address the detrimental affect that secret court filings can have for American consumers.

Allowing certain court documents to be kept secret in cases where public health and safety is at stake can and does put lives in jeopardy. The tragic events leading up to the Bridgestone/Firestone recall of 6.5 million tires seven years ago demonstrated the dire consequences of sealing records in court cases when product safety is at issue.

The national recall of Firestone tires resulted, in part, from the disclosure of internal corporate documents which demonstrated numerous consumer complaints of tire defects and design errors. These documents were discovered in litigation against Bridgestone and Firestone but kept from the public. The release of additional documents revealed that the company had known for several years that recurring problems with their tires were linked to numerous accidents; however, information pointing to this deadly pattern of product defects had been kept out of the public's view in dozens of cases because of confidentiality agreements that Bridgestone/Firestone, Inc. had secured in out-of-court settlement deals.

Hundreds of deaths, injuries and accidents could have been avoided if information about the danger of Firestone tires had instead been made public. A report issued by the National Highway Transportation Safety Administration found that defective Firestone tires were linked to 174 fatalities and 700 injuries, many of which could have been avoided if information about the faulty tires was made public. Unfortunately, in this case and many others, corporate regard for public safety took a back seat to corporate regard for profits.

We need to make sure that consumers have access to information that affects their health and safety, and that is why I am a cosponsor of Senator Kohl's Sunshine in Litigation Act. This legislation would make it more difficult for courts to seal records in cases that reveal threats to public health and safety. It would prohibit judges from sealing court records, information obtained through discovery, and certain details of a settlement unless the public health or safety interest is outweighed by a specific and substantial interest in maintaining confidentiality. And it would require that when issued, protective orders could be no broader than necessary to protect the privacy interest asserted.

I urge Senators to support this legislation - Congress should act to make sure that the public has access to court documents that reveal when a product poses a public heath or safety risk. The American consumer deserves nothing less.

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