

Written questions for Honorable Lynn Fitch
Submitted by Senator Patrick Leahy
June 30, 2020

- 1. Before the Senate Judiciary Committee, you championed the notion that China must be held accountable for failing to inform the world concerning the perils of COVID-19, stockpiling personal protective equipment (PPE), and further selling PPE at inflated costs amidst the widespread pandemic. These considerations prompted you as Attorney General of Mississippi to file suit against China on behalf of Mississippians for its actions contributing to the spread of the virus.**

- a. In your opinion, what are the most advantageous measures Congress could take in amending the Foreign Sovereign Immunities Act to aid the success of lawsuits against China?**

While I am confident that the commercial activity exception to the Foreign Sovereign Immunities Act provides Mississippi with a good path toward successful litigation, the amendments to the FSIA currently under consideration by Congress that spell out a very specific exception based on China's actions in this pandemic would make that pathway even clearer. It is not uncommon in litigation for parties to spend a lot of time and resources on arguments over jurisdiction before even getting to the substance of the underlying action. Providing clear jurisdiction for not only suits brought by States, but by individuals who have suffered harm as a result of China's bad acts, reduces the chances of being tied up in court on these procedural matters.

- b. How would you suggest crafting amendments to the Foreign Sovereign Immunities Act to reduce the likelihood of retaliatory measures by China or other nations that seek to hold the United States accountable for its handling of the pandemic in their courts?**

I believe that lawsuits like Mississippi's and Missouri's, as well as the others filed by citizens in various U.S. jurisdictions, provide the President additional leverage when dealing with China in diplomatic and trade matters. And, I believe that the best way to reduce the likelihood or magnitude of Chinese retaliation is to strengthen the President's hand in his dealings with them, nation to nation.

- 2. The lawsuit you are leading on behalf of the citizens of Mississippi aims to hold China accountable by seeking monetary compensation and civil penalties.**
 - a. Even if your lawsuit prevails in court, do you think China will actually pay whatever compensation the courts find that it owes the citizens of Mississippi? How do you suggest enforcing any ruling by a U.S. Court**

against China?

I will press for justice for the people of Mississippi, and I am hopeful that through this and other legal victories, China will recognize how serious the United States is about holding them accountable for the loss of lives and livelihood caused by their intentional malfeasance. Through a demonstration of our united resolve, I believe China can be made to realize that being a good global citizen is in their best long-term interests and we will recover for the people of Mississippi. That is why it is so important that we do not limit the tools in our toolbox. We must consider all possibilities in and through the judiciary, legislative chambers, diplomatic bodies, executive actions, and the court of public opinion to ensure China and every other nation knows they cannot act against us in this way with impunity.