



MAKING AN IMPACT. CREATING CHANGE.

THE PUBLIC JUSTICE



2017 ANNUAL REPORT

FROM THE EXECUTIVE DIRECTOR



Public Justice launched our 35th anniversary year with our *Roadmap to Change* campaign. Originally conceived as a celebration of our work navigating through challenges and pushing innovative change forward, the new political and legal realities in America quickly demanded something else: A plan for dealing with unprecedented assaults on fundamental rights and protections, while charting a course towards a future better than where we are today.

As we look back on 2017, I'm particularly proud of how Public Justice has responded to this moment in our history. We've restructured our staff to fully embrace the talents of our amazing team and strengthen our infrastructure and readiness. We've expanded our focus to include exciting new outreach programs and grassroots campaigns that support our litigation and advocacy. And we've partnered with an exceptional community of allies, including many of America's best trial lawyers, to amplify our voice and our impact across the country.

We've done all of that while never losing sight of our core mission: Bringing cutting-edge lawsuits that create systemic change and hold wrongdoers accountable. Last year alone, we won 13 appellate victories on a wide range of issues, plus numerous other favorable settlements and court decisions on behalf of consumers, workers, the environment and young people (to name just a few). From ensuring pharmaceutical companies can't

escape responsibility for dangerous generic drugs by hiding behind a legal loophole to winning the first-ever federal appeals court ruling holding a coal mining company accountable under the Clean Water Act for conductivity pollution caused by discharging waste into streams, our legal team is using the courts to make our communities, our country and our families safer.

Public Justice's vibrant and diverse case docket exists at the intersection of issues our country is intently focused on right now. Our attorneys represent women fighting discrimination, harassment and assault, as well as ranchers who believe in responsible farming and advocates who champion the cause of animal welfare. We help consumers take on big banks and predatory lenders, and help citizens take legal actions that protect clean water and fight climate change. We're proud to be the legal voice – and, increasingly, the grassroots force – behind change-makers who understand the power and impact of the courts.

Your generous, ongoing support of Public Justice's mission and expanding portfolio of work is making a real difference in very tangible ways. Together, we're forcing schools to treat sexual assault survivors with respect and dignity, forcing polluters to clean up their act and forcing big banks and crooked corporations into court so they can be held accountable.

Thank you for standing with us at this critical moment. You are the force that makes real, positive change possible.

A handwritten signature in black ink that reads "F. Paul Bland". The signature is written in a cursive, slightly slanted style.

Paul Bland, Executive Director

COURT HOUSE

IN THE COURTS

The California Court's decision could impact similar cases in other states.

A LANDMARK VICTORY FOR GENERIC DRUG PATIENTS

Public Justice and our co-counsel won a landmark ruling on behalf of patients prescribed generic drugs. We were proud to represent twin boys whose mother was prescribed Brethine to control her preterm labor. Her prescription was filled with a generic version of the drug, and her children were born with brain damage.

The twins couldn't sue the generic drug maker for their injuries because generic drug manufacturers are required, by federal drug laws, to use the same label as the brand-name equivalent, and can't be sued as a result.

Instead, they sued Novartis, arguing that the pharmaceutical giant should be held liable because Novartis wrote the label for the drug, knew the generic manufacturer was required by law to use their original, inadequate label and yet chose to allow the drug to go to market without updating the label. Public Justice joined the team on appeal.

In December, the California Supreme Court agreed, finding that brand-name drug manufacturers have a duty to victims of generic drugs and that Novartis's sale of its drug to another company didn't let it off the hook for negligence. The Court's decision gives generic drug patients the right to seek justice when injured by those drugs and gives name-brand pharmaceuticals a strong incentive to update their labels when new risks emerge after their drugs are available in a generic form.

"Over 90 percent of all prescription drugs sold in this country are generic," Public Justice Senior Attorney Leslie Brueckner told *The San Francisco Chronicle*, adding that the Court's decision "stops companies like Novartis from tossing the hot potato of an inadequately labeled drug to another company."

The California Court's decision could impact similar cases in other states. Brueckner recently argued the same issue before the West Virginia Supreme Court, saying that "We are going to keep fighting this battle for injury victims across the country."





A WIN FOR WORKERS: ON THE ROAD TO THE SUPREME COURT

In a groundbreaking decision on behalf of thousands of workers, the First Circuit ruled in May that transportation companies cannot force their workers to arbitrate wage and hour disputes simply by misclassifying those workers as independent contractors.

Public Justice Staff Attorney Jennifer Bennett represented a nationwide class of truck drivers who alleged a major trucking company illegally failed to pay them minimum wage. In the first federal court decision to address the issue of an exemption for transportation workers in federal arbitration law, the Court agreed that the exemption applies to independent contractors as well as employees, paving the way for the truckers to take their case to court, rather than arbitration.


The U.S. Supreme Court will review the case in the Fall of 2018.

“We believe our truck driver clients have been denied crucial rights under the wage and hour laws,” Bennett said. “And the trucking company’s years-long effort to compel arbitration has delayed the drivers’ ability to even get their claims heard. A Supreme Court decision upholding the well-reasoned First Circuit opinion would finally permit the courts to get to the merits of the case – which, at its heart, is about whether one of the country’s largest trucking companies must pay its truck drivers the minimum wage.”

Truck driver Dominic Oliveira says he drove thousands of miles for New Prime trucking and yet frequently earned far less than minimum wage. Some weeks, he says, he had to pay New Prime for the privilege of working for the company. New Prime’s argument that the law turns on its labeling a driver working for it an ‘independent contractor’ instead of an ‘employee’ is formalistic, and lets the corporation alone decide when the law does and doesn’t apply to it.

“We are hopeful the Supreme Court’s decision will ultimately permit the case to be tried on its merits,” Bennett said, “and prevent other companies from tying up similar cases for years.”

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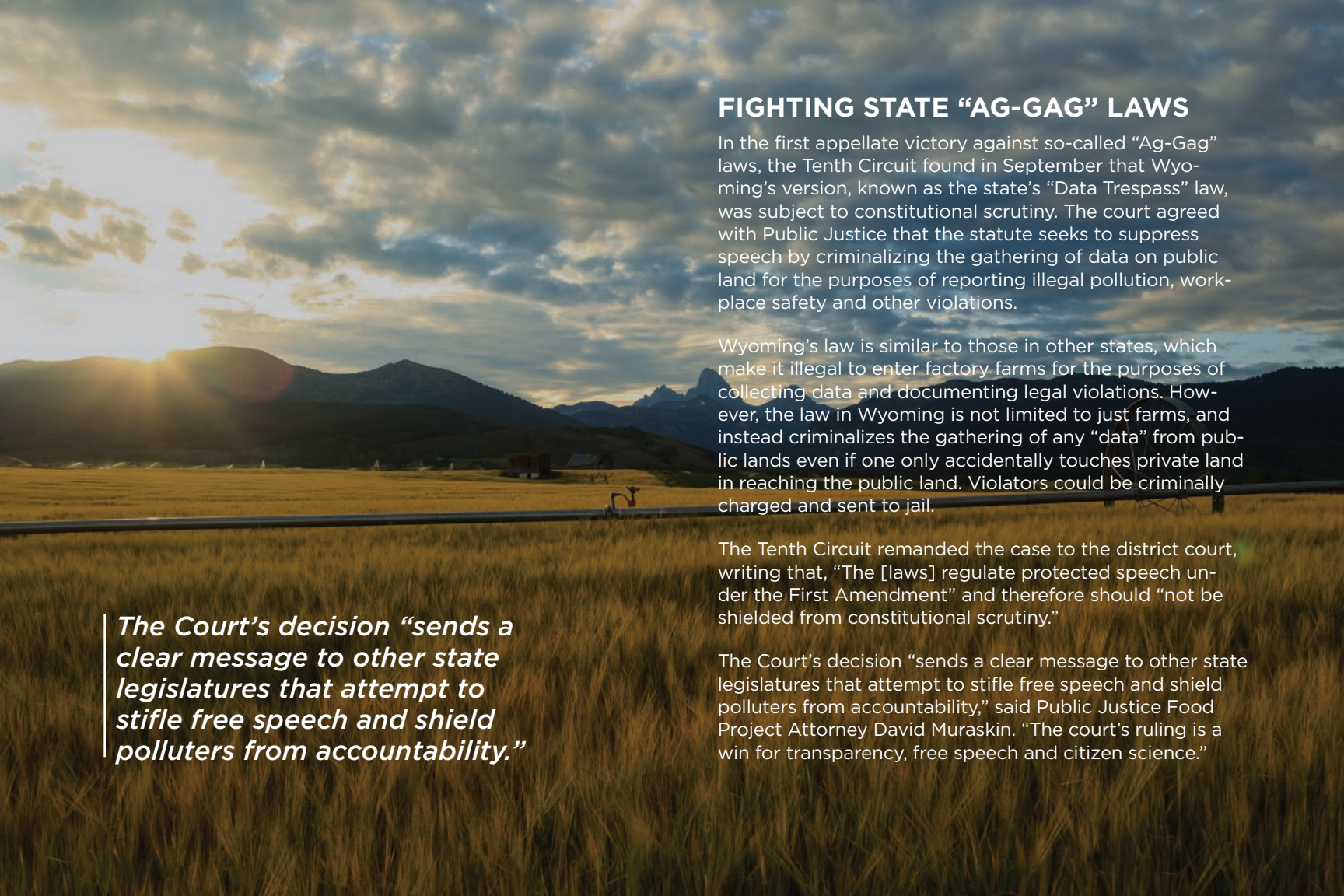
The Court's decision will require mining companies to spend tens of millions of dollars to clean up impacted streams.

FORCING COAL COMPANIES TO CLEAN UP THEIR ACT

In a first-of-its-kind ruling, a federal appeals court found in January 2017 that Fola Coal is liable under the Clean Water Act for discharging coal mining waste into an aquatic ecosystem, violating water quality standards mandated by the company's pollution permit. The case, brought by Public Justice Environmental Enforcement Project Attorney Jim Hecker, on behalf of Sierra Club members in West Virginia, marked the first time a court relied on third-party sampling of the aquatic life in the stream below the mine discharge – rather than a mining company's own water testing – in finding a violation of narrative water quality standards incorporated into the company's permit.

The Court's decision will require mining companies to spend tens of millions of dollars to clean up impacted streams. The pollutants discharged into the water ways – dissolved salts produced during mining operations – are discharged by nearly every mining operation in Appalachia. The salts increase the electrical conductivity of the water and harm the aquatic insects that are the foundation of the aquatic ecosystem. This is the first decision by an appellate court that makes companies liable for conductivity pollution. Public Justice is suing many other mines using this same legal theory.

“Citizen enforcement has shown that the science is clear and that mine discharges have devastating effects on aquatic life,” Hecker said. “This case, like so many Public Justice has handled, was brought by citizens, not by West Virginia or the US Environmental Protection Agency. The Court's decision underscores the continuing need for citizen enforcement to protect water quality from this harmful mining pollution.”

A scenic landscape of a golden field at sunset with mountains in the background. The sun is low on the horizon, casting a warm glow over the scene. The sky is filled with soft, golden clouds. In the distance, there are dark, silhouetted mountains. In the foreground, there is a field of tall, golden grass. A small structure or fence line is visible in the middle ground.

FIGHTING STATE “AG-GAG” LAWS

In the first appellate victory against so-called “Ag-Gag” laws, the Tenth Circuit found in September that Wyoming’s version, known as the state’s “Data Trespass” law, was subject to constitutional scrutiny. The court agreed with Public Justice that the statute seeks to suppress speech by criminalizing the gathering of data on public land for the purposes of reporting illegal pollution, workplace safety and other violations.

Wyoming’s law is similar to those in other states, which make it illegal to enter factory farms for the purposes of collecting data and documenting legal violations. However, the law in Wyoming is not limited to just farms, and instead criminalizes the gathering of any “data” from public lands even if one only accidentally touches private land in reaching the public land. Violators could be criminally charged and sent to jail.

The Tenth Circuit remanded the case to the district court, writing that, “The [laws] regulate protected speech under the First Amendment” and therefore should “not be shielded from constitutional scrutiny.”

The Court’s decision “sends a clear message to other state legislatures that attempt to stifle free speech and shield polluters from accountability,” said Public Justice Food Project Attorney David Muraskin. “The court’s ruling is a win for transparency, free speech and citizen science.”

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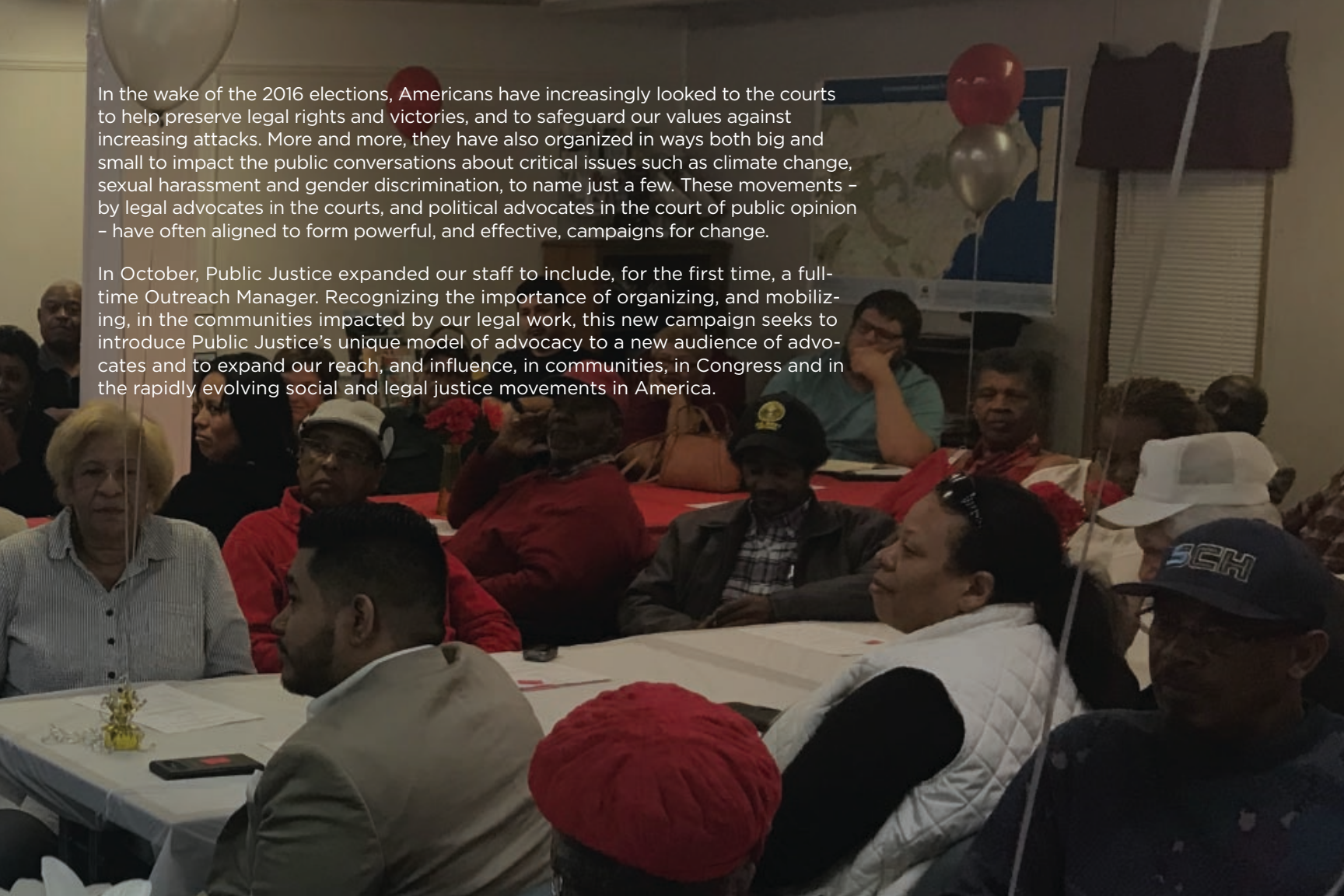
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IN THE FIELD



In the wake of the 2016 elections, Americans have increasingly looked to the courts to help preserve legal rights and victories, and to safeguard our values against increasing attacks. More and more, they have also organized in ways both big and small to impact the public conversations about critical issues such as climate change, sexual harassment and gender discrimination, to name just a few. These movements – by legal advocates in the courts, and political advocates in the court of public opinion – have often aligned to form powerful, and effective, campaigns for change.

In October, Public Justice expanded our staff to include, for the first time, a full-time Outreach Manager. Recognizing the importance of organizing, and mobilizing, in the communities impacted by our legal work, this new campaign seeks to introduce Public Justice's unique model of advocacy to a new audience of advocates and to expand our reach, and influence, in communities, in Congress and in the rapidly evolving social and legal justice movements in America.





FORGING NEW ALLIANCES

We were proud to be part of the inaugural Women's Convention, the follow-up event to the massive Women's March in Washington in January 2017. As part of this first-of-its-kind conference, Public Justice strengthened our alliances with, and offered bridge-building support for, colleagues from allied organizations including the National Women's Law Center and End Rape on Campus.

For the first time, Public Justice was also a visible participant at the National Conference on Worker Safety and Health, bringing together workers, union representatives, and activists to share knowledge and experience on empowering workers and making workplaces safer. We're proud to have been invited to participate in a newly formed taskforce on sexual violence and harassment in the workplace.

BUILDING POLITICAL POWER

Public Justice is on the frontlines of significant political battles that threaten the values and victories at the heart of our mission and the hearts of our members across the country. Following the 2016 elections, we expanded our organizing, outreach and communications staff to mobilize supporters to take action on issues we care about.





- We were proud to be a leading voice in the effort to defend the **Consumer Financial Protection Bureau's** arbitration rule, which allowed consumers to band together to sue banks, financial institutions and credit card companies. As the Trump Administration and the Senate furiously worked to kill the rule, Public Justice launched an unprecedented public education campaign to save it. We played a major role in the extensive press coverage given to the issue of forced arbitration and spoke out in many forums for the rule. In April, Vice President Pence was forced to cast a tie-breaking vote in a closely divided Senate in order to end the rule. Saying the vote "may well turn out to be a huge catalyst for future change," Public Justice's outreach staff noted that an unprecedented coalition of supporters had taken action in calling on lawmakers to stand with consumers.

- Public Justice has also been a leading advocate battling the so-called "**Farm Regulatory Certainty Act,**" a House proposal to wipe away one of the most potent, and last-ditch, tools rural residents have to protect drinking water supplies. In November, Food Project Attorney Jessica Culpepper testified before a House subcommittee in opposition to the bill, noting that the Resource Conservation and Recovery Act (RCRA) - the law targeted by the FRCA - has been a rarely used, but immensely effective, tool for residents whose drinking water supplies have been contaminated by huge industrial agriculture operations. Following Culpepper's testimony, lawmakers declined to put the FRCA into the must-pass Farm Bill, signaling dwindling support for this alarming proposal.





- o Andrew Wheeler, for Deputy Administrator of the Environmental Protection Agency
- o Sam Clovis, for Undersecretary of Research, Education and Economics at the U.S. Department of Agriculture

Public Justice was proud to partner with allied organizations, including the Sierra Club and the National Women's Law Center, to battle these dangerous nominees.



- For the first time in our history, Public Justice announced our opposition to a slate of **White House nominees** and launched vigorous campaigns calling on lawmakers to reject dangerous candidates for some of the country's most important jobs. As part of our expanded grassroots organizing work, we called on our supporters to help rally opposition to several nominees:

- o Scott Pruitt, for Administrator of the Environmental Protection Agency
- o Kenneth Marcus, for Undersecretary of Education for Civil Rights

- We're proud to be one of the most vocal critics of Education Secretary Betsy DeVos, who has waged an unprecedented war against students' rights and safety. Working closely with the National Women's Law Center, Know Your IX and other national organizations, we have fought attempts by DeVos to

water down federal Title IX protections for survivors of sexual assault and to dismantle the Education Department's Office for Civil Rights, which is charged with ensuring school districts' compliance with the law. When DeVos rescinded guidance outlining critical policies to protect transgender students, we partnered with Lambda Legal and former Obama Justice Department official Anurima Bhargava - along with 50 civil rights organizations and advocates - to notify education officials in all 50 states of their responsibilities under the law. As our work battling DeVos's agenda continues, we are proud to be spearheading a communications strategy group with allied organizations to ensure a strong, unified and visible response to the Department's attacks on students and their families.

- As part of our outreach and organizing efforts, we have also mobilized opposition, and support, for a record number of **legislative proposals** in Congress, including:
 - **Opposition** to HR 1215, the "Protecting Access to Care Act," which would allow nursing homes to deny patients and their families their day in court
 - **Opposition** to HR 985, the "Fairness in Class Action Litigation Act," a sweeping proposal to rollback Americans' access to the courts by virtually eliminating class action litigation
 - **Opposition** to HR 2359, the "FCRA Liability Harmonization Act," a bill that would gut existing protections consumers have under the Fair Credit Reporting Act against false statements in credit reports

- **Support** for HR 4570, the "Ending Forced Arbitration of Sexual Harassment Act of 2017," a bill to end secrecy provisions that punish sexual assault survivors by silencing them in forced arbitration proceedings
- **Support** for HR 998, the "Student Non-Discrimination Act," to protect LGBT students against bullying and discrimination in school





IN THE NEWS

2017 was Public Justice's most visible year ever. In media coverage, social media engagement and through our increased outreach and organizing initiatives, we reached more people, in more diverse outlets, than ever before.

291

total media stories in 2017

167

stories in mainstream media outlets, including *The Washington Post*, *New York Times*, *San Francisco Chronicle* and wire coverage from both the *Associated Press* and *Reuters*

90

stories in "specialty" media, including LGBTQ, agricultural and education news outlets

34

stories in prominent legal publications

4

stories in *The Washington Post* alone quoting Public Justice spokespeople

To stay up to date on all of our work, and to receive breaking news about Public Justice's cases, follow us on Facebook ([PublicJustice](#)) and Twitter ([@Public_Justice](#)).

Here are just a few excerpts from coverage featuring Public Justice staff:

Paul Bland, the executive director of the advocacy group Public Justice, called the potential appointment of Mulvaney as the head of the Bureau "a great tragedy for American consumers."

The Atlantic, reporting on President Trump's appointment of Mick Mulvaney as Acting Director of the Consumer Financial Protection Bureau

"Lots of polling said both Republicans and Democrats oppose the bill by heavy margins," said Paul Bland, an attorney at Public Justice. "This was the Wells Fargo immunity act. It's essentially a bailout for those companies."

Yahoo Finance, on the Senate vote to kill a CFPB rule prohibiting forced arbitration clauses with class action bans in the financial industry

“Jessica Culpepper, the Public Justice attorney who has extensively studied the dairy industry, said OSHA and other federal regulators should treat large dairies as any other industrial, polluting business. She notes a 2004 Environmental Protection Agency study that estimated 2,500 dairy cows generate the same daily waste as a city with 411,000 residents.”

The Washington Post, on farmworker deaths at dairy farms

“He understood and clearly articulated that class actions are an essential tool for resolving some disputes efficiently and ensuring that justice is done when otherwise the defendant might get off scot-free,” Arthur Bryant, chairman of Public Justice, told Bloomberg BNA.


Bloomberg BNA on the legacy of retiring Justice Richard Posner

“Schools that discriminate against transgender students, such as by denying them access to bathrooms and other single-sex facilities that correspond with their gender identity or failing to protect transgender students from harassment, are violating Title IX and the Constitution’s Equal Protection Clause,” reads the letter, primarily sponsored by Lambda Legal, the National Women’s Law Center, and Public Justice.

The Daily Beast, on a letter spearheaded, in part, by Public Justice, calling on the state Title IX coordinators to protect transgender students

“Consumers understandably want to know where their food comes from,” said David Muraskin of Washington, D.C., an attorney for Public Justice, which filed the lawsuit. “With this suit, we’re fighting policies that put multinational corporations ahead of domestic producers and shroud the origins of our food supply in secrecy.”

The Associated Press, on our lawsuit to enforce Country of Origin Labeling for beef products



Thank you for your support.



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