

same or similar factual allegations against any of the defendants on behalf of the same or other persons has been filed during the preceding three years.

THE COMPROMISE CREATES A BRIGHT LINE FOR DETERMINING CLASS COMPOSITION

S. 1751 was silent on when class composition could be measured and arguable would have allowed class composition to be challenged at any time during the life of the case. The compromise clarifies that citizenship of proposed class members is to be determined on the date plaintiffs filed the original complaint, or if there is no federal jurisdiction over the first complaint, when plaintiffs serve an amended complaint or other paper indicating the existence of federal jurisdiction.

THE COMPROMISE ELIMINATES THE "MERRY-GO-ROUND" PROBLEM

S. 1751 would have required federal courts to dismiss class actions if the court determined that the case did not meet Rule 23 requirements. The compromise eliminates the dismissal requirement, giving federal courts discretion to handle Rule 23-ineligible cases appropriately. Potentially meritorious suits will thus not be automatically dismissed simply because they fail to comply with the class certification requirements of Rule 23.

THE COMPROMISE IMPROVES TREATMENT OF MASS ACTIONS

S. 1751 would have treated all mass actions involving over 100 claimants as if they were class actions. The compromise makes several changes to treat mass actions more like individual cases than like class actions when appropriate.

The compromise changes the jurisdictional amount requirement. Federal jurisdiction shall only exist over these persons whose claims satisfy the normal diversity jurisdictional amount requirement for individual actions under current law (presently \$75,000).

The compromise expands the "single sudden accident" exception so that federal jurisdiction shall not exist over mass actions in which all claims arise from any "event or occurrence" that happened in the state where the action was filed and that allegedly resulted in injuries in that state or in a contiguous state. The proposal also added a provision clarifying that there is no federal jurisdiction under the mass action provision for claims that have been consolidated solely for pretrial purposes.

THE COMPROMISE ELIMINATES THE POTENTIAL FOR ABUSIVE PLAINTIFF CLASS REMOVALS

S. 1751 would have changed current law by allowing any plaintiff class member to remove a case to federal court even if all other class members wanted the case to remain in state court. The compromise retains current law—allowing individual plaintiffs to opt out of class actions, but not allowing them to force entire classes into federal court.

THE COMPROMISE ELIMINATES THE POTENTIAL FOR ABUSIVE APPEALS OF REMAND ORDERS

S. 1751 would have allowed defendants to seek unlimited appellate review of federal court orders remanding cases to state courts. If a defendant requested an appeal, the federal courts would have been required to hear the appeal and the appeals could have taken months or even years to complete.

The compromise makes two improvements: (1) grants the federal courts discretion to refuse to hear an appeal if the appeal is not in the interest of justice; (2) Establishes tight deadlines for completion of any appeals so that no case can be delayed more than 77 days, unless all parties agree to a longer period.

THE COMPROMISE PRESERVES THE RULEMAKING AUTHORITY OF SUPREME COURT AND JUDICIAL CONFERENCE

The compromise clarifies that nothing in the bill restricts the authority of the Judicial Conference and Supreme Court to implement new rules relating to class actions.

THE COMPROMISE IS NOT RETROACTIVE

Unlike the House Bill, the compromise will not retroactively change the rules governing jurisdiction over class actions.

FINANCIAL DISCLOSURES

Following is the federal campaign contribution report for David C. Mulford, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India who was discharged from the Committee on Foreign Relations and confirmed by the Senate on December 9, 2003.

Nominee: David C. Mulford.

Post: U.S. Ambassador to India.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self (David C. Mulford): \$1,000, 5/1/99, George W. Bush, Presidential Campaign; \$20,000, 6/27/00, RNC Presidential Trust; \$4,000, 6/27/00, Illinois Republican Party; \$152,000, 6/27/00, Victory 2000; \$1,000, 7/26/00, Friends of Schummer; \$5,000, 12/21/02, Bush/Cheney Presidential Transition Foundation; and \$12,500, 10/08/02, Republican National Committee.

2. Spouse (Jeannie S. Mulford): \$1,000, 5/1/99, George W. Bush, Presidential Campaign; \$20,000, 6/27/00, RNC Presidential Trust; \$4,000, 6/27/00; Illinois Republican Party; \$5,000, 12/21/02, Bush/Cheney Presidential Transition Foundation; and \$12,500, 10/08/02, Republican National Committee.

3. Children and Spouses: Ian Mulford (son) Kathy Mulford (spouse), no contributions;

Edward Mulford (son) Melanie Mulford (spouse), no contributions.

4. Parents: Theodore Mollenhauer Countryman Mulford (mother). Deceased. No contributions; Robert Lewis Mulford (father). Deceased. no contributions.

5. Grandparents: All grandparents deceased, no contributions.

6. Brothers and Spouses: William Mulford (brother) Tony Mulford (spouse), no contributions; Edward Mulford (brother) Philippa Mulford (spouse), no contributions.

7. Sisters and Spouses: No sisters/no spouses, no contributions.

Following is the federal campaign contribution report for James C. Oberwetter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia, who was discharged from the Committee on Foreign Relations and confirmed by the Senate on December 9, 2003.

Nominee: James C. Oberwetter.

Post: U.S. Ambassador to Saudi Arabia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self—James C. Oberwetter: \$2000, 6/25/2003, Bush-Cheney 04 Inc.; \$500, 8/21/2002, John Cornyn for Senate; \$1000, 3/12/2002, John Cornyn for Senate; \$500, 2/20/2002, Friends of Jeb Hensarling; \$35, 8/18/2000, Lazio 2000; \$100, 7/5/2000, Republican National Committee (NFC); \$100, 2/5/2000, John Culberson for Congress; \$1000, 5/17/1999, George Allen for Senate; \$1000, 3/15/1999, George Bush Presidential Exploratory Committee; and \$504 annually, 1999–2003, Hunt Oil Company Political Action Committee.

2. Spouse—Anita Johnson Oberwetter: \$2000, 6/25/2003, Bush-Cheney 04 Inc.; \$1000, 3/12/2002, John Cornyn for Senate; and \$500, 8/21/2002, John Cornyn for Senate.

3. Children and Spouses: Ellen Oberwetter: \$250, 2002, Ron Kirk for Senate; \$25, 2003, Blair Hull for Senate; Rea Oberwetter, none; Brooke Oberwetter, none.

4. Parents: Albert Oscar Oberwetter & Hilda Curtis Oberwetter, both deceased, none; Ernest H. & Lena Dennison (spouse's parents), both deceased, none.

5. Grandparents: Deceased, none.

6. Brothers and Spouses: Albert R. & Marie Oberwetter, none; Randle & Ginny Dennison (spouse's brother), Dates unknown—Henry Waxman; for Congress, Bernie Sanders for Congress, each less than \$100; Larry & LuAnne Dennison (spouse's brother), none.

7. Sisters and Spouses: None.