March 12, 2026

The Honorable Timothy L. "Tim" Walberg, Chair
The Honorable Robert C. "Bobby" Scott, Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives
Washington DC 20515

Dear Chairman Walberg and Ranking Member Scott:

The following organizations, with the shared view that our nation's working families deserve secure and adequate retirement income, urge you to oppose "The ERISA Litigation Reform Act" (HR 6084) when your Committee considers it for markup next week. Fifty years ago, ERISA was passed overwhelmingly by a bipartisan Congress that understood that retirement plan participants must be able to protect their hard-earned retirement income. This bill would undermine that objective.

This legislation, in large part, is premised on the erroneous notion that the recent unanimous Supreme Court decision in *Cunningham v. Cornell University* will lead to a tide of ERISA class action litigation. This decision has not, nor will it, lead to this outcome. In this regard, it is important to note that in *Cunningham*, the Court pointed out the many tools already available to dispose of meritless cases.[1] The Court's reminder about how litigation works in practice to limit cases without merit has proved to be true. Most notable about the December 2, 2025 hearing on this bill is that no witness was able to identify a single ERISA class action—pre- or post-*Cunningham*—that was dismissed as "frivolous."

Moreover, HR 6084 is directed at litigation centered on defined contribution plans, like 401(k) plans, where ERISA's fiduciary duties are especially important because these plans are almost entirely employee-funded through payroll deferrals. That is, it is workers' hard-earned pay that is held in trust by the plan and managed by its fiduciaries. Because these plans generally pass their administrative and management expenses along to participants, the choice made of who provides services or investment options with unreasonably high fees has a direct impact—often with devastating and long-lasting consequences—on workers' and retirees account balances. A one percent difference in plan fees and expenses could reduce a worker's retirement account by as much as 28 percent over 35 years. If a plan's fiduciaries are failing in such ways, requiring the workers to bear the burden of showing mismanagement, as HR 6084 would do, places a nearly insurmountable legal hurdle to their ability to seek redress from possible abuse of their own monies. Such a burden dramatically increases the risk to participants' retirement income security and is antithetical to ERISA's purpose to safeguard retirement assets.

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[1] For example, the Court referenced Federal Rule of Procedure 7 "to screen out meritless claims before discovery"; Rule 11 sanctions for frivolous suits; district courts' authority to expedite or limit discovery to mitigate unnecessary costs; and courts' discretionary cost-shifting to award attorney's fees provided by ERISA itself.

Last, references at the December 2 hearing to plaintiffs' lawyers enriching themselves with millions of dollars in attorneys' fees while individual plan participants receive *de minimis* recoveries were misleading at best. The amount of attorneys' fees awarded in an ERISA class action is determined by the same legal standards applied to all class action awards. Characterizing the settlement as benefitting only the lawyers ignores how it benefits the plan and participants. First, on a retrospective basis, participants recover a portion of their alleged losses for the period of time that the plan was mismanaged. Second, prospectively, the litigation and settlement serve to remind fiduciaries that they must do more than "set it and forget it" when selecting plan service providers and investment options. Rather, they must, in accordance with ERISA's fiduciary requirements, actively and continually monitor the plan's expenses and investments.

Further, beyond monetary recovery, ERISA class action settlements often contain other components that provide substantial value to current and future plan participants. For example, excessive fee case settlements have required that the fiduciaries instruct the plan record keepers to avoid conflicts of interest by not selling related products like IRAs or life insurance to plan participants; comply with annual fiduciary training and guidelines for fiduciary committee meetings; delegate certain investment decisions to an independent fiduciary; or make significant improvements to the plan's investment options.

For all the reasons detailed above, the undersigned organizations urge you to oppose HR 6084 when it comes before your Committee.

Thank you for your consideration of our views.

Sincerely,

Alliance for Retired Americans
Americans for Financial Reform
The Committee for the Fiduciary Standard
Economic Policy Institute
National Committee to Preserve Social Security and Medicare
National Retiree Legislative Network
Pension Rights Center

cc: all members of the House Committee on Education and the Workforce