

**Public Attitudes Toward
The American Legal System
and
Proposed Class Action Reform Legislation
Fall 2001 Research Survey**

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Background & Methodology

- In recent months, the opinion research firms of Public Opinion Strategies and Penn, Schoen & Berland Associates have conducted polls and studies on behalf of the Institute for Legal Reform of the U.S. Chamber of Commerce.
- Now that legislation for a Class Action Fairness Act has been introduced in the U.S. House of Representatives, these two firms have jointly conducted a new survey of 1,000 registered voters across the nation to analyze current opinion about the American legal system and potential provisions of new legislation.
- 1,000 interviews were conducted September 1-8, 2001. The margin of error for the entire sample is +/-3.1% at the 95th confidence level and is higher for subgroups.
- The key findings and overall results from the survey are contained in the slides that follow.

Key Findings

- Substantial majorities believe that the legal system and the class action system should be “restrained,” “reformed,” or “radically changed.” When respondents learn more about the issues involved in the class action system and potential legislative fixes, public support for reform increases dramatically.
- Respondents afford class action lawsuits a special status, seeing the federal courts as a far more suitable venue for hearing them than the state courts, which they nonetheless hold in high regard.
- Almost half of respondents (47%) believe that lawyers representing the class benefit MOST from the class action system.

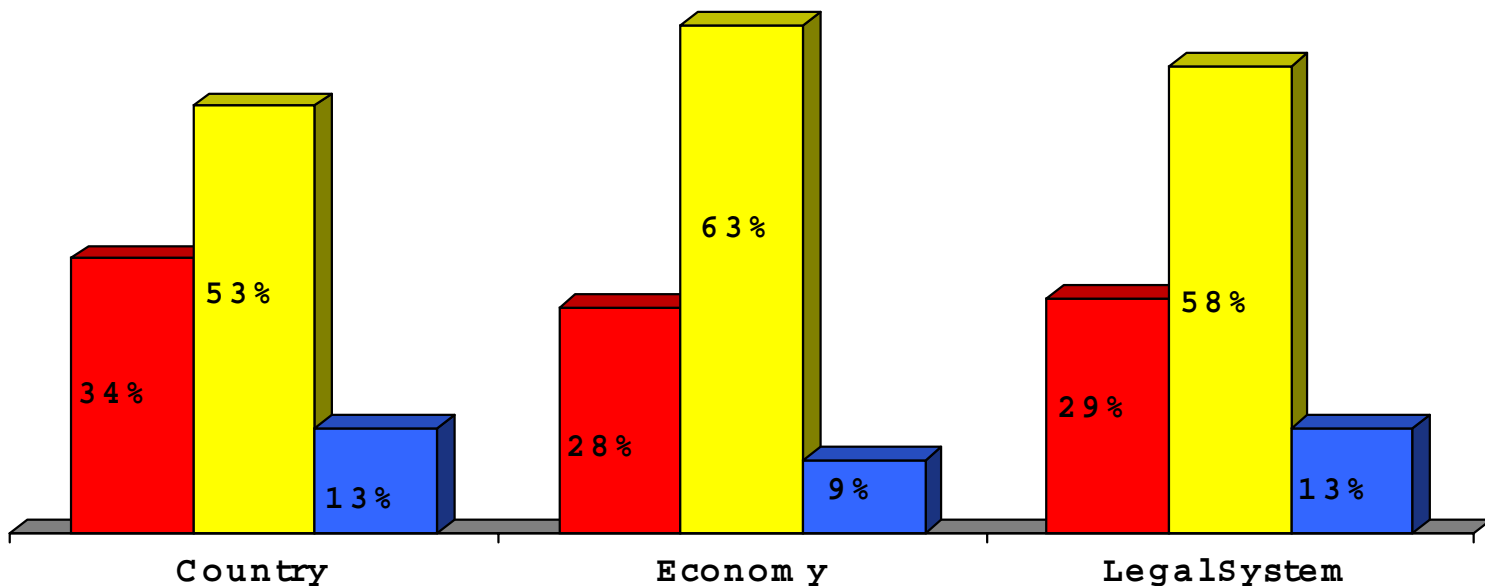
Key Findings – Continued

- Seven in ten believe that it is “fair” for companies to request removal of class action cases to federal court.
- Almost seven in ten (69%) agree that plaintiff’s attorneys “forum shop” for favorable judges.
- Substantial majorities believe that Congress has not done enough to regulate how our legal system functions and would support legislation to reform the system.
- By wide margins, respondents believe that every provision of proposed class action reform legislation would make the system “better” instead of “worse.”
- In the next election, 74% would be “much more likely” or “somewhat more likely” to vote for Senators or Members of Congress who support class action reform legislation.

Legal System Headed In Wrong Direction

Generally speaking, would you say that things in [the country/the economy/our legal system] are heading in the right direction, or are they heading in the wrong direction?

■ Right Direction
■ Wrong Direction
■ Don't Know



	Dem	Rep	Ind
Right Direction	26	47	31
Wrong Direction	63	38	56

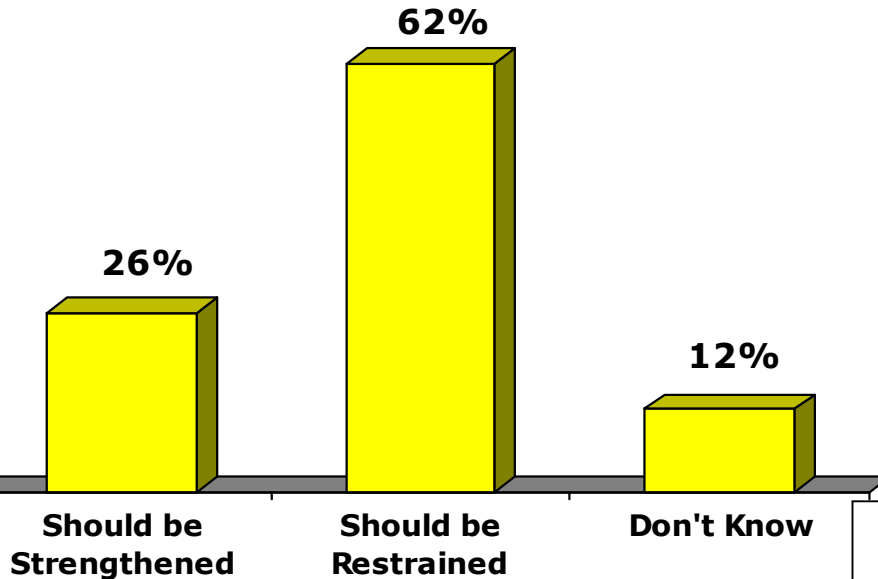
	Dem	Rep	Ind
Right Direction	17	46	25
Wrong Direction	76	42	66

	Dem	Rep	Ind
Right Direction	33	27	26
Wrong Direction	53	64	61

Pre-Test: Most Think Legal System Should Be Restrained

- At the outset of the interview, respondents were asked their top-of-mind opinion about possible reform of the legal system

Do you think the way that companies can be sued in America protects individuals and keeps corporate interests on their toes and should be strengthened, or do you think that too many lawsuits generally drive up the costs of products for consumers and should be restrained?



	Strength-ened	Restrained	Don't know
Democrat	35	52	13
Republican	16	76	8
Independent	23	62	15

"Strengthened" Top Groups	
Group	Percentage
Gore Voters	39%
18-34 Year Olds	33%
Hispanic/Latino	32%

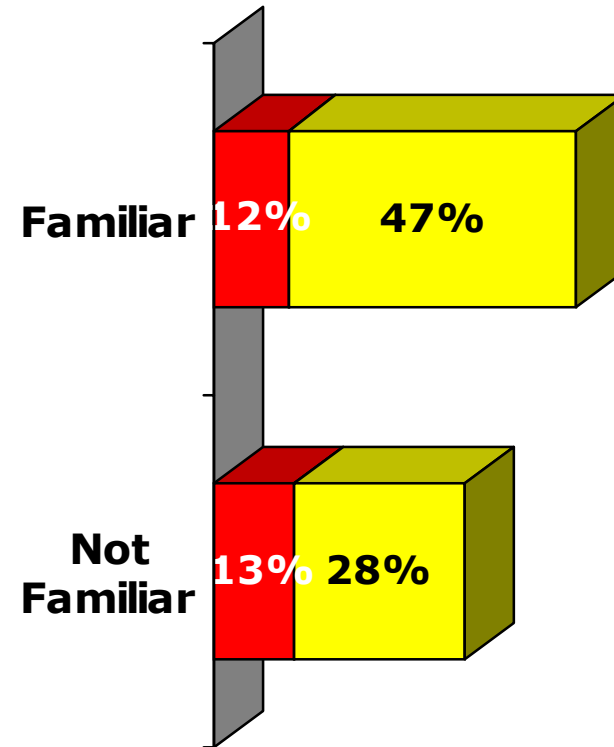
"Restrained" Top Groups	
Group	Percentage
Bush Voters	75%
>100K Earners	69%
Farm States	68%

Respondents Are Aware Of The Class Action System

In the past two or three months, have you read, heard, or seen anything about class action lawsuits?



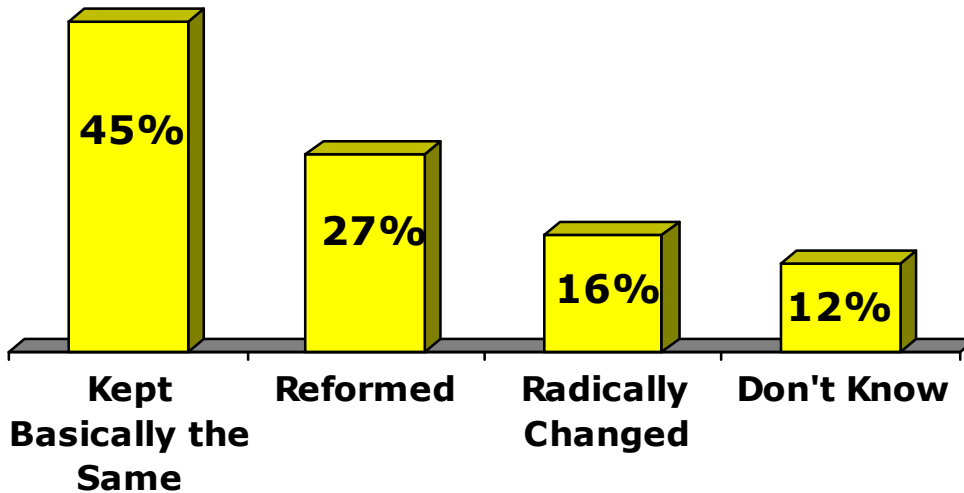
How familiar would you say you are with class action lawsuits? Would you say you are...



■ Very/Not at all ■ Somewhat/Not very

Specifically With Regard To The Class Action System...

Given what you know, do you think the class action lawsuit system should be:



	Dem	Rep	Ind
Kept Basically the same	54	40	41
Reformed	24	31	27
Radically Changed	13	13	20
Don't know	9	16	12

- We asked this question again at the end of the poll, the response to which showed significant movement to reform the class action system after hearing legislative provisions.

Note: before asking this question, our interviewers described class actions as follows: "Now, as you may know, a class action lawsuit is when a lawyer and a small number of people bring a lawsuit and act as the representatives of other people with the same claim against a defendant or group of defendants. All these people are then known as members of the class. They will benefit from the judgment in the lawsuit if the class representatives win the case, but if the class representatives lose, they can't bring their own personal lawsuits."

Federal Courts The Preferred Venue For Class Actions

Now I am going to read you short descriptions about certain kinds of legal cases that make it to court, and I want you to tell me where they are best handled, in the State courts or the Federal courts.

	State Courts D/R/I	Federal Courts D/R/I	Don't Know D/R/I
Individual civil cases, where one side, the plaintiff, sues another side, the defendants, for money.	83 81/87/82	10 13/6/10	7 5/8/7
Trials of crime and criminals, where those on trial may, if found guilty, end up in jail.	71 69/77/69	20 21/17/21	9 11/6/10
Class action lawsuits, when a group of individuals alleges damages and sue a company for money.	40 36/43/42	50 53/48/49	10 11/9/9

- Though state courts are preferred for most matters, particularly with local interests, respondents confer a special status on class action lawsuits, acknowledging their complexity and multi-state scope.
- Among those “familiar” with class action lawsuits, Federal Courts favored for class actions 53% to 37%.

Attributes of Federal and State Court Systems

I'm going to read a short series of statements. I would like you to tell me, in your opinion, do the following statements apply more to the State court system or the Federal court system.

Ranked by Federal Courts	State Courts	Federal Courts	Don't Know
Consolidates laws into a uniform system that is applied to all cases.	26	62	12
Has sufficient resources and expertise to class action cases.	24	61	15
Is generally immune to manipulative loopholes.	31	47	22
Is fair and impartial to all parties in a case.	36	41	22
Is more favorable to those being sued and the defense attorneys.	54	24	22
Is more favorable to those bringing suit and the plaintiff's attorneys.	57	24	19
Is overcrowded with frivolous lawsuits.	62	23	15

- Federal Courts cited over State Courts for applying a uniform system, having sufficient resources, and being more immune to loopholes.

Lawyers Benefit Most From Current Class Action System

Who do you think MOST benefits from the current class action lawsuit system?	TOTAL D/R/I
Lawyers who represent alleged victims	47 38/57/47
Lawyers who represent the companies being sued?	25 27/23/24
People who are part of the class action lawsuits	10 15/5/9
Consumers who buy the company's products	7 10/6/5
Don't Know	6 6/3/9
Corporations who are being sued	5 4/6/6

Who do you think LEAST benefits from the current class action lawsuit system?	TOTAL D/R/I
Consumers who buy the company's products	41 39/43/42
People who are part of the class action lawsuits	30 31/29/31
Corporations who are being sued	15 18/18/12
Lawyers who represent the alleged victims	5 5/3/7
Don't Know	5 4/5/7
Lawyers who represent the companies being sued?	3 4/3/3

- Among those "familiar" with class action lawsuits, 51% say lawyers representing victims benefit most.

Fair/Unfair? Current System Seems to Defy Common Sense

Ranked by Unfair	Sounds Fair ALL D/R/I	Sounds Unfair ALL D/R/I	Don't Know ALL D/R/I
A class action lawsuit reaches a settlement in which members of the class receive coupons for discounts on future purchases while the lawyers involved take their fees in cash. Is that...	8 7/10/6	90 91/88/90	3 2/1/4
A company headquartered in one state is hit with a class action suit in a far-away state because some of the class members live in that state but many live in other states as well. The plaintiff's lawyers have chosen that location for the suit because they think they have a favorable judge there. Is that...	26 25/23/28	69 69/74/67	5 5/4/4
You live in one state but a class action suit affecting you is brought in another state and decided based on the laws and judges of that state, not by Federal judges. Is that...	28 27/29/26	66 67/67/65	6 5/3/9
A company headquartered in one state is hit with a class action suit in a far away state though members of the class are located in many states. The law allows the company to ask that the case be moved to a federal court. Is that...	71 68/74/72	23 25/20/23	6 7/6/5

➤ 71% say "fair" for companies to ask for removal to federal court.

People Believe The System Has Many Underlying Problems

➤ Concern for plight of victims; less concern for corporations.

I am going to read you several things that may or may not be happening as a result of today's class action lawsuit system. After each one, please tell me if you think the statement is probably true or probably untrue. <i>Ranked by Probably True</i>	Probably True	Probably Untrue	Don't Know
The current class action lawsuit system... ...means that people have to wait, sometimes years, for their cases to be heard. And many victims die waiting for that chance.	88	8	4
...has been exploited in recent years to allow lawyers to sue for frivolous reasons in which little or no harm was done but legal costs get passed on to consumers resulting in higher prices.	80	17	3
...results in lawyers keeping most of the money awarded in these cases, while the people suing end up with little of that money.	80	16	4
...results in courts clogged with frivolous lawsuits, which has slowed down reaching settlements and left people with series injuries having to wait to receive fair compensation.	79	15	6
...allows average people to hold big corporations with vast resources responsible for their actions.	69	28	3
...has led to countless improvements in safety regulations, product designs or other reforms which have significantly lowered our risk of death or injury from consumer products.	68	26	6
... forces some companies to lay off their employees due to huge jury awards or high legal costs that make the business unprofitable.	62	32	5
...results in companies taking useful products off the market because of the fear of lawsuits.	62	35	4
...ensures that corporations do not get away with avoiding financial responsibility for their actions and products.	60	37	3

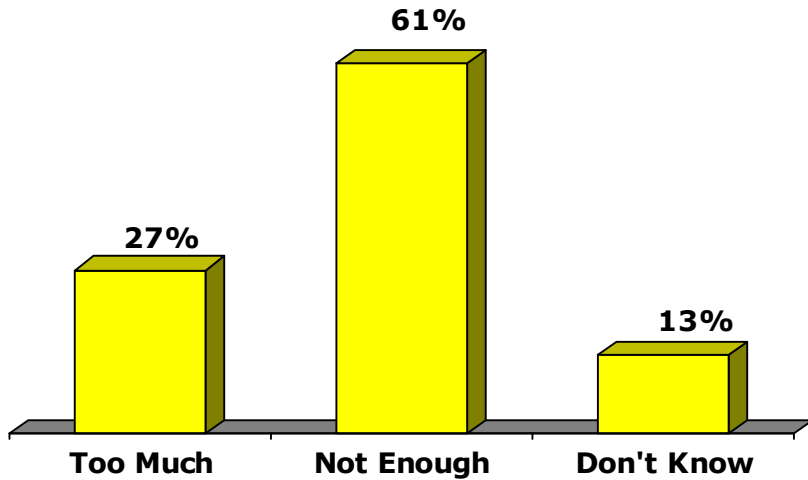
The Debate Over Removal of Class Actions To Federal Court

➤ Forum Shopping, Freeing Up State Resources Top Concerns

<p>There is a debate in Congress about moving big class action lawsuits from State court to Federal court. I'll read you several of the reasons that supporters give for moving those lawsuits, and I want you to tell me if you strongly agree with them, somewhat agree with them, somewhat disagree with them, or strongly disagree with them. - <i>Ranked by Strongly Agree</i></p>	<p>Strongly Agree</p>	<p>Agree/ Disagree</p>
<p>Class action plaintiff's lawyers shop around for judges, looking for a handpicked State judge who might be more negative to an out-of-state company than an unbiased Federal judge.</p>	<p>34</p>	<p>69/27</p>
<p>Moving complex class action cases out of state courts will free up judicial resources in the states to focus better on trying local criminals rather than deciding coupon cases.</p>	<p>31</p>	<p>67/28</p>
<p>A lawyer can file a class action suit in a state court to coerce a settlement on quick and favorable terms to him, even if that settlement means consumers receive few benefits and lose their rights as a result.</p>	<p>24</p>	<p>60/36</p>
<p>Unlike state jurisdictions, Federal jurisdiction assures increased scrutiny of abusive coupon settlements that benefit the lawyers at the expense of consumers.</p>	<p>21</p>	<p>65/29</p>
<p>Federal judges are better at policing settlements in class action lawsuits, reducing the chance that that settlements agreed to behind closed doors end up not being in the best interest of the class members.</p>	<p>20</p>	<p>62/34</p>
<p>In class action lawsuits today, a judge from a state or county court can override consumer protection provisions of the other 49 states, effectively taking away some of the rights that consumers enjoy from their own state's laws.</p>	<p>20</p>	<p>58/35</p>
<p>Federal courts will be fairer and faster than State courts, and switching to Federal courts leaves unchanged the basic right to bring class action lawsuits.</p>	<p>18</p>	<p>57/38</p>

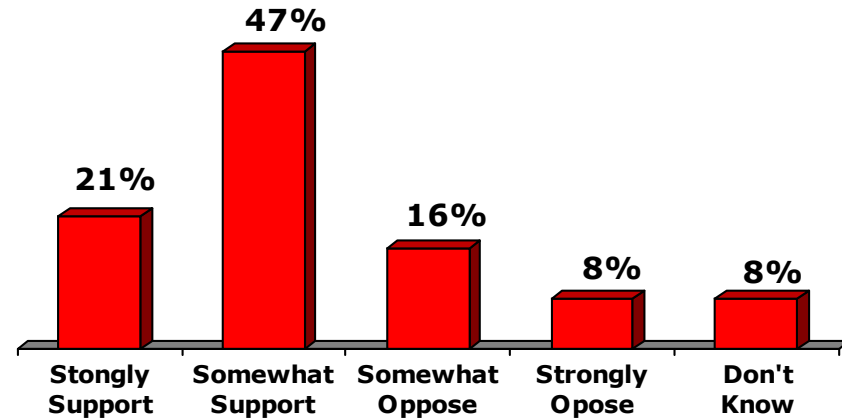
Congress Hasn't Done Enough; 68% Support New Legislation

Thinking about the role of that Congress has played in passing laws that regulate how our legal system functions, do you think that they have done...



	Dem	Rep	Ind
Too Much	22	35	26
Not Enough	64	54	62
Don't know	15	11	11

What is your opinion about Congress enacting legislation to make some reforms to our legal system for handling class action lawsuits? Would you...



	Dem	Rep	Ind
Strongly Support	20	23	21
Somewhat support	48	49	44
Somewhat oppose	13	14	19
Strongly oppose	10	9	7
Don't know	8	5	9

All Provisions Of Proposed Legislation Make System "Better"

➤ "Plain English" is the most popular provision.

Let's say Congress is going to pass a law that affects the way our legal system functions. I am going to read you a list of possible provisions and I want you to tell me how much you think it might improve the class action system. When I refer to "members of the class," I'm talking about the folks who are put together to sue for damages that they all claim to have suffered. <i>Ranked by Better</i>	Better	Worse	Same
The legislation would require that all notices that people receive in the mail telling them they're in a class action settlement must be written in plain English instead of the confusing legalese they're now written in.	83	4	12
The legislation would allow either side to move any class action lawsuit to Federal court from State court if it involves people and companies from multiple states and more than 2 million dollars in potential damages.	62	10	23
The legislation would require class action lawsuits to state clearly the facts of the case and the damages sought. If they can't show up front that there is a strong case on behalf of the class members, it may not go forward.	61	8	25
The legislation would require that no member of the class be assessed more in legal fees than they actually benefit from the settlement.	58	7	26
A class action lawsuit involving people from multiple states and more than 2 million dollars in potential damages will now be able to be heard in Federal courts.	56	7	33
Some members of a class get more money for putting their names on the lawsuit to get it filed, but under the new legislation they would receive no greater benefits than anyone else in the class.	56	14	26

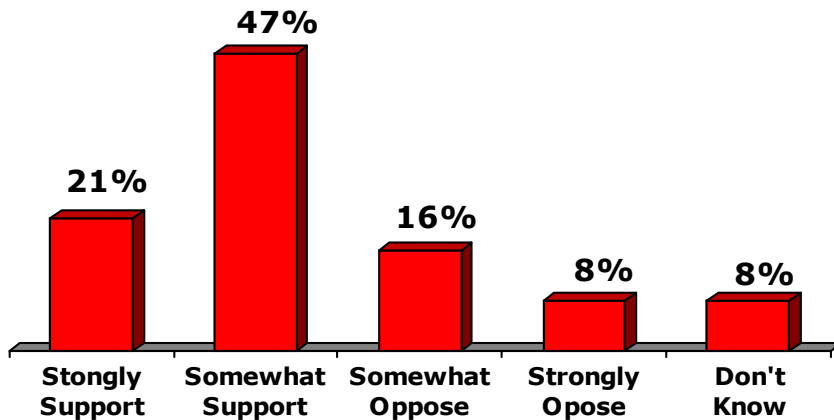
Provisions Of Proposed Legislation -- Continued

<p>Let's say Congress is going to pass a law that affects the way our legal system functions. I am going to read you a list of possible provisions and I want you to tell me how much you think it might improve the class action system. When I refer to "members of the class," I'm talking about the folks who are put together to sue for damages that they all claim to have suffered.</p>	<p>Better</p>	<p>Worse</p>	<p>Same</p>
<p>The lawyers for class members must show clearly that the members were harmed, either financially or physically in a material way, and how much fixing that harm will cost. If they can't point to a real injury, it may not go forward.</p>	<p>55</p>	<p>14</p>	<p>27</p>
<p>Today a local judge can rule that local members in a class action get a higher settlement than others in the class action. Now no one can get a better or worse deal solely based on where they live.</p>	<p>51</p>	<p>16</p>	<p>28</p>
<p>The legislation would allow early appeals before a trial or settlement is complete to determine if a class action lawsuit has sufficient merits to justify the time and expense of continuing it.</p>	<p>50</p>	<p>10</p>	<p>34</p>
<p>Some states allow big lawsuits to remain in the state courts because they are not technically labeled class action lawsuits. That loophole will be closed, and those lawsuits will be treated like other class action lawsuits.</p>	<p>49</p>	<p>11</p>	<p>35</p>
<p>The legislation would require notification of the U.S. Attorney General and state attorneys general about proposed settlements and allow them 60 days to review and comment on them before they are finalized.</p>	<p>48</p>	<p>10</p>	<p>36</p>
<p>The legislation would determine if a Federal or State agency might be already empowered and more appropriate than a class action lawsuit to handle certain matters. A judge would allow the agency to try to handle it first.</p>	<p>46</p>	<p>13</p>	<p>35</p>
<p>Sometimes they settle suits by giving class members coupons for discounts from the companies they sued. The legislation would now require a judge to decide whether the use of coupons is fair to the class members.</p>	<p>37</p>	<p>29</p>	<p>32</p>

Pre/Post: Support Increases 13% After Provisions from 68% to 81%

BEFORE

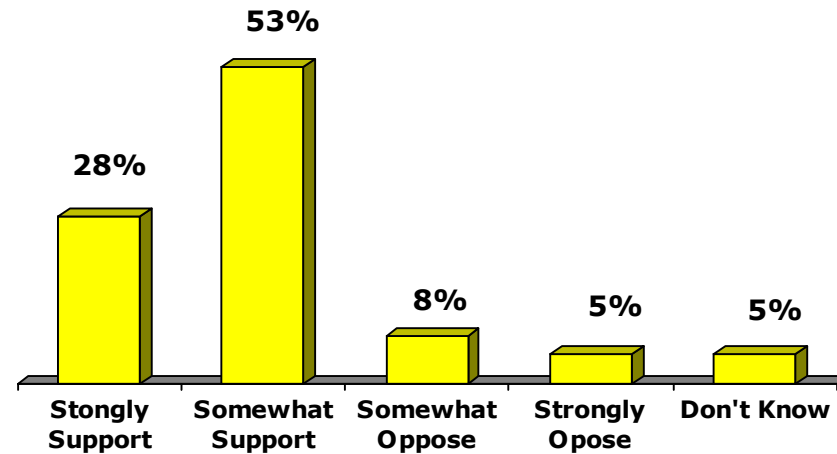
What is your opinion about Congress enacting legislation to make some reforms to our legal system for handling class action lawsuits? Would you...



	Dem	Rep	Ind
Strongly Support	20	23	21
Somewhat support	48	49	44
Somewhat oppose	13	14	19
Strongly oppose	10	9	7
Don't know	8	5	9

AFTER

Based on the provisions of the new bill that you have just heard, what is your opinion about Congress enacting legislation to make some changes to our legal system for handling class action lawsuits? Would you...

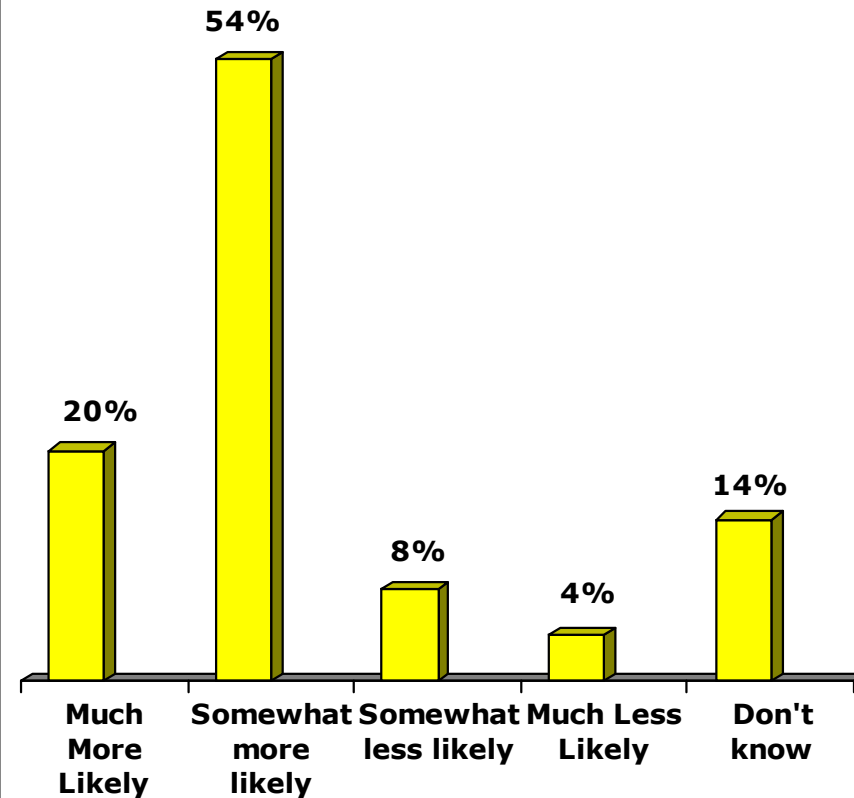


	Dem	Rep	Ind
Strongly Support	23	34	29
Somewhat support	56	48	53
Somewhat oppose	8	10	8
Strongly oppose	8	3	4
Don't know	5	5	6

Voters Will Support Those Who Reform Class Action System

If a senator or representative from your state supported this legislation to make reforms to the legal system, would you be much more likely to vote for them in the next election, somewhat more likely, somewhat less likely, or much less likely to vote for them in the next election?

	MORE	Much more	Some what more	LESS	Some what less	Much less
Suburbs	79	23	56	8	6	2
Blacks	76	28	48	16	13	3
Male	75	21	54	12	8	4
Republicans	75	20	55	9	7	2
Democrats	74	19	55	14	11	3
Whites	74	18	56	12	8	4
City	73	15	58	13	7	6
Ind	72	19	53	12	6	6
Female	72	18	54	12	8	4
Hispanic/ Latino	70	29	41	11	6	5
Rural	70	22	48	15	11	4



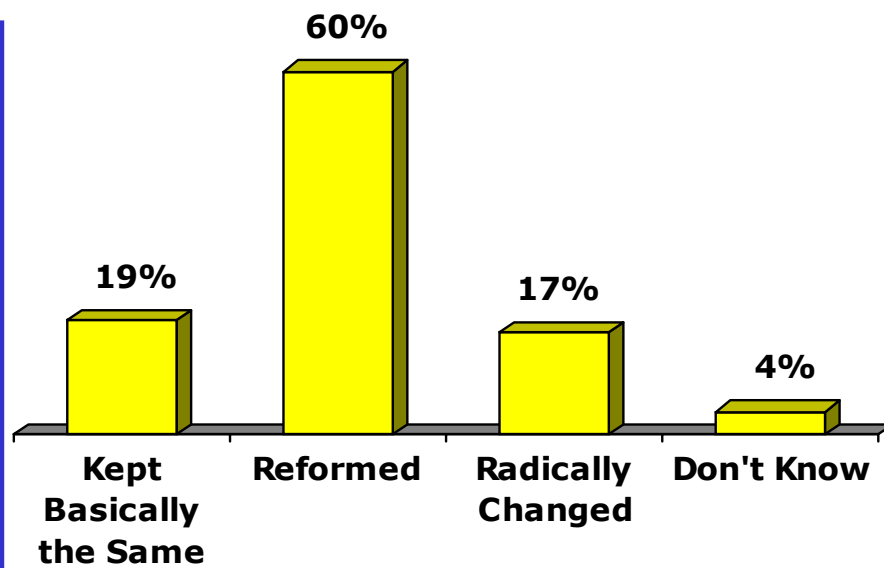
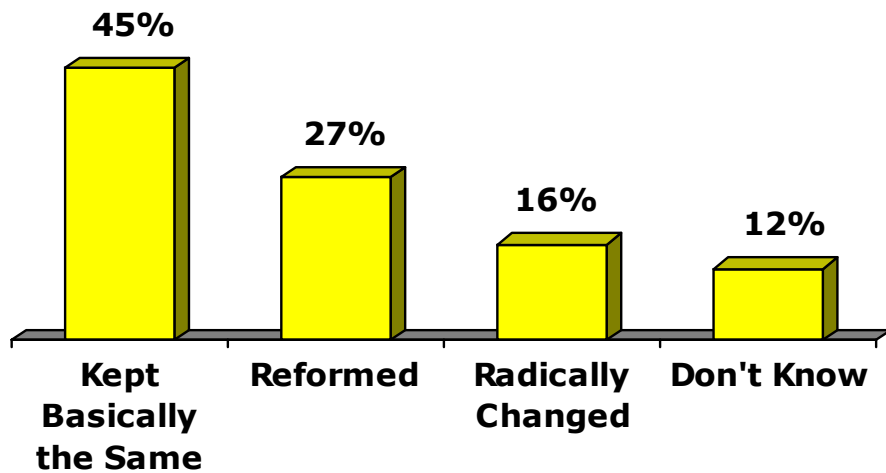
➤ Suburban voters most supportive of new legislation.

Pre/Post: Support For Reform Increases 33%

BEFORE

AFTER

Based on everything that we have talked about today, do you think the class action lawsuit system should be:



	Dem	Rep	Ind
Kept Basically the Same	54	40	41
Reformed	24	31	27
Radically Changed	13	13	20
Don't know	9	16	12

	Dem	Rep	Ind
Kept Basically the Same	22	15	18
Reformed	55	66	61
Radically Changed	19	15	18
Don't know	4	3	4

Washington Post Editorial – Analysis of Agreement

- Until this point in the poll, interviewers focused impartially on the many issues involved in proposed class action reform legislation. After completing approximately 70 substantive questions, respondents were asked to appraise an editorial that appeared in a major U.S. newspaper.
- The editorial, from the August 21, 2001 edition of the Washington Post, was entitled “Actions Without Class” and outlined many of the challenges facing the class action system that this poll attempted to quantify.
- Interviewers read six passages from the 627-word editorial to the respondents. Respondents were in broad agreement (between 60% and 80%) with the substantive points of the editorial.

Washington Post Editorial – Statements 1 & 2

“No portion of the American civil justice system is more of a mess than the world of class actions. None is in more desperate need of policymakers’ attention.”

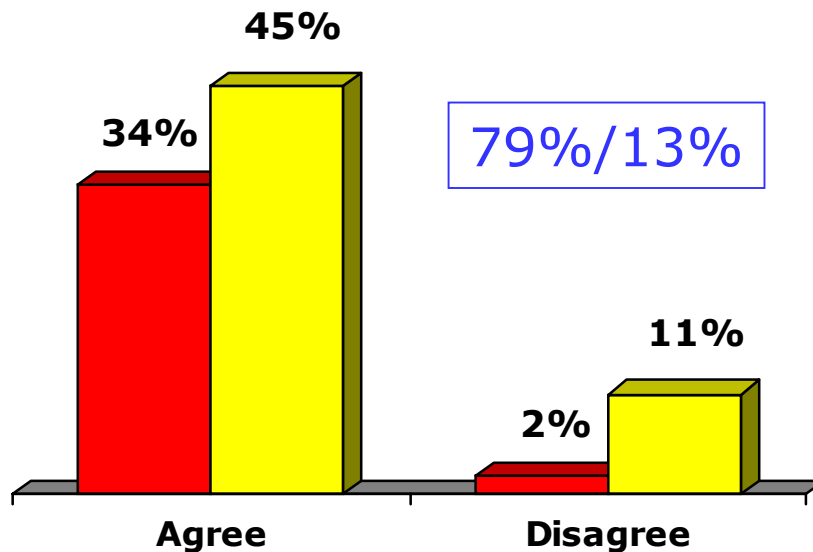
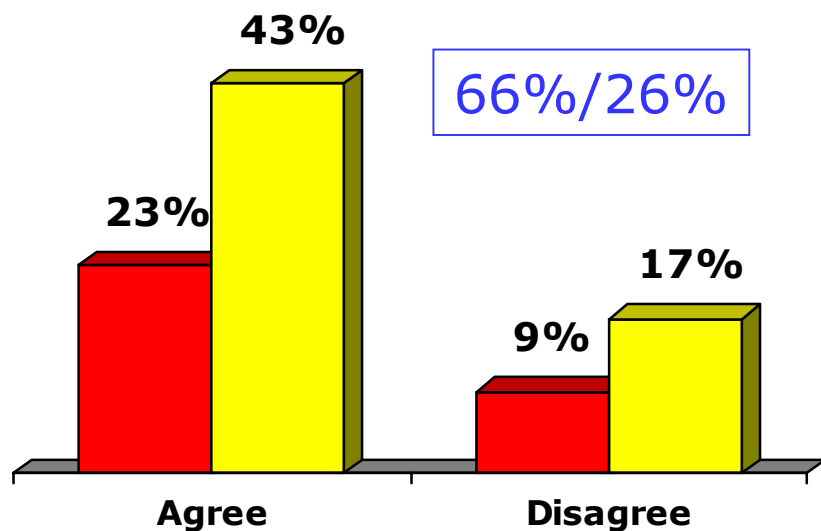
“The idea behind class actions is reasonable. When many people have the same claim against the same defendant, litigating those claims together is more efficient. In the hands of public interest groups, class actions have prodded enforcement of laws that government has neglected.”

	Dem	Rep	Ind
Strongly Agree	19	28	22
Somewhat Agree	48	40	44
Somewhat Disagree	19	19	16
Strongly Disagree	7	10	11

	Dem	Rep	Ind
Strongly Agree	37	30	34
Somewhat Agree	45	47	45
Somewhat Disagree	11	14	11
Strongly Disagree	2	3	1

■ Strongly

■ Somewhat



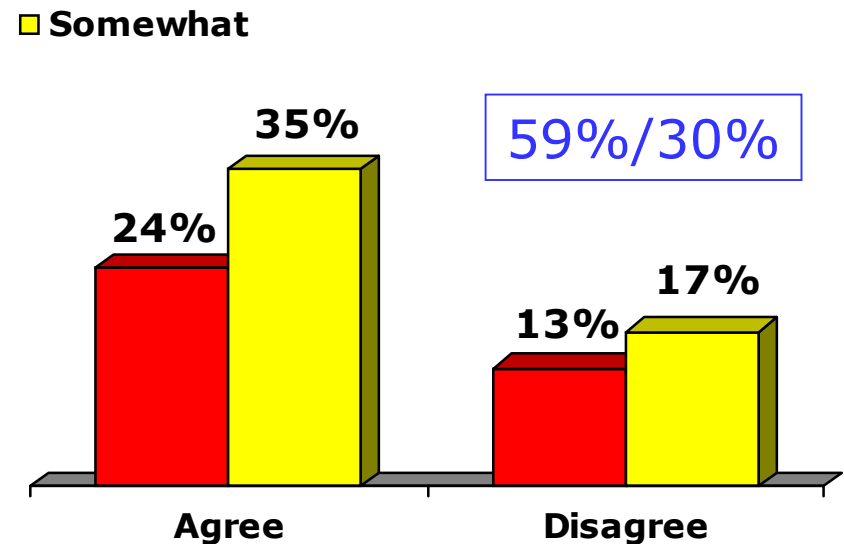
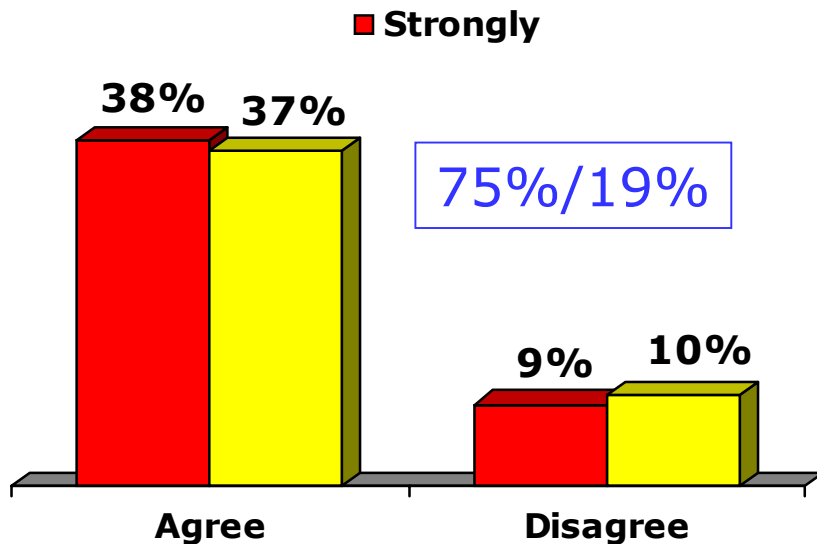
Washington Post Editorial – Statements 3 & 4

“Class actions are unusually prone to abuse, and the incentive structure of modern class-action litigation encourages bad behavior by lawyers who are accountable to nobody.”

“Under the current rules, national class actions can be filed in just about any court in the country. Unsurprisingly, they are filed disproportionately in specific state courts with elected judges supported by lawyers’ campaign donations.”

	Dem	Rep	Ind
Strongly Agree	27	50	41
Somewhat Agree	37	37	38
Somewhat Disagree	15	3	12
Strongly Disagree	15	5	6

	Dem	Rep	Ind
Strongly Agree	28	28	18
Somewhat Agree	32	36	38
Somewhat Disagree	21	14	17
Strongly Disagree	11	8	19



Washington Post Editorial – Statements 5 & 6

“Merely by filing a claim that survives dismissal, the plaintiffs’ lawyers get wide-ranging discovery -- the right to ask intrusive questions and demand reams of information from the defendants. Because litigating is costly and the discovery can be embarrassing, companies often settle even cases that have no merit.”

“The focus of legal reform should be to inject the world of class actions with more accountability to real clients and with some consequences to lawyers who file frivolous claims. The first step is to make it easier to shift state court cases into the federal system. This would ensure that national classes get handled by a court system that operates according to reasonable rules and is accountable to the entire country.”

	Dem	Rep	Ind
Strongly Agree	28	41	29
Somewhat Agree	33	37	35
Somewhat Disagree	26	10	16
Strongly Disagree	8	8	12

	Dem	Rep	Ind
Strongly Agree	47	47	40
Somewhat Agree	34	36	38
Somewhat Disagree	6	6	8
Strongly Disagree	5	2	7

