



Testimony of Attorney General Lynn Fitch (MS)
U.S. Senate Committee on the Judiciary
on The Foreign Sovereign Immunities Act, Coronavirus, and Addressing China's Culpability
Tuesday, June 23, 2020

Thank you, Chairman Graham, Senator Feinstein, and all the members of this Committee, for the opportunity to appear before you on this important matter.

Like the rest of our nation, and, indeed, the world, Mississippi has faced and continues to face devastating consequences as a result of the Coronavirus pandemic. It will likely take many years to recover from the loss of life and livelihood. Over the course of three months, we have seen 22,287 cases and 978 deaths. At its height in May, 208,270 Mississippians filed for unemployment benefits. Our unemployment rate jumped from 5.1 percent to 16.3 percent in just one month. As a largely rural State, our numbers may seem small compared to hot spots, like New York City; but to a State with a population of roughly three million, this is significant.

Those are the losses we can quantify. We cannot even begin to measure the emotional and mental side effects that this pandemic has thrust upon us. The students who left school one day, only to never return to their classrooms for the remainder of the school year. The graduations, weddings, and birthday celebrations that were abruptly cancelled. The family businesses that will not be passed down to future generations.

Mississippians, like others, have not been able to visit with their elderly loved ones, many of whom sit in nursing homes growing depressed at their isolation from children, grandchildren, and friends. We have even been cheated of proper mourning, with funerals and viewings unsafe for all in attendance.

The people of Mississippi have suffered tremendous loss and while we appreciate the generous assistance that the Federal government has provided, we believe that much of this loss could have been avoided had China acted as a more responsible global citizen. In fact, not only did China fail to promptly inform the people of the world of the seriousness of this strong contagion, they willfully acted to prevent the world from knowing about COVID-19 and to downplay what the world did know in an effort to benefit themselves.

And, China must be held accountable for those actions. They must be held accountable for:

- (1) Keeping the world in the dark about the true nature of this public health crisis;
- (2) Using the time that bought them to hoard masks and other personal protective equipment; and
- (3) When the rest of the world eventually needed them, selling defective or substandard PPE at inflated costs.

If an American company had engaged in actions like these, Attorneys General across the country would be lining up at courthouse doors to file suit. And, as Mississippi's Attorney General, I did just that. We filed suit in the U.S. District Court for the Southern District of Mississippi in May, seeking damages under the Mississippi Consumer Protection Act (MCPA) and the Mississippi antitrust statute.

We believe that there is more than ample evidence that China engaged in commercial activities, which is an exception to the Foreign Sovereign Immunities Act. These activities include the production, purchasing, import, and export of personal protective equipment (PPE). Under the MCPA, we have to show that China engaged in unfair and deceptive methods, acts, or practices in this activity. And, under the antitrust law, we have to show that China was engaged in restraining or attempting to restrain freedom of trade of PPE by engrossing or forestalling, or attempting to engross or forestall, PPE. We believe their actions demonstrate that they created an environment ripe for the need for PPE, distorting natural supply and demand patterns to its own unjust enrichment.

AGs file consumer protection suits just like this one not only to recover monetary compensation for losses, but also to act as a deterrent against future similar bad acts. China needs to know that America will use every tool at our disposal to hold them accountable when they wreak this type of havoc on our people. Their actions exacerbated the sickness and death that we experienced. Their actions caused many more businesses to close and millions more to have to seek unemployment insurance. Their actions put our poor and underserved communities in grave danger by disrupting the safety nets that schools and communities provide. Their actions disrupted our way of life – from our celebrations of weddings and graduations to our bereavement and mourning traditions.

And, we still don't know the true cost of their actions in terms of grave and lasting concerns like depression, mental health issues, and increased addiction behaviors or the unaccounted for uptick in domestic abuse of women and children. China and every other nation needs to know that this is unacceptable to us.

The Coronavirus has killed, caused serious medical harm, destroyed businesses, and functionally altered the American way of life. We must hold China accountable now so that they and all other nation-states will know that we will not allow them to act with impunity; that when they inflict damage on the American people, we will not turn a diplomatic blind eye but will use whatever tools we have at our disposal to seek justice.

Thank you for this opportunity to share Mississippi's story with you. I look forward to your questions.