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March 21, 2017

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
State Capitol, Room 5155
Sacramento, CA 95814

RE: AB 889 (Stone) Secrecy agreements: public dangers - SUPPORT
As Introduced February 16, 2017
Assembly Judiciary Committee – April 4, 2017

Dear Assemblymember Stone:

The Consumer Federation of California supports your legislation, Assembly Bill 889, which will prohibit orders and agreements that conceal evidence of a “danger to public health or safety,” which the bill defines as any product, substance, or condition that is likely to cause “significant or substantial bodily injury or death.”

Court records are presumptively open to public inspection. Even in a dispute between private parties, a court’s determination of that dispute is a matter of public interest. This is particularly true in cases involving a public danger, such as a defective consumer product or environmental hazard. Unfortunately, numerous examples exist of courts sealing incriminating documents, issuing protective orders that keep discovery information secret, and settlement agreements that prohibit the parties from disclosing the facts that prompted the case.

Secrecy in litigation is not appropriate if it keeps evidence of a public danger from public scrutiny. While nearly a dozen states have enacted anti-secrecy legislation, there is no corresponding evidence that such legislation discourages settlements, exposes proprietary interests or trade secrets, or imposes burdens on the courts.

AB 899 will enhance public safety by reducing unnecessary and overly broad protective orders or secrecy provisions in settlement agreements. Thank you for your leadership on this important issue.

Sincerely,

Richard Holober
Executive Director

cc: Members and Committee Staff, Assembly Judiciary Committee