

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

& MEETINGS MODEL

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Home → Model Legislation → Civil Justice

Resolution on Protective Orders

Did you know that Victor Schwartz--a lawyer who represents companies in product litigation--was the corporate co-chair in 2011?

WHEREAS, proposals have been put forth in a number of state legislatures that would make it extremely difficult to maintain the confidentiality of sensitive information (e.g., trade secrets) produced during the course of discovery or contained in settlement agreements, and

WHEREAS, confidentiality plays an important role in litigation, because parties in civil cases have legitimate interests in protecting privacy as well as confidential, proprietary and trade secret information, and

WHEREAS, plaintiffs, defendants, and witnesses often expose very personal, sensitive information in courts, and public disclosure of this information would be an unwarranted intrusion of the right to privacy, and

WHEREAS, fear of disclosure of personal information could have a chilling affect on the willingness of persons to bring claims or to seek professional help or to discuss their problems candidly with a health care professional, and

WHEREAS, disclosure of trade secrets and similar "intellectual property" could be used by foreign businesses to gain an unfair competitive advantage over their United States counterparts, and

WHEREAS, the ability of litigants to preserve the confidentiality of proprietary and other sensitive information, as well as the provisions of settlement agreements, facilitates settlements, protects privacy and serves the interests of the public and parties to disputes, and

WHEREAS, privacy and confidentiality must be balanced with the goal of protecting public safety, and

WHEREAS, regulatory agencies exist to promote and protect public safety and are vested by the legislature with the power to make and enforce rules and regulations relating to product safety, including the power in some cases to order recalls of products that are deemed unsafe, and

NOW THEREFORE, be it resolved by the American Legislative Exchange Council ("ALEC") that legislation relating to protective orders and **sealed settlement agreements** in civil litigation, should ensure that:

1. a balance is maintained between the public's right to know and the protection of privacy, confidential, proprietary, and trade secret information, that
2. the right of parties to protect the confidentiality of the terms of their private settlements and the integrity of judicial protective orders should be preserved, that
3. **the public's right to the assurance of safe products in the marketplace should be protected by a requirement of notification to appropriate state or federal agencies with safety oversight over particular products**, and where products are determined by such agencies to be dangerous, provision should be made for the promulgation of specific rules and, where appropriate, regulations relating to the particular product, that
4. on reasonable cause, interested parties have the right to make application to a court which had issued a protective order to suspend the protective order for the limited purpose of making the specific relevant contents of the proceeding available to the appropriate state or federal agency with safety oversight over the particular product, that
5. the agency is given access to such relevant information relating to the product for the sole purpose of investigating whether there is a need to enforce an existing rule or to promulgate new or different rules or regulations relating to the safety of the product, that
6. **clear and convincing evidence is presented that the agency cannot obtain the information from any other source**, that
7. the agency, including agency personnel be strictly bound by the terms of the protective order or settlement agreement and that only agency personnel with a need to know be given access to the information, and that **any personnel who are given access to the information be informed of their personal obligation to maintain its confidentiality** and that it is to be used solely for the purpose of investigating the danger complained of and for generating the appropriate remedy for the danger, and that after the need for the information had ended, the information is to be sealed or otherwise protected from disclosure and so certified to the owner of the information, that

8. appropriate rules are drafted to ensure the maintenance of confidentiality by the agency personnel including appropriate penalties for wrongful disclosure, that

9. the party who is ordered to provide information to the agency should be given notice and an opportunity to be heard on the issues of whether and what information must be made available to the agency, and that

10. nothing in any rule or legislation shall be construed to give private litigants or non-government organizations the right to seek information that contravenes the terms and a protective orders or settlement agreement.

Adopted by ALEC's Civil Justice Task Force at the States and Nation Policy Summit December 14, 2001. Approved by full ALEC Board of Directors January, 2002.

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECExposed.org. For more information contact: editor@prwatch.org or 608-260-9713.

From CMD: This resolution attempts to keep information about dangerous products manufactured by corporations secret from the public. The resolution suggests that only safety agencies should have access to information discovered during a lawsuit brought to compensate an injured American, even if other Americans might be saved or helped by learning about the dangers of the product. Even safety agency access would be limited under this provision to proving that the agency could not obtain the information about the dangerous product any other way and the agency would be forbidden from telling the public about the specific dangerous product and its employees would be gagged from alerting the public to known dangers.