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STATEMENT TO THE SENATE STANDING COMMITTEE ON CONSUMER PROTECTION AND THE SENATE STANDING COMMITTEE ON INTERNET AND TECHNOLOGY REGARDING PROTECTING CONSUMER DATA AND PRIVACY ON ONLINE PLATFORMS

Chairman Thomas, Chairwoman Savino, and Members of the Committee, we applaud your interest in protecting consumers from the ever-evolving privacy challenges of our current technological age.

I am the executive director of the Lawsuit Reform Alliance of New York (LRANY), a nonpartisan organization that advocates for reforms to the civil litigation system. I also serve on the advisory board of the Progressive Policy Institute's Center for Civil Justice.

Data privacy is a critical issue facing New York consumers, however, the current proposal under consideration, and specifically the private right of action, which in effect deputizes private attorneys to act as government enforcers, outlined in S5642, would potentially cause more problems than it will solve.

This for-profit model of law enforcement is not ideal. While the government's interest is focused on protecting the greater good, law firms are interested in their bottom line. Private rights of action create a perverse incentive for private lawyers, who have no accountability to the public, to file cases with little or no merit. Plaintiff's lawyers collect the largest monetary settlements when they target companies with the deepest pockets as those institutions are likely inclined to settle to avoid incurring the expense of litigation or bad press. This means that the worst offenders are not the targets of these private enforcement actions – the wealthiest are.

Illinois recently discovered the drawbacks of private enforcement. After passing the Biometric Information Privacy Act (BIPA), law firms filed hundreds of claims in just two years against companies even when no actual harm was found to have been brought upon individuals or the public.

Enforcement of data privacy should be limited to institutions that prioritize the public, not profits. Those trusted, elected, and most importantly, accountable government officials and regulators should be the entities responsible for investigating and punishing data privacy violations. Regulation of this complex and dynamic part of our economy should be entrusted to experts with the interests of the public in mind. This will ensure that data privacy is regulated and enforced thoughtfully and for the common good, rather than for the financial gain of enterprising lawyers.

For these reasons, we strongly encourage the committees to preclude private rights of action from the regulation and enforcement of data privacy. Private rights of action encourage litigation over innovation. Securing our personal information requires innovative solutions, not another payday for lawyers.

Respectfully,

A handwritten signature in black ink, appearing to read "Tom Stebbins".

Tom Stebbins
Executive Director