

**Statement of the Honorable Steve Cohen for the Hearing on
“Oversight of the Judgment Fund” Before the Subcommittee on the
Constitution and Civil Justice**

**Thursday, March 2, 2017 at 9:00 a.m.
2141 Rayburn House Office Building**

I appreciate the opportunity to hold this hearing on oversight of the Judgment Fund.

It is hard for anyone to be opposed to transparency in principle, particularly with respect to the use of taxpayer money.

And Congress has a duty to hold hearings like the one today as part of its stewardship of public funds.

Congress created the Judgment Fund to largely eliminate the burden of appropriating funds to pay judgments *every time* the federal government either lost a lawsuit for money damages in court or decided to settle such a case.

Last time we held this hearing, it appeared to focus on the payment by the Obama Administration of \$1.7 billion to Iran for the settlement of pre-revolutionary claims before the U.S.-Iran Claims Tribunal that dated back almost four decades, with \$1.3 billion in interest payments coming from the Judgment Fund.

I hope we will not re-litigate this matter today. That payment was constitutional and legal and stemmed from pre-1979 legal claims against the United States by Iran.

Rather than illustrating a problem, the Iran settlement was exactly the kind of settlement that Congress intended the Judgment Fund to pay for and is an example of how settlements, negotiated by an Executive Branch given proper leeway, can be a benefit for taxpayers.

Nonetheless, I am a firm believer that, in general, the more transparency in government, the better.

Indeed, given the many questions that have arisen about the Trump Administration and potential conflicts of interest, greater transparency measures may be more appropriate than ever.

This is why I was proud to be the lead Democratic sponsor of H.R. 1033, the “Open Book on Equal Access to Justice Act,” which passed the House under suspension of the rules 3 days ago.

This sensible legislation requires annual reports on the amount of fees paid under the Equal Access to Justice Act to prevailing litigants against the government.

These reports will allow Congress to know:

- the agencies required to reimburse parties for their litigation costs;
- the claims that gave rise to the litigation; and
- the amount of awards made under the Act as well as the basis for them.

Importantly, H.R. 1033 respects the privacy interests of the parties who are reimbursed for their litigation costs pursuant to the Act, striking the right balance between encouraging transparency and respecting the legitimate privacy interests of parties by prohibiting the release of “any information the disclosure of which is prohibited by law or court order.”

With respect to the Judgment Fund, there is other legislation designed to increase transparency over the Fund.

Last year, when the Judiciary Committee marked up that legislation, I had been prepared to support it, given my support for other transparency measures.

It is my understanding, however, that the Treasury Department informally raised concerns leading up to the markup, in particular because the legislation under consideration mandated the disclosure of information protected under the Privacy Act, in contrast to the balance between privacy and transparency struck in H.R. 1033.

I hope we can work to resolve these matters so that we could move forward with a truly bipartisan Judgment Fund transparency measure.

I welcome the witnesses and look forward to their testimony.