

# KEY VOTE ALERT!

March 7, 2017

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

**The U.S. Chamber of Commerce and the U.S. Chamber Institute for Legal Reform (ILR) support H.R. 725, the “Innocent Party Protection Act.” The Chamber will consider including votes related to it in its 2017 *How They Voted* scorecard.**

Plaintiffs’ lawyers often prefer to file lawsuits with a non-diverse local defendant (i.e., a defendant that is located in the same state where the lawsuit was filed) in order to keep their cases in trial lawyer friendly state courts. Unfortunately, there are numerous examples of local jurisdictions where the trial bar has a home field advantage against out-of-state businesses. Furthermore, this practice harms non-diverse local defendants, many of whom are small businesses, because they still have to expend resources to defend themselves, even if the plaintiff’s attorney has no real intention of pursuing a judgment against them.

While national defendants attempt to remove these cases to federal court, under current diversity jurisdiction practices, the federal courts are forced to remand these cases back to state court due to the presence of the non-diverse local defendant, even if the plaintiff really has no interest in pursuing a judgment against that entity. The fraudulent joinder doctrine allows a federal court to potentially rectify this unfair result and disregard, for jurisdictional purposes, the citizenship of a non-diverse defendant. Unfortunately, the federal courts are split on how best to apply that doctrine and which standard to apply.

H.R. 725 would help solve these problems. First, this bill would set a unified standard for all the federal courts to follow. This bill would require federal courts to evaluate whether the plaintiff has stated a “plausible claim for relief” against the non-diverse defendant. Second, this bill would make clear that federal judges are allowed to consider whether the plaintiff has a good faith intention of seeking a judgment against a non-diverse defendant. Third, this bill would clarify that federal courts can consider information beyond the four-corners of the complaint when evaluating whether the plaintiff has fraudulently joined a defendant.

H.R. 725 is a modest and targeted fix that would help address a very real problem. It would help ensure that litigation is handled in a fair and impartial way



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without unduly burdening the federal court system. The Chamber and ILR support H.R. 725, oppose any hostile weakening amendments and urge this bill's favorable consideration by the House.

Sincerely,



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