

February 24, 2016

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

We write to express our support for H.R. 3624, the Fraudulent Joinder Prevention Act of 2016 (FJPA). H.R. 3624 is a narrowly tailored bill that seeks to broaden the scope of evidence a federal judge may consider to determine whether a defendant has been fraudulently included in a case in order to keep that lawsuit in state court.

Determining whether a case is heard in federal or state court is rooted in the U.S. Constitution. Article III, § 2 of the Constitution provides federal courts with jurisdiction to decide controversies “between citizens of different states.” The availability of the federal courts as a neutral tribunal to decide cases involving citizens of different states is critical to promoting public confidence that such claims are decided promptly, efficiently, and impartially. Unfortunately, some state courts have developed a reputation of being overly friendly and aligned with the plaintiffs’ trial bar.

In order to keep a case in a trial lawyer-friendly state court, all a plaintiff’s lawyer needs to do is name a small local business or individual as a defendant to anchor the case in state court, even though the real target of the litigation is an out-of-state company. Once back in state court, the defendant typically cannot move a subsequent time to have the case removed to federal court—even if the local defendant is dismissed, never served, or no further action is taken to pursue the claim against that individual.

The U.S. Supreme Court recognized this problem and created the rule of “fraudulent joinder” to help address it. The fraudulent joinder doctrine allows a federal court to overlook the local party, for jurisdictional purposes, and keep the case in federal court under certain tightly controlled circumstances. However, federal courts vary in their approaches to fraudulent joinder, creating inconsistent rulings and unpredictability.

H.R. 3624 is a modest and fair bill designed to solve this problem. Simply put, the FJPA would create a nationwide standard that would allow federal judges the ability to consider more relevant information, beyond the four corners of the complaint, in making their decision about whether these types of cases truly belong in federal or state court. H.R. 3624 also would provide federal judges the discretion to consider whether the plaintiff has a good faith intention of actually seeking a judgment against the non-diverse local defendant and would require federal courts to consider whether it is plausible to conclude that the local defendant would even be liable under the applicable state law. If not plausible, the case could remain in federal court.

The Fraudulent Joinder Protection Act is targeted to maintain the equity and balance in state and federal courts established by our country's Founders. We urge you to vote in favor of H.R. 3624 and to oppose any weakening or hostile amendments.

Sincerely,

American Financial Services Association
Consumer Mortgage Coalition
National Association of Manufacturers
National Federation of Independent Business
Small Business & Entrepreneurship Council
U.S. Chamber Institute for Legal Reform
U.S. Chamber of Commerce