

FLOOR SCHEDULE FOR THURSDAY, MARCH 9, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative Business  Fifteen "One Minutes"	1:00 – 2:00 p.m.	5:30 – 6:30 p.m.

**H.Res. 180** – Rule providing for consideration of both **H.R. 985 – Fairness in Class Action Litigation Act of 2017 (Rep. Goodlatte – Judiciary)** and **H.R. 720 – Lawsuit Abuse Reduction Act of 2017 (Rep. Smith (TX) – Judiciary) (One hour of debate)**. The Rules Committee has recommended one Rule which would provide for consideration of two bills.

For H.R. 985, the Rules Committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Judiciary. The Rule provides for consideration of 8 amendments, each debatable for 10 minutes, equally controlled by the proponent and opponent of the amendment. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

For H.R. 720, the Rules Committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Judiciary. The Rule provides for consideration of 4 amendments, each debatable for 10 minutes, equally controlled by the proponent and opponent of the amendment. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

The Rules Committee rejected a motion by Mr. Hastings of Florida to make in order and provide the appropriate waivers for amendment #12 to H.R. 985, offered by Rep. Cicilline, which exempts service members, veterans, and their families from the information production requirements under title II of the bill. The Rules Committee also rejected a motion by Mr. Polis to make in order and provide the appropriate waivers to amendment #6 to H.R. 985, offered by Rep. Moore (WI), which exempts gender discrimination and sexual harassment claims from the bill’s class action provision. **Members are urged to VOTE NO.**

**Continue Consideration of H.R. 725 – Innocent Party Protection Act (Rep. Buck – Judiciary).** While House Republicans argue this bill targets outdated and inflexible federal judicial rules that favor plaintiffs over defendants with respect to court jurisdiction, in actuality it will place further burdens on an already clogged federal judiciary and make it more difficult for plaintiffs to exercise their legal right to choose the judicial forum in which to pursue their claims.

Under current federal procedures, plaintiffs can seek to bring certain claims in state or federal court. In many cases, plaintiffs prefer state courts due to location, timing, or their limited resources, while defendants, typically corporations, prefer federal courts. When disagreements occur, federal courts determine which jurisdiction is proper. H.R. 725 amends this simple procedural decision and tilts the decision in favor of defendants. For example, the bill removes the defendant’s responsibility to prove proper jurisdiction, which will place new burdens on our already clogged federal court system, and lead to a delay in justice for plaintiffs.

H.R. 725 proposes to amend a well-established, century-old legal doctrine called the “fraudulent joinder doctrine,” which offers guidance on whether a legal case belongs in a state court or a federal court. Under this doctrine, a federal court has the authority to send, or remand, a legal matter involving more than one defendant to a state court provided at least one defendant named in the legal matter is a citizen of the same state as the plaintiff filing the suit and there is reasonable basis under state law for a claim against the defendant. The bill does not target “fraud” as the term is commonly understood but instead the judicial rules for determining whether a particular case belongs in a state court or a federal court.

The effect of H.R. 725, should it be enacted, would be to make it easier for corporations named as defendants in a lawsuit to have the case heard in a federal court (where cases are more expensive and take longer) while making it more difficult for workers, consumers, and patients generally to have their cases heard closer to home in state courts. “Innocent Party Protection Act” is just another in a long series of Republican efforts to upset long-settled judicial practice and tilt the civil justice playing field in favor of big corporations and against individuals who are trying to hold corporations accountable.

H.R. 725 proposes to overturn a simple procedural decision and replace it with a complicated inquiry that is expensive, overly time-consuming, and an unnecessary waste of federal judicial resources. This bill is the latest in a series of House Republican efforts to amend century-old Federal judicial procedures to constrain plaintiffs in favor of corporate defendants with deep pockets.

On February 25, 2016, the House considered [H.R. 3624](#) – Fraudulent Joinder Prevention Act of 2016, which is identical language to H.R. 725, and all House Democrats opposed the bill. That vote can be found [here](#). **Members are urged to VOTE NO.**

The Rule, which was adopted yesterday, makes in order 2 amendments, debatable for 10 minutes, equally divided between the offeror and an opponent. The amendments are:

**Soto Amendment.** Creates an exception for instances of public health risks, including byproducts of hydraulic fracturing, well-stimulation, or any water contamination.

**Cartwright Amendment.** Creates a separate exception for plaintiffs seeking compensation resulting from the bad faith of an insurer.

**Bill Text for H.R. 725:**

[PDF Version](#)

**Background for H.R. 725:**

[House Report \(HTML Version\)](#)

[House Report \(PDF Version\)](#)

**H.R. 985 – Fairness in Class Action Litigation and Furthering Asbestos Claim Transparency Act of 2017 (Rep. Goodlatte – Judiciary).** This bill would change the rules of the federal tort system by prohibiting federal courts from certifying any class action unless the party pursuing the class action demonstrates, through admissible evidentiary proof, “that each proposed class member suffered the same type and scope of injury as the named class representative or representatives.”

With respect to federal class action lawsuits, under current law, individuals with injuries based on the same operative facts and law can hold entities such as corporations accountable for unlawful conduct by joining in a class-action lawsuit. Such lawsuits can proceed even when their injuries vary in certain ways, such as where one plaintiff receives a head injury and another suffers a broken rib from the same kind of faulty automobile airbag. H.R. 985 would not allow such individuals to pursue a class action lawsuit because they did not suffer the exact same type of injury and would thereby make it more difficult for these victims to obtain just compensation for their injuries. As a result, H.R. 985 will effectively shield corporate wrongdoers while denying plaintiffs access to the justice they deserve by forcing victims to bring separate lawsuits, which would be much more costly, burdensome, and time-consuming.

Additionally, H.R. 985 would further burden an already overextended court system. By requiring that each individual in a suit have an injury of the “same type and scope,” the bill would exponentially increase the number of suits by forcing parties to file suits in smaller groups or even individually, leading to delays and additional unnecessary demands on our judicial system. H.R. 985 is opposed by a broad coalition of consumer protection, public interest, labor, and civil rights groups, including the American Association for Justice, the AFSCME, the American Civil Liberties Union, Consumer Federation of America, Consumers Union, American Bar Association, Disability Law Center, Center for Responsible Lending, American Association of University Women, Public Citizen, NAACP Legal Defense and Educational Fund, Inc., National Partnership for Women & Families, Southern Poverty Law Center, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, and the Leadership Conference on Civil and Human Rights.

By requiring that each member of a class action has the same type and scope of injury, the bill would make it almost impossible for plaintiffs to pursue most class actions in federal court by effectively requiring them to prove the merits of their case twice – once at the certification stage and once during the trial on the merits of their case, which will result in increased litigation costs and delay and thereby deter plaintiffs from pursuing creditable claims.

The requirements imposed by this bill are based on the false premise that federal courts are routinely certifying class action cases in instances when not every class member has suffered the alleged injury. This bill will create unnecessary legal disputes that will raise litigation costs and delay justice for those who have suffered serious injuries.

The bill also incorporates unrelated language from [H.R. 906](#), the Furthering Asbestos Claim Transparency (FACT) Act of 2017, which provides disincentives to victims seeking reimbursement for their injuries from an asbestos settlement trust set up through a Chapter 11 bankruptcy reorganization

by making their personally identifiable information publicly available through the Internet and by establishing burdensome new reporting requirements on these asbestos settlement trusts.

This language would change the rules of the tort system with regard to asbestos-related injuries by requiring quarterly reports of claims made against the trusts and any payouts made by the trusts to asbestos victims. These reports, which would include the name, exposure history, and amount of payment made from the trust to each claimant, are required to be made available on the court's public docket that, in turn, can be accessed through the Internet. The disclosure of such sensitive information in a public manner creates new risks for asbestos victims. Such information could be used for inappropriate purposes by prospective employers, insurers, and lenders as well as by identity thieves.

The asbestos provisions are opposed by asbestos victims and their families, Military Officers Association of America, the Military Order of the Purple Heart, the AFL-CIO, the American Federation of State, County and Municipal Employees, Asbestos Disease Awareness Organization, the Environmental Working Group, Public Citizen, the Alliance for Justice, various consumer organizations, and legal representatives for future asbestos personal injury claimants with respect to asbestos bankruptcy trusts.

When the House last considered this bill as [H.R. 1927](#) on January 8, 2016, all House Democrats opposed it. That vote can be found [here](#). **Members are urged to VOTE NO.**

The Rule makes in order 8 amendments, debatable for 10 minutes, equally divided between the offeror and an opponent. The amendments are:

**Goodlatte Amendment.** Strikes the prohibition on the use of the (VA) same class counsel if the named plaintiff is a present or former client, or has a contractual relationship with, the class counsel. Carves out private securities litigation class actions from the conflict of interest and stay of discovery sections, gives federal courts ninety days to review the sufficiency of the allegations verification submissions made in the section on multi-district litigation, and makes other technical, conforming, and clarifying changes

**Deutch Amendment #2.** Strikes the provision on conflicts of interest.

**Deutch Amendment #3.** Strikes the fee determination based on equitable relief provision.

**Soto Amendment.** Strikes section 1721 to allow discovery to proceed while motions are pending.

**Johnson (GA) Amendment.** Exempts civil actions alleging fraud.

**Conyers Amendment.** Exempts civil rights actions from the bill's class action provisions.

**Jackson-Lee Amendment.** Replaces the substantive text of the bill with a requirement that the bankruptcy asbestos trust report quarterly an aggregate list of demands received and payments made.

**Espallat Amendment.** Exempts a claimant who is or has been living in public housing or any dwelling unit for which rental assistance provided under section 8.

***Bill Text for H.R. 985:***

[PDF Version](#)

***Background for H.R. 985:***

[House Report \(HTML Version\)](#)

[House Report \(PDF Version\)](#)

## **TOMORROW'S OUTLOOK**

The GOP Leadership has announced the following schedule for Friday, March 10: The House will meet at 9:00 a.m. for legislative business. The House is expected to complete consideration of [H.R. 720](#) - Lawsuit Abuse Reduction Act of 2017 (Rep. Smith (TX) – Judiciary).



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## The Daily Quote

"Groups representing hospitals, doctors and seniors are urging House Republican leaders to put the brakes on their plan to overhaul the Affordable Care Act, saying it risks stripping too many people of insurance and in some cases would hurt industry finances. On a day when two House committees began formally debating the newly unveiled GOP plan, the cautions and opposition from groups such as AARP, which represents older Americans; the American Medical Association, and the American Hospital Association showed the difficult path ahead for the legislation."

- Wall Street Journal, 3/9/2017