

Protecting the Victims of Fraudulent Joinder: How Congress and Federal Judges Can Help

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One of the most famous judges of the last century, Judge Learned Hand, observed, "I must say that as a litigant I should dread a lawsuit beyond almost anything else short of sickness and death." The innocent victims of fraudulent joinder know this well. They are often small local businesses such as retailers, pharmacies, auto repair shops, or even individuals including store managers and salespeople.

"Fraudulent joinder" is a stepchild of our somewhat unusual mix of constitutional law, statutory provisions, and case law setting the jurisdiction of federal courts. The Framers' apprehension regarding the potential for state court bias in favor of local interests led them to establish neutral federal courts. They viewed the availability of the federal courts to decide cases involving citizens of different states as critical to promoting public confidence that such claims would be decided promptly, efficiently, and impartially.

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