

house liberty caucus

House Liberty Caucus statement on H.R. 985, Fairness in Class Action Litigation Act of 2017

March 9, 2017

The House Liberty Caucus urges opposition to [H.R. 985](#), the Fairness in Class Action Litigation Act of 2017. This bill benefits bad actors by making it significantly more difficult for persons to assert their rights through the court system.

Class action lawsuits are a market-based solution for addressing widespread breaches of contract, violations of property rights, and infringements of other legal rights. They are a preferable alternative to government regulation because they impose damages only on bad actors rather than imposing compliance costs on entire industries. They also help the judiciary by consolidating a multitude of similar cases, which decreases burdens on the already clogged court system.

H.R. 985 adds immense procedural hurdles for class action plaintiffs. For example, it requires plaintiffs to affirmatively demonstrate that every member of the class suffered the same injury. Under a literal reading of this rule, even if thousands of people in a group were injured, the case could not proceed if a single member suffered a different type or different severity of injury. This allows bad actors to avoid massive liability just because their victims cannot be sorted into a perfect group in which every person has the same injury.

The bill violates the freedom of contract and makes redress unnecessarily difficult for injured victims. It limits the amount of money that plaintiffs' lawyers can earn from their work on class action lawsuits and restricts when they can receive compensation, while putting no such requirements on defendants. This inherently limits access to legal counsel and creates an uneven playing field.

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