

here, and who brought honor to his hometown of Peoria.

Let me introduce, finally, Scott Michel. When the Michel family gave me the privilege of helping them organize the memorial service in Peoria and here, all of us, except for Scott, thought that a family member should say something. We persuaded Scott to be the spokesman for the family. You all know Bob loved every one of his children and his grandchildren. So Scott really stepped up and decided that he would be the one to represent the family. So please welcome Scott Michel.

(Applause.)

(Mr. Scott Michel, son of the Honorable Robert H. Michel)

Mr. Michel: Thank you, Ray.

First, let me thank all of you, on behalf of the entire Michel family, for joining us here this afternoon to celebrate the life of my dad, Bob Michel.

Since his passing last month in Arlington, Virginia, I have read glowing tributes, news articles, and obituaries capturing the highlights of his illustrious career and extolling the virtues of his character. What I want to tell you today is that the qualities that propelled him to such lofty heights were made a part of him by his father and mother, Charles and Anna Michel, back in Peoria, Illinois. His parents instilled in him values and character that developed, matured, and later were passed on to his sons and daughter, just as his parents had done for him.

As I got older and had a son of my own, I looked back and tried to replicate what I saw and learned when I was growing up. What did I see and learn? First, I saw a larger than life figure with a booming voice, a vivid presence, and the bearing of a leader. He was in charge. And even though his work in Washington meant we saw him only twice a month on weekends, he called us almost every day to check on our academic progress, our athletic pursuits, our musical instrument accomplishments, and our chores around the house. We all saw that he was in our midst even while being away, and we saw his involvement, commitment, and influence, which was constant and reassuring.

Second, when he was at home, we saw up close what he was made of, and that made a lasting impression on all of us. Learning his life lessons was simple: just watch and listen. His lessons weren't taught so much by conversation as by simple observation. We could see how he interacted with my mother: how he treated her, how he respected her, how they spoke with each other. It was with love, sensitivity, and without harsh or bitter words. We could see how he treated each of us, too. He was fair, evenhanded, strict when needed, held us accountable for our actions, and expected no less than our best at whatever we were doing, whatever tasks we were given, or whatever our school studies demanded. All of this reinforced his desire for us to be responsible.

He also showed us how to be humble by practicing humility. Bragging was called out. So was self-centeredness and arrogance. He showed us that working hard and doing a good job was its own reward. He showed us how to be honest by demanding the truth from us and expecting no less when dealing with others. He showed us how to be generous and compassionate by his countless efforts to help assist, console, and empathize with those less fortunate or those who had fallen on difficult times. And he showed us how to respect others by treating them the way he would want to be treated. That sounds like the Golden Rule.

As I look back at the values and character that witnessed growing up with my father—his humility, his honesty, his work ethic, his generosity, his respect for others, and his

abiding faith in God and our country—I feel so fortunate and blessed to have had him as my father. He loved us and his family in every way and with all his heart. He was a one-of-a-kind role model.

While his accomplishments in public life make us all so very proud, it is his values and character that he instilled in each of us that means the most to us. That will be his lasting legacy.

Godspeed, Dad. I love you. I miss you. I know you are in God's hands now.

Before we close, I would like to ask that you all join the U.S. Army chorus in singing "God Bless America," which was one of my dad's favorite songs, especially when he could lead the singing, as he did on numerous occasions.

MUSICAL SELECTION—"God Bless America," performed by the United States Army Chorus)

Reverend Conroy: Dear Lord, as we close our time together, send Your spirit of peace and consolation upon us who mourn the loss of the Honorable, former minority leader of the House, Bob Michel.

He was a glowing example, an icon of what it means to be a man for others. His decades of service to his home State of Illinois and to our great Nation will be long appreciated by those whose lives are forever blessed by his life's work and dedication.

His belief in the durability and transcendence of Congress as an institution, the first branch of government, is a challenge in this day of severe partisan divide and a persistent and seeming inability to consider compromise in order to reach consensus. May some from both sides of the aisle be inspired to emulate such a great statesman.

May Your angels, O God, come to greet our beloved Bob Michel, and may those who mourn him here be consoled with the knowledge that, for those whom love You, everything is turned to good.

Amen.

POSTLUDE—(United States Army Brass Quintet)

### HONORING JOE MCEARCHER FOR HIS CAREER IN PUBLIC SERVICE

#### HON. BRADLEY BYRNE

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 10, 2017

Mr. BYRNE. Mr. Speaker, I rise today to honor Joe Deal McEarcher, Jr. for his over forty years of service as Chief Clerk of the Mobile County Probate Court.

Born in 1949, Joe has been a lifelong resident of Mobile County, Alabama. After Joe's father passed away when he was young, he worked in various shoe stores in the Mobile area to help finance his college education. He attended public schools in Prichard, Alabama and graduated from C.F. Vigor High School in 1968. During his time at Vigor, Joe was President of the National Honor Society, sports editor for the yearbook, and named "Student of the Year" by the Civitan Club.

Joe went on to attend the University of South Alabama, where he graduated in 1972 with a bachelor's degree in political science. While in college, he married Wendy Stinson, who also graduated from South.

In July of 1972, Joe was hired by Mobile County Judge of Probate John L. Moore to serve as chief clerk of the Recording Division. He later served as administrative assistant of the Court before being appointed chief clerk of

the Court in March 1981. He has served in that position ever since under Judges John L. Moore III, Lionel W. Noonan, and Don Davis.

Early in his career, Joe oversaw and implemented changes to the Probate Court's precomputerized indexing system for judicial and land records. His work focused on making these systems more efficient and easier to use. As technology advanced, Joe oversaw and implemented changes to the Court's operations to utilize computer technology in all aspects of the Court's operations, including the recording of documents, word processing, websites, judicial case management, and accounting.

Joe is currently the dean of the chief clerks of probate courts in the State of Alabama. He is a founding member and past president of the Alabama Probate Court Chief Clerks Association. He served as a member of the Alabama Law Institute's Probate Code Revision Committee and assisted the Alabama Law Institute on numerous projects involving Alabama probate courts, probate law, and probate procedure. He has been asked to speak and present on these topics countless times throughout his career.

When he was not working, Joe has pursued a number of hobbies including photography, astronomy, birding, ham radio, and flying. He is also a long time member of the First Baptist Church of Mobile.

Joe has always been a good friend of the lawyers in our community, including a friend of mine. So, on behalf of Alabama's First Congressional District, I want to wish Joe and Wendy all the best upon his retirement. His dedicated service to Mobile County has not and will not go unnoticed.

### IN RECOGNITION OF ORELAND BOY SCOUT TROOP 1

#### HON. PATRICK MEEHAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 10, 2017

Mr. MEEHAN. Mr. Speaker, I rise today to honor Oreland Boy Scout Troop 1 of Montgomery County, Pennsylvania as it celebrates its 100th Anniversary. The Boy Scouts of America chartered the troop in 1917, and its members have been active and dedicated contributors to their communities in the century since. Today, Troop 1 hosts scouts from Oreland, Flourtown, Erdenheim, Fort Washington, Maple Glen and other neighboring communities.

The Boy Scouts are one of the largest youth development organizations in the country, and I am pleased to have so many active troops in Pennsylvania's 7th District. Oreland Boy Scout Troop 1 is one such troop, among the oldest in Pennsylvania, and it has trained so many of our area's youth to be young men of character, service, and commitment to community and country.

Mr. Speaker, Oreland Boy Scout Troop 1 performs an invaluable service to the scouts involved and the communities it serves. I thank the Troop's scouts and leaders over the last century for their service and leadership.

INNOCENT PARTY PROTECTION  
ACT

SPEECH OF

**HON. SHEILA JACKSON LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 9, 2017*

The House in Committee of the Whole House on the state of the Union had under consideration the bill (H.R. 725) to amend title 28, United States Code, to prevent fraudulent joinder:

Ms. JACKSON LEE. Mr. chair, I rise in strong opposition to H.R. 725, the Innocent Party Protection Act of 2017.

H.R. 725 is the latest Republican effort to deny plaintiffs access to the forum of their choice and, possibly, to their day in court.

H.R. 725 seeks to overturn longstanding precedent in favor of a vague and unnecessary test that forces state cases into federal court when they do not belong there, and gives large corporate defendants an unfair advantage to cherry-pick their forum without the normal burden of proving proper jurisdiction.

This bill would upend long established law in the area of federal court jurisdiction, specifically addressing the supposed overuse of fraudulent joinder to defeat complete diversity jurisdiction in a case.

It was previously known as the Fraudulent Joinder Prevention Act; however, this bill is not about fraud.

It is a corporate forum-shopping bill that would allow corporations to move cases properly brought in state courts into federal courts.

If enacted this bill would tip the scales of justice in favor of corporate defendants and make it more difficult for injured plaintiffs to bring their state claims in state court.

Corporate defendants support this bill because they prefer to litigate in federal court, which usually results in less diverse jurors, more expensive proceedings, longer wait times for trials, and stricter limits on discovery.

For plaintiffs, who are supposed to be able to choose their forums, this legislation would result in additional time, expense, and inconvenience for the plaintiff and witnesses.

H.R. 725 would effectively eliminate the local defendant exception to diversity jurisdiction under 28 U.S.C. 1441(b)(2), which currently prohibits removal to federal court even when there is complete diversity when a defendant is a citizen of the state in which the action is brought.

The current standard used by courts to determine whether the joinder of a non-diverse defendant is improper, however, has been in place for a century, and no evidence has been put forth demonstrating that this standard is not working.

Rather, the Fraudulent Joinder Doctrine, is a well-established legal doctrine providing that: fraudulent joinder will only be found if the defendant establishes that the joinder of the diversity-destroying party in the state court action was made without a reasonable basis of proving any liability against that party.

There is no evidence that federal courts are not already properly handling allegations of so-called fraudulent joinder after removal under current laws.

H.R. 725 reverses this longstanding policy by imposing new requirements on federal courts considering remand motions where a

case is before the court solely on diversity grounds.

Specifically, it changes the test for showing improper joinder from a one-part test, (no possibility of a claim against a nondiverse defendant) to a complicated four-part test, requiring the court to find fraudulent joinder if:

1) There is not a plausible claim for relief against each nondiverse defendant;

2) There is objective evidence that clearly demonstrates no good faith intention to prosecute the action against each defendant or intention to seek a joint judgment;

3) There is federal or state law that clearly bars claims against the nondiverse defendants; or

4) There is actual fraud in the pleading of jurisdictional facts.

What should be a simple procedural question for the courts, now becomes a protracted mini-trial, giving an unfair advantage to the defendants (not available under current law) by allowing defendants to engage the court on the merits of their position.

By requiring litigation on the merits at a nascent jurisdictional stage of litigation based on vague, undefined, and subjective standards like plausibility and good faith intention, and by potentially placing the burden of proof on the plaintiff, this bill will increase the complexity and costs surrounding litigation of state law claims in federal court and potentially dissuade plaintiffs from pursuing otherwise meritorious claims.

Further, taking away a defendant's responsibility to prove that federal jurisdiction over a state case is indeed proper alters the fundamental precept that a party seeking removal should bear the heavy burden of establishing federal court jurisdiction.

The bill is a win-win for corporate defendants.

At its most harmful, it will cause non diverse defendants to be improperly dismissed from the lawsuit.

At its least harmful, it will cause an expensive, time-consuming detour through federal courts for plaintiffs.

Wrongdoers would not be held accountable for the harm they cause, while the taxpayers ultimately foot the bill.

For example: large corporate defendants (i.e. typically the diverse defendants) would be favored by the bill because, if the nondiverse defendant is dismissed from the case, they can blame the now-absent in-state defendant for the plaintiff's injuries.

Smaller nondiverse defendants would also be favored because the diverse defendant does all the work for them.

The diverse defendant removes the case to federal court and then argues that the non-diverse defendant is improperly joined.

If the federal court retains jurisdiction, the nondiverse defendant must be dismissed from the case.

If one or more defendants are dismissed from the case, it is easy for the remaining defendant to finger point and blame the absent defendant for the plaintiff's injuries.

Even if a federal court remands the case to state court under the bill, the defendants have successfully forced the plaintiff to expend their limited resources on a baseless, time-consuming motion on a preliminary matter.

While large corporate defendants can easily accommodate such costs, plaintiffs (i.e. injured consumers, patients and workers) cannot.

Regardless of whether the case is remanded to state court or stays in federal court, this new, mandated inquiry will be a drain on the limited resources of federal courts.

By mandating a full merits-inquiry on a procedural motion, H.R. 725 is expensive, time-consuming, and wasteful use of judicial resources.

The bill would result in needless micro-management of federal courts and a waste of judicial resources.

Lastly, by seeking to favor federal courts over state courts as forums for deciding state law claims, this bill offends the principles of federalism.

While it purports to fix a non-existent problem, it creates problems itself.

The ability of state courts to function independently of federal courts' procedural analysis is a necessary function of the success of the American judiciary branch.

For these reasons, I urge my colleagues to join me in opposing the underlying legislation, H.R. 725, the dubiously named, Innocent Party Protection Act of 2017.

HAPPY 100TH BIRTHDAY TO LTC  
JAMES MEGELLAS, U.S. ARMY  
(RET.)

**HON. KENNY MARCHANT**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, March 10, 2017*

Mr. MARCHANT. Mr. Speaker, I rise today with the great honor and privilege of recognizing a true American Hero, Lieutenant Colonel (LTC) James Megellas of Colleyville, Texas, in celebration of his 100th birthday.

Lieutenant Colonel James Megellas received his military commission on May 28th, 1942 as he walked the stage at his graduation from Ripon College in Ripon, Wisconsin. Simultaneously receiving his diploma and military orders, James became a newly commissioned officer in the United States Army. Since receiving his commission on that fateful day, LTC Megellas' incredible courage and selfless dedication to his country enabled him to become the most decorated officer in the history of the 82nd Airborne Division. His exemplary service to our nation and outstanding bravery during the Second World War helped to liberate a continent and defend the freedom of millions of civilians in the European Theater.

LTC Megellas reported for duty at Fort Knox, Kentucky on June 8, 1942 and began preparing to enter the war. Soon thereafter, he was selected to become a paratrooper within the 82nd Airborne Division where he served for the duration of the war on the front lines of the European Theater. His experiences during the war brought him to Anzio, Italy where he fought in the Battle of Anzio; The Netherlands for Operation Market Garden and the Battle of Nijmegen where he crossed the Waal River; and in Belgium where he fought in the Battle of the Bulge.

For his service during Operation Market Garden, LTC Megellas was the first American awarded the Military Order of Wilhelm, the oldest and highest honor awarded by the Kingdom of the Netherlands. Furthermore, LTC Megellas was awarded the Belgium Fouragere, by the Kingdom of Belgium for his bravery in defense of the Kingdom.