

Blog Entry: The House Has Passed H.R.720: The Lawsuit Abuse Reduction Act of 2017

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On March 10, 2017, at 11:29 a.m., by a vote of 230 to 188, with eleven members not voting, the House of Representatives passed the Lawsuit Abuse Reduction Act of 2017. Of the “ayes,” 227 were Republican and three were Democrats; of the “noes,” 183 were Democrats and five were Republicans. The bill was swiftly approved by the House; it was introduced January 30, 2017.

The full text of the bill passed by the House can be found at <https://goo.gl/HXYnef>. Its purpose is to amend Rule 11 of the Federal Rules of Civil Procedure.

Rule 11’s purpose, in the words of the U.S. Supreme Court, is to “deter baseless filings in [federal] district court.” Deterrence is accomplished by placing the specter of judicial sanctions - penalties - on those who baselessly file. What qualifies as a baseless filing is described in the Rule.

If enacted - and there is an identical bill pending in the Senate, S.237 - H.R.720 would mandate the imposition of sanctions for violating Rule 11; it is currently within the court’s discretion. And those sanctions would include attorneys’ fees and costs incurred “as a direct result of the violation” of the Rule; in other words, the court would be required to assess those particular sanctions. It could also, at its discretion, impose non-monetary sanctions, including striking the offending party’s pleadings, dismissing its lawsuit, and requiring it to “pay a penalty into court.”

The bill would also eliminate the 21-day “safe harbor” provision currently embodied in Rule 11. Under that provision, a Rule 11 motion “must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service” of the Rule 11 motion, “or within another time the court sets.” In other words, current Rule is designed to notify an opposing party that a sanctions motion may be filed against it if the allegedly offending document is not withdrawn or corrected within 21 days of service of the motion. That’s the “safe harbor.” H.R.720 would eliminate that safe harbor, and allow sanctions motions under Rule 11 to be filed with the court without prior notice to the opponent.

On March 13, 2017, H.R.720 was received in the Senate and referred to the Senate Judiciary Committee.

For a redline showing the changes that would be made to Rule 11 were H.R.720 to be enacted, see [this link](#). Blue underlined text would be new to the Rule; red stricken-through text would be deleted.