

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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February 1, 2017

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

The U.S. Chamber of Commerce supports H.R. 720, the “Lawsuit Abuse Reduction Act of 2017,” and urges the Committee to favorably report this bill. The Chamber also opposes any weakening or hostile amendments that may be offered.

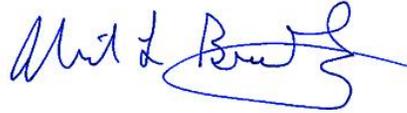
Every year, potentially billions of dollars are wasted on frivolous lawsuits, hurting job growth and slowing the economy. Under America’s current legal system, obtaining dismissal of a lawsuit that has no valid legal or factual basis can easily cost hundreds of thousands of dollars in legal fees and discovery costs—not to mention lost time and productivity. As a result, businesses often settle even baseless claims because fighting them in court would cost more than agreeing to a settlement demand. The expenses accompanying such settlements result in lost jobs and can drive businesses, especially small businesses, into bankruptcy.

Rule 11 of the Federal Rules of Civil Procedure provides a basic foundation for the legal system—claims filed in federal court must be based on both law and fact. However, as Rule 11 currently stands, the filing of a frivolous claim does not necessarily automatically result in sanctions. In the words of one Supreme Court Justice, the rule is completely “toothless,” allowing parties “to file thoughtless, reckless, and harassing pleadings, secure in the knowledge that they have nothing to lose.” This lack of accountability rewards the gamesmanship of unscrupulous attorneys who are able to file baseless claims without fear of recourse.

H.R. 720 aims to realign these incentives by strengthening Rule 11’s enforcement provisions. Specifically, this bill would make sanctions for violations of Rule 11 mandatory rather than discretionary. This bill would also eliminate the 21-day “safe harbor” that allows lawyers to file frivolous claims without threat of sanction because they can withdraw them without penalty within 21 days of a sanctions motion being filed against the offending party. Additionally, this bill would replace text that discourages judges from making victims of lawsuit abuse whole with text that fully authorizes judges to order parties who pursue frivolous claims to pay the other sides’ legal fees and costs.

Without true consequences being imposed on parties who make meritless legal claims, innocent businesses will continue to be threatened with the reality that paying off baseless claims is often cheaper than litigation. H.R. 720 would help fix this perverse dynamic by deterring abusive litigation practices and, as a result, encourage economic growth and job creation. The Chamber supports H.R. 720 and urges its favorable consideration by the Committee.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley

cc: Members of the Committee on the Judiciary