

103^D CONGRESS
1ST SESSION

S. 1771

To amend the provisions of title 28, United States Code, to provide for the payment of attorney fees to a prevailing defendant in civil actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 22, 1993

Mr. DECONCINI introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the provisions of title 28, United States Code, to provide for the payment of attorney fees to a prevailing defendant in civil actions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Attorney Accountabil-
5 ity Act of 1993”.

1 **SEC. 2. AWARD OF ATTORNEY FEES TO PREVAILING DE-**
2 **FENDANT.**

3 (a) IN GENERAL.—Chapter 123 of title 28, United
4 States Code, is amended by inserting after section 1931
5 the following new section:

6 **“§1932. Award of attorney fees to prevailing defend-**
7 **ant**

8 “(a)(1) Except as otherwise provided in this section,
9 in each court of the United States, the court shall award
10 reasonable attorney fees to a prevailing defendant from
11 the plaintiff after the entry of final judgment in any civil
12 action.

13 “(2) In an action involving multiple parties, the court
14 may apportion the payment of attorney fees under para-
15 graph (1) between or among plaintiffs to defendant or de-
16 fendants at the court’s discretion.

17 “(3) The provisions of this section shall not apply to
18 any class action suit.

19 “(b) The court may waive the provisions of subsection
20 (a) in exceptional cases in which the application of such
21 subsection would be against equity and good conscience.

22 “(c) In any case in which the provisions of subsection
23 (a) apply and the court finds that the attorney for a plain-
24 tiff has violated rule 11 of the Federal Rules of Civil Pro-
25 cedure, the court shall order such attorney to reimburse
26 the plaintiff for the amount awarded under subsection (a).

1 “(d) In any case in which the provisions of subsection
2 (a) apply and the attorney for the plaintiff has a contin-
3 gency fee agreement with the plaintiff, the court shall
4 order such attorney to pay a portion of the fees awarded
5 under subsection (a). Such payment shall equal the
6 amount of the total fees awarded to the prevailing defend-
7 ant under subsection (a) multiplied by the contingency fee
8 percentage under such agreement.

9 “(e) The provisions of this section shall preempt and
10 supersede any other Federal law relating to attorney fees
11 to the extent such law is inconsistent with this section.”.

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
13 The table of sections for chapter 123 of title 28, United
14 States Code, is amended by adding after the item relating
15 to section 1931 the following:

“1932. Award of attorney fees to prevailing defendant.”.

16 (c) EFFECTIVE DATE.—The provisions of this Act
17 and amendments made by this Act shall be effective on
18 and after the date of the enactment of this Act and shall
19 apply only to civil actions filed on and after such date.

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