

108TH CONGRESS  
2D SESSION

# H. R. 4571

To amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2004

Mr. SMITH of Texas (for himself, Mr. SENSENBRENNER, Mr. FORBES, Mr. GREEN of Wisconsin, Mr. GALLEGLY, Mr. CHABOT, Mr. GARRETT of New Jersey, Mr. KING of Iowa, Mr. DELAY, Mr. FRANKS of Arizona, Mr. CULBERSON, Mr. KELLER, Mr. CARTER, Mr. PEARCE, Mr. CALVERT, and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, 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 “Lawsuit Abuse Reduc-  
5 tion Act of 2004”.

6 **SEC. 2. ATTORNEY ACCOUNTABILITY.**

7 Rule 11 of the Federal Rules of Civil Procedure is  
8 amended—

1 (1) in subdivision (c)—

2 (A) by amending the first sentence to read  
3 as follows: “If a pleading, motion, or other  
4 paper is signed in violation of this rule, the  
5 court, upon motion or upon its own initiative,  
6 shall impose upon the attorney, law firm, or  
7 parties that have violated this subdivision or are  
8 responsible for the violation, an appropriate  
9 sanction, which may include an order to the  
10 other party or parties to pay for the reasonable  
11 expenses incurred as a direct result of the filing  
12 of the pleading, motion, or other paper, that is  
13 the subject of the violation, including a reason-  
14 able attorney’s fee.”;

15 (B) in paragraph (1)(A)—

16 (i) by striking “Rule 5” and all that  
17 follows through “corrected.” and inserting  
18 “Rule 5.”; and

19 (ii) by striking “the court may award”  
20 and inserting “the court shall award”; and

21 (C) in paragraph (2), by striking “shall be  
22 limited to what is sufficient” and all that fol-  
23 lows through the end of the paragraph (includ-  
24 ing subparagraphs (A) and (B)) and inserting  
25 “shall be sufficient to deter repetition of such

1           conduct or comparable conduct by others simi-  
2           larly situated, and to compensate the parties  
3           that were injured by such conduct. The sanc-  
4           tion may consist of an order to pay to the party  
5           or parties the amount of the reasonable ex-  
6           penses incurred as a direct result of the filing  
7           of the pleading, motion, or other paper that is  
8           the subject of the violation, including a reason-  
9           able attorney’s fee.”; and  
10          (2) by striking subdivision (d).

11 **SEC. 3. APPLICABILITY OF RULE 11 TO STATE CASES AF-**  
12 **FFECTING INTERSTATE COMMERCE.**

13           In any civil action in State court, the court, upon mo-  
14          tion, shall determine within 30 days after the filing of such  
15          motion whether the action affects interstate commerce.  
16          Such court shall make such determination based on an  
17          assessment of the costs to the interstate economy, includ-  
18          ing the loss of jobs, were the relief requested granted. If  
19          the court determines such action affects interstate com-  
20          merce, the provisions of Rule 11 of the Federal Rules of  
21          Civil Procedure shall apply to such action.

22 **SEC. 4. PREVENTION OF FORUM-SHOPPING.**

23           (a) IN GENERAL.—Subject to subsection (b), a per-  
24          sonal injury claim filed in State or Federal court may be

1 filed only in the State and, within that State, in the county  
2 (or Federal district) in which—

3 (1) the person bringing the claim, including an  
4 estate in the case of a decedent and a parent or  
5 guardian in the case of a minor or incompetent—

6 (A) resides at the time of filing; or

7 (B) resided at the time of the alleged in-  
8 jury; or

9 (2) the alleged injury or circumstances giving  
10 rise to the personal injury claim allegedly occurred;  
11 or

12 (3) the defendant's principal place of business  
13 is located.

14 (b) DETERMINATION OF MOST APPROPRIATE  
15 FORUM.—If a person alleges that the injury or cir-  
16 cumstances giving rise to the personal injury claim oc-  
17 curred in more than one county (or Federal district), the  
18 trial court shall determine which State and county (or  
19 Federal district) is the most appropriate forum for the  
20 claim. If the court determines that another forum would  
21 be the most appropriate forum for a claim, the court shall  
22 dismiss the claim. Any otherwise applicable statute of limi-  
23 tations shall be tolled beginning on the date the claim was  
24 filed and ending on the date the claim is dismissed under  
25 this subsection.

1 (c) DEFINITIONS.—In this section:

2 (1) The term “personal injury claim”—

3 (A) means a civil action brought under  
4 State law by any person to recover for a per-  
5 son’s personal injury, illness, disease, death,  
6 mental or emotional injury, risk of disease, or  
7 other injury, or the costs of medical monitoring  
8 or surveillance (to the extent such claims are  
9 recognized under State law), including any de-  
10 rivative action brought on behalf of any person  
11 on whose injury or risk of injury the action is  
12 based by any representative party, including a  
13 spouse, parent, child, or other relative of such  
14 person, a guardian, or an estate; and

15 (B) does not include a claim brought as a  
16 class action.

17 (2) The term “person” means any individual,  
18 corporation, company, association, firm, partnership,  
19 society, joint stock company, or any other entity, but  
20 not any governmental entity.

21 (3) The term “State” includes the District of  
22 Columbia, the Commonwealth of Puerto Rico, the  
23 United States Virgin Islands, Guam, and any other  
24 territory or possession of the United States.

1           (d) APPLICABILITY.—This section applies to any per-  
2   sonal injury claim filed in Federal or State court on or  
3   after the date of the enactment of this Act.

4   **SEC. 5. RULE OF CONSTRUCTION.**

5           Nothing in section 3 or in the amendments made by  
6   section 2 shall be construed to bar or impede the assertion  
7   or development of new claims or remedies under Federal,  
8   State, or local civil rights law.

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