

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 420

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

JANUARY 26, 2005

Mr. SMITH of Texas (for himself, Mr. DELAY, Mr. CHABOT, Mr. PAUL, Mr. GREEN of Wisconsin, Mr. HERGER, Mr. KELLER, Mr. KING of Iowa, Mr. SHAYS, Mr. CANNON, Mr. BRADY of Texas, Mr. NORWOOD, Mr. NEUGEBAUER, Mr. CHOCOLA, Mr. MILLER of Florida, Mr. FEENEY, Mr. FORBES, Mr. GARY G. MILLER of California, Mr. CULBERSON, Mr. GARRETT of New Jersey, Mr. LEACH, Mr. KLINE, Mr. GALLEGLY, Mr. OTTER, Mr. JONES of North Carolina, Mr. KENNEDY of Minnesota, Mrs. MYRICK, Mr. McCAUL of Texas, Mr. BOOZMAN, Mr. FRANKS of Arizona, Mr. SENSENBRENNER, Mr. GOODLATTE, Mr. FERGUSON, Mr. WILSON of South Carolina, Mr. BRADLEY of New Hampshire, Mr. CALVERT, Mr. FORTUÑO, Mr. KIRK, and Mrs. JO ANN DAVIS of Virginia) 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 2005”.

1 **SEC. 2. ATTORNEY ACCOUNTABILITY.**

2 Rule 11 of the Federal Rules of Civil Procedure is  
3 amended—

4 (1) in subdivision (c)—

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

18 (B) in paragraph (1)(A)—

19 (i) by striking “Rule 5” and all that  
20 follows through “corrected.” and inserting  
21 “Rule 5.”; and

22 (ii) by striking “the court may award”  
23 and inserting “the court shall award”; and

24 (C) in paragraph (2), by striking “shall be  
25 limited to what is sufficient” and all that fol-  
26 lows through the end of the paragraph (includ-

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

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

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

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

2 (a) IN GENERAL.—Subject to subsection (b), a per-  
3 sonal injury claim filed in State or Federal court may be  
4 filed only in the State and, within that State, in the county  
5 (or Federal district) in which—

6 (1) the person bringing the claim, including an  
7 estate in the case of a decedent and a parent or  
8 guardian in the case of a minor or incompetent—

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

10 (B) resided at the time of the alleged in-  
11 jury; or

12 (2) the alleged injury or circumstances giving  
13 rise to the personal injury claim allegedly occurred;  
14 or

15 (3) the defendant’s principal place of business  
16 is located.

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

1 filed and ending on the date the claim is dismissed under  
2 this subsection.

3 (c) DEFINITIONS.—In this section:

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

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

17 (B) does not include a claim brought as a  
18 class action.

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

23 (3) The term “State” includes the District of  
24 Columbia, the Commonwealth of Puerto Rico, the

1 United States Virgin Islands, Guam, and any other  
2 territory or possession of the United States.

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

6 **SEC. 5. RULE OF CONSTRUCTION.**

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

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