the President of Iran announced that it is his policy to destroy the State of Israel, and the pseudosophisticates and the appeasers again say this is only oratory.

But of course, it is more than that. I call on the United Nations, and all civilized nations, to take appropriate action, in the U.N. and individually, denouncing this outrageous statement. There is no room for the President of a nation to call for the destruction of a member state of the United Nations, the sole democracy in the Middle East and a close ally of the United States.

CELEBRATING THE LIFE OF JUDGE CONSTANCE BAKER MOTLEY

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Madam Speaker, Sadly, I have had to commemorate the lives of two important black women who died earlier: C. Delores Tucker, Rosa Parks.

However, this morning I rise to celebrate the life of one of America's great lawyers, Constance Baker Motley, the first black woman on the Federal bench. That, however, is surely not her greatest public service. What greater service to one's country than to have been an architect of the legal strategy that brought equality under law to the United States. She argued 10 cases before the Supreme Court. Perhaps the most notorious was the James Meredith case that integrated the University of Mississippi. She made 22 trips into Mississippi for that case alone; then, the University of Alabama; also the University of Georgia, where she helped Charlane Hunter-Gault integrate that university. Charlane Hunter-Gault said that Ms. Motley ''talked about the South in those days as if it were a war zone and she was fighting in a revolution. No one . . . was going to distract her from carrying her task to a successful conclusion.'' Indeed, in the 1960s, the South was a war zone not only for activists, but for their lawyers.

In a car with Medgar Evers, Mr. Evers told her to put away her legal pad and not to look back. He, of course, was later assassinated.

She was so outstanding that every office wanted Mrs. Motley to be their first. She was the first woman to serve in the New York Senate, the first to serve as Manhattan borough president. She was the first woman, and for me perhaps the most important of her firsts, to argue a case before the United States Supreme Court, because she inspired a whole generation of young lawyers.

It should astonish us that the first African-American woman was appointed to the bench only in 1966, only 40 years ago. It should remind us that the integration of the courts of our country is and remains part and parcel of establishing equality under the law.

H.R. 4011, MERCURY IN DENTAL AMALGAM PROHIBITION BILL

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Madam Speaker, dentistry must stop hiding the large presence of mercury in dental fillings. The common name for dental fillings is ''silver.'' The term is deceptive because it contains more than 50 percent mercury.

Who can conclusively say dental mercury is safe when in our bodies? It is undisputed as a fact that mercury vapor is released during the entire life of a mercury filling.

Madam Speaker, mercury amalgam is considered dangerous when it is put in the mouth, and it is labeled a hazardous waste when it is coming out. Dental offices contribute approximately 54 tons of toxic mercury to the environment each year. Mercury hurts the body's immune system. Mercury also causes neural development problems. My bill will protect children, pregnant women, and nursing mothers immediately.

We have abandoned other remnants of pre-Civil War medicine, and we have abandoned all other uses of mercury in the body. Now is the time to ban mercury in dental fillings.

CONGRATULATING THE 2005 WORLD SERIES CHAMPION CHICAGO WHITE SOX

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute.)

Mr. JACKSON of Illinois. Madam Speaker, did you see the headlines? ''Sox Win the World Series.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman will remove his hat.

Mr. JACKSON of Illinois. I thank the Speaker. This House will never be out of decorum. I see that.

Madam Speaker, the headlines are clear: The Sox win the World Series, and I rise to congratulate the 2005 World Series Champions, the Chicago White Sox, on their first title in 88 years. Not only were the White Sox in first place in the Central Division every single day of the 2005 baseball season, but they also had the best record in the American League for the entire season as they amassed a total of 99 wins.

This team had no batters with an average above .300, they had no superstars, yet they came together as a team, led by manager Ozzie Guillen, characterized by their stellar pitching and tenacious defense. This team epitomized the work ethic of the city of Chicago.

I would like to congratulate the Houston Astros on a great season and a hard-fought World Series. Every game was close and could have gone the other way.

I would also like to congratulate the American League Championship Series MVP Paul Konerko and World Series MVP Jermaine Dye for their stellar play.

Congratulations are also in order for the entire front office of the White Sox, including Chairman Jerry Reinsdorf, Vice Chairman Eddie Einhorn and General Manager Ken Williams, who were the architects of this championship team.

Madam Speaker, last, but not least, I would like to congratulate the dedicated and long-suffering fans of the city of Chicago and the South Side who once again celebrate a champion.

And to my friends and colleagues from the other side, both Democrats and Republicans:

''Na na na na,
Na na na na,
Hey hey hey,
Goodbye.''

Maybe next year, guys.

Thanks, and God bless you.

Go Sox.

□ 1030

COMMUNICATION FROM DISTRICT DIRECTOR OF HON. DENNIS MOORE, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mrs. MILLER of Michigan) laid before the House the following communication from Julie Merz, District Director of the Honorable DENNIS MOORE, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
October 20, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued by the District Court of Johnson County, Kansas, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JULIE MERZ,
District Director.

PROVIDING FOR CONSIDERATION OF H.R. 420, LAWSUIT ABUSE REDUCTION ACT OF 2005

Mr. GINGREY. Madam Speaker, by direction of the Committee on Rules, I call up H. Res. 508 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 508

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 420) to amend Rule 11 of the Federal Rules of Civil Procedure to improve attorney accountability, and for other purposes. The first reading of the bill shall be dispensed with. All points of

order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 508 is a structured rule. It provides for 1 hour of general debate, equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill, and it provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

It makes in order only those amendments printed in the Rules Committee report accompanying the resolution. It provides that the amendments printed in the report may be offered only in the order printed, may be offered only by the Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

This resolution waives all points of order against the amendments printed in the report, and it provides one motion to recommit, with or without instructions.

Madam Speaker, I rise today in support of House Resolution 508 and the underlying legislation, H.R. 420, the Lawsuit Abuse Reduction Act of 2005.

First, I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary, not just for the underlying bill but for a number of recent bills aimed at strengthening our legal system by protecting people's rights under the law and shielding them from frivolous proceedings. Additionally, I want to thank the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on the Courts, the Internet, and Intellectual Property, for sponsoring H.R. 420.

Madam Speaker, over the past couple of weeks, this House has taken several important steps to reform our legal system, to relieve our overburdened court dockets and drastically reduce the number of costly frivolous claims against innocent and legitimate businesses.

On October 24, we passed and sent to the President's desk S. 397, the Lawful Commerce in Arms Act of 2005, by a vote of 283 to 144 in the House. I might add that in the spirit of bipartisanship, 59 Democrats and one Independent joined 223 Republicans in passing this landmark legislation that refocuses liability for gun violence on the actual criminal, the person who pulled the trigger.

Additionally in this House, 226 Republicans, along with 80 Democrats, passed H.R. 554, the Personal Responsibility in Food Consumption Act of 2005. This bill also reaffirms the need for individuals to take responsibility for their own actions and not expect someone else to foot the bill for the adverse health consequences of their own gluttony.

Today, Madam Speaker, we have another prime opportunity to pass meaningful legislation to strengthen our court system even further and to protect the falsely accused.

The Lawsuit Abuse Reduction Act of 2005 will go a long way to curb the actions of individuals who would seek to abuse our courts by gaming the judicial system. Last week, there were probably millions of people across this country who tuned in, ticket in hand, to see if they had won a $340 million Powerball jackpot. Unfortunately, there are also people who look to the courts, legal briefs in hand, as if it were the Powerball lottery.

However, Madam Speaker, it is the American people and small businesses that pay the ultimate price for frivolous lawsuits and this type of jackpot justice. They pay for it through higher prices for goods and services, they pay for it through diminished quality of products, they pay for it through loss of economic freedom, and they pay for it through a clogged court system that has been turned into an ATM for junk lawsuits. In fact, the current tort system is estimated to cost American people well over $200 billion per year.

Clearly, the Lawsuit Abuse Reduction Act of 2005 is a bill that is sorely overdue, sorely needed and, I might add, was approved by this House in the last Congress by a vote of 229 to 174.

With respect to the underlying bill, it would amend Rule 11 of the Federal Rules of Civil Procedure by restoring the mandatory sanctions for the filing of frivolous lawsuits. This bill would require that courts impose an appropriate penalty on attorneys, law firms, or parties who continue to file frivolous lawsuits. Also this bill would eliminate the ''free pass'' provision that allows attorneys to avoid sanctions if they withdraw their frivolous claim after a motion for sanctions has been filed.

Madam Speaker, H.R. 420 also would prevent forum shopping by requiring that personal injury cases only be brought in those jurisdictions either where the plaintiff, the defendant or a related business resides, or where the alleged injury or surrounding circumstances occurred.

This act would also institute a three-strikes-and-you're-out sanction that would suspend an attorney from practicing in Federal court if a Federal judge determines the lawyer has violated Rule 11 on three or more occasions.

H.R. 420 clearly emphasizes that personal responsibility is not just some catch phrase that applies only to some people, such as a fast-food connoisseur, a firearms owner, a consumer or, indeed, a doctor. Personal responsibility and professional accountability should be the rule for those in the legal field, too, and that is why this House should pass this bill.

In closing, Madam Speaker, I would just emphasize that House Resolution 508 is a straightforward rule and H.R. 420 is a straightforward bill. Simply put, it just makes sense to stop and punish the willful abuse of our legal system by the slash-and-burn tactics of frivolous lawsuits.

As always, I look forward to the consideration of this rule, and I ask my colleagues to support it and the underlying bill.

Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I want to thank the gentleman from Georgia (Mr. GINGREY) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Madam Speaker, here we go again. Whenever the Republican leadership appears to be floundering or simply needs some legislative

filler, they turn to the Judiciary Committee for some kind of anti-lawyer, anti-lawsuit bill.

We recently considered a bill to ban lawsuits against people who want to sue fast food companies, even though these cases are nonexistent. Now we are here considering another bill that will pass the House and go nowhere in the Senate.

The fact is that the Republican leadership has run out of meaningful legislation to consider. They have run out of ideas. So here we are once again considering another bill that attacks America's judicial system and takes away rights from our fellow citizens.

Time after time, the Republican leadership refuses to bring necessary legislation to the floor. Where, Madam Speaker, is the legislation combating poverty or ending hunger or increasing access to affordable and comprehensive health care? Where are their priorities? There are 45 million Americans who have no health insurance in this country. Where is the increase in the minimum wage? Where is the legislation to lower gas and oil prices?

It was comical to see the Republican leadership gather at a press conference the other day in reaction to the news that oil companies are making record profits. And what was their response? They very nicely asked the oil companies to do more. Why should the oil companies do more when they have passed legislation to give oil companies more tax breaks and more oil subsidies?

Where, Madam Speaker, is the oversight into the Iraq war? Over 2,000 Americans have lost their lives in Iraq, and all we get from this leadership and all we get from this White House is ''stay the course.'' Well, stay the course is not a policy; it is a sound bite. We owe our young men and women more than just a sound bite.

Where is the genuinely independent 9/11-style commission to investigate the botched response to Hurricane Katrina and to make recommendations on how to prevent such another tragedy in the future? Where is the fully constituted, functioning Ethics Committee to look into the numerous ethics charges that are mounting in this body?

No, here we are dealing with legislation that we dealt with last year that is going nowhere.

The fact is, the Republican leadership does not care much about these issues, and I know they are out of step with the American people on these issues. So, instead, they bring us the Lawsuit Abuse Reduction Act once again. This is like watching a bad TV rerun. It was not good the first time; it is even worse the second time.

□ 1045

Remember, we considered this bill last year, and just like last year, it will pass this Republican-controlled Congress. They will do their press releases, they will send it over to the Senate, and it will go nowhere.

Later today we will hear from members of the House Judiciary Committee who have particular subject expertise on the specifics of this legislation. I will leave it to these Members to explain the intricacies of the Federal Code and the Rules of Civil Procedure and how Rule 11 fits in. I would like for a few minutes, however, to talk about the continued abuse of power that the Republican majority takes to a new level today.

Under this rule and under this bill, Republican fund-raisers are rewarded, while the majority party continues its unabashed assault on the judicial branch of this Nation. Do not just take my word for it, Madam Speaker. One of the broadest arrays of groups that I have ever seen has come together to oppose this misguided, short-sighted, mean-spirited legislation. These groups include, but are certainly not limited to, the NAACP, the Legal Defense Fund, the American Bar Association, the National Conference of State Legislatures, the National Women's Law Center, and the Consumers Union.

The one that stands out the most, however, is the opposition from the Judicial Conference of the United States. Now, what is that? What is this conference that opposes what my Republican friends will describe as a critically important piece of legislation?

The Judicial Conference was created by this very Congress in 1922. Their congressionally mandated mission is to be the principal policymaking body concerned with the administration of the United States courts. The presiding officer of this organization is none other than the Chief Justice of the Supreme Court. You know what the Judicial Conference has to say about this legislation? In a three-page letter to Chairman SENSENBRENNER, in short, they say it is unnecessary and it is harmful. If they were less judicious in their choice of words, they would say what I say: It stinks.

But what they say, Madam Speaker, this group representing the Federal judges of this country, is that this legislation is fatally flawed. They say that Rule 11 of the Federal Rules of Civil Procedure, what the underlying legislation aims to fix, is working better today than ever before. In fact, in their letter to the Judiciary Committee chairman, they say that Federal district judges are united in their opposition to any legislation which seeks to amend rule 11. They specifically urge Congress to reject this legislation.

Now, Madam Speaker, let us think this through for just a second, shall we? The organization representing President-appointed, Senate-confirmed judges thinks this legislation is unwise. Why do we think we know better than our Federal judges how to operate the Federal judiciary? Frankly, I would laugh if I did not think that the majority was so sincere in their attempts to undermine the constitutional rights of every single American. Shame on you. Shame on all of you for trying to eviscerate the Constitution, all for a few extra campaign dollars, because that is what this is about.

The underlying legislation is not sound public policy, plain and simple. On the contrary, it is outright political grandstanding. So let us be honest and let us call this bill and this debate what they really are: legislative abuse and a political charade.

The majority's reckless disregard for judicial integrity mocks our Constitution's separation of powers doctrine, and I implore my colleagues to reject this rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. GINGREY. Madam Speaker, in response to some of the comments that were made, I just want to hold up this document that lists over 300 groups in support of LARA, the Lawsuit Abuse Reduction Act of 2005, and I will include them in the RECORD.

I would like to also point out that the Federal Judicial Center was in opposition to class action reform, which we passed in the previous Congress and in the 108th by a vote in this body of 279 to 149.

GROUPS SUPPORTING H.R. 420—THE LAWSUIT ABUSE REDUCTION ACT OF 2005

Advanced Medical Technology Association.
Air Conditioning Contractors of America.
Alabama Civil Justice Reform Committee.
Alabama Restaurant Association.
Alabama Trucking Association, Inc.
Alaska Cabaret, Hotel, Restaurant and Retailers Association.
Alliance of Automotive Service Providers of Minnesota.
Alliance of Automotive Service Providers of Pennsylvania.
America Chamber of Commerce (NV).
American Apparel and Footwear Association.
American Automotive Leasing Association.
American Bakers Association.
American Boiler Manufacturers Association.
American Business Conference.
American Chemistry Council.
American Council of Engineering Companies.
American Health Care Association.
American Home Furnishing Alliance.
American Insurance Association.
American International Automobile Dealers Association.
American Legislative Exchange Council.
American Machine Tool Distributors Association.
American Petroleum Institute.
American Rental Association.
American Road & Transportation Builders Association.
American Supply Association.
American Trucking Associations.
American Tort Reform Association.
American Veterinary Distributors Association.
American Wholesale Marketers Association.
Antelope Valley Chamber of Commerce (CA).
Ardmore Chamber of Commerce (OK).
Arkansas Chapter, National Electrical Contractors Association.
Arkansas Hospitality Association.
Arizona Chapter, National Electrical Contractors Association.

Arizona Restaurant & Hospitality Association.
Associated Builders & Contractors.
Associated General Contractors of America.
Associated Equipment Distributors.
ASFE—Associated Soil & Foundation Engineers.
Associated Wire Rope Fabricators.
Association for High Technology Distribution.
Association of Equipment Manufacturers.
Association of Pool & Spa Professionals.
AMT—The Association for Manufacturing Technology.
Automotive Aftermarket Industry Association.
Automotive Parts Remanufacturers Association.
Automotive Parts & Service Association of Illinois.
Aviation Distributors & Manufacturers Association.
Bay Area Citizens Against Lawsuit Abuse.
Bearing Specialists Association.
Brunswick-Golden Isles Chamber of Commerce (GA).
Business Council of New York State, Inc.
Business Roundtable.
California Central Coast Chapter, National Electrical Contractors Association.
California Restaurant Association.
California/Nevada Automotive Wholesalers Association.
Central California Citizens Against Lawsuit Abuse.
Central Illinois, National Electrical Contractors Association.
Chamber of Business and Industry of Centre County (PA).
Chamber of Commerce for Anderson & Madison County (IN).
Chamber of Commerce of the Mid-Ohio Valley (WV).
Citizens Against Lawsuit Abuse of Central Texas.
Citizens for Civil Justice Reform.
City of Chicago, National Electrical Contractors Association.
Civil Justice Association of California.
Cleaning Equipment Trade Association.
Cleveland Chapter, National Electrical Contractors Association.
Coalition for Uniform Product Liability Law.
Colorado Civil Justice League.
Colorado Motor Carriers Association.
Colorado Restaurant Association.
Connecticut Restaurant Association.
Construction Industry Round Table.
Copper & Brass Service Center Association.
Council of Insurance Agents and Brokers.
Crawfordsville/Montgomery Chamber of Commerce (IN).
Dayton Area Chamber of Commerce (OH).
Delaware Motor Transport Association.
Delaware Restaurant Association.
East Texans Against Lawsuit Abuse.
The Employers Association.
Electrical Manpower Development Trust.
Equipment Leasing Association.
Florida Chamber of Commerce.
Florida Restaurant Association.
Food Industry Suppliers Association.
Gas Appliance Manufacturers Association.
Gases and Welding Distributors Association.
General Aviation Manufacturers Association.
Georgia Association of Petroleum Retailers, Inc.
Georgia Industry Association.
Georgia Restaurant Association.
Great Lakes Petroleum Retailers & Allied Trades Association.
Georgia Motor Trucking Association.
Hawaii Restaurant Association.
Hawaii Transportation Association.
Health Industry Distributors Association.
Healthcare Distribution Management Association.
Heating, Air Conditioning & Refrigeration Distributors International Association.
Hobbs Chamber of Commerce (NM).
Hospitality Association of South Carolina.
Hospitality Minnesota—Minnesota's Restaurant, Hotel & Lodging and Resort & Campground Associations.
Hudson Valley Chapter, National Electrical Contractors Association (NY).
Humble Area Chamber of Commerce (TX).
Idaho Lodging and Restaurant Association.
Illinois Chapter, National Electrical Contractors Association.
Illinois Civil Justice League.
Illinois Lawsuit Abuse Watch.
Illinois Quad City Chamber.
Illinois Restaurant Association.
Independent Electrical Contractors.
Independent Insurance Agents & Brokers of America, Inc.
Independent Sealing Distributors.
Industrial Compressor Distributor Association.
Industrial Supply Association.
International Association of Plastics Distributors.
International Foodservice Distributors Association.
International Franchise Association.
International Furniture Suppliers Association.
International Housewares Association.
International Safety Equipment Association.
International Sanitary Supply Association.
International Sign Association.
International Sleep Products Association.
International Truck Parts Association.
Iowa Hospitality Association.
Iowa Motor Truck Association.
Jackson Area Manufacturers Association.
Kansas Chamber of Commerce.
Kansas City Chapter, National Electrical Contractors Association.
Kansas Restaurant and Hospitality Association.
Kentucky Motor Transport Association.
Kentucky Restaurant Association.
Kern County Chapter, National Electrical Contractors Association (CA).
Kingman Area Chamber of Commerce (AZ).
Lakewood Chamber of Commerce (WA).
Latrobe Area Chamber of Commerce (PA).
Lawn and Garden Marketing and Distribution Association.
Lebanon Valley Chamber of Commerce (PA).
Los Angeles Citizens Against Lawsuit Abuse.
Los Angeles Fastener Association.
Louisiana Motor Transport Association.
Louisiana Restaurant Association.
Maine Liability Crisis Alliance.
Maine Restaurant Association.
Manufactured Housing Institute.
Manufacturers' Association of Northwest Pennsylvania.
Marion Area Chamber of Commerce (IL).
Maryland Business for Responsive Government.
Maryland Chapter, National Electrical Contractors Association.
Massachusetts Restaurant Association.
Material Handling Equipment Distributors Association.
Mechanical Contractors Association of America.
Memphis Chapter, National Electrical Contractors Association.
Metals Service Center Institute.
Mason Contractors Association of America.
Michigan Chamber of Commerce.
Michigan Lawsuit Abuse Watch.
Michigan Restaurant Association.
Minnesota Trucking Association.
Mississippi Hospitality and Restaurant Association.
Mississippi Manufacturers Association.
Mississippi Trucking Association.
Mississippians for Economic Progress.
Missouri Motor Carriers Association.
Missouri Restaurant Association.
Montana Chamber of Commerce/Montana Liability Coalition.
Montana Motor Carriers Association.
Montana Restaurant Association.
Motor & Equipment Manufacturers Association.
Motorcycle Industry Council.
National Association of Chemical Distributors.
National Association of Convenience Stores.
National Association of Electrical Distributors.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Mutual Insurance Companies.
National Association of Sign Supply Distributors.
National Association of Wholesaler-Distributors.
National Concrete Masonry Association.
National Council of Chain Restaurants of the National Retail Federation.
National Electrical Contractors Association.
National Federation of Independent Business.
National Lumber & Building Materials Dealers Association.
National Marine Distributors Association.
National Paint & Coatings Association.
National Pest Management Association.
National Propane Gas Association.
National Restaurant Association.
NRF—The National Retail Federation.
National Roofing Contractors Association.
National School Supply & Equipment Association.
National Shooting Sports Foundation.
NAHAD—The Association for Hose & Accessories Distributors
NPES—The Association for Suppliers of Printing, Publishing and Converting Technologies.
National Small Business Association.
Nebraska Restaurant Association.
Nebraska Trucking Association.
Nevada State Medical Association.
New Hampshire Lodging and Restaurant Association.
New Jersey Automobile Wholesalers Association.
New Jersey Business & Industry.
New Jersey Motor Truck Association.
New Jersey Restaurant Association.
New Mexico Alliance for Legal Reform.
New Mexico Chapter, National Electrical Contractors Association.
New Mexico Restaurant Association.
Nevada Restaurant Association.
New York State Automotive Aftermarket Association.
New York State Motor Truck Association.
New York State Restaurant Association.
North American Horticultural Supply Association.
North Carolina Citizens for Business and Industry.
North Carolina Restaurant Association.
North Carolina Trucking Association.
North Dakota State Hospitality Association.
North Florida Chapter, National Electrical Contractors Association.
North Louisiana Chapter, National Electrical Contractors Association.
North Texas Chapter, National Electrical Contractors Association.

Northeastern Illinois Chapter, National Electrical Contractors Association.
Northern California Citizens Against Lawsuit Abuse.
Northern Illinois Chapter, National Electrical Contractors Association.
Northern New York Chapter, National Electrical Contractors Association.
Northern Rhode Island Chamber of Commerce.
Office Products Wholesalers Association.
Ohio Association of Wholesaler-Distributors.
Ohio Manufacturers Association.
Ohio Restaurant Association.
Ohio Trucking Association.
Oklahoma Restaurant Association.
Orange Chamber of Commerce (CA).
Orange County Citizens Against Lawsuit Abuse.
Oregon Restaurant Association.
Outdoor Power Equipment & Engine Service Association.
Outdoor Power Equipment Institute.
Outdoor Power Equipment Aftermarket Association.
Pacific Printing & Imaging Association (AK, HI, ID, MT, OR, WA).
Packaging Machinery Manufacturers Institute.
Painting & Decorating Contractors of America.
Penn-Ohio Chapter, National Electrical Contractors Association.
Pennsylvania Health Care Association.
Pennsylvania Restaurant Association.
Paris Area Chamber of Commerce & Tourism (IL).
Pennsylvania Automotive Wholesalers Association.
Pet Industry Distributors Association.
Petroleum Equipment Institute.
Petroleum Marketers Association of America.
Petroleum Retailers & Auto Repair Association.
Plumbing-Heating-Cooling Contractors Association.
Post Card and Souvenir Distributors Association.
Power Transmission Distributors Association.
Printing & Graphic Communications Association.
Printing & Imaging Association of Mid-America (KS, MO, OK, TX).
Printing & Imaging Association, Mountain States.
Printing Association of Florida.
Printing Industries Association of San Diego.
Printing Industries of Michigan.
Printing Industry Association of the South (AL, AR, KY, LA, MS, TN, WV).
Printing Industries of America.
Printing Industries of Illinois/Indiana Association.
Printing Industries of New England (ME, NH, VT, MA, RI).
Production Engine Remanufacturers Association.
Property Casualty Insurers Association of America.
Red River Valley Chapter, National Electrical Contractors Association (TX).
Retail Industry Leaders Association.
Restaurant and Hospitality Association of Indiana.
Restaurant Association of Maryland, Inc.
Restaurant Association of Metro Washington, Inc.
Rhode Island Hospitality and Tourism Association.
Richmond/Spring Grave Chamber (IL).
Rio Grande Valley Partnership.
Rubber Manufacturers Association.
Safety Equipment Distributors Association, Inc.
Saguaro Chapter, National Electrical Contractors Association (AZ).
St. Paul Chapter, National Electrical Contractors Association (MN).
San Diego Chapter, National Electrical Contractors Association.
San Diego County Citizens Against Lawsuit Abuse.
San Diego Employers Association.
Scaffold Industry Association.
Security Hardware Distributors Association.
SSDA–AT—Service Station Dealers Of America/ National Coalition Petroleum Retailers and Allied Trades.
Silicon Valley Citizens Against Lawsuit Abuse.
SBE Council—Small Business and Entrepreneurship Council.
Small Business Legislative Council.
SMC Business Councils.
Snack Food Association.
South Carolina Trucking Association.
South Carolina Civil Justice Coalition.
South Dakota Retailers Association.
Southern Nevada Chapter, National Electrical Contractors Association.
Specialty Equipment Market Association.
Society of American Florists.
The State Chamber of Oklahoma.
Steel Tank Institute.
Tarpon Springs Chamber of Commerce (FL).
Tennessee Chamber of Commerce & Industry.
Tennessee Restaurant Association.
Texas Association of Business.
Texas Civil Justice League.
Texas Restaurant Association.
Textile Care Allied Trades Association.
Tire Industry Association.
Truck Renting and Leasing Association.
U.S. Chamber of Commerce.
U.S. Chamber Institute for Legal Reform.
Utah Restaurant Association.
Valve Manufacturers Association.
Vermont Lodging and Restaurant Association.
Virginia Hospitality and Travel Association.
Virginia Trucking Association.
Washington State Liability Reform Coalition.
Washington Restaurant Association.
Waste Equipment Technology Association.
West Virginia Chamber of Commerce.
West Virginia Hospitality and Travel Association.
West Virginia Motor Truck Association.
Western Association of Fastener Distributors.
Western New York Chapter, National Electrical Contractors Association.
Western Pennsylvania Chapter, National Electrical Contractors Association.
Weston Area Chamber of Commerce (FL).
Wisconsin Manufacturers & Commerce.
Wisconsin Motor Carriers Association.
Wisconsin Restaurant Association.
Wood Machinery Manufacturers of America.
Woodworking Machinery Industry Association.
Wyoming Lodging & Restaurant Association.
Wyoming Trucking Association, Inc.

Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, if I could inquire from the gentleman how many more speakers he has, because I am the last speaker on my side.

Mr. GINGREY. To the gentleman from Massachusetts, we do not actually have any additional speakers at this time, so right now I am reserving the balance of my time for the purpose of closing, unless another speaker comes.

Mr. MCGOVERN. Madam Speaker, I would like to enter into the RECORD as well another letter signed by a number of groups urging a vote against H.R. 420.

I would also like to include a letter that was sent to every Member of Congress by Michael S. Greco, the President of the American Bar Association, opposing this legislation.

I would also like to insert in the RECORD the text of the letter that I mentioned in my opening speech from the Judicial Conference of the United States which very strongly opposes this legislation.

OCTOBER 25, 2005.

DEAR REPRESENTATIVE: We urge you to oppose H.R. 420, a bill that would restore the discriminatory impact of the old version of Rule 11 of the Federal Rules of Civil Procedure, trample on states' rights to run their own courts, and increase the extent and expense of litigation rather than reduce it.

H.R. 420 seeks to roll back Rule 11 of the Federal Rules of Civil Procedure to an earlier 1983 version of the rule, which would undermine carefully crafted standards that were enacted in 1993. Those changes expanded responsibilities of litigants, while at the same time providing greater constraints and flexibility in dealing with violations of the rule. The current rule requires litigants to ''stop-and-think'' before making legal or factual contentions. It also, however, emphasizes the duty of candor by subjecting litigants to potential sanctions for insisting upon a position after it is no longer tenable, and by generally providing protection against sanctions if they withdraw or correct contentions after a potential violation is called to their attention.

There is no evidence that the current Rule 11 is not working. In fact, Department of Justice statistics show that the number of lawsuits is declining in both federal and state courts. The end result of H.R. 420 would be a shift of the function of Rule 11 from deterring frivolous litigation to increasing litigation by those who have the resources and the time to litigate against opposing counsel. History shows that mandatory Rule 11 sanctions imposed in 1983, and to which H.R. 420 would have us return, were used disproportionately against plaintiffs' (particularly civil rights) attorneys and those attempting to extend the law in support of unpopular causes. More than a decade ago, civil rights organizations—including some of the undersigned organizations—worked to amend Rule 11 because the old rule unfairly discouraged meritorious civil rights claims. H.R. 420 seeks to force litigants to operate under the terms that we fear, like the former rule we worked so hard to amend, will be used to punish and deter valid claims of discrimination.

Nationwide surveys about the former rule found that motions for sanctions were most frequently sought and granted in civil rights cases. Expressing his concerns about the former Rule 11, the Honorable Robert L. Carter, United States District Court Judge for the Southern District of New York, noted, ''I have no doubt that the Supreme Court's opportunity to pronounce separate schools inherently unequal [in Brown v. Board of Education] would have been delayed for a decade had my colleagues and I been required, upon pain of potential sanctions, to plead our legal theory explicitly from the start.'' The language of H.R. 420 purporting

to protect civil rights claims provides insufficient protection for victims of discrimination because the more severe rules outlined in H.R. 420 can still be applied in civil rights. Had supporters of the bill wanted to effectively protect those who seek justice under our civil rights laws, they could have exempted those claims from the scope of the bill.

Moreover, H.R. 420 not only changes the rules for federal courts, it is unprecedented in that its reach extends to state court cases. Section 3 of the bill provides, upon motion, the court is required to assess the costs of the action ''to the interstate economy.'' If the court determines that the state court action ''affects interstate commerce,'' Rule 11 of the Federal Rules of Civil Procedure ''shall apply to such action.'' Imagining the proceedings necessary to determine whether a particular state court action ''affects interstate commerce'' is mind-boggling. This provision will certainly spawn satellite litigation. Moreover, the total disregard for federalism is astounding.

Finally, the vast majority of the federal judiciary opposes the changes contained in H.R. 420. The Judicial Conference of the United States, headed by the late Chief Justice Rehnquist, clearly stated in a letter to Chairman Sensenbrenner that ''the proposed changes to Rule 11 will not help deter litigation abuses, but will increase satellite litigation, costs, and delays.'' The letter also notes there is ''a remarkable consensus'' among Federal district court judges in opposition to changing the rule.

If you have any questions or need more information, please contact Pamela Gilbert, Cuneo Gilbert & LaDuca, LLP, representing the Center for Justice & Democracy, 202.587.5064; Sandy Brantley, Legislative Counsel, Alliance for Justice, 202.822.6070; or Jillian Aldebron, Civil Justice Counsel, Public Citizen's Congress Watch, 202.454.5135.

Sincerely,

Alliance for Justice.
Center for Justice & Democracy.
Citizens for a Safer Minnesota.
Consumer Federation of America.
District of Columbia Million Mom March.
Legal Community Against Violence.
Maine Citizens Against Handgun Violence.
National Association of Consumer Advocates.
New Yorkers Against Gun Violence.
Public Citizen.
USAction.
Violence Policy Center.
Virginians Against Handgun Violence.

AMERICAN BAR ASSOCIATION,
Chicago, IL, October 10, 2005.

DEAR REPRESENTATIVE: I write regarding H.R. 420, the ''Lawsuit Abuse Reduction Act.'' The American Bar Association strongly opposes this legislation and respectfully urges you to vote ''No'' when it is brought to the floor of the House of Representatives in the near future.

Without any demonstrated problem with the enforcement or operation of Rule 11, H.R. 420 would (1) impose mandatory sanctions for any violation of Rule 11 of the Federal Rules of Civil Procedure and remove its current ''safe harbor'' provisions; (2) enforce a mandatory suspension from practicing law of an attorney who has violated Rule 11 three times; (3) impose federal mandatory Rule 11 sanctions upon any civil state court claim that materially affects interstate commerce; and (4) impose specific venue designation rules upon any personal injury claim filed in any state or federal court.

As a threshold matter, the ABA strongly opposes the legislation because these amendments to the Federal Rules of Civil Procedure are being proposed without utilizing the process set forth in the Rules Enabling Act. This departure from the procedure of the Rules Enabling Act is also being proposed without any demonstrated problem with the operation of the Rules Enabling Act. The ABA fully supports the Rules Enabling Act process, which is based on three fundamental concepts: (1) the essential and central role of the judiciary in initiating judicial rulemaking; (2) the use of procedures that permit full public participation, including participation by members of the legal profession; and (3) provision for a Congressional review period. We view the proposed rules changes to the Federal Rules in H.R. 420 as an unwise retreat from the balanced and inclusive process established by Congress when it adopted the Rules Enabling Act.

In 28 U.S.C. §§2072–74, Congress prescribed the appropriate procedure for the formulation and adoption of rules of evidence, practice and procedure for the federal courts. This well-settled, congressionally specified procedure contemplates that evidentiary and procedural rules will in the first instance be considered and drafted by committees of the United States Judicial Conference, will thereafter be subject to thorough public comment and reconsideration, and will then be submitted to the United States Supreme Court for consideration and promulgation. Finally and most importantly, the proposed rules resulting from the inclusion of all of the stakeholders, is transmitted to Congress, which retains the ultimate power to veto any rule before it takes effect.

This time-proven process proceeds from separation-of-powers concerns and is driven by the practical recognition that, among other things:

(1) rules of evidence and procedure are inherently a matter of intimate concern to the judiciary, which must apply them on a daily basis;

(2) each rule forms just one part of a complicated, interlocking whole, rendering due deliberation and public comment essential to avoid unintended consequences; and

(3) the Judicial Conference is in a unique position to draft rules with care in a setting isolated from pressures that may interfere with painstaking consideration and due deliberation.

We do not question Congressional power to regulate the practice and procedure of federal courts. Congress exercised this power by delegating its rulemaking authority to the judiciary through the enactment of the Rules Enabling Act, while retaining the authority to review and amend rules prior to their taking effect. We do, however, question the wisdom of circumventing the Rules Enabling Act, as H.R. 420 would do. The fact that the proposed changes to the Rules are flawed should give pause to those who are asked to support the circumvention of the process of the Rules Enabling Act. Not following the processes set forth in the Rules Enabling Act would frustrate the purpose of the act and potentially harm the effective functioning of the judicial system.

The ABA supports the current version of Rule 11 because it has proven to be an effective means of discouraging dilatory motions practice and frivolous claims and defenses. There has been no demonstrated problem with the enforcement or operation of Rule 11. The ABA opposes the provisions in H.R 420 to enforce a mandatory suspension of an attorney for Rule 11 violations. The filing of frivolous claims and defenses is an important issue that deserves attention. It is appropriate and right for courts to have the ability to sanction attorneys for abusing the legal system by filing claims meant to harass or intimidate litigants. It is, however, important to remember that Rule 11 violations can be levied even when, in hindsight, there may have been a legitimate claim, especially for civil rights cases or environmental litigation. Attorneys practicing in these areas may be subject to more Rule 11 sanctions than attorneys who handle other types of cases.

A system that provides for mandatory suspension of attorneys with three Rule 11 violations would have an extremely chilling effect on the justice system and could disproportionately impact attorneys who practice in particular areas, such as civil rights or environmental law. This type of mandatory suspension is even more damaging when taken in combination with efforts to require mandatory sanctions for Rule 11 violations, which cannot be appealed until after a judgment is rendered in a case.

Equally important, the ABA strongly opposes enactment of H.R. 420 because Congress should not dictate venue rules for state courts. State rules relating to venue and jurisdiction should be developed at the state level and supported by extensive study, vetted publicly, and made subject to comment by the legal profession. To do otherwise would violate our long-established principles of federalism. It should remain solely within the purview of the individual states to establish local rules for procedures, either through their state legislatures or through a grant of rulemaking authority to their state judiciaries.

The imposition of Rule 11 mandatory sanctions upon the individual state courts would also violate our time-honored principles of federalism. Earlier this year, the Conference of Chief Justices adopted a resolution in opposition to federal usurpation of state court authority as guaranteed by the United States Constitution. This resolution ''strongly opposed'' the enactment of any federal legislation that would ''drastically change the traditional state role in determining ethics, jurisdiction and venue rules in state litigation.'' The determination of the states to establish and operate their judicial systems in accordance with principles important to each state is entitled to respectful deference from the federal government. Great deference should also be given to the views of these state court leaders.

For these compelling reasons the ABA strongly opposes the enactment of H.R. 420. We respectfully urge you to vote ''No'' on this legislation.

Sincerely,

MICHAEL S. GRECO,
President.

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, May 17, 2005.

Hon. F. JAMES SENSENBRENNER, JR.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to provide you with a copy of the Federal Judicial Center's Report of a Survey of United States District Judges' Experiences and Views Concerning Rule 11, Federal Rules of Civil Procedure. The report was prepared at the request of the Judicial Conference's Advisory Committee on Civil Rules to provide information as part of the Advisory Committee's study of proposals introduced in Congress to amend Rule 11. The report makes it clear that the vast majority of federal district judges believe that the proposed changes to Rule 11 will not help deter litigation abuses, but will increase satellite litigation, costs, and delays.

Since 1995, legislation has regularly been introduced that would reinstate a mandatory sanctions provision of Rule 11 that was adopted in 1983 and eliminated in 1993. The 1993 change followed several years of examination and was made on the Judicial Conference's recommendation, with the Supreme

Court's approval, and after Congressional review. The 1983 provision was eliminated because during the ten years it was in place, it did not provide meaningful relief from the litigation behavior it was meant to address and generated wasteful satellite litigation that had little to do with the merits of a case. On January 26, 2005, Representative Lamar Smith introduced the Lawsuit Abuse Reduction Act of 2005 (H.R. 420). The bill would restore the 1983 version of Rule 11, undoing the amendments to Rule 11 that took effect in December 1993. The enclosed report shows a remarkable consensus among federal district judges supporting existing Rule 11 and opposing its amendment.

In 1983, Rule 11 was amended to require judges to impose sanctions for violations that could include attorneys' fees. The 1983 version of Rule 11 was intended to address certain improper litigation tactics by providing some punishment and deterrence. The effect was almost the opposite. The 1983 rule presented attorneys with financial incentives to file a sanction motion. The rule was abused by resourceful lawyers. A ''cottage industry'' developed that churned tremendously wasteful satellite sanctions litigation that had everything to do with strategic gamesmanship and little to do with the underlying claims or with the behavior the rule attempted to regulate. Rule 11 motions came to be met with counter motions that sought Rule 11 sanctions for making the original Rule 11 motion. The 1983 version of Rule 11 spawned thousands of court decisions unrelated to the merits of the cases, sowed discord in the bar, and generated widespread criticism.

The 1993 amendments to Rule 11 were designed to remedy major problems shown by experience with the 1983 rule, allow courts to focus on the merits of the underlying cases rather than on Rule II motions, but still provide a meaningful sanction for frivolous pleadings. The rule establishes a ''safe harbor,'' providing a party 21 days within which to withdraw a particular claim or defense before sanctions can be imposed. If the party fails to withdraw an allegedly frivolous claim or defense within the 21 days, a court may impose sanctions, including assessing reasonable attorney fees. Rule 11 does not supplant other remedial actions available to sanction an attorney for a frivolous filing, including punishing the attorney for contempt, employing sanctions under 28 D.S.C. 1927 for ''vexatious'' multiplication of proceedings, or initiating an independent action for malicious prosecution or abuse of process.

H.R. 420 would amend Rule 11 to restore the 1983 version, by removing a court's discretion to impose sanctions on a frivolous filing and by eliminating the rule's safe-harbor provisions. The Judicial Conference opposed the Lawsuit Abuse Reduction Act of2004 (H.R. 4571), the predecessor of H.R. 420. The Judicial Conference based its position on the problems caused by the 1983 version of Rule 11, which H.R. 420 would restore. The Judicial Conference noted that these problems included:

creating a significant incentive to file unmeritorious Rule 11 motions by providing a possibility of monetary penalty;

engendering potential conflict of interest between clients and their lawyers, who advised withdrawal of particular claims despite the clients' preference;

exacerbating tensions between lawyers; and

providing little incentive, and perhaps a distinct disincentive, to abandon or withdraw—and thereby admit error on—a pleading or claim after determining that it no longer was supportable in law or fact.

The Advisory Committee on Civil Rules regularly monitors the operation of the Civil Rules, inviting the bench, bar, and public to inform it of any problems. The Committee stands ready to address any deficiency in the rules, including Rule II. Although the Committee is mindful of Congressional concerns about frivolous filings addressed in pending legislation, the Committee has not received any negative comments or complaints on existing Rule II from the bench, bar, or public. To gain a clearer picture of the operation of Rule 11, the Committee asked the Federal Judicial Center to survey the experience of the trial judges who must apply the rules. The survey sought responses from judges with experience under the 1983 version as well as judges serving only after the 1993 version was adopted. The results of the Federal Judicial Center's survey show that judges strongly believe that Rule 11, which was carefully crafted to deter frivolous filings without unduly hampering the filing of legitimate claims or defenses, continues to work well. The survey's findings include the following highlights:

More than 80 percent of the 278 district judges surveyed indicate that ''Rule 11 is needed and it is just right as it now stands'';

87 percent prefer the existing Rule 11 to the 1983 version or the version proposed by legislation (e.g., H.R. 4571 or H.R. 420);

85 percent strongly or moderately support Rule 11's safe harbor provisions;

91 percent oppose the proposed requirement that sanctions be imposed for every Rule 11 violation;

84 percent disagree with the proposition that an award of attorney fees should be mandatory for every Rule 11 violation;

85 percent believe that the amount of groundless civil litigation has not grown since the promulgation of the 1993 rule, with 12 percent noting that such litigation has not been a problem, 19 percent noting that such litigation decreased during their tenure on the Federal bench, and 54 percent noting that such litigation has remained relatively constant; and

72 percent believe that addressing sanctions for discovery abuse in Rules 26(g) and 37 is better than in Rule 11.

The judges' experiences with the 1993 version of Rule 11 point to a marked decline in Rule 11 satellite litigation without any noticeable increase in the number of frivolous filings. H.R. 420 would effectively reinstate the 1983 version of Rule 11 that proved so contentious and wasted so much time and energy of the bar and bench. Rule 11 in its present form has proven effective and should not be revised. The findings of the Federal Judicial Center underscore the Federal district judges' united opposition to legislation amending Rule 11. I urge you on behalf of the Judicial Conference to oppose legislation amending Rule 11.

The Judicial Conference appreciates your consideration of its views. If you have any questions, please feel to contact me. I may be reached at (202) 273–3000. If you prefer, you may have your staff contact Karen Kremer, Counsel, Office of Legislative Affairs, Administrative Office of the United States Courts, at (202) 502–1700.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

Mr. MCGOVERN. Madam Speaker, I think the reason why we have no other speakers on this side is because everything that possibly could be said was said last year. So all we need to do is just replay the tape recorder and listen to all the arguments. We just seem to be repeating the same debates over and over and over again.

Again, I would urge my colleagues to vote against this legislation. This is unwise policy. I understand that the genesis of this legislation is to appeal to those who like to contribute lots of money to particular campaigns, but, quite frankly, I think that is not a sound reason to pass this legislation.

As I mentioned before, the Judicial Conference of the United States has outlined very clearly why this is a bad bill. I would hope that my colleagues would listen to some of the experts and do what is right and reject this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. GINGREY. Madam Speaker, I might point out that the people that oppose this legislation, as the gentleman from Massachusetts mentioned earlier, are the very ones that support his party. So I think that there is a little balance there, if that be true in either instance.

Madam Speaker, I would first like to close this debate by thanking my colleagues for a very productive discussion of both the rule and H.R. 420. The opportunity before this House today is another example of how this Congress has improved our legal system and preventing frivolous lawsuits from closing the doors of justice for those who have truly been harmed.

Contrary to what the opponents of legal reform might say, the underlying bill, as well as other recent bills, do not demonstrate contempt for our legal system or the esteemed profession of attorneys, but rather demonstrate respect for the important and historic role of our judicial system in defending the rights and ensuring the constitutional application of the laws. Frivolous lawsuits have not only driven up costs and destroyed economic opportunity for the American people, but they have also damaged the image of the courts. When the American people stop respecting the decisions of the judiciary, the courts begin to lose their effectiveness, and they cease to perform their constitutionally mandated role.

For the sake of the courts and for the sake of the American people, we in this House need to push forward with this additional meaningful and genuine reform. Therefore, I would like to urge all of my colleagues on both sides of the center aisle to support this rule and the underlying bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, while the Committee on Rules reported out a rule that made in order a substantive amendment offered by the Gentleman from California, Mr. SCHIFF, I rise in opposition to it, H. Res. 508 because the legislation underlying is pernicious.

As I mentioned during the Committee on the Judiciary's oversight hearing on this legislation during its first iteration in the 108th Congress and reiterated in my statement for the markup, one of the main functions of that body's oversight is to analyze potentially negative impact against the benefits that a legal process or piece of legislation will have on those affected. The base bill before the House today does not represent the product of careful analysis and

therefore, it is critical that Members be given the ability to offer amendments to improve its provisions.

In the case of H.R. 4571, the Lawsuit Abuse Reduction Act the oversight functions of the Judiciary Committee allowed us to craft a bill that will protect those affected from negative impacts of the shield from liability that it proposes. This legislation requires an overhaul in order to make it less of a misnomer—to reduce abuse rather than encourage it.

The goal of the tort reform legislation is to allow businesses to externalize, or shift, some of the cost of the injuries they cause to others. Tort law always assigns liability to the party in the best position to prevent an injury in the most reasonable and fair manner. In looking at the disparate impact that the new tort reform laws will have on ethnic minority groups, it is unconscionable that the burden will be placed on these groups—that are in the worst position to bear the liability costs.

When Congress considers pre-empting state laws, it must strike the appropriate balance between two competing values—local control and national uniformity. Local control is extremely important because we all believe, as did the Founders two centuries ago, that State governments are closer to the people and better able to assess local needs and desires. National uniformity is also an important consideration in federalism—Congress' exclusive jurisdiction over interstate commerce has allowed our economy to grow dramatically over the past 200 years.

This legislation would reverse the changes to Rule 11 of the Federal Rules of Civil Procedure, FRCP, that were made by the Judicial Conference in 1993 such that (1) sanctions against an attorney whose litigation tactics are determined to harass or cause unnecessary delay or cost or who has been determined to have made frivolous legal arguments or unwarranted factual assertions would become mandatory rather than discretionary to the court, (2) discovery-related activity would be included within the scope of the Rule, and (3) the Rule would be extended to state cases affecting interstate commerce so that if a state judge decides that a case affects interstate commerce, he or she must apply Rule 11 if violations are found.

This legislation strips State and Federal judges of their discretion in the area of applying Rule 11 sanctions. Furthermore, it infringes States' rights by forcing State courts to apply the rule if interstate commerce is affected. Why is the discretion of the judge not sufficient in discerning whether Rule 11 sanctions should be assessed?

If this legislation moves forward in this body, it will be important for us to find out its effect on indigent plaintiffs or those who must hire an attorney strictly on a contingent—fee basis. Because the application of Rule 11 would be mandatory, attorneys will pad their legal fees to account for the additional risk that they will have to incur in filing lawsuits and the fact that they will have no opportunity to withdraw the suit due to a mistake. Overall, this legislation will deter indigent plaintiffs from seeking counsel to file meritorious claims given the extremely high legal fees.

Furthermore, H.R. 4571, as drafted, would allow corporations that perform sham and non-economic transactions in order to enjoy economic benefits in this country .

This is a bad rule that will have terrible implications on our legislative branch, and I ask that my colleagues to defeat the rule, defeat the bill, and support the Substitute offered by Mr. SCHIFF. We must carefully consider the long-term implications that this bill, as drafted, will have on indigent claimants, the trial attorney community, and facilitation of corporate fraud.

Mr. GINGREY. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISAPPROVING THE RECOMMENDATIONS OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Mr. HUNTER. Madam Speaker, pursuant to section 2908(d) of Public Law 101–510, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res 65) disapproving the recommendations of the Defense Base Closure and Realignment Commission.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER).

The motion was agreed to.

□ 1055

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 65) disapproving the recommendations of the Defense Base Closure and Realignment Commission, with Mr. GINGREY in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the joint resolution was considered read the first time.

The CHAIRMAN. Pursuant to section 2908(d) of Public Law 101–510, debate shall not exceed 2 hours.

The gentleman from California (Mr. HUNTER) will be recognized for 1 hour in opposition to the joint resolution and a Member in favor of the joint resolution will be recognized for 1 hour.

Mr. LAHOOD. Mr. Chairman, I would like to claim the 1 hour in support of the resolution.

The CHAIRMAN. The gentleman from Illinois (Mr. LAHOOD) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield 30 minutes to the gentleman from Missouri (Mr. SKELTON), and I ask unanimous consent that he be allowed to control that time. I also ask unanimous consent that I be allowed to designate the gentleman from Colorado (Mr. HEFLEY) as controlling our time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, tonight marks the end of a long and difficult process for selecting military installations for closure and realignment.

Under BRAC law, the realignment and closure recommendations by the BRAC 2005 Commission will become binding, unless a joint resolution of disapproval, such as the one before us today, is enacted.

For those of us with military installations in our districts, the BRAC process is a trying one. And I might mention we have had four BRAC rounds previous to this one. Every one of us spent the last 4 years making a case to the Pentagon and the BRAC Commission with respect to the military value of our bases. Nevertheless, both DOD and the BRAC Commission have determined that a portion of our military infrastructure should be closed or realigned.

As a result, the final recommendations of the Commission include 22 closures that we would designate as major closures, 33 major realignments, and many smaller closure and realignment actions. According to the Commission, these actions will save more than $15 billion over the next two decades with annual savings of more than $2.5 billion after implementation.

Some of my colleagues have questioned the need for a round of BRAC and the timing of this round. While I understand and appreciate such concerns, I believe that these issues have been thoroughly discussed and debated. In addition, by a vote of 43 to 14, the Armed Services Committee reported this resolution adversely to the House with a recommendation that it do not pass. As such, I intend to vote against House Joint Resolution 65 today, thereby allowing the BRAC Commission recommendations to stand, and I would urge my colleagues to join me in doing so.

On a final note, I would like to thank the BRAC Commissioners for their service. Since their appointments this spring, the Commissioners visited more than 170 installations, conducted 20 regional hearings and 20 deliberative hearings, and participated in hundreds of meetings with public officials. Also, Mr. Chairman, I would particularly like to thank the chairman of the Commission, Anthony J. Principi. Tony Principi took on another tough one in chairing this BRAC Commission. It is a commission in which you get beaten up lots of times, second-guessed a lot, and cross-examined a lot. Yet, it is a necessary position, and it is one that requires a guy or a lady with a lot of integrity. Chairman Principi is just such a person.

Also, we had on our committee two former members of the Armed Services Committee who were on the BRAC Commission, Jim Bilbray and Jim Hansen, and Mr. Chairman, they have served us well as senior statesmen in