

110TH CONGRESS
2D SESSION

H. R. 6146

To amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2008

Mr. COHEN (for himself, Mr. ISSA, Mr. NADLER, Mr. CONYERS, Mr. COBLE, Mr. BERMAN, Ms. ZOE LOFGREN of California, Mr. WEXLER, Ms. JACKSON-LEE of Texas, Mr. GUTIERREZ, Mr. UDALL of Colorado, Mr. YARMUTH, and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments.

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. FINDINGS; PURPOSE.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) The first amendment of the Constitution of
6 the United States prohibits the abridgment of free-
7 dom of speech.

8 (2) Freedom of speech is fundamental to the
9 values of American democracy.

1 (3) In light of the constitutional protection our
2 Nation affords to freedom of speech, the Supreme
3 Court has modified the elements of the common law
4 tort of defamation to provide more protection for de-
5 fendants than would be available at common law, in-
6 cluding providing special protections for political
7 speech.

8 (4) The courts of other countries, including
9 those that otherwise share our Nation's common law
10 and due process traditions, are not constrained by
11 the first amendment and thus may provide less pro-
12 tection to defamation defendants than our Constitu-
13 tion requires.

14 (5) While our Nation's courts will generally en-
15 force foreign judgments as a matter of comity, com-
16 ity does not require that courts enforce foreign judg-
17 ments that are repugnant to our Nation's funda-
18 mental constitutional values, in particular its strong
19 protection of the right to freedom of speech.

20 (6) Our Nation's courts should only enforce for-
21 eign judgments as a matter of comity when such for-
22 eign judgments are consistent with the right to free-
23 dom of speech.

24 (b) PURPOSE.—The purpose of this Act is to protect
25 the right to freedom of speech under the first amendment

1 to the Constitution of the United States from the poten-
 2 tially weakening effects of foreign judgments concerning
 3 defamation.

4 **SEC. 2. RECOGNITION OF FOREIGN DEFAMATION JUDG-**
 5 **MENTS.**

6 (a) IN GENERAL.—Part VI of title 28, United States
 7 Code, is amended by adding at the end the following:

8 **“CHAPTER 181—FOREIGN JUDGMENTS**

9 **“SEC. 4101 RECOGNITION OF FOREIGN DEFAMATION JUDG-**
 10 **MENTS.**

11 “(a) FIRST AMENDMENT CONSIDERATIONS.—Not-
 12 withstanding any other provision of Federal or State law,
 13 a domestic court shall not recognize or enforce a foreign
 14 judgment concerning defamation unless the domestic court
 15 determines that the foreign judgment is consistent with
 16 the first amendment to the Constitution of the United
 17 States.

18 “(b) DEFINITIONS.—For purposes of this section:

19 “(1) COURT.—The term ‘court’ means a court,
 20 administrative body, or other tribunal.

21 “(2) DEFAMATION.—The term ‘defamation’
 22 means libel, slander, or any other cause of action
 23 primarily based on a published communication.

24 “(3) DOMESTIC COURT.—The term ‘domestic
 25 court’ means a State court or a Federal court.

1 “(4) FOREIGN COURT.—The term ‘foreign
2 court’ means a court of a foreign country.

3 “(5) FOREIGN JUDGMENT.—The term ‘foreign
4 judgment’ means a final judgment rendered by a
5 foreign court.”.

6 (b) CLERICAL AMENDMENT.—The table of chapters
7 for part VI of title 28, United States Code, is amended
8 by adding at the end the following:

“181. Foreign Judgments 4101”.

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