

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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April 14, 2015

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, supports H.R. 758, the "Lawsuit Abuse Reduction Act of 2015," and urges the Committee to favorably report this bill when it is marked-up. The Chamber also opposes any weakening or hostile amendments that may be offered in opposition to H.R. 758.

Every year, potentially billions of dollars are wasted on frivolous lawsuits, hurting job growth and slowing the economy. Under America's current legal system, obtaining dismissal of a lawsuit that has no valid legal or factual basis can easily cost hundreds of thousands of dollars in legal fees and discovery costs – not to mention lost time and productivity. As a result, businesses often settle even baseless claims because fighting them in court would cost more than agreeing to a settlement demand. The expenses accompanying such settlements result in lost jobs and can drive businesses, especially small businesses, into bankruptcy.

Rule 11 of the Federal Rules of Civil Procedure provides a basic foundation for the legal system – claims filed in federal court must be based on both law and fact. However, as Rule 11 currently stands, the filing of a frivolous claim does not necessarily automatically result in sanctions. In the words of one Supreme Court Justice, the rule is completely "toothless," allowing parties "to file thoughtless, reckless, and harassing pleadings, secure in the knowledge that they have nothing to lose." This lack of accountability rewards the gamesmanship of unscrupulous attorneys who are able to file baseless claims without fear of recourse.

H.R. 758 aims to realign these incentives by strengthening Rule 11's enforcement provisions. Specifically, this bill would make sanctions for violations of Rule 11 mandatory rather than discretionary. This bill would also eliminate the 21-day "safe harbor" that allows lawyers to file frivolous claims without threat of sanction because they can withdraw them without penalty within 21 days of a sanction's motion being given to the offending party. Additionally, this bill would replace language that discourages judges from making victims of lawsuit abuse whole with language that fully authorizes judges to order parties who pursue frivolous claims to pay the other sides' legal fees and costs.

Without true consequences being imposed on parties who make meritless legal claims, innocent businesses will continue to be threatened with the reality that paying off baseless claims is often cheaper than litigation. H.R. 758 would help fix this perverse dynamic by deterring abusive litigation practices and, as a result, encourage economic growth and job creation. The Chamber supports H.R. 758 and urges its favorable consideration by the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first name "R." and last name "Josten" being the most legible parts.

R. Bruce Josten

cc: Members of the Committee on the Judiciary