



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

September 16, 2015
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 758 - Lawsuit Abuse Reduction Act of 2015

(Rep. Smith, R-TX, and 6 cosponsors)

The Administration strongly opposes H.R. 758 because it is both unnecessary and counterproductive. H.R. 758 would limit the discretion of courts for violations of Rule 11 of the Federal Rules of Civil Procedure. Rule 11 requires attorneys to certify pre-filing that pleadings are not presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation. H.R. 758 would require courts to impose monetary sanctions, including court costs and attorney fees, for any Rule 11 violation. The bill would eliminate the safe harbor provision that currently allows attorneys to correct or withdraw a filing before Rule 11 proceedings commence. H.R. 758 would also circumvent the usual procedure for amending the Federal Rules of Civil Procedure.

H.R. 758 was introduced to curb a perceived increase in frivolous litigation; however, the proposed changes to Rule 11 will actually increase litigation. By creating an automatic financial incentive, and by removing the safe harbor provision, the proposed changes to Rule 11 could dramatically increase the number of sanctions motions, including those filed against Federal government attorneys, and correspondingly increase the risk of financial exposure for any conduct that might be considered a Rule 11 violation. In short, H.R. 758 would raise the amount and cost of civil litigation and provide more opportunity for unnecessary delay and harassment.

The Administration is particularly concerned that the new requirements could be used to target consumer and civil rights plaintiffs. Consumer abuse and civil rights cases can rely heavily on the discovery process to prove the merits of their claims. In addition, civil rights cases often seek to challenge the law or to extend existing precedents. The threat of mandatory sanctions for failure to withstand a Rule 11 challenge could chill meritorious claims by deterring worthy plaintiffs, who often lack the financial resources to pay costs and fees, from challenging existing laws or seeking novel interpretations of them.

The bill is also opposed by the Judicial Conference of the United States, the principal policymaking body for the Judicial Branch charged with proposing amendments to the Federal Rules of Civil Procedure under the careful, deliberate process outlined in the Rules Enabling Act. The Congress has tasked the Judicial Conference to serve as the principal policymaking body for the Judicial Branch. The Congress has thus empowered the Federal judiciary to make its own procedural rules, retaining the right to review those rules and to accept, modify, or reject them. H.R. 758 is an attempt to amend the rules directly, over the objections of the Judicial Conference.

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