

(i) no basis in fact; or
 (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(b) DETERMINATION THAT AN ACTION IS FRIVOLOUS.—

(1) MOTION FOR DETERMINATION.—Not later than 90 days after the date the complaint in any action in a Federal court is filed, the defendant to the action may make a motion that the court determine if the action is frivolous.

(2) COURT ACTION.—The court in any action in Federal court shall on the motion of a defendant or on its own motion determine if the action is frivolous.

(c) CONSIDERATIONS.—In making its determination of whether an action is frivolous, the court shall take into account—

- (1) the multiplicity of parties;
- (2) the complexity of the claims and defenses;
- (3) the length of time available to the party to investigate and conduct discovery; and
- (4) affidavits, depositions, and any other relevant matter.

(d) SANCTION.—If the court determines that the action is frivolous, the court shall impose an appropriate sanction on the signatory or verifier of the complaint and the attorney of record. The sanction shall include the following—

- (1) the striking of the complaint;
- (2) the dismissal of the party; and
- (3) an order to pay to the defendant the amounts of the reasonable expenses incurred because of the filing of the action, including costs, witness fees, fees of experts, discovery expenses, and reasonable attorney's fees calculated on the basis of an hourly rate which may not exceed that which the court considers acceptable in the community in which the attorney practices law, taking into account the attorney's qualifications and experience and the complexity of the case, except that the amount of expenses which may be ordered under this paragraph may not exceed—

(A) the actual expenses incurred by the plaintiff because of the filing of the action; and

(B) to the extent that such expenses were not incurred because of a contingency agreement, the reasonable expenses that would have been incurred in the absence of the contingency agreement.

(e) CONSTRUCTION.—For purposes of this section the amount requested for damages in a complaint does not constitute a frivolous action.

Page 7, line 7, strike "The amendment made by section" and insert "Section".

Amendment submitted by Mr.MCHALE:

After section 4, insert the following:
SEC. 5. FRIVOLOUS ACTIONS.

(a) GENERAL RULE.—

(1) SIGNING OF COMPLAINT.—The signing or verification of a complaint in all civil actions in Federal court constitutes a certificate that to the signatory's or verifier's best knowledge, information, and belief, formed after reasonable inquiry, the action is not frivolous as determined under paragraph (2).

(2) DEFINITIONS.—

(A) For purposes of this section, an action is frivolous if the complaint is—

- (i) groundless and brought in bad faith;
- (ii) groundless and brought for the purpose of harassment; or
- (iii) groundless and brought for any improper purpose.

(B) For purposes of subparagraph (A), the term "groundless" means—

- (i) no basis in fact; or
- (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(b) DETERMINATION THAT AN ACTION IS FRIVOLOUS.—

(1) MOTION FOR DETERMINATION.—Not later than 90 days after the date the complaint in any action in a Federal court is filed, the defendant to the action may make a motion that the court determine if the action is frivolous.

(2) COURT ACTION.—The court in any action in Federal court shall on the motion of a defendant or on its own motion determine if the action is frivolous.

(c) CONSIDERATIONS.—In making its determination of whether an action is frivolous, the court shall take into account—

- (1) the multiplicity of parties;
- (2) the complexity of the claims and defenses;
- (3) the length of time available to the party to investigate and conduct discovery; and
- (4) affidavits, depositions, and any other relevant matter.

(d) SANCTION.—If the court determines that the action is frivolous, the court shall impose an appropriate sanction on the signatory or verifier of the complaint and the attorney of record. The sanction shall include the following—

- (1) the striking of the complaint;
- (2) the dismissal of the party; and
- (3) an order to pay to the defendant the amounts of the reasonable expenses incurred because of the filing of the action, including costs, witness fees, fees of experts, discovery expenses, and reasonable attorney's fees calculated on the basis of an hourly rate which may not exceed that which the court considers acceptable in the community in which the attorney practices law, taking into account the attorney's qualifications and experience and the complexity of the case, except that the amount of expenses which may be ordered under this paragraph may not exceed—

(A) the actual expenses incurred by the plaintiff because of the filing of the action; and

(B) to the extent that such expenses were not incurred because of a contingency agreement, the reasonable expenses that would have been incurred in the absence of the contingency agreement.

(e) CONSTRUCTION.—For purposes of this section the amount requested for damages in a complaint does not constitute a frivolous action.

Page 7, line 1, strike "SEC. 5." and insert "SEC. 6.".

Page 7, line 7, strike "The" and insert "Section 5 and the".

It was decided in the { Yeas 186
 negative } Nays 235

38.14 [Roll No. 201]
 AYES—186

Ackerman	Clyburn	Eshoo
Andrews	Collins (IL)	Evans
Baessler	Collins (MI)	Farr
Baldacci	Conyers	Fattah
Barcia	Costello	Fazio
Barrett (WI)	Coyne	Fields (LA)
Bateman	Cramer	Finler
Beilenson	DeFazio	Flake
Bentsen	DeLauro	Foglietta
Berman	Dellums	Ford
Bevill	Deutsch	Fox
Bishop	Diaz-Balart	Frank (MA)
Bonior	Dicks	Frost
Borski	Dingell	Furse
Boucher	Dixon	Gejdenson
Browder	Doggett	Gephardt
Brown (CA)	Gilman	Gilman
Brown (FL)	Doyle	Gonzalez
Brown (OH)	Duncan	Gordon
Bryant (TX)	Durbin	Green
Cardin	Edwards	Gutierrez
Clay	Ehrlich	Hall (OH)
Clayton	Engel	Hamilton
Clement	English	Harman

Hastings (FL)	McDermott	Sawyer
Hayes	McKinney	Schroeder
Hilliard	Meehan	Schumer
Hinchey	Meek	Scott
Holden	Menendez	Serrano
Hoyer	Mfume	Sisisky
Jackson-Lee	Minge	Skaggs
Jacobs	Mink	Skelton
Jefferson	Moakley	Slaughter
Johnson (SD)	Mollohan	Spratt
Johnson, E. B.	Moran	Stark
Johnston	Morella	Stokes
Kanjorski	Murtha	Studds
Kaptur	Nadler	Stupak
Kennedy (MA)	Neal	Tanner
Kennedy (RI)	Oberstar	Thompson
Kennelly	Obey	Thornton
Kildee	Olver	Thurman
Klecza	Orton	Torres
Klink	Owens	Torricelli
LaFalce	Pallone	Towns
Lantos	Pastor	Tucker
Laughlin	Payne (NJ)	Velazquez
Levin	Peterson (FL)	Vento
Lewis (GA)	Peterson (MN)	Visclosky
Lincoln	Pomeroy	Volkmer
Lipinski	Poshard	Ward
Lofgren	Rahall	Waters
Longley	Reed	Watt (NC)
Lowe	Reynolds	Waxman
Luther	Richardson	Weldon (PA)
Maloney	Rivers	Williams
Manton	Roemer	Wilson
Markey	Rose	Wise
Martinez	Roybal-Allard	Woolsey
Mascara	Rush	Wyden
Matsui	Sabo	Wynn
McCarthy	Sanders	Yates

NOES—235

Abercrombie	Dunn	Knollenberg
Allard	Ehlers	Kolbe
Archer	Emerson	LaHood
Armey	Ensign	Largent
Bachus	Everett	Latham
Baker (CA)	Ewing	LaTourette
Baker (LA)	Fawell	Lazio
Ballenger	Fields (TX)	Leach
Barr	Flanagan	Lewis (CA)
Barrett (NE)	Foley	Lewis (KY)
Bartlett	Forbes	Lightfoot
Barton	Fowler	Linder
Bass	Franks (CT)	Livingston
Bereuter	Franks (NJ)	LoBiondo
Bilbray	Frelinghuysen	Lucas
Bilirakis	Frisa	Manzullo
Bliley	Funderburk	Martini
Blute	Gallely	McCollum
Boehlert	Ganske	McCrery
Boehner	Gekas	McHale
Bonilla	Geren	McHugh
Bono	Gilchrest	McInnis
Brewster	Gillmor	McKeon
Brownback	Goodlatte	McNulty
Bryant (TN)	Goodling	Metcalf
Bunn	Goss	Meyers
Burr	Graham	Mica
Burton	Greenwood	Miller (FL)
Buyer	Gunderson	Mineta
Callahan	Gutknecht	Molinari
Calvert	Hall (TX)	Montgomery
Camp	Hancock	Moorhead
Canady	Hansen	Myers
Castle	Hastert	Myrick
Chabot	Hastings (WA)	Nethercutt
Chambliss	Hayworth	Neumann
Chapman	Hefley	Ney
Chenoweth	Heineman	Norwood
Christensen	Herger	Nussle
Chrysler	Hilleary	Ortiz
Clinger	Hobson	Oxley
Coble	Hoekstra	Packard
Collins (GA)	Hoke	Parker
Combest	Horn	Paxon
Cooley	Hostettler	Payne (VA)
Cox	Houghton	Petri
Crane	Hunter	Pickett
Crapo	Hutchinson	Pombo
Creameans	Hyde	Porter
Cubin	Inglis	Portman
Cunningham	Istook	Pryce
Danner	Johnson (CT)	Quillen
Davis	Johnson, Sam	Quinn
de la Garza	Jones	Radanovich
Deal	Kasich	Ramstad
DeLay	Kelly	Regula
Dickey	Kim	Riggs
Doolittle	King	Roberts
Dornan	Kingston	Rogers
Dreier	Klug	Rohrabacher

Ros-Lehtinen Smith (WA) Upton
Roukema Solomon Vucanovich
Royce Souder Waldholtz
Salmon Spence Walker
Sanford Stearns Walsh
Saxton Stenholm Wamp
Scarborough Stockman Watts (OK)
Schaefer Stump Weldon (FL)
Schiff Talent Weller
Seastrand Tate White
Sensenbrenner Tauzin Whitfield
Shadegg Taylor (MS) Wicker
Shaw Taylor (NC) Wolf
Shays Tejada Young (AK)
Shuster Thomas Young (FL)
Skeen Thornberry Zeliff
Smith (MI) Tiaht Zimmer
Smith (NJ) Torkildsen
Smith (TX) Traficant

NOT VOTING—13

Becerra Gibbons Pelosi
Bunning Hefner Rangel
Coburn McDade Roth
Coleman McIntosh
Condit Miller (CA)

So the amendment to the amendment was not agreed to.

38.15 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the foregoing amendment submitted by Mr. MCHALE.

It was decided in the Yeas 115
negative Nays 306

38.16 [Roll No. 202]
AYES—115

Andrews Gilman Obey
Baker (CA) Gonzalez Orton
Barrett (WI) Goodlatte Pallone
Bateman Gordon Parker
Beilenson Goss Peterson (FL)
Bentsen Green Petri
Bevill Greenwood Pomeroy
Bilbray Gutknecht Porter
Bishop Hall (OH) Rahall
Blute Harman Ros-Lehtinen
Boucher Herger Sanford
Brown (OH) Hoke Sanford
Chenoweth Holden Sawyer
Combust Horn Scarborough
Coyne Inglis Schumer
Cramer Jefferson Shadegg
Crapo Johnston Sisisky
Davis Kanjorski Smith (MI)
DeLay Kaptur Souder
Deutsch Kelly Spence
Diaz-Balart Klink Stark
Dingell Kolbe Stenholm
Dooley Latham Studds
Doolittle Lazio Taylor (MS)
Doyle Levin Torkildsen
Duncan Lincoln Torricelli
Engel Luther Traficant
English Manton Tucker
Ensign Mascara Upton
Fazio McCollum Visclosky
Foglietta McHale Vucanovich
Forbes McKinney Waldholtz
Fowler Meek Weldon (FL)
Fox Meyers Weldon (PA)
Frank (MA) Mineta Wicker
Franks (NJ) Mollohan Wise
Gejdenson Montgomery Zimmer
Gephardt Moran
Gilchrist Murtha

NOES—306

Abercrombie Bereuter Bryant (TX)
Ackerman Berman Bunn
Allard Bilirakis Burr
Archer Bliley Burton
Armey Boehlert Buyer
Bachus Boehner Callahan
Baesler Bonilla Calvert
Baker (LA) Bonior Camp
Baldacci Bono Canady
Ballenger Borski Cardin
Barcia Brewster Castle
Barr Browder Chabot
Barrett (NE) Brown (CA) Chambliss
Bartlett Brown (FL) Chapman
Barton Brownback Christensen
Bass Bryant (TN) Chrysler

Clay Istook Poshard
Clayton Jackson-Lee Pryce
Clement Jacobs Quillen
Clinger Johnson (CT) Quinn
Clyburn Johnson (SD) Radanovich
Coble Johnson, E. B. Ramstad
Collins (GA) Johnson, Sam Reed
Collins (IL) Jones Regula
Collins (MI) Kasich Reynolds
Conyers Kennedy (MA) Richardson
Cooley Kennedy (RI) Riggs
Costello Kennelly Rivers
Cox Kildee Roberts
Crane Kim Roemer
Cremeans King Rogers
Cubin Kingston Rohrabacher
Cunningham Kleczka Rose
Danner Klug Roukema
de la Garza Knollenberg Roybal-Allard
Deal LaFalce Royce
DeFazio LaHood Sabo
DeLauro Lantos Salmon
Dellums Largent Sanders
Dickey LaTourrette Saxton
Dicks Laughlin Schaefer
Dixon Leach Schiff
Doggett Lewis (CA) Schroeder
Dornan Lewis (GA) Scott
Dreier Lewis (KY) Seastrand
Dunn Lightfoot Sensenbrenner
Durbin Linder Serrano
Edwards Lipinski Shaw
Ehlers Livingston Shays
Ehrlich LoBiondo Shuster
Emerson Lofgren Skaggs
Eshoo Longley Skeeon
Evans Lowey Skelton
Everett Lucas Slaughter
Ewing Maloney Smith (NJ)
Farr Manzullo Smith (TX)
Fattah Markey Smith (WA)
Fawell Martinez Solomon
Fields (LA) Martini Spratt
Fields (TX) Matsui Stearns
Filner McCarthy Stockman
Flake McCrery Stokes
Flanagan McDermott Stump
Foley McHugh Stupak
Ford McInnis Talent
Franks (CT) McKeon Tanner
Frelinghuysen McNulty Tate
Frisa Meehan Tauzin
Frost Menendez Taylor (NC)
Funderburk Metcalf Tejada
Furse Mfume Thomas
Gallegly Mica Thompson
Ganske Miller (FL) Thornberry
Gekas Minge Thornton
Geren Mink Thurman
Gillmor Moakley Tiaht
Goodling Molinari Torres
Graham Moorhead Towns
Gunderson Morella Velazquez
Gutierrez Myers Vento
Hall (TX) Myrick Volkmer
Hamilton Nader Walker
Hancock Neal Walsh
Hansen Nethercutt Wamp
Hastert Neumann Ward
Hastings (FL) Ney Waters
Hastings (WA) Norwood Watt (NC)
Hayes Nussle Watts (OK)
Hayworth Oberstar Waxman
Hefley Olver Weller
Heineman Ortiz White
Hilleary Owens Whitfield
Hilliard Oxley Williams
Hinchev Packard Wilson
Hobson Pastor Wolf
Hoekstra Paxon Woolsey
Hostettler Payne (NJ) Wyden
Houghton Payne (VA) Wynn
Hoyer Peterson (MN) Yates
Hunter Pickett Young (AK)
Hutchinson Pombo Young (FL)
Hyde Portman Zeliff

NOT VOTING—13

Becerra Gibbons Pelosi
Bunning Hefner Rangel
Coburn McDade Roth
Coleman McIntosh
Condit Miller (CA)

So the amendment was not agreed to. After some further time,

38.17 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the

Whole on the following amendment submitted by Mr. HOKE:

Page 6, after line 24 (after section 4) insert the following:

SEC. 5. CONTINGENT FEES OF ATTORNEYS.

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

CHAPTER 80—CONTINGENT FEES OF ATTORNEYS

1051. Limitations on contingent fees.

1052. Definition of qualifying settlement offer.

1051. Limitations on contingent fees

(a) EFFECT OF QUALIFYING SETTLEMENT OFFER.—In any Federal civil action (except an action for the protection of civil rights, including the right to vote) in which a monetary recovery is sought, the compensation to the attorney representing a plaintiff—

(1) shall, if a qualifying settlement offer is made to and accepted by that plaintiff not exceed the lesser of—

(A) the sum of—

(i) a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed; and

(ii) actual expenses of the attorney in the action; or

(B) 10 percent of the amount of the accepted qualifying settlement offer; and

(2) shall, if no qualifying settlement offer is accepted by that plaintiff, not exceed the sum of—

(A) that portion not greater than 33 percent, agreed upon by the attorney and the plaintiff before trial, of the amount by which the final recovery in the action exceeds the amount of the final qualifying settlement offer;

(B) a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed before the final qualifying settlement offer is made; and

(C) actual expenses of the attorney in the action.

1052. Definition of qualifying settlement offer

For the purposes of this chapter a qualifying settlement offer is an offer by all defendants to—

(1) to settle all claims against the defendants in the pending action; and

(2) made not later than 60 days after the date of initial contact in writing between the attorneys for the parties notifying the defendant of the claim against the defendant.

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

80. Contingent Fees of Attorneys 1051

Redesignate succeeding sections accordingly.

It was decided in the Yeas 71
negative Nays 347

38.18 [Roll No. 203]
AYES—71

Allard Collins (GA) Horn
Armey Combust Inglis
Baker (CA) Cox Jacobs
Ballenger Creameans Kelly
Barton Cubin Kolbe
Bereuter DeLay Lewis (KY)
Bilbray Dornan Lightfoot
Boehner Dunn Martinec
Bonilla Flanagan McHugh
Bono Gunderson McInnis
Brownback Gutknecht McIntosh
Bryant (TN) Hancock Metcalf
Burr Hayworth Mica
Christensen Hefley Myrick
Chrysler Herger Norwood
Coburn Hoke Parker