

Kennelly
Kildee
Klecza
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs

Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torrice
Townsend
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Saxton
Scarborough
Schaefer
Seiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zimmer

Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torrice
Townsend
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—255

Allard
Archer
Army
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehler
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Creameans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly

ANSWERED "PRESENT"—1

Lowey
NOT VOTING—6

Gibbons
McDade
McKinney
Meek
Rangel
Sisisky

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

40.18 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. BRYANT:

Page 18, beginning on line 6, strike subsections (b) and (c) and insert the following (and redesignate the succeeding subsections accordingly):

"(b) PLEADING REQUIREMENT.—In any action arising under this title in which the plaintiff may recover money damages only if it proves that the defendant acted with scienter, the plaintiff must allege in its complaint facts suggesting that the defendant acted with that state of mind.

It was decided in the negative
Yes 168
Answered present 255
present 1

40.19 [Roll No. 213]
AYES—168

Allard
Archer
Army
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehler
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Creameans
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chambliss
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooley
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durban
Engel
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinche
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klinton
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCollum
McDermott
McHale
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roybal-Allard

Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klecza
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Miller (FL)
Mineta
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zimmer

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Bartlett, Billbray, Clay, Gibbons, Hayes, McDade, McKinney, Meek, Neal, Rangel

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

40.20 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. MANTON:

Page 7, beginning on line 19, strike subsection (c) through page 11, line 8, and insert the following:

(C) AWARDS OF FEES AND EXPENSES.—

(1) AUTHORITY TO AWARD FEES AND EXPENSES.—If the court in any private action arising under this title enters a final judgment against a party litigant on the basis of a default, a motion to dismiss, motion for summary judgment, or a trial on the merits, the court shall, upon motion by the prevailing party, determine whether—

(A) The complaint or motion is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims, defenses, and other legal contentions in the complaint or motion, taken as a whole, are unwarranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(C) the allegations and other factual contentions in the complaint or motion, taken as a whole, lack any evidentiary support or would be likely to lack any evidentiary support after a reasonable opportunity for further investigation or discovery; or

(D) the denials of factual contentions are unwarranted on the evidence or are not reasonably based on a lack of information or belief.

(2) AWARD TO PREVAILING PARTY.—If the court determines that the losing party has violated any subparagraph of paragraph (1), the court shall award the prevailing party reasonable fees and other expenses incurred by that party. The determination of whether the losing party violated any such subparagraph shall be made on the basis of the record in the civil action for which fees and other expenses are sought.

(3) APPLICATION FOR FEES.—A party seeking an award of fees and other expenses shall, within 30 days of a final, nonappealable judgment in the action, submit to the court an application for fees and other expenses that verifies that the party is entitled to such an award under paragraph (1) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses are computed.

(4) SANCTIONS AGAINST ATTORNEY.—The court—

(A) shall award the fees and expenses against the attorney for the losing party unless the court determines that the losing party was principally responsible for the actions described in subparagraph (A), (B), (C), or (D) of paragraph (1); and

(B) may, in its discretion, reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit or

impair the discretion of the court to award costs pursuant to other provisions of law.

(6) DEFINITIONS.—For purposes of this subsection, the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees and expenses. The amount of fees awarded under this section shall be based upon prevailing market rates for the king and quality of services furnished.

It was decided in the negative Yeas 167 Nays 254 Answered present 1

40.21 [Roll No. 214] AYES—167

Ackerman, Baldacci, Barcia, Barrett (WI), Becerra, Beilenson, Bentsen, Berman, Beville, Bishop, Bonior, Borski, Boucher, Brewster, Browder, Brown (CA), Brown (FL), Brown (OH), Bryant (TX), Buyer, Cardin, Chapman, Clay, Clayton, Clement, Clyburn, Coburn, Coleman, Collins (IL), Collins (MI), Conyers, Costello, Coyne, Cramer, de la Garza, DeFazio, DeLauro, Dellums, Deutsch, Dicks, Dingell, Dixon, Doggett, Doyle, Duncan, Durbin, Edwards, Engel, Eshoo, Evans, Fattah, Fazio, Fields (LA), Filner, Flake, Foglietta, Ford, Fox, Frost, Furse, Gejdenson, Gephardt, Gonzalez, Gordon, Green, Gutierrez, Hall (OH), Hamilton, Hastings (FL), Hefner, Hilliard, Hinchey, Holden, Hoyer, Jackson-Lee, Jacobs, Johnson, E. B., Johnston, Kanjorski, Kaptur, Kennedy (MA), Kennedy (RI), Kildee, King, Kleczka, Klink, LaFalce, Lantos, Levin, Lewis (GA), Lincoln, Lipinski, Lofgren, Luther, Maloney, Manton, Markey, Martinez, Mascara, Matsui, McCarthy, McDermott, McHale, McNulty, Meehan, Menendez, Mfume, Miller (CA), Mineta, Moakley, Mollohan, Murtha, Nadler, Oberstar, Obey, Olver, Ortiz, Owens, Pallone, Pastor, Payne (NJ), Pelosi, Peterson (FL), Pomeroy, Poshard, Rahall, Reed, Reynolds, Richardson, Rivers, Rose, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schroeder, Schumer, Scott, Serrano, Skaggs, Slaughter, Spratt, Stark, Studds, Lewis (GA), Taylor (MS), Tejeda, Thompson, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Velazquez, Vento, Visclosky, Waters, Watt (NC), Waxman, Wise, Woolsey, Wyden, Wynn, Yates, Nader, Oberstar, Obey, Olver, Ortiz, Owens, Pallone, Pastor, Payne (NJ), Pelosi, Peterson (FL), Pomeroy, Poshard, Rahall, Reed, Reynolds, Richardson, Rivers, Rose, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schroeder, Schumer, Scott, Serrano, Skaggs, Slaughter, Spratt, Stark, Studds, Taylor (MS), Tejeda, Thompson, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Velazquez, Vento, Visclosky, Waters, Watt (NC), Waxman, Wise, Woolsey, Wyden, Wynn, Yates

NOES—254

Abercrombie, Allard, Andrews, Arney, Bachus, Baesler, Baker (CA), Baker (LA), Ballenger, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bereuter, Bilirakis, Bliley, Blute, Boehlert, Boehner, Bonilla, Bono, Brownback, Bryant (TN), Bunn, Bunning, Burr, Burton, Callahan, Calvert, Camp, Canady, Castle, Chabot, Chambliss, Chenoweth, Christensen, Chrysler, Clinger, Coble, Collins (GA), Combest, Condit, Cooley, Cox, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, Deal

DeLay, Diaz-Balart, Dickey, Kasich, Kelly, Doolittle, Dornan, Dreier, Dunn, Ehlers, Ehrlich, Emerson, English, Ensign, Everett, Ewing, Farr, Fawell, Fields (TX), Flanagan, Foley, Forbes, Fowler, Frank (MA), Franks (CT), Franks (NJ), Frelinghuysen, Frisa, Funderburk, Gallegly, Ganske, Gekas, Geren, Gilchrist, Gillmor, Gilman, Goodlatte, Goodling, Goss, Graham, Greenwood, Gunderson, Gutknecht, Hall (TX), Hancock, Hansen, Harman, Hastert, Hastings (WA), Hayes, Hayworth, Hefley, Heineman, Herger, Hilleary, Hobson, Hoekstra, Hoke, Horn, Hostettler, Houghton, Hunter, Hutchinson, Hyde, Inglis, Istook, Johnson (CT), Johnson (SD), Johnson, Sam, Jones, Kasich, Kelly, Kennelly, Kim, Kingston, Klug, Knollenberg, Kolbe, LaHood, Largent, Latham, LaTourrette, Laughlin, Lazio, Leach, Lewis (CA), Lewis (KY), Lightfoot, Linder, Livingston, LoBiondo, Longley, Lucas, Manzanillo, Martin, McCollum, McCrery, McHugh, McInnis, McIntosh, McKeon, Metcalf, Meyers, Mica, Miller (FL), Minge, Mink, Molinari, Montgomery, Moorhead, Moran, Morella, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Orton, Oxley, Packard, Parker, Paxon, Payne (VA), Peterson (MN), Petri, Pickett, Pombo, Porter, Portman, Pryce, Quillen, Quinn, Radanovich, Ramstad, Regula, Riggs, Roberts, Roemer, Rogers, Rohrabacher, Ros-Lehtinen, Roth, Roukema, Royce, Salmon, Sanford, Saxton, Scarborough, Schaefer, Schiff, Sensenbrenner, Shadegg, Shaw, Shays, Shuster, Sisisky, Skeen, Skelton, Smith (MI), Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Stearns, Stenholm, Stockman, Stump, Talent, Tanner, Tate, Tauzin, Taylor (NC), Thomas, Thornberry, Tiahrt, Torkildsen, Tucker, Upton, Volkmer, Vucanovich, Waldholtz, Walker, Walsh, Wamp, Watts (OK), Weldon (FL), Weldon (PA), Weller, White, Whitfield, Wicker, Williams, Wilson, Wolf, Young (AK), Young (FL), Zeliff

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—12

Archer, Bilbray, Gibbons, Jefferson, McDade, McKinney, Meek, Neal, Rangel, Seastrand, Stokes, Zimmer

So the amendment was not agreed to. The SPEAKER pro tempore, Mr. MCINNIS, assumed the Chair.

When Mr. COMBEST, Chairman, pursuant to House Resolution 105, reported the bill back to the House with sundry amendments adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendments, reported from the Committee of the Whole House on the state of the Union, were agreed to:

Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):