Moakley

Mollohan

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

Slaughter Spratt Stokes Studds Stupak Tanner Taylor (MS) Tejeda Thompson Thornton Thurman Torres Torricelli Towns Traficant Tucker Velazquez Vento Visclosky Volkmer Ward Waters Watt (NC) Waxman Williams Wise Woolsey Wyden Wynn Yates

LaHood

Largent

# NOES-248

Scott

Serrano

Allard Ehrlich Archer Emerson English Armey Baker (CA) Baker (LA) Ensign Everett Ewing Fawell Fields (TX) Ballenger Barr Barrett (NE) Flanagan Bartlett Barton Foley Forbes Bass Bateman Fowler Franks (CT) Bereuter Bilbray Franks (NJ) Bilirakis Frelinghuysen Bliley Frisa Funderburk Blute Boehlert Gallegly Boehner Ganske Bonilla Gekas Bono Geren Brewster Gilchrest Brownback Gillmor Bryant (TN) Gilman Goodlatte Bunn Bunning Goodling Burr Goss Graham Burton Greenwood Callahan Gunderson Calvert Gutknecht Camp Hancock Canady Hansen Castle Harman Chabot Hastert Hastings (WA) Chambliss Chenoweth Hayes Hayworth Christensen Chrysler Hefley Heineman Clement Herger Clinger Coble Hilleary Coburn Hobson Collins (GA) Hoekstra Hoke Combest Condit Horn Hostettler Cooley Houghton Cox Crane Hunter Crapo Hutchinson Cremeans Hvde Cubin Inglis Cunningham Istook Jacobs Danner Johnson (CT) Davis Deal Johnson, Sam

DeLay

Deutsch

Dickey

Dooley Doolittle

Dornan

Dreier

Dunn

Diaz-Balart

Jones

Kelly

King

Kingston

Klug Knollenberg

Kasich

Kennedy (RI)

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 Mvers Myrick Nethercutt Neumann Nev Norwood Nussle Oxley Packard Parker Paxon Payne (VA) Peterson (MN) Petri Pombo Porter Portman Pryce Quillen Quinn Radanovich Ramstad Regula Riggs Roberts Rogers Rohrabacher Ros-Lehtinen Roth Roukema Royce Salmon

Saxton Scarborough Souder Walker Walsh Spence Stearns Wamp Watts (OK) Weldon (FL) Schiff Stenholm Seastrand Stockman Sensenbrenner Weldon (PA) Stump Shadegg Talent Weller Shaw White Tate Shays Tauzin Whitfield Taylor (NC) Shuster Wicker Wilson Skeen Thomas Skelton Thornberry Wolf Young (AK) Smith (MI) Tiahrt. Torkildsen Smith (NJ) Young (FL) Smith (TX) Upton Zeliff Vucanovich Smith (WA) Zimmer Waldholtz Solomon

## ANSWERED "PRESENT"-1

Lowey

### NOT VOTING-6

Gibbons McKinney McDade Meek

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 .....

Yeas ...... 168 Nays ..... Answered present

#### ¶40.19[Roll No. 213] AYES-168

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

Bass

Burr

Cox

Deal

Farr

Gallegly

Studds Stupak Vento Visclosky Volkmer Taylor (MS) Ward Waters Thompson Thornton Watt (NC) Thurman Waxman Williams Torres Torricelli Wise Towns Woolsey Traficant Wyden Tucker Velazquez

NOES-255 Allard Ganske Archer Gekas Armey Geren Gilchrest Bachus Baker (CA) Gillmor Baker (LA) Gilman Ballenger Goodlatte Goodling Barrett (NE) Goss Barton Graham Greenwood Bateman Gunderson Bereuter Gutknecht Bevill Hall (TX) Bilirakis Hancock Bliley Hansen Harman Blute Boehlert Hastert Boehner Hastings (WA) Hayworth Hefley Bonilla Bono Brewster Heineman Brownback Bryant (TN) Herger Hilleary Hobson Bunning Hoekstra Hoke Burton Horn Hostettler Buyer Callahan Houghton Hunter Calvert Camp Canady Hutchinson Hyde Castle Inglis Chabot Istook Johnson (CT) Chenoweth Christensen Johnson, Sam Chrysler Clinger Jones Kasich Coble Kellv Coburn Kim Collins (GA) King Combest Kingston Condit Kleczka Klug Knollenberg Crane Kolbe Crapo Cremeans LaHood Cubin Largent Cunningham Latham Danne LaTourette Davis Laughlin Lazio DeLay Leach Deutsch Lewis (CA) Diaz-Balart Lewis (KY) Dickey Lightfoot Dooley Linder Doolittle Livingston Dornan LoBiondo Longley Dreier Dunn Lucas Edwards Manzullo Martini Ehlers Ehrlich McCrery Emerson McHugȟ English McInnis Ensign McIntosh Eshoo McKeon Everett McNulty Metcalf Ewing Meyers Fawell Mica Fields (TX) Miller (FL) Flanagan Mineta Molinari Foley Forbes Montgomery Fowler Moorhead Frank (MA) Moran Franks (CT) Franks (NJ) Morella Myers Myrick Frelinghuysen Frisa Funderburk Nethercutt

Wynn Yates 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 Roth Roukema Royce Salmon Sanford Saxton Scarborough Schaefer Schiff Seastrand Sensenbrenner Shadegg Shaw Shays Shuster Sisisky Skeen Skelton Smith (MI) Smith (NJ) Smith (TX)

Weller

Wicker

Wilson

Wolf

Zeliff

Zimmei

Neumann

White Whitfield

Young (AK) Young (FL)

Smith (WA)

# ANSWERED "PRESENT"-1

Lowey

## NOT VOTING-10

Bartlett Hayes Bilbray McDade Rangel Clay Gibbons McKinney

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 EX-PENSES.-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

The complaint or motion is being presented for any improper purpose, such as to harass or to cause unnecessary delay 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 be-

"(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 reso-

lution 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 Nays ..... negative ..... Answered present

940.21[Roll No. 214]

AYES-167

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

# NOES-254

Murtha

Foglietta

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

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

# Radanovich ANSWERED "PRESENT"-1

Wilson

Young (AK)

Young (FL)

Wolf

Lowey

Portman

Pryce Quillen

Quinn

Hyde

Inglis

Istook

Johnson (CT)

Johnson (SD)

#### NOT VOTING-12

McDade Archer Rangel Bilbray McKinney Seastrand Gibbons Meek Stokes

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 Com-

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):