

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, Lewis (GA), 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, Dooley, Kelly, Doolittle, Kennelly, Dornan, Kim, Dreier, Kingston, Dunn, Klug, Ehlers, Knollenberg, Ehrlich, Kolbe, Emerson, LaHood, English, Largent, Ensign, Latham, Everett, LaTourrette, Ewing, Laughlin, Farr, Lazio, Fawell, Leach, Fields (TX), Lewis (CA), Flanagan, Lewis (KY), Foley, Lightfoot, Forbes, Linder, Fowler, Livingston, Frank (MA), LoBiondo, Franks (CT), Longley, Franks (NJ), Lucas, Frelinghuysen, Manullo, Frisa, Martin, Funderburk, McCollum, Gallegly, McCrery, Ganske, McHugh, Gekas, McInnis, Geren, McIntosh, Gilchrest, McKeon, Gillmor, Metcalf, Gilman, Meyers, Goodlatte, Mica, Goodling, Miller (FL), Goss, Minge, Graham, Mink, Greenwood, Molinari, Gunderson, Montgomery, Gutknecht, Moorhead, Hall (TX), Moran, Hancock, Morella, Hansen, Myers, Harman, Myrick, Hastert, Nethercutt, Hastings (WA), Neumann, Hayes, Ney, Hayworth, Norwood, Hefley, Nussle, Heineman, Orton, Herger, Oxley, Hilleary, Packard, Hobson, Parker, Hoekstra, Paxon, Hoke, Payne (VA), Horn, Peterson (MN), Hostettler, Petri, Houghton, Pickett, Hunter, Pombo, Hutchinson, Porter, Hyde, Portman, Inglis, Pryce, Istook, Quillen, Johnson (CT), Quinn, Johnson (SD), Radanovich

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):