

June 2, 2025

The Honorable Mike Collins
2351 Rayburn House Office Building
Washington, DC 20515

Re: Support for the Lawsuit Abuse Reduction Act

Dear Representative Collins:

On behalf of the American Tort Reform Association (ATRA), a national coalition of large and small businesses, nonprofits, and trade and professional associations with the mission of promoting a fair and predictable civil justice system, we would like to express our support for the Lawsuit Abuse Reduction Act. This legislation will provide those who are hit with frivolous lawsuits with a reasonable opportunity to seek reimbursement of their legal expenses.

The federal courts lost an effective mechanism for addressing frivolous lawsuits in 1993, when a committee charged with developing court rules made several changes that rendered it, in the words of Justice Scalia, “toothless,” allowing parties “to file thoughtless, reckless, and harassing pleadings, secure in the knowledge that they have nothing to lose.”¹ Despite overwhelming support for the rule in place at the time from federal judges,² the committee created a “safe harbor” from sanctions and added language that prevents judges from reimbursing victims of lawsuit abuse for the cost of defending themselves. These changes gutted the rule and took away any real incentive for attorneys to avoid frivolous filings. Given the expense of fighting such claims with no reasonable chance of recovering defense costs, the only practical option for a victim of lawsuit is to meet the demand of a plaintiffs’ attorney to settle at the case’s nuisance value to “make it go away.”

The need for an effective mechanism to deter frivolous lawsuits has become more urgent today with expanding access to artificial intelligence (AI). ATRA has already observed, with increasing frequency, reports of lawyers filing court documents that either cite fictitious cases or misrepresent their holdings, known as AI-generated “hallucinations.”³ When such conduct comes to light—a clear violation of Rule 11—courts typically let the violator off with no more than a

¹ Amendments to Federal Rules of Civil Procedure and Forms, 146 F.R.D. 401, 507-08 (1993) (Scalia, joined by Thomas, J.J., dissenting)).

² A 1990 survey of 751 judges found that (1) nearly three-quarters of judges felt that the stronger Rule 11’s benefits in deterring frivolous lawsuits and compensating those victimized by such claims justified the use of judicial time involved in resolving such motions; (2) four out of five judges believed that the stronger Rule 11 had a positive effect on litigation and should be retained in its then-current form; and (3) 95% of judges believed that version of Rule 11 in place at that time did not impede development of the law. Federal Judicial Center, [Final Report on Rule 11 to the Advisory Committee on Civil Rules of the Judicial Conference of the United States](#), at 8, 17, 18 (May 1991).

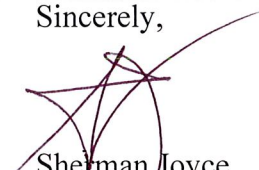
³ See, e.g., Lauren Berg, [Injury Attys In Hot Water Over Possible AI-Hallucinated Cites](#), Law360, Feb. 7, 2025.

warning or a small fine paid to the court. Those who incur costs to respond get nothing. While those violations typically stem from sloppy lawyering, in the future, ATRA expects attorneys and non-attorneys alike to use AI tools to “sue anyone at the press of a button.” When this newfound ability is abused to file lawsuits that have no basis in law or fact, it will be critical that victims have a fair and effective mechanism available to seek reimbursement for their losses. Currently, they do not.⁴

The Lawsuit Abuse Reduction Act eliminates Rule 11’s “safe harbor,” which allows lawyers who file frivolous claims to walk away without a judge even considering a victim’s request for reimbursement. This free pass adds insult to injury by requiring the victim’s lawyer to prepare a separate motion for sanctions at additional cost, provide that motion to the attorney who filed the frivolous claim, and give the attorney 21 days to withdraw the lawsuit without any consequence whatsoever. The Lawsuit Abuse Reduction Act also provides that once a judge finds that a claim is frivolous under existing legal principles, the court must impose a sanction. Finally, the bill restores the ability of federal judges to use sanctions to compensate an injured party for his or her reasonable attorneys’ fees and costs resulting from the frivolous claim, rather than limit the sanction to the minimum amount that suffices to deter future misconduct.

It is ironic that the purpose of the civil justice system is to provide reasonable compensation to people who are injured by the wrongful conduct of others, yet, when people are harmed by wrongful conduct within the civil justice system itself, they lack a remedy. By making these changes, the Lawsuit Abuse Reduction Act will help to reduce the number of frivolous lawsuits and the exorbitant costs that can drive individuals and businesses to financial ruin. ATRA commends you for your leadership to advance the Lawsuit Abuse Reduction Act.

Sincerely,



Sherman Joyce
President

⁴ See Jessica R. Gunder, *Rule 11 is No Match for Generative AI*, 27 Stan. Tech. L. Rev. 308, 350 (2024) (finding the fact that an attorney who files fictitious AI-generated cases or false statements of law will evade sanctions “is directly attributable to the 1993 amendments to Rule 11”).