



NEW YORK STATE BAR ASSOCIATION

FEDERAL LEGISLATIVE PRIORITIES

2017



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Integrity of the Justice System. At all levels of government an independent, well-functioning judicial system, accessible to all, is a bedrock principle of our democracy. The courts more than any other arm of government, are the bulwark of liberty. Accordingly, the Association will strongly urge federal policymakers to adequately fund the federal courts and the Legal Services Corporation (LSC), in order to ensure access to justice for individuals and businesses alike.

Support for states' authority to regulate the tort system. Laws covering the area of civil justice are truly the province of state legislatures, the judiciary, and voters. For over 200 years the authority to promulgate "tort law", including law relating to liability for medical errors, has rested with the states, which have the experience and expertise with these matters. The federal government should leave it to the states to determine how best to provide access to the courts for the injured to exercise their right to seek compensation for their injuries and to make reasonable adjustments to the system.

Oppose Lawsuit Abuse Reduction Act (LARA). Enactment of this legislation would restore a system that was in effect from 1983 to 1993, and which was thoroughly discredited because it did not allow for ameliorative action by the courts. The bill would require the imposition of monetary sanctions, including attorneys' fees, for violation of Rule 11, and would eliminate a provision adopted in 1993 that allows parties and their attorneys to avoid sanctions by withdrawing particular claims, and thereby resolving issues before the matter goes before the court.

If enacted, this bill would significantly multiply satellite litigation, substantially degrade the efficiency of the courts, and greatly increase costs of the litigation process. Changing Rule 11 in this way would impair the relationships between parties and their attorneys, making cases more difficult to settle.

Moreover, this bill would amend Rule 11 of the Federal Rules of Civil Procedure ("FRCP") — via a process that is inconsistent with the Rules Enabling Act, 28 USC sections 2072-74.

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Support for the Legal Profession. A core mission of the New York State Bar Association is to represent the interests of the legal profession. In that regard, the Association will work to protect the independence of the judiciary, enhance access to the courts, promote affirmative legislative proposals that benefit the profession, and oppose those proposals that would burden it. The Association will work to ensure that attorneys are able to protect their clients' interests and effectively engage in the practice of law.

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