**South Carolina General Assembly**

119th Session, 2011-2012

**S. 39**

**STATUS INFORMATION**

General Bill

Sponsors: Senators McConnell and Campsen

Document Path: l:\s-jud\bills\mcconnell\jud0009.js.docx

Introduced in the Senate on January 11, 2011

Currently residing in the Senate Committee on **Judiciary**

Summary: Frivolous lawsuits

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/1/2010 Senate Prefiled

12/1/2010 Senate Referred to Committee on **Judiciary**

1/11/2011 Senate Introduced and read first time ([Senate Journal‑page 23](file:///h:\sj%20archive\2011\01-11-11.docx))

1/11/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 23](file:///h:\sj%20archive\2011\01-11-11.docx))

1/9/2012 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Bright, Davis

**VERSIONS OF THIS BILL**

[12/1/2010](file:///p:\pprever\2011-12\39_20101201.docx)

**A** **BILL**

TO AMEND SECTION 15-36-10 OF THE 1976 CODE OF LAWS OF SOUTH CAROLINA, RELATING TO FRIVOLOUS CASES, SO AS TO ESTABLISH THAT A CASE DISMISSED BY A DIRECTED VERDICT OR SUMMARY JUDGMENT IS PRESUMED TO BE A PER SE FRIVOLOUS CASE, UNLESS THE COURT FINDS FOR GOOD CAUSE SHOWN IT WAS NOT FRIVOLOUS OR SANCTIONS SHOULD NOT BE IMPOSED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 15-36-10(C) of the 1976 Code is amended to read:

“Section 15-36-10. (C)(1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered ~~or a case has been dismissed by a directed verdict, summary judgment,~~ or after entering a judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

(2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

(3) A case dismissed by a directed verdict or summary judgment is presumed to be frivolous, per se, and sanctions described in subsection (G) must be ordered by the court, unless the court finds for good cause shown it was not frivolous or sanctions should not be imposed.”

SECTION 2. This act takes effect upon approval by the Governor.

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