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HOUSE BILL NO. 1324

Offered January 21, 2004

A BILL to amend and reenact § 8.01-271.1 of the Code of Virginia, relating to sanctions.

Patron—Marrs

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-271.1 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-271.1. Signing of pleadings, motions, and other papers; oral motions; sanctions.

A. Every pleading, written motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, and the attorney's address shall be stated on the first pleading filed by that attorney in the action. A party who is not represented by an attorney, including a person confined in a state or local correctional facility proceeding pro se, shall sign his pleading, motion, or other paper and state his address. *If a pleading, written motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.*

~~The signature of B. By serving a signed pleading, written motion, or other paper, an attorney or party constitutes a certificate by him impliedly certifies that (i) he has read the pleading, motion, or other paper, (ii) to the best of his knowledge, information and belief, formed after he has made reasonable inquiry, it is well grounded in fact and to assure that there is sound basis for each and every allegation of fact, or any denial of any allegation of fact, and that the relief sought is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and (iii) it the pleading, motion, or other paper is not interposed made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, written motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.~~

~~An C. By making any oral motion made by an attorney or party, objection, request, or other statement in any court of the Commonwealth constitutes a representation by him, an attorney or party impliedly certifies that (i) to the best of his knowledge, information and belief formed after he has made reasonable inquiry it is well grounded in fact and to assure that there is sound basis for each and every allegation of fact, or any denial of any allegation of fact, and that the relief sought is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (ii) it the oral motion, objection, request, or other statement is not interposed made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.~~

~~If a pleading, motion, or other paper is signed or made in violation of this rule, D. In any cases of violation of subsections B or C, the court, upon motion or upon its own initiative, shall impose upon the person who signed the paper or made the motion, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper or making of the motion, violation, including a reasonable attorney's fees, and all additional attorney's fees and expenses incurred in seeking relief under this subsection. The court may also impose a civil fine in an amount reasonably calculated to compensate the court, or any component of the court system, for the devotion of public resources to the violation.~~

~~E. A law firm shall be held jointly liable for any award entered under subsection D against any attorney affiliated with the firm, provided that the violation sanctioned was committed within the scope of the offending attorney's employment with the firm. Nothing herein shall preclude such law firm from seeking indemnification or contribution from the offending attorney. #~~

INTRODUCED

HB1324