

111TH CONGRESS
1ST SESSION

H. R. 4115

To amend title 28, United States Code, to provide a restoration of notice pleading in Federal courts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2009

Mr. NADLER of New York (for himself, Mr. JOHNSON of Georgia, Mr. CONYERS, Mr. SCOTT of Virginia, Mr. DELAHUNT, Ms. JACKSON-LEE of Texas, Ms. CHU, Mr. MICHAUD, Ms. KILPATRICK of Michigan, and Mr. COHEN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to provide a restoration of notice pleading in Federal courts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open Access to Courts
5 Act of 2009”.

1 **SEC. 2. NOTICE PLEADING RESTORATION.**

2 (a) IN GENERAL.—Chapter 131 of title 28, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 2078. Limitation on dismissal of complaints**

6 “(a) A court shall not dismiss a complaint under sub-
7 division (b)(6), (c) or (e) of Rule 12 of the Federal Rules
8 of Civil Procedure unless it appears beyond doubt that the
9 plaintiff can prove no set of facts in support of the claim
10 which would entitle the plaintiff to relief. A court shall
11 not dismiss a complaint under one of those subdivisions
12 on the basis of a determination by the judge that the fac-
13 tual contents of the complaint do not show the plaintiff’s
14 claim to be plausible or are insufficient to warrant a rea-
15 sonable inference that the defendant is liable for the mis-
16 conduct alleged.

17 “(b) The provisions of subsection (a) govern accord-
18 ing to their terms except as otherwise expressly provided
19 by an Act of Congress enacted after the date of the enact-
20 ment of this section or by amendments made after such
21 date to the Federal Rules of Civil Procedure pursuant to
22 the procedures prescribed by the Judicial Conference
23 under this chapter.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of chapter 131 of title 28, United States

- 1 Code, is amended by adding at the end the following new
- 2 item:

“2078. Limitation on dismissal of complaints.”

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