

EAJA Senate Bill Proposes Fairness & Accountability

June 7, 2025



The Equal Access to

Justice Act of 2025

Equal Access to Justice Act of 2025 (EAJA)

Restoring Fairness and Accountability to Federal Civil Litigation

Summary:

The *Equal Access to Justice Act* is a landmark legislative proposal by America First Policy Institute member Compliance-Solutions.pro, to reform the Federal Rules of Civil Procedure in order to counteract abusive litigation tactics increasingly deployed by well-funded corporate law firms. The Act introduces common-sense reforms that promote timely justice, procedural integrity, and equal access to the courts—especially for whistleblowers, small businesses, and ordinary citizens who currently face structural disadvantages in civil litigation.

Key Problems Addressed:

- **Delay Tactics & Motion Abuse:** Defendants routinely use serial motions to dismiss and summary judgment maneuvers to delay meritorious cases.
- **Discovery Gamesmanship:** Corporate litigants use vague objections and slow-walk discovery to exhaust opponents and obstruct the truth.
- **Strategic Dismissals & Resets:** Rules allow powerful actors to file and abandon cases without consequence, frustrating finality.

- **Weaponized Cost-Shifting:** Rules like Rule 68 are used to coerce settlements by threatening personal financial liability on plaintiffs.
- **Lack of Sanction Enforcement:** Courts rarely penalize obstructionist behavior, allowing bad-faith actors to manipulate the system.

What the Act Does:

Amends Key Rules to Prevent Abuse

- **Rule 12:** Limits serial motions to dismiss; requires good-faith certifications.
- **Rule 26 & 37:** Tightens discovery abuse loopholes; mandates automatic sanctions for repeated noncompliance.
- **Rule 30 & 33-34:** Caps deposition and interrogatory burdens; eliminates vague objections.
- **Rule 56:** Prohibits summary judgment where facts are in dispute without an evidentiary hearing.
- **Rule 60:** Restricts repetitive post-judgment attacks on final rulings.

Rescinds Procedurally Abused Rules

- **Rule 68:** Repeals offer-of-judgment cost-shifting to protect public interest and civil rights plaintiffs from coercive tactics.

Strengthens Existing Oversight

- **Rule 11:** Expands to cover bad-faith litigation behavior and delay strategies.
- **New SLAP Panel:** Establishes Special Litigation Accountability Panels to discipline strategic misconduct and report repeat offenders.

Why This Matters:

Litigation is no longer a search for truth—it has become a weapon of attrition. The Equal Access to Justice Act returns the federal civil justice system to its core purpose: **resolving disputes on the merits, not through manipulation**. It restores balance between the people and the powerful, strengthens judicial credibility, and ensures no party can use procedure to bury justice.

After reviewing the full text of the **Federal Rules of Civil Procedure (Dec. 1, 2024 edition)** that we uploaded to our AI-based Juris Scholar "Medusa", we concluded the following: Based on Medusa's findings and our goal of combating **radical lawfare** and procedural abuse (e.g., obstructionist litigation, intentional delay, resource exhaustion, excessive appeals, and bad-faith maneuvering by elite law firms), here is a list of **specific rules that are heavily exploited** and would benefit from reform or rescission under our proposed **Equal Access to Justice Act**:

Rules Commonly Exploited in Radical Lawfare and Candidates for Reform

1. Rule 12 — Defenses and Objections: When and How Presented

- **Common Abuse:** Overuse of **Rule 12(b)(6)** motions to dismiss for failure to state a claim, often used serially and tactically to delay proceedings before any discovery.
- **Potential Reform:** Limit the number of Rule 12 motions a defendant can file; require a good-faith certification with legal and factual basis under penalty of sanctions.

2. Rule 26 — Duty to Disclose; General Provisions Governing Discovery

- **Common Abuse:** Discovery obstruction, excessive “protective orders,” and delay tactics using proportionality objections under **Rule 26(b)(1)**.
- **Potential Reform:** Require mandatory initial document production (absent court exemption); tighten the “proportionality” clause to prevent abuse by large corporate defendants claiming undue burden.

3. Rule 30 — Depositions by Oral Examination

- **Common Abuse:** Use of unlimited depositions to harass or intimidate; scheduling abuse to drain time and resources from plaintiffs.
- **Potential Reform:** Cap total deposition hours per party unless good cause is shown; prohibit redundant depositions absent new facts.

4. Rule 33 & 34 — Interrogatories and Requests for Production

- **Common Abuse:** Vague or evasive responses; delay in production; excessive boilerplate objections.
- **Potential Reform:** Mandate specific answers under oath; require privilege logs and timeline for objections; grant automatic sanctions for unjustified delay.

5. Rule 37 — Failure to Make Disclosures or to Cooperate in Discovery

- **Common Abuse:** Delay discovery to stall resolution; use discovery violations as leverage in settlement without consequence.
- **Potential Reform:** Enforce automatic sanctions for repeated noncompliance; limit judicial discretion on sanctions for egregious conduct.

6. Rule 41 — Dismissal of Actions

- **Common Abuse:** Strategic **voluntary dismissals (Rule 41(a))** to reset the litigation clock, frustrate resolution, or escape negative precedent.
- **Potential Reform:** Prohibit repeated voluntary dismissals without prejudice absent court approval; require bond for re-filing.

7. Rule 56 — Summary Judgment

- **Common Abuse:** Misuse of **Rule 56** to deny jury trials via expensive pre-trial dispositive motion practice; used to bury meritorious cases in complex factual

disputes.

- **Potential Reform:** Require evidentiary hearings in contested factual issues before granting summary judgment; limit use to claims without *any* factual dispute.

8. Rule 60 — Relief from a Judgment or Order

- **Common Abuse:** Filing frivolous or repetitive **Rule 60(b)** motions to unsettle final judgments and prolong litigation.
- **Potential Reform:** Cap the number of Rule 60 motions; require appellate review for second Rule 60 filing.

Rules Worth Rescinding or Severely Limiting

Rule 68 — Offer of Judgment

- **Common Abuse:** Used as a threat mechanism in civil rights and whistleblower cases to coerce early settlement and shift costs.
- **Recommendation:** Consider rescinding or limiting applicability in public interest litigation or where an asymmetry in legal resources exists.

Rule 11 — Signing Pleadings, Motions, and Other Papers

- **Issue:** While intended to deter frivolous filings, courts rarely enforce this against elite law firms.

- **Potential Reform:** Strengthen Rule 11 sanctions and expand to cover *bad-faith strategic conduct*, not just baseless claims.

Additional Rules for Structural Reform (Not Exploited Directly but Enable Abuse)

Rule 16 — Pretrial Conferences

- **Potential Reform:** Mandate early judicial management to shut down dilatory tactics; impose strict deadlines on dispositive motion practice.

Rule 23 — Class Actions

- **Potential Reform:** Consider adjusting standards to prevent “reverse class certification” or preclusion abuse by defendants.

Equal Access to Justice Act (Draft Framework)

I. Short Title

Equal Access to Justice Act of 2025

II. Congressional Findings and Purpose

Findings

Congress finds that:

1. The Federal Rules of Civil Procedure, as currently interpreted and applied, enable repeated abuse of procedural mechanisms by elite, well-resourced law firms;
2. Obstructionist litigation and delay tactics undermine access to justice, particularly for private citizens, whistleblowers, small businesses, and public interest litigants;
3. The civil justice system must operate efficiently, transparently, and fairly, with minimal tolerance for gamesmanship;
4. Procedural reform is essential to uphold the constitutional right to a fair trial and promote judicial economy.

Purpose

This Act is intended to:

- Restore balance in civil litigation;
- Prevent abuse of procedural rules;

- Ensure timely resolution of disputes on their merits;
- Promote judicial transparency and accountability;
- Enhance fairness and reduce asymmetrical power advantages.

III. Structural Reforms to Federal Rules of Civil Procedure

A. Rule Modifications

1. Rule 12 — Limitations on Motions to Dismiss

Amendment:

- No party may file more than one Rule 12 motion without leave of court.
- A Rule 12(b)(6) motion shall include a certification of good-faith factual and legal basis under penalty of sanction for delay or obstruction.
- Rule 12 motions must be filed within 14 days of service, barring exceptional circumstances.

2. Rule 26 — Discovery Scope & Proportionality

Amendment:

- Strike language allowing discovery limits based on the "amount in controversy" when alleged harm involves public interest or systemic abuse.
- Mandatory initial production of all documents and communications responsive to the complaint within 30 days of the answer, unless otherwise ordered.
- Prohibit use of boilerplate objections; all objections must be specific and supported by factual declarations.

3. Rule 30 — Deposition Time Limits

Amendment:

- Depositions shall be limited to **one seven-hour day per witness**, unless extended by court order.
- Each party shall be entitled to a total of **50 hours** of deposition time, with exceptions only by leave of court and a showing of necessity.

4. Rule 33 & 34 — Clarity and Timeliness in Discovery

Amendment:

- Interrogatory and production responses must be **complete and non-evasive**, with any objections stated with particularity.
- Failure to respond within 30 days results in waiver of objection unless excused by the court.

5. Rule 37 — Automatic Sanctions

Amendment:

- A second willful failure to comply with discovery obligations triggers **mandatory sanctions**, including costs and adverse inference instructions.
- Courts must issue written findings justifying any decision not to sanction discovery violations.

6. Rule 41 — Limitations on Voluntary Dismissals

Amendment:

- No party may voluntarily dismiss the same action or substantially similar action more than once without prejudice.
- If a second such dismissal occurs, **any subsequent refiling must be accompanied by a judicial bond** to deter strategic resets.

7. Rule 56 — Guardrails on Summary Judgment

Amendment:

- No summary judgment shall be granted where any **material fact** is disputed and subject to credibility determinations.
- Parties must be allowed evidentiary hearings before dispositive motions are granted in fact-sensitive cases.

8. Rule 60 — Curtailing Frivolous Relief Motions

Amendment:

- Rule 60(b) motions may not be filed more than once without leave of the appellate court.
- Frivolous or repetitive Rule 60 motions shall be grounds for sanctions and attorney's fee awards.

B. Rule Rescission**1. Rule 68 — Offer of Judgment****Repeal:**

- Rule 68 is hereby repealed. Its cost-shifting mechanisms disproportionately burden civil rights plaintiffs and public interest litigants and have been weaponized by defendants to coerce early settlements under duress.

C. Rule Enhancement**1. Rule 11 — Strengthening Good-Faith Certification****Amendment:**

- Extend Rule 11 to cover strategic delays, bad-faith litigation behavior, and obstructionist tactics.
- Require all motions to include a certification of purpose and necessity, subject to sanctions for false or obstructive filings.

IV. New Provisions

A. Special Litigation Accountability Panel (SLAP)

- A 3-judge administrative panel shall be established in each federal circuit to hear complaints of **bad-faith litigation conduct**, procedural manipulation, or repeat delay abuse.
- SLAP may issue:
 - Summary penalties (monetary and procedural);
 - Publication of firm conduct records;
 - Referrals to disciplinary boards for ethical review.

V. Severability

If any provision of this Act is held invalid, the remainder shall not be affected.

Proposed bill was created and authored by Mark L. Lindsey, a Defense Intelligence & National Security Analyst and Senior Advisor at Compliance-Solutions.pro mark@compliance-solutions.pro in-concert with the American-Lawyers-Guild.org