CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS

SEVEN NOTABLE CASES THE "LAWSUIT ABUSE REDUCTION ACT" MAY HAVE BARRED FROM A COURTROOM

Contrary to proponents' claims, LARA does not deter frivolous lawsuits. Rather it deters meritorious cases by imposing a one-size-fits-all mandate for federal judges. Mandatory sanctions inevitably chill meritorious claims particularly in cases of first impression or involving new legal theories, including cases to protect civil rights, the right to privacy, the environment, collective bargaining and the First Amendment. Our system of justice is a moving body of law, and novel legal theories have the ability to shift public policy and law.

Below are seven notable cases that LARA may have prevented because the cases presented what - at the time they were presented to the court – would have been considered novel legal theories:

- ***Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954):** *Brown* was a landmark decision of the United States Supreme Court that declared state laws establishing separate public schools for black and white students unconstitutional. The decision overturned the *Plessy v. Ferguson* decision of 1896 which allowed state-sponsored segregation. The Court's unanimous decision stated that "separate educational facilities are inherently unequal." As a result, de jure racial segregation was ruled a violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. This ruling paved the way for integration and the civil rights movement.

- ***Griswold v. Connecticut*, 381 U.S. 479 (1965):** *Griswold* was a landmark case in which the Supreme Court ruled that the Constitution protected a right to privacy. The case involved a Connecticut law that prohibited the use of contraceptives. By a vote of 7–2, the Supreme Court invalidated the law on the grounds that it violated the "right to marital privacy."

- ***Lawrence v. Texas*, 539 U.S. 558 (2003):** In *Lawrence*, the Supreme Court considered the issue of whether adult consensual sexual activity is protected by the Fourteenth Amendment guarantee of equal protection under the law. The Court found that the petitioners were free

as adults to engage in the private conduct in the exercise of their liberty under the Due Process Clause. The decision decriminalized the Texas law that made it illegal for two persons of the same sex to engage in certain intimate sexual conduct.

- ***Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007):** In this case, twelve states and several cities of the United States brought suit against the United States Environmental Protection Agency (EPA) to force the federal agency to regulate carbon dioxide and other greenhouse gases as pollutants. The Supreme Court found that Massachusetts, due to its "stake in protecting its quasi-sovereign interests" as a state, had standing to sue the EPA over potential damage caused to its territory by global warming. The Court rejected the EPA's argument that the Clean Air Act was not meant to refer to carbon emissions in the section giving the EPA authority to regulate "air pollution agent[s]."

- ***Loving v. Virginia*, 388 U.S. 1 (1967):** *Loving* was a landmark civil rights case in which the United States Supreme Court, by a 9-0 vote, declared Virginia's anti-miscegenation statute, the "Racial Integrity Act of 1924," unconstitutional, thereby ending all race-based legal restrictions on marriage in the United States.

- ***New York Times Co. v. United States*, 403 U.S. 713 (1971):** This case considered whether the *New York Times* and *Washington Post* newspapers could publish the then-classified Pentagon Papers without risk of government censure. The question before the Court was whether the constitutional freedom of the press, guaranteed by the First Amendment, was subordinate to a claimed need of the executive branch of government to maintain the secrecy of information. The Supreme Court ruled that the First Amendment protected the right of the *New York Times* to print the materials.

- ***Tennessee Valley Authority v. Hill* , 437 U.S. 153 (1978) (The Snail Darter Case):** In *TVA*, the Supreme Court affirmed a court of appeals' judgment, which agreed with the Secretary of Interior that operation of the federal Tellico Dam would eradicate an endangered species. The Court held that a prima facie violation of § 7 of the Endangered Species Act, 16 U.S.C. § 1536, occurred, and ruled that an injunction requested by respondents should have been issued.