

AMENDMENT TO RULES COMMITTEE PRINT 117-

54

OFFERED BY MR. POSEY OF FLORIDA

Page 1348, insert after line 23 the following (and conform the table of contents accordingly):

1 **SEC. 5806. AMERICAN SERVICEMAN TERRORISM REDRESS.**

2 (a) PURPOSE.—The purposes of this section are as
3 follows:

4 (1) To harmonize and enhance the anti-ter-
5 rorism efforts of the United States by clarifying the
6 original intent of Congress that treble damages
7 under section 2333(a) of title 18, United States
8 Code, are compensatory damages.

9 (2) To streamline post-judgment enforcement
10 for specified United States national terrorism vic-
11 tims who were performing a Department of Defense
12 mission under the command and control of the
13 United States Southern Command, and who were
14 awarded the Secretary of Defense “Defense of Free-
15 dom” medal for being killed or wounded by hostile
16 action while serving the Defense Department under
17 conditions for which a military member would be eli-
18 gible for receipt of the Purple Heart.

1 (b) SATISFACTION OF JUDGMENTS AGAINST TER-
2 RORISTS.—

3 (1) IN GENERAL.—Section 2333(a) of title 18,
4 United States Code, is amended by inserting “as
5 compensatory damages” before “threefold the dam-
6 ages he or she sustains and the cost of the suit, in-
7 cluding attorney’s fees.”.

8 (2) APPLICABILITY.—The amendments made
9 by this section shall apply to any judgment entered
10 before, on, or after the date of enactment of this
11 Act.

12 (c) EXPANSION OF AVAILABILITY OF FINANCIAL AS-
13 SETS TO VICTIMS OF NARCOTERRORISM.—

14 (1) INTERESTS IN BLOCKED ASSETS.—

15 (A) IN GENERAL.—Notwithstanding any
16 other provision of law, including any provision
17 of law relating to sovereign immunity, and pre-
18 empting any inconsistent provision of State law,
19 a financial asset that is—

20 (i) held by or for a foreign securities
21 intermediary doing business in the United
22 States;

23 (ii) a blocked asset (whether or not
24 subsequently unblocked), or an asset that
25 would be blocked if the asset were located

1 in the United States, that is property de-
2 scribed in paragraph (2); and

3 (iii) equal in value to a financial asset
4 of FARC , that such foreign securities
5 intermediary or a related intermediary
6 holds abroad or in the United States,
7 shall be subject to execution or attachment in
8 aid of execution, or to an order directing that
9 the asset be brought to the State in which the
10 court is located and subsequently to execution
11 or attachment in aid of execution, in order to
12 satisfy any judgment against the FARC for
13 damages awarded as a result of an act of tor-
14 ture, extrajudicial killing, aircraft sabotage, or
15 hostage-taking, or the provision of material sup-
16 port or resources for such an act, without re-
17 gard to concerns relating to international com-
18 ity.

19 (B) COURT DETERMINATION REQUIRED.—
20 In order to ensure that the FARC is held ac-
21 countable for paying the judgments described in
22 paragraph (2), prior to an award turning over
23 any asset pursuant to execution or attachment
24 in aid of execution with respect to any judg-
25 ments against the FARC described in para-

1 graph (2), the court shall determine whether
2 the FARC holds equitable title to, or the bene-
3 ficial interest in, the assets described in para-
4 graph (2) and that no other person possesses a
5 constitutionally protected interest in such an
6 asset under the Fifth Amendment to the Con-
7 stitution of the United States. To the extent the
8 court determines that a person other than the
9 FARC holds—

10 (i) equitable title to, or a beneficial in-
11 terest in, such an asset (excluding a custo-
12 dial interest of a foreign securities inter-
13 mediary or a related intermediary that
14 holds the assets abroad for the benefit of
15 the FARC); or

16 (ii) a constitutionally protected inter-
17 est in such an asset,

18 such asset shall be available only for execution
19 or attachment in aid of execution to the extent
20 of the FARC's equitable title or beneficial inter-
21 est therein and to the extent such execution or
22 attachment does not infringe upon such con-
23 stitutionally protected interest.

24 (2) FINANCIAL ASSETS DESCRIBED.—The fi-
25 nancial assets described in this section are the finan-

1 cial assets that are the subject of writs of execution
2 issued—

3 (A) by the United States District Court for
4 the Southern District of New York to the plain-
5 tiff judgment creditors identified in docket
6 number 5 Case No. 16-mc-405 and to the
7 plaintiff judgment creditors identified in docket
8 number 1 in the related case Case No. 18-mc-
9 545; or

10 (B) to the plaintiff judgment creditors
11 identified in subparagraph (A) by any other
12 United States district court where such victims
13 have registered their judgments for enforcement
14 pursuant to section 1963 of title 28, United
15 States Code.

16 (3) RULES OF CONSTRUCTION.—Nothing in
17 this section shall be construed—

18 (A) to affect the availability, or lack there-
19 of, of a right to satisfy a judgment in any other
20 action against a terrorist party in any pro-
21 ceedings other than proceedings referred to in
22 paragraph (1);

23 (B) to apply to assets other than the as-
24 sets described in paragraph (1); or

1 (C) or to preempt State law, including the
2 Uniform Commercial Code, except as expressly
3 provided in paragraph (1)(A).

4 (4) APPLICABILITY.—This section shall apply
5 only to the judgments identified in paragraph (2).

6 (5) DEFINITIONS.—In this section:

7 (A) BLOCKED ASSET.—The term “blocked
8 asset”—

9 (i) means any asset seized or frozen
10 by the United States under section 5(b) of
11 the Trading with the Enemy Act (50
12 U.S.C. 4305(b)), or under section 202 or
13 203 of the International Emergency Eco-
14 nomic Powers Act (50 U.S.C. 1701 and
15 1702), or under section 805(b) of the For-
16 eign Narcotics Kingpin Designation Act
17 (21 U.S.C. 1904(b)); and

18 (ii) does not include property that—

19 (I) at the time of attachment or
20 execution, was subject to a license
21 issued by the United States Govern-
22 ment for final payment, transfer, or
23 disposition by or to a person subject
24 to the jurisdiction of the United
25 States in connection with a trans-

1 action for which the issuance of the li-
2 cense has been specifically required by
3 a provision of law other than the
4 International Emergency Economic
5 Powers Act (50 U.S.C. 1701 et seq.)
6 or the United Nations Participation
7 Act of 1945 (22 U.S.C. 287 et seq.);
8 or

9 (II) is property subject to the Vi-
10 enna Convention on Diplomatic Rela-
11 tions or the Vienna Convention on
12 Consular Relations, or that enjoys
13 equivalent privileges and immunities
14 under the laws of the United States,
15 and is being used exclusively for diplo-
16 matic or consular purposes.

17 (B) FINANCIAL ASSET; SECURITIES INTER-
18 MEDIARY.—The terms “financial asset” and
19 “securities intermediary” have the meanings
20 given those terms in the Uniform Commercial
21 Code, but the former includes cash.

22 (C) FARC.—The term “FARC” means the
23 Revolutionary Armed Forces of Colombia, also
24 known in Spanish as the Fuerzas Armadas
25 Revolucionarios de Colombia, including any per-

1 son or entity determined by the court to be an
2 agency or instrumentality of the FARC.

3 (D) PERSON.—

4 (i) IN GENERAL.—The term “person”
5 means an individual or entity.

6 (ii) ENTITY.—The term “entity”
7 means a partnership, association, trust,
8 joint venture, corporation, group, sub-
9 group, or other organization.

10 (E) TERRORIST PARTY.—The term “ter-
11 rorist party” has the meaning given that term
12 in section 201(d) of the Terrorism Risk Insur-
13 ance Act of 2002 (28 U.S.C. 1610 note).

