

**AMENDMENT TO H.R. 3094, AS REPORTED
OFFERED BY MR. BISHOP OF NEW YORK**

Page 8, line 2, strike “and”.

Page 9, line 19, strike the second period and insert
“; and” and after such line insert the following:

1 (3) by adding at the end the following:

2 “(f)(1) Prior to presenting any objection, filing,
3 pleading, statement of position, paper, or appeal (in this
4 subsection referred to as ‘filing’) in any proceeding prior
5 to an election under this section, an attorney or other
6 party representative has a duty, to the best of his or her
7 knowledge, information, and belief, and formed after an
8 inquiry reasonable under the circumstances, to assure
9 that—

10 “(A) such a filing is not being presented for
11 any improper purpose, such as to harass, cause un-
12 necessary delay, or needlessly increase the cost of
13 litigation;

14 “(B) the claims, defenses, positions, and other
15 legal contentions in the filing are warranted by exist-
16 ing law or by a nonfrivolous argument for extending,

1 modifying, or reversing existing law or for estab-
2 lishing new law;

3 “(C) the factual contentions in the filing have
4 evidentiary support or, if specifically so identified,
5 will likely have evidentiary support after a reason-
6 able opportunity for further investigation or develop-
7 ment of the record; and

8 “(D) any denials of factual contentions in the
9 filing are warranted on the evidence or, if specifi-
10 cally so identified, are reasonably based on belief or
11 a lack of information.

12 “(2)(A) At any stage of a representation proceeding
13 prior to an election under this section, including pre-elec-
14 tion hearings, requests for Board reviews, or Board re-
15 views, the Board or its agents, upon their own motion or
16 that of a party to the proceeding, shall have discretion
17 to impose sanctions against a party for presenting a frivo-
18 lous or vexatious filing or raising a frivolous or vexatious
19 matter to the Board under this section, or upon a finding
20 that an attorney or other party representative breached
21 his or her duty under this subsection. Sanctions may in-
22 clude reasonable litigation costs, salaries, transcript and
23 record costs, travel and other reasonable costs and ex-
24 penses. If the Board determines that a party has raised
25 a frivolous or vexatious matter for purposes of delaying

1 an election, the Board shall immediately direct that an
2 election be conducted not less than 7 days after such de-
3 termination.

4 “(B) For purposes of this section, a frivolous or vexa-
5 tious filing is one that an attorney of ordinary competence
6 would recognize as so lacking in merit that there is no
7 substantial possibility that the Board would accept it as
8 valid. The Board shall be guided by Rule 11 of the Federal
9 Rules of Civil Procedure in determining whether an objec-
10 tion, filing, pleading, paper or appeal is frivolous.”.

