

Senate Democrats' Measure Would Plug 'Loophole' Limiting Emotional Damages in Civil Rights Cases, partner Iram Valentin quoted extensively, Law.com, 12-9-2022

Democratic U.S. senators on Friday announced new legislation that they say will plug a discrimination-claims-sized damages hole punched in civil rights claims by the U.S. Supreme Court earlier this year. see full article at link below.

“Despite the tug of war on the high court, it is clear that the conservative majority will continue to construe the available remedies narrowly and strictly in private suits commenced to enforce provisions under Spending Clause legislation,” Valentin, co-chair of Kaufman Dolowich’s Professional Liability Practice Group, wrote. “Practically, Cummings and its rationale may considerably impact remedies in suits arising in the educational context, such as in universities and public school districts, and in the health-care sector, such as in hospitals and rehabilitation facilities.” It’s been months since Cummings, and Valentin, after reviewing Durbin and Murray’s legislative effort, is skeptical it’ll survive judicial scrutiny. He believes that the apples and oranges nature of mixing the concepts of compensatory and consequential damages will lead to further litigation.

“Senate Democrats want to nullify the Supreme Court’s decision because they disagree with the conservative majority’s narrow interpretation of the remedies available under spending clause legislation, viewing it as a step on a slippery slope; however, rather than ending the debate, they may be fueling it,” he said in an interview Friday.