AN ACT

To amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The first amendment of the Constitution of the United States prohibits the abridgment of freedom of speech.

(2) Freedom of speech is fundamental to the values of American democracy.

(3) In light of the constitutional protection our Nation affords to freedom of speech, the Supreme Court has modified the elements of the common law tort of defamation to provide more protection for defendants than would be available at common law, including providing special protections for political speech.

(4) The courts of other countries, including those that otherwise share our Nation’s common law and due process traditions, are not constrained by the first amendment and thus may provide less protection to defamation defendants than our Constitution requires.

(5) While our Nation’s courts will generally enforce foreign judgments as a matter of comity, comity does not require that courts enforce foreign judgments that are repugnant to our Nation’s fundamental constitutional values, in particular its strong protection of the right to freedom of speech.
(6) Our Nation’s courts should only enforce foreign judgments as a matter of comity when such foreign judgments are consistent with the right to freedom of speech.

(b) PURPOSE.—The purpose of this Act is to protect the right to freedom of speech under the first amendment to the Constitution of the United States from the potentially weakening effects of foreign judgments concerning defamation.

SEC. 2. RECOGNITION OF FOREIGN DEFAMATION JUDGMENTS.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following:

“CHAPTER 181—FOREIGN JUDGMENTS

Sec. 4101. Recognition of foreign defamation judgments.

§ 4101. Recognition of foreign defamation judgments

“(a) FIRST AMENDMENT CONSIDERATIONS.—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation that is based upon a publication concerning a public figure or a matter of public concern unless the domestic court determines that the foreign judgment is consistent with the first amendment to the Constitution of the United States.

“(b) DEFINITIONS.—For purposes of this section:
“(1) **DOMESTIC COURT.**—The term ‘domestic court’ means a State court or a Federal court.

“(2) **FOREIGN COURT.**—The term ‘foreign court’ means a court, administrative body, or other tribunal of a foreign country.

“(3) **FOREIGN JUDGMENT.**—The term ‘foreign judgment’ means a final judgment rendered by a foreign court.”.

(b) **CLERICAL AMENDMENT.**—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

“**181. Foreign Judgments** ................................................................. 4101”.

Passed the House of Representatives September 27, 2008.

Attest:

*Clerk.*
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H. R. 6146