PA12-089

HB5388

House	4411-4470	60
Judiciary	1682-1686, 1688-1691, 1692-1701, 1711-1716, 1722-1725, 1727, 1731-1751, 1757-1761, 1763-1795, 1837-1872	125
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GENERAL ASSEMBLY
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PROCEEDINGS
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4109 – 4473

DEPUTY SPEAKER GODFREY:

Have all members voted? Have all members voted?

If so, the machine will be locked. The Clerk will take a tally, and the Clerk will announce the tally.

THE CLERK:

House Bill 5347 as amended by House "A" and "B."

Total number voting	142
Necessary for passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not voting	9

DEPUTY SPEAKER GODFREY:

The bill, as amended, is passed.

Will the Clerk please call Calendar 397.

THE CLERK:

On page 47, Calendar 397, Substitute for House Bill Number 5388, AN ACT CONCERNING COURT FEES AND THE DELIVERY OF LEGAL SERVICES TO THE POOR, favorable report by the Committee on Finance.

DEPUTY SPEAKER GODFREY:

Distinguish chairman of the Judiciary Committee, Representative Gerry Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

I move for the acceptance of the joint committees' federal report and passage of the bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Will you explain the bill please, sir?

REP. FOX (146th):

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Sir --

REP. FOX (146th):

Mr. Speaker, this bill is designed to address a problem that has been brought to our attention and it's one that has been brewing over the last several years involving our funding of legal services to those who need them here in Connecticut. Specifically to the -- to individuals who cannot afford attorneys, who are poor but who also have access to our courts in need and need access to our courts.

Mr. Speaker, during the course of a public hearing and the course of the last several months the Judiciary Committee has heard compelling testimony regarding the importance of these legal services and the -- the way that they do represent people. We've

also heard testimony regarding issues involving self-represented parties who appear in court and, of course, have every right to do so, but who would greatly benefit, if they could have an attorney represent them.

Now, Mr. Speaker, what came out of committee and what's before us here today is a bill that will increase certain court filing fees and, in doing so, will enable those fees to go towards the funding of legal services.

Also, Mr. Speaker, there's another need that our Judicial Branch has brought to our attention. It's one that is growing and has been something that we needed to address for some time, that involves the can technology services and the use of technology and upgrades to technology that the Judicial Branch needs. In this -- this bill, Mr. Speaker, will help fund that as well.

Now, the Clerk has an amendment which is a strike-all amendment and will become the bill, LCO Number 4401. I would ask that that be called, and I'd be allowed to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 4401, which will be designated House Amendment Schedule "A."

Mr. Clerk, please call the amendment.

THE CLERK:

LCO 4401, House "A" offered by Representative Fox, Senator Coleman and Senator Welch.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the chamber to summarize? Is there objection?

Hearing none, Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

This amendment is the work of a number of interested parties and also some representatives who offered to assist in trying to come up with a way to even out, as best as we can, the increase in fees in areas.

I should begin by thanking Representative Grogins and Representative Smith for their willingness to participate in this process and to try to come up with ways that would allow us to provide the revenue that's necessary for legal services but also to, hopefully, offset to some extent the impact that the increase in fees would have. No one is excited about increasing

the court fees. The attempt here was to minimize the -- that increase in a manner that would have the least impact as possible. It is still difficult to do.

Many people may have heard that the initial proposal had something called a fee for certificate of -- for the filing of a certificate of closed pleadings. That's the form that you need the file that puts you on the list to get scheduled for trial. It was one that did have a significant amount of concern by members of the Judiciary Committee, as well as members from the other interested parties. And I would point out that in this amendment that fee has been illuminated.

Mr. Speaker, I'd also like to point out that initial division of fees was going to be 60 percent of revenue will go towards legal services, 40 percent towards the technology needs of the Judicial Branch and what this bill does -- what this amendment will do is shift that to a 70 percent towards legal services and 30 percent for the Judicial Branch, and I would move adoption of the amendment.

DEPUTY SPEAKER GODFREY:

Question's on adoption?

Will you remark on House Amendment Schedule "A"?

Distinguished ranking member of the Judicial Committee, Representative Hetherington.

REP. HETHERINGTON (125th):

Mr. Speaker, to the proponent, is there a -- is there a time limit during which these fees will expire and revert to some lower level, through you, Mr. Speaker?

DEPUTY SPEAKER GODFREY:

Representative Fox, do you care to respond?

REP. FOX (146th):

Yes, Mr. Speaker.

Through you, and I neglected to mention that when I first brought out the bill but, yes, there is a sunset provision of three years in which these fee increases will revert back to the fees as they are today. I should point out that that is an amendment that Representative Hetherington offered during committee, which was supported and did pass, so there is a three-year sunset provision.

REP. HETHERINGTON (125th):

Okay. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

The gentleman from Southbury, Representative O'Neill.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker.

I was wondering if the Chair could explain a little about the choices of the fees that were not being raised or not being raised as much. What the basis of the choices that some of the fees appear to be unchanged from the file copy, other numbers appear to be changed, lowered. So through you, Mr. Speaker, if the Chair could explain the method by which those choices were made. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, it was -- the method was a concerted effort by a number of the interested parties, including those who I referenced earlier. All of the choices -- none of the choices were made easily. But I will -- I'll read through a summary of some of the increases. For the filing fee of complaints, whether be a civil or family complaint or a summary process complaint, those fees would increase $50. There is a new fee for counterclaims, cross complaints, apportionment complaints, and third-party complaints. Right now there is no fee for the filing

of those complaints. There will now be a fee of $250. There is also counterclaims fee on small claims of $90. The filing a complaint in small claims went up $15. And the filing of an execution, which is currently $75, would go to $100. Also the motions to modify, which I have here, is $125, would go up to $175. And there is a new fee for those who wish to appear pro hoc vice, right now that's at zero. The pro hoc vice is when an outside, out-of-Connecticut attorney wishes to appear as counsel of record in a case here in our state and a $600 fee is imposed under this amendment.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Starting with the pro hoc vice one, how does that compare with the underlying bill? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I think it was -- it may have been 300 in the underlying bill, and now it's 600.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

And were any of the fees in under because -- I'm trying to do this using the computer because we've pretty much moved away from paper copies of things. Do any of the fees drop down below their current levels in this amendment, or is everything at the current level of existing law? Through you, Mr. Speaker.

REP. FOX (146th):

Through you, Mr. Speaker, it would be at the current level. It does not drop down. I'm sorry.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Okay. So that we're basically just talking about either a new fee, such as the pro hoc vice fee or some of the other items, the counterclaim fee, totally new fees, and then some fees going up but, apparently,

some fees not being changed -- or maybe I should phrase this way, are any fees going to remain at their current level? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, yes, they will.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Is there a kind of a theme to which ones are staying the same versus which ones are going up? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I'm not sure I would call it a theme. What the -- there were certain fees that it was felt should remain where they are; certain fees that would go up a degree. The objective was to, hopefully, minimize the impact of the fees as they went up on the general population of those who utilize our court services.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Now the overall amount of money being generated appears, based on the fiscal note under the amendment, to be less than the overall amount of money that was generated under the underlying bill. Am I correct in that? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, yes, that's correct. In my quick reading of the fiscal note that I just received, I think it's about $1 million or so less than the bill that passed out of committee. And I should point out that what the impact on that would be that the Judicial Branch would receive less as part of its percentage of the revenue generated from this bill.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Yes, I noticed that it appeared that under the underlying bill, legal services was slated to get about $5 million. And under the amendment, it looks like they're going to get -- if all these fees generate the amounts and this is kind of guess work on our part but generate about 5.2 million. So the million dollar reduction is to be borne by the Judicial Branch.

What was the intended purpose for the money that Judicial Branch was going to be getting under the underlying bill? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

Through you, the Judicial Branch did appear at our public hearing. They did testify. They said amongst the things that they need to -- to -- to utilize the services for would include the criminal motor vehicle system, which they testify is over 25 years old. Also the implementing electronic filing in family cases, currently the way e-filing it works with our Judicial Branch and for those who are familiar with it, it is something that made filing documents,

at least in civil cases currently, a much easier process, but as of present you cannot e-file in family cases so that would be implemented through the use of these funds.

Also, there is potential system to develop electronic notice to provide attorneys with information regarding filings, so the Judicial Branch over the course of the past decade has gone towards a system of e-filing and use of technology, but this would also enable them to expand that.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Since they're going to be getting less money than was originally projected under the underlying bill, do we have any idea what is not going to be done, assuming the amendment passes, because the Judicial Branch is going to be getting $1 million less than was originally projected under the bill? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, and I know that these would still remain as goals of the Judicial Branch. It just may not get done as quickly on certain items. I don't have a specific list.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

And in the underlying bill, my recollection was that there was a provision if there was an accumulation of funds for some reason, I think -- I imagine or recollect the number was something like $5 million that monies would then revert to the General Fund. I may be misremembering and -- and I apologize, if so, because we have a number of bills that deal with special funds being created and then surpluses reverting to the General Fund. Was there such a requirement under the underlying bill and is there such a requirement in the amendment? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, yes, there was a requirement in the underlying bill, and there is one in the amendment.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

So in the -- I was going to say "happy," but in the circumstance that the funds were to be generated and not expended completely, then eventually some of this money would find its way back to the General Fund. That's what the purpose of that provision, both the bill and the amendment is; is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, it is correct that if the fund were to exceed 5 million, those funds would revert to the General Fund.

I should point out that according to the fiscal note, the estimated revenue generated would be about 2.2 million. As I understand it, they're pretty low right now. And there is also a sunset provision in here of three years, so it is possible money could go

to the General Fund. I'm not sure that it would be a very large amount.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

And I'm just wondering and I don't recollect this coming up during the course of the Judiciary Committee hearing on the underlying bill, but perhaps the -- the $600 fee for the pro hoc vice attorneys, obviously, these are attorneys who don't live in Connecticut, or at least don't practice here, so in one sense it's a way of charging somebody who, you know, is the ideal taxpayer, flee payer, they can't vote us out of office, but I'm just wondering if this is comparable to anything in other states that might be found in New York or California or Massachusetts, or any states around the country where they charge a fee of this magnitude for the privilege of appearing pro hoc vice in a case? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I'm not sure specifically of the fee in other states for pro hoc vice; however, I do believe that such a fee exists. I do know in speaking with those who were part of the working group who went through these -- the variety of fees and in their comparison with other states on a number of different fees, they did feel that Connecticut was lower than other states. So I don't know, specifically, on the pro hoc vice, with respect to our surrounding states or other states, there may be somebody else in the chamber who does know.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Well, perhaps, at some point someone will rise and give us more information. I want to thank the Chairman and the working group for their efforts on this matter. It's obviously a difficult situation with the legal services requiring the additional funding.

I would have one more question, do we know much of a percentage of legal services total operational costs these fees would -- if they meet the targets set

forth in the fiscal note, how much money as a share of the total this represents? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I'm not sure of the overall percentage. I should say and I should have said this, though, at the outset is that the need for this is that legal services -- as I know Representative O'Neill is aware -- the legal services had been supported in great part by the interest earned on the lawyer's escrow accounts and the IOLTA accounts that are set up and because of the drop in interest rates, also because of the reduction in the number of transactions over the last couple of years, that has been a big driving force for the need for this type of legislation, and it's -- and it's the hope that this, the increase in fees here, will make up for what is being lost in the revenue that had previously been generated through the IOLTA accounts. So it's meant to supplement that, and it's also, in my opinion and others, a good reason why we sunset this in the hopes that we can generate additional funding through the IOLTA accounts in the future.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker.

Along with the Speaker, was here long enough back in time to remember when the IOLTA program was first put together and the thoughts that were then existent that it was going to sustain legal services more or less indefinitely. And here it is a mere 20 years later and that we've run into a problem with it.

Well, I do think that the sunset -- thought it was a good idea and the committee do think it's a good idea to keep it in the amendment that's before us, that we have the sunset provisions so that we can take of another look at this. Hopefully, things will turn around and maybe we can come back and reduce some of these fees going forward, but I thank the gentleman for his answers to my question.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

The gentleman from Trumbull, Representative Rowe.

REP. ROWE (123rd):

Thank you, good evening, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Good evening, sir.

REP. ROWE (123rd):

A few questions on the amendment --

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. ROWE (123rd):

-- to the proponent. Thank you.

Good evening, Chairman Fox. And I just wanted to ask a couple follow-ups on you. I believe the underlying copy and what came out of Judicial had a filing fee of $90 for a certificate of closed pleadings. And I didn't hear you address that when you were bringing out the amendment. But am I correct in that fee no longer is -- is an amendment "A"? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, and as the Representative knows that is a document that is filed a large number of cases. What the initial proposal was $125 on that certificate of closed pleadings. It did go down to $90, and in this amendment it is down

to zero. So there is no fee for certificate of closed pleadings and that would've been a new fee that would've pretty much attached itself to just about every case that is filed, so that is not in this bill -- this amendment.

DEPUTY SPEAKER GODFREY:

Representative Rowe.

REP. ROWE (123rd):

Thank you.

Am I correct that nothing in the amendment changes current law with respect to a prevailing party's ability to recover fees as is -- as they are able to do currently? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, that is correct.

DEPUTY SPEAKER GODFREY:

Representative Rowe.

REP. ROWE (123rd):

Thank you.

Did the -- did -- okay. Did the working committee -- did any discussions come up in the working committee about fee waiver fraud and the

potential costs that that has. In other words, those that have apply for a fee waiver and, you know, ultimately, are found to qualify but -- but, in fact, that is not the case. And I know that -- that -- we know there is some fraud and that we don't know how extensive it is. Did that come up in the working committee's discussion and did the amendment contemplate that at all? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I am not aware of that coming up. The basic charge of this working group, if it's to call it something along those lines, was to try to come up with a way to manage the fees, but the respective potential for fraud that could occur, I don't know that that came up at all.

DEPUTY SPEAKER GODFREY:

Representative Rowe.

REP. ROWE (123rd):

Thank you and that's all for my questions on this, maybe a quick musing or two on it. I think that the -- You know, this is a challenge. We don't want to raise fees and this does raise some fees

substantially. The fee that I'm probably least concerned that we raised and, in fact, if we're going to raise something or add a new one, the pro hoc vice fee, is now a healthy fee going up from zero to $600, and I think that's appropriate. I don't know that there is much the out-of-state lawyers can do that the in-state lawyers can do. So if they're going to come in and do it, let's -- let's get some skin in the game from them.

But, you know, some the other fees, the filing fee going up, and even the small claims fee going up a little bit that does affect people and in ways that affects, in some ways, the same people we are trying to help. People that are on the fringes here and, you know, filing a cross claim now or a counterclaim on a small claims action, you know, there may not be the financial capability of doing so. Right now, you don't have to pay anything if someone sues you small claims court and you want to start a claim against them. Now there is that.

A lot of the fees that we are raising have been raised as recently as a couple years ago. So we ought not to look at this in a vacuum, and we always seem to be going back to -- these are taxpayers, by and large,

that we are hitting with the fees. So I understand that the amendment which becomes the bill does solve some problems in some ways, but it, perhaps, creates a number of challenging -- a number of challenges at the same time. So thanks for the time, Mr. Speaker, and that, again, I thank the gentleman for his responses.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

The gentleman from the 86th, Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

If I may, a question to the proponent of the amendment.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

In -- in looking at the intent of the legislation, back in 2009, we had increased court fees to pay for legal services. We're revisiting the issue now with this amendment. Does the amendment change the percentage of the court fees that Legal Aid will be getting? I know you spoke to it, 30 percent, I

think of the -- the -- the total fees that go to the Judicial Branch and then 70 percent, I think, to Legal Aid? Is that how current law divides up the fees? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

And through you, the percentages that were -- that are reflected in the amendment are the percentages that will be applied to the increase in fees that are reflected here, so it will be the money that is generated from the increase here.

DEPUTY SPEAKER GODFREY:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

Okay, that makes sense. We are only -- basically, we're only distributing the increase that we're doing today. In -- I guess under existing law, how are we currently distributing the court fees, through you, Mr. Speaker, to Legal Aid.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, as I understand it and I want to be -- the increase from 2009 go towards Legal Aid. The -- I'm sorry I don't have those increases in front of me but, then -- so those -- but whatever was the increased 2009 would go to Legal Aid. The underlying pre 2009 court fees go towards the General Fund.

DEPUTY SPEAKER GODFREY:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

I appreciate the answers. I think I understand this now. Up through 2009, our court fees went into the General Fund. In 2009, we had increased these fees a portion of which went to Legal Aid, that increase. And now we're seeking to increase again. Because I -- I think as I see this, there isn't sufficient revenue to fund Legal Aid as it currently stands.

I'm glad that this amendment does have the sunset provision. I think what I sort of struggle with in this underlying bill is the policy decision of increasing fees on people that use the court system

for the purpose of funding Legal Aid. I certainly can understand IOLTA accounts to be funding Legal Aid, but I'm a little troubled when we are beginning to fund a social service that the State provides off the backs of other people that are using the system. Because, as I see this, especially in small claims actions, individuals use that system and they don't necessarily have the economic means to get a lawyer and go through a regular Superior Court process, so we have those types of mechanisms. And now they're going to be paying for legal services because our IOLTA fund has failed. And I'm just concerned, you know, in situations where court fees are assessed on the loser of the case, which in small claims court, you know, that can happen where the winning party, I think, is assessed a court fees. That these are just more costs that are being assessed on to people that are using the system, and I think we're sort of embarking on a slippery slope. I mean, in '09, we -- we put some funding here to try to solve a problem, which clearly it didn't solve and now we're revisiting it today. And my concern is are we going to see reduction in -- in people using the system because they can afford it and fee waivers are going to start increasing, and

we're going to start possibly see less revenue. But I guess, you know, in the economic times that we're in, I don't know what better alternative there is to fund this, but it just -- is just a little bit troubling to me that we're continuing to sort of pile it on costs on people who don't necessarily see the benefits of Legal Aid but are going to have to continue to pay for it.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

The gentleman from New Fairfield, Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker, and good evening.

First a comment and then a few questions, if I may. When this bill came up in Judiciary, I had the concerns that have been expressed here tonight. And one of the first concerns that I had is are we actually going to prohibit the ability of those who need to use our court system from actually being able to use it by the increase in these fees. And that's one of the reasons why I volunteered to see if we can come to a resolution and make it as equitable as we could so that those who need to utilize the court

system are not priced out. They can still afford to file a small claims complaint or a civil litigation if they need to.

This bill that you're -- or amendment that you are looking at tonight tries to accomplish that goal by raising some of the costs, not raising all the costs, and yet put in a sunset provision on the fees so that we can get back to where we were prior to the economic decline that has really hurt the IOLTA account. Because that process, although it's not working now, has worked very, very well for a number of years. And the interest earned on attorneys accounts, trust accounts, has more than adequately paid for legal services over the past 20 years. We are now in a situation where the IOLTA accounts have declined for number of reasons. One is the real estate market has gone into the tank. The second is right now banks wire money in and out of the lawyers accounts, whereas they used to sit into account for maybe two days or at least a full day and would garner some interest. Today that pretty much is no longer the practice. A wire comes in, a wire comes out, and the IOLTA interest is -- is lessened.

So I had the concern about our ability to actually help people out, at the same time, not preventing them from using our system. I also had a concern about money going back into the General Fund because I did not want this system or this process to be utilized to dump more money into the general account. And as there is provision in the bill that if we get up to 5 million at the end of the calendar year or the fiscal year, then that money goes into the General Fund, and so I did raise those concerns and still have those concerns.

But, nonetheless, I stand in support of the bill for number of reasons. One it's going to help those people who actually need the services the most by allowing legal services to render legal advice to those people who cannot afford an attorney. And I can tell you in today's times that need is more and more prevalent than we have ever had -- at least I have ever experienced in my years of practice. Simply stated, people still need legal services, but the money to pay for that service is no longer available, so this bill will help that.

And I, also, must tell you the money going into the Judicial Department to enhance their technology is

also critical. Over the past five years, I've seen the creation of e-filing, E-Services has made the State of Connecticut, one I am proud to be part of as a practicing lawyer because it makes it so much more simpler to actually go online, file a document, look at the court file from your computer desk, and as the good Chairman from the Judiciary indicated. That's only available in certain areas. It's not available in family. It's not available in criminal. It's not available in small claims. So there's a lot to go. There's a lot of room to go where we can enhance the judicial system, and I think this bill will help that as well.

What we tried to do when meeting with the Judicial Department, is to -- to spread the cost out. Right now most of the cost that are incurred are typically paid by the plaintiff, which is the party that brings the lawsuit. By adding the counterclaim and cross-complaint fee of $200, we try to spread those costs out to the defense bar as well. So the same party is not getting continuously hit with another fee. And as indicated, the certificate of closed pleadings has been eliminated by this

amendment, which also would've been an additional cost to the plaintiff.

Some the questions raised tonight we're concerned about the costs compared to other states. I raised that concern, as well, and have come to learn that our costs here in Connecticut are surprisingly low in comparison to some other states. For instance, the pro hoc vice motion in some other states are up to $1,000 or higher. The court filing fees in other states are up to $500 in higher. So while I'm not advocating that we increase our cost anymore than what we have done, Connecticut does have a reasonable cost filing system as it exists right now.

And I've heard a number of times since I've been up here in the legislature that you know sunsets are nice but they never happen. I truly hope this does happen. Knowing that in three years -- hoping that in three years the real estate market will bounce back, IOLTA accounts will be strong again, and we can actually sunset and take a step backward and reduce the fees. I think would be important for us to look at and follow this over the next two or three years to make sure that IOLTA is in a position to do that, because as has been stated here tonight, if this is

not a fix or temporary fix, then we need to look at another alternative and not just continue to raise court fees on those who try to use our judicial system.

I just do have one question, through you, Mr. Speaker, if I may, to the proponent of the amendment.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. SMITH (108th):

One of the costs that have been increased is the executions so that once a party gets a judgment, they can execute on a bank account or execute on wages or execute on personal property. In the instance where a bank execution has been filed and returned partially satisfied, will there be an additional $100 fee that has to be paid or is the $100 fee that's paid initially good throughout the bank execution? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

Through you, and I'd like to thank the Representative for all of his comments on this bill

and his efforts throughout this process. It's something that none of us really wanted to do but we also understood the underlying need for this funding and the important service that will be provided.

With respect to the question, the issue of executions has been one that we been asking ourselves and other issues have been raised regarding this. The way I understand it is, you pay the one fee for an execution, which is good for 45 days, and then if it needs to be renewed, there may be a subsequent fee after that. But if the first $100, or the first fee for an execution should cover that 45-day period in which time a marshal would seek to -- would seek to impose the execution as part of his process.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker, and I'd like to thank the Chairman for his kind comments.

Certainly, I'm happy to help in any way I can, and it was a pleasure working with both sides of the aisle on this bill. And again, I urge my colleagues to support this, based on the need, a true need,

that's out there in the community to the legal system and the judicial system.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative Srinivasan -- Representative Srinivasan.

REP. SRINIVASAN (31st):

Good evening, Mr. Speaker.

Through you, Mr. Speaker, to the proponent of the bill.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, is there a threshold amount that is committed to the delivery of legal services to the poor. Do we have an idea as to what that amount is? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

The amount is -- I believe the question is those who would qualify for legal services, Mr. Speaker, is

that correct -- was the question is regarding the threshold amount?

DEPUTY SPEAKER GODFREY:

Representative Srinivasan, do you care to rephrase your question?

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, no. The question was, is there -- the amount that is required to take care for that we need to take care of people who are in legal need and, you know, in the situation? Not a threshold amount in purpose, but a total amount? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox, any better?

REP. FOX (146th):

Yes, it is.

DEPUTY SPEAKER GODFREY:

Good.

REP. FOX (146th):

Thank you. Thank you, Mr. Speaker, and I thank the Representative for his question. There are those -- there are those who would say this does not meet the threshold -- this does not meet the amount that is needed to provide legal services to the poor. I

believe there is always more that can be done, but with this bill, the objective was to try to make up for some of that which has been lost through the decline -- declining revenue generated by the IOLTA accounts, so it's designed put them where they -- as close as possible to where they would be. I don't want to say that it's sufficient to allow them to provide all of the services that they would like or, perhaps, even all of the services that are needed. It's probably -- it's not enough for that, but I'm sure that they would say so. But it should, at least, hopefully, put them back in a position where they can continue to represent those individuals who can't afford it.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

Thank you very much for that answer.

Through you, Mr. Speaker, the increase in fees as was mentioned by our Chairman, was to compensate for the reduction in the interest income. I realize that. But if -- if more funds are needed, because as you said we never know what the need is going to be and we

can always do more. If more funds are needed, is there another way, other -- along with -- along with, I know it's not part of the amendment or the bill, along with the increase in the fees? Would we be dipping into the General Fund or could we have another source? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

I -- let's be careful and stay on the bill, as you have already personally observed you're asking questions outside of the four corners of the bill, perhaps, if you could rephrase it?

REP. SRINIVASAN (31st):

Yes, I'll try, Mr. Speaker.

Through you, Mr. Speaker, in the event that we are not able to get any significant amount of income through this increase in the fees -- that is my concern, would we be able to anything to people who need these legal services? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, actually, I do appreciate that question. I believe there is a confidence that this will provide a great level of

comfort to legal services and the services that they have to provide. So the amendment should it pass and become the bill is something that they feel will enable them to provide the work that they need to do. Should -- but having said that, they still need potentially other sources, whether it be through private contributions, their own fundraising initiatives, or, perhaps, going to the General Fund, if necessary. But this, it is hoped and expected will allow them to continue to operate.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

And through you, Mr. Speaker, my final question to the proponent of the bill. We are on the one hand trying to help and, definitely, we need to help people who are poor. By raising the fees, through you, Mr. Speaker, would we be taking away the capacity of the people who are not poor but not rich either? And that in-between, the middle ground people, that now we're taking away their capacity to go to court to file whatever the need to do because we have increased their fees? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

It was the -- the hope that by attempting to spread these out in a manner that was stated by Representative Smith, that it would minimize the impact that increasing fees would have on that group that would not qualify for Legal Aid, in which case, they would likely not have to pay a fee but are not wealthy. So we are certainly concerned about that sector of our population and their ability to access our courts.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker.

And I want to thank you for your indulgence in my second question in allowing me to rephrase that. I appreciate that.

DEPUTY SPEAKER GODFREY:

Of course.

REP. SRINIVASAN (31st):

And I definitely think the proponent for his answers. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

The gentleman from Bethel, Representative Carter.

REP. CARTER (2nd):

Good evening Mr. Speaker, thank you very much. A few questions to the proponent of the amendment.

DEPUTY SPEAKER GODFREY:

Proceed, sir -- proceed, sir.

REP. CARTER (2nd):

Looking at the amendment on line 110 through 112, the amendment identifies an increase in fees -- or actually additional fees for judgment motion to modify in family relations matters of $175. Through you, Mr. Speaker, was the cost prior to that?

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, the current fee is $125.

DEPUTY SPEAKER GODFREY:

Representative Carter.

REP. CARTER (2nd):

Thank you, Mr. Speaker.

And with the legal aid that given to folks as a result of passing this bill, the extra money, do they offer aid for divorce and mediation in Legal Aid? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, yes, they do.

DEPUTY SPEAKER GODFREY:

Representative Carter.

REP. CARTER (2nd):

And through you, Mr. Speaker, as a result of this amendment, were there any increase in fees that would be specifically for those representing themselves or pro se? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, there is not a fee, not a specific fee that would apply to self-represented or a pro se party.

DEPUTY SPEAKER GODFREY:

Representative Carter.

REP. CARTER (2nd):

Thank you, Mr. Speaker.

And through you, Mr. Speaker, I notice in this amendment it specifies that monies in addition to $5 million would be transferred into the General Fund. Through you, Mr. Speaker, would it be possible to know how much or when we would reach that threshold based on our current budgeting? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I don't have an exact number as to what's in the account. It's known as the Judicial Data Processing Revolving Fund. My -- my information is that it's pretty low. The revenue that is expected to be generated that would apply -- that would go towards this account each year is, according to the Office of Fiscal Analysis, is 2.2 million. The -- there is a three-year sunset. I would expect that they probably would not exceed 5 million, but if they were to exceed it, that money would go into the General Fund.

DEPUTY SPEAKER GODFREY:

Representative Carter.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker.

I had heard earlier, the esteemed chairman of Judiciary had mentioned that some money would possibly go back but not a lot. Is it possible to clarify -- disregard, that would be asking for an opinion.

DEPUTY SPEAKER GODFREY:

You're hired.

REP. CARTER (2nd):

Thank you.

Listen, as I look at this -- as I look at this amendment that will become the bill, I commend everyone for their work. Obviously, this is an opportunity to ensure that those, the poorest of our community, get access to Legal Aid. However, I did have one concern. You know, by looking to raise the amount of money that are paid in judgments for family matters, I think what we're doing here is we are going from 125 to 150, every time they file a motion. And I know those kinds of court cases, they can, obviously, be -- we'll say frequent flyers. They have to come back multiple times. And frankly, divorces are a very, very expensive things to do in the first place. So I think looking at this, if we're going to raise that cost of $50 every time for a motion that what

we're doing is we're kind of putting this on the back of another group who really need a little bit of help right now. Because I'm telling you if you're going through the worst in this economy, chances are you're probably hurting. I think on average divorces can cost somewhere in the neighborhood of $18,000 -- excuse me, $18,000. So while I -- while I appreciate the efforts, I do want to call concern to that part of the amendment.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on House Amendment Schedule "A"? Will you remark further on House Amendment Schedule "A"?

If not, let me try your minds. All those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Oppose, nay.

The squeals have it. The amendment is adopted.

Will you remark further on the bill as amended?

Representative Carter.

I hope this doesn't have a way to do it Representative Chapin visiting the Majority Leader's side.

Representative Carter, you have the floor, sir.

Representative Carter.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Mr. Speaker.

REP. CARTER (2nd):

I rise for the purpose of an amendment.

DEPUTY SPEAKER GODFREY:

Okay.

REP. CARTER (2nd):

Mr. Speaker, the Clerk has an amendment. It is LCO 4457. Would you please ask the Clerk to call it, and I'd be allowed to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 4457, which will be designated House Amendment Schedule "B."

Mr. Clerk, kindly call the amendment.

THE CLERK:

LCO 4457, House "B" offered by Representative Carter.

DEPUTY SPEAKER GODFREY:

The gentleman seeks leave of the chamber to summarize. Is there any objection?

Hearing none, Representative Carter.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker.

This bill effectively -- excuse me -- this amendment effectively strikes section 3 and 10 of the bill which restores the fee that would be paid for a family matter to $125 from what we just put in at 175.

Mr. Speaker, I move adoption of the amendment.

DEPUTY SPEAKER GODFREY:

The question is on adoption.

Will you remark, sir?

REP. CARTER (2nd):

No, sir.

DEPUTY SPEAKER GODFREY:

Remark on House Amendment Schedule "B"?

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

And I certainly appreciate the intent of this amendment. And just so I can explain somewhat how this works. Right now, to open a judgment in a civil

matter, which would include a family matter, it's $125. Now, that can include, for example, a judgment of foreclosure and the setting of a sale date. And oftentimes a sale date is set by the court, a party will, perhaps, find in opportunity to sell their home or, perhaps, be able to -- perhaps some reason why they need to extend the sale date and that is also something that would be $125.

And I can appreciate the efforts that were made to try not to increase the fee on those people who are in foreclosure in danger of losing their home, especially given our current climate and what has been happening. If you see the foreclosure dockets throughout our courts. You recognize that there's a lot of people out there that are struggling when it comes to holding onto their homes, so what this -- what this did by -- by using this language here is it, it did increase from $125 to $175 the fee to move to modify a judgment in a family matter. And it would be a -- it could, for example, let's say, there is a judgment in a family matter three years later. There is a reason to move to modify, perhaps, somebody may have lost their job, something along those lines, that person might at that point say they need to modify, or

perhaps somebody received a -- a increase. It depends on a number of different circumstances. And what this would do -- and so it's not something that happened -- it's certainly something that happens -- it certainly happens because there are postjudgment motions that are filed and family cases, but the attempt was to make it as -- to make it in such a way that it would not unduly impact those individuals who are moving to modify their judgments.

Now, one of things I should point out, also, there was I recall from practicing law -- this was probably around 10 years ago where the General Assembly had imposed a fee on motions for contempt and that was deemed to be a bad fee because that was one where people are in family matters, in particular, because people are not being paid child support, for example, and they would have to pay a fee to bring the other party and for contempt. This is not that. This is motions to modify judgments for whatever reasons and -- in family matters, the fee of $50 extra is one which while it's not ideal, it's one which I would support, and I would ask the chamber to reject the amendment.

DEPUTY SPEAKER GODFREY:

Representative Klarides --

Representative Smith.

REP. SMITH (108th):

Thank you. I thought it might be helpful if the Chamber had an idea of how we came to the conclusion of which fees to raise and which fees to leave alone and -- because I know some those questions have been asked. And in this particular situation, the motion the modify, the increase of $125 to $175, what the Judicial Branch and what we were looking at is, well, how many motions to modify are actually filed in any given year, and then based on that, how much revenue would that generate because in order for this program to work to pay for the Legal Aid that's needed and to pay for the cost of the judicial technology upgrades, they had to get to a certain number.

5322 motions to modify were filed, I guess, last year, and based on that, there was a projected revenue of $266,100. So if you take that out, would it does is it decreases the revenue that we're hoping to gain by these increases by that amount of money and -- and, though, I very rarely go against my colleague, especially in this situation, I still think the bill as good as drafted. It was a difficult compromise in

many areas, and I would urge my colleagues to reject the amendment.

Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Representative Carter, are you seeking the floor for the second time? Please proceed.

REP. CARTER (2nd):

Thank you very much Mr. -- Mr. Speaker, for the second time.

I did want to clarify that the fiscal note on this bill -- the amendment to the bill was a loss revenue of $260,000. Ladies and gentlemen, $260,000 that's being transferred on the backs of people going through the worst times of their life, in the worst economy of the life. I understand we want to be able to, you know, make it up. We want to be able to give money to Legal Aid, which they deserve it and they need it. I get that.

But, folks, what about those in our society who are going through very, very difficult times? You know, we can make up $260,000 somewhere else. So I would -- I would hope everybody would actually consider this amendment and support it.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on House Amendment Schedule "B"? If not let me try your minds, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, nay.

REPRESENTATIVES:

Nay.

DEPUTY SPEAKER GODFREY:

The nays have it. The amendment is rejected.

Will you remark further on the bill as amended?

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Mr. Speaker, we've heard a lot this session about the need that Legal Aid is in and why they're in that situation.

Through you, Mr. Speaker, a few questions to the proponent of the bill?

DEPUTY SPEAKER GODFREY:

Proceed, ma'am.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Mr. Speaker, I was wondering in previous recessions we've had, why hasn't Legal Aid had the same problem? Through you.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker.

I was not a member of the General Assembly during previous recessions, so I'm not sure that I can speak to how Legal Aid handled that. I can say that I know in the nineties when there was some difficult financial times, as a lawyer, Legal Aid certainly would seek me out and others to handle cases pro bono as part of the services that are provided there. I think Legal Aid has always wanted to do more, has always struggled in some way with funding. So I don't know that I can say that they have not had problems in other recessions.

DEPUTY SPEAKER GODFREY:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

I probably should have and will rephrase the question I had. Has the State ever had to come to the aid of Legal Aid, financially, because of their situation, through you, before now?

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, I know that there was talk earlier of the 2009 bill where fees were increased. And I know there is also talk earlier of the creation of the IOLTA fund, so the State has traditionally -- at least, there is a history of trying to find ways to assist Legal Aid.

DEPUTY SPEAKER GODFREY:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Through you, I know the Representative from the Southbury had brought up earlier the sweep mechanism if the balance remaining in the fund exceeds $5 million. If the Chairman can just extrapolate a little bit on that. Is it because that Legal Aid only

needs $5 million, or is there some other reason?

Through you.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, that portion of the bill is the percentage that goes to the Judicial Branch and if that amount were to exceed $5 million. It is not the Legal Aid portion.

DEPUTY SPEAKER GODFREY:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

I thank the Chairman for that clarification, but I guess my question is, in the next few years -- and I know we have a three-year sunset in here, there could be a circumstance where we come back and -- and review this and change that amount. Could those circumstances occur, through you?

Could the circumstances occur where we change that $5 million cap? Could it go to $6 million? Could it go down to $4 million? Could that be changed at any point in time?

DEPUTY SPEAKER GODFREY:

Care to predict the future, Representative Fox?

REP. FOX (146th):

Through you, Mr. Speaker, yes, it could. There is also a three-year sunset provision in here, so it will be something that is in the forefront.

DEPUTY SPEAKER GODFREY:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

I thank the gentleman for his answers. I know the conversations we have had about this issue have taken many, many different views, and I know a lot of my colleagues are very concerned about the fiscal ramifications of this.

I think that Legal Aid, whether you think we should be doing this or not be doing this, fulfills a very important part in our legal system. And I think that a lot of people were concerned about it not sun setting. And I know that the Ranking Member of the Judiciary Committee did put forth that amendment during the committee meetings. And I am very happy to see that it is in the final bill, which makes it much more reasonable to me, and I know a lot of other people.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, ma'am.

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker.

I just -- I rise in opposition to the bill. I voted against this in Finance Committee, and I certainly have struggled with the overall premise of this. And I think, fundamentally, I'm concerned that, you know, in 2009, we saw a funding issue with Legal Aid, and we raised the fees in order to fund it, and we thought that we are going to achieve enough money in the coffers for Legal Aid to function. And this by no means -- by no means do I take issue with Legal Aid or the services they provide, but I think I'm concerned about the we're going about this. I'm concerned about the fact of what impact this will have on our fee waiver process, because anecdotally I've certainly heard that there are abuses in that system where people will apply for the waivers and we've done nothing to address that issue. And as we continue to increase fees on people, I'm concerned that we are

going to continue to see additional fee waivers applied.

And again, we're trying to solve a problem with revenue, when our problem is expenditures. And until we get our house in order, I think that we're going to continue to see problems with this program because raising fees doesn't necessarily equate to more money. We haven't seen the money from the fee increases in 2009, and I would suggest that raising these fees, we're not going to see the funding in 2012, because we are going to see additional abuses to the system, with additional fee waivers applied. And I think that this is the wrong way to go about things. We've seen in other areas of the budget, and I fear that we are on the wrong path, yet, again.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

If not --

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker.

I witnessed this bill develop as it worked through the Judiciary Committee and now with this recent amendment. The bill is -- is not ideal but the situation is far from ideal. The fact remains that providing these legal services to people who cannot afford them is something we have to continue to do.

I think the bill has some improved features in it. The bill provides that the increased fees will sunset in three years. The bill provides some changes in the fee structure that were present originally. I don't like the fact that the excess funds go to the General Fund. They shouldn't be simply another source of backdoor state revenue. However, given the financial projections, I doubt very much that the state General Fund will receive much from this.

So I, with some reluctance, rise to urge its adoption, and I ask my colleagues to join me in supporting the bill.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on the bill as amended? Will you remark further on the bill as amended?

If not, staff and guests please come to the well the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is taking a roll call vote. Members to the chamber please.

DEPUTY SPEAKER GODFREY:

Have all members voted? Have all members voted?

If all members have voted, the machine will be locked. The Clerk will take a tally.

And, Mr. Clerk, if you will kindly announce the tally.

THE CLERK:

House Bill 5388, as amended by House "A."

Total number voting	145
Necessary for passage	73
Those voting Yea	133
Those voting Nay	12
Those absent and not voting	6

DEPUTY SPEAKER GODFREY:

The bill, as amended, is passed.

Mr. Clerk, kindly call Calendar 112.

THE CLERK:

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CONNECTICUT
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SENATE

PROCEEDINGS
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402, House Bill 5299. Madam President, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 12, Calendar 425, House Bill 5476. Madam President, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 13, Calendar 426, House Bill 5443. Madam President, move to place this item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 14, where we have two items. The first is Calendar 439, House Bill 5388.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Madam President, move to place this item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Also calendar page 14, Calendar 438, House Bill 5347. Move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 15, where we also two items. First is Calendar 441, House Bill 5501. Madam President, move to place this item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Also calendar page 15, Calendar 442, House Bill 5536. Madam President, move to place this item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 16. The first item is Calendar 445, House Bill 5145. Move to place the item on the consent calendar.

On page 13, Calendar 426, House Bill 5443; on page 14, Calendar 438, House Bill 5347; Page 14, Calendar 439, House Bill 5388; page 15, Calendar 441, House Bill 5501.

Also on page 15, Calendar 442, House Bill 5536; page 16, Calendar 445, House Bill 5145; page 16, Calendar 446, House Bill 5395; on page 16, Calendar 448, House Bill 5414; page 17, Calendar 451, House Bill 5548; page 18, Calendar 456, House Bill 5285.

Also on page 18, Calendar 458, House Bill 5031; on page 20, Calendar 468, House Bill 5217; page 21, Calendar 471, House Bill 5164; page 22, Calendar 476, House Bill 5263.

On page 23, Calendar 485, House Bill 5237. On page 25, Calendar 497, House Bill 5512; page 26, Calendar 502, House Bill 5497; page 26, Calendar 503, House Bill 5409.

On page 28, Calendar 512, House Bill 5424. And on page 30, Calendar 522, House Bill 5289.

THE CHAIR:

That seems correct.

Mr. Clerk, would you please call for a roll call vote on the consent calendar. (Inaudible.)

THE CLERK:

Immediate roll call has been ordered in the Senate. Will senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Gomes, would you like to vote, please. Thank you.

If all members have voted, if all members have voted, the machine will be closed.

Mr. Clerk, would you please call a tally.

THE CLERK:

On today's consent calendar,

Total Number Voting 35
Necessary for passage 18
Those Voting Yea 35
Those Voting Nay 0
Those Absent and Not Voting 1

THE CHAIR:

The consent calendar passes.

Are there any points of personal privilege or announcements? Are there any points of personal privilege or announcements?

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Yes, Madam President, if there are no announcements or points of personal privilege, we will, of course, be in session tomorrow -- or actually it's later today but -- but not on Thursday. But --

THE CHAIR:

Okay. Promise?

SENATOR LOONEY:

-- we will -- we will convene later this morning. We will have a -- announce the Democratic caucus at eleven followed by session at noon today.

Thank you, Madam President.

With that, would move the Senate stand adjourned, subject to the call of the chair.

THE CHAIR:

So ordered, sir. Everybody drive safely.

On motion of Senator Looney of the 11th, the Senate, at 12:32 a.m. adjourned subject to the call of the chair.

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changes, interest rates, everything changes and folks say, whoa. You know, we're losing money here. Or that, you know, that actuarial calculation was off. I mean, is it a one-time thing or can it get revisited? How does that work?

KAREN BUFFKIN: Is a formula that's normally used based on life expectancy, your age, you know, the age of your spouse if you provided for your spouse. And so it's a number of things.

And I'd have to verify whether or not that comes out as a percentage or a flat dollar amount, but I believe it is a percentage.

REP. SHABAN: And it's a one-time calculation, is -- and I guess that kind of makes sense, because the theory here is this is sort of toward the end of the career, so maybe that does make sense. But my -- I guess I'm answering my own question.

KAREN BUFFKIN: Yes. I believe it is a one-time calculation. I apologize for not answering that part of the question.

REP. SHABAN: Thank you, Mr. Chairman.

SENATOR COLEMAN: Are there other questions for either Attorney McDonald or Secretary Buffkin?

Seeing none, thank you both.

KAREN BUFFKIN: Thank you very much.

SENATOR COLEMAN: Next is Judge Barbara Quinn.

Good morning -- afternoon.

HB5388 HB5365
HB5290 HB5034

THE HON. BARBARA M. QUINN: Good afternoon, Senator Coleman, Senator Kissel, distinguished members

of the committee. I appear before you today to testify in favor of four bills that are important to the judicial branch. I will start out with three bills that are part of our legislative package. The first --

SENATOR COLEMAN: Excuse me, Judge Quinn. Could you pull the microphone a little bit closer?

THE HON. BARBARA M. QUINN: That better?

SENATOR COLEMAN: Yeah. Thank you.

THE HON. BARBARA M. QUINN: Sorry.

The first of those is House Bill 5388, An Act Concerning Court Fees and the Delivery of Legal Services. Next is An Act Concerning Court Operations and Victim Services, that's House Bill 5365. And the third of those bills is House Bill 5290, An Act Concerning the Leasing of Judicial Branch Facilities. And the last is the one that you just heard testified about, which is House Bill 5034, An Act Concerning the Retirement Provisions Relating to Judges, Family Support Magistrates and Compensation Commissioners, which is a Governor's bill.

HB 5388

Let me start with An Act Concerning Court Fees and the Delivery of Legal Services to the Court. This bill calls for an increase in certain court fees and requires that the revenue realized would provide additional funding for legal services for the indigent and for judicial branch technology.

As you know, there is a significant crisis in funding for legal services and we believe this proposal begins to address their need for level funding. And if something is not done to increase funding for legal services we

always see a diminution in the access to justice for people who need assistance.

And I think that from our end, if that negative impact takes place, we're required to devote more resources to assisting self-represented parties and people who do not have the means to secure representation, and again stretches the ability of people to have access to justice.

Now some of you probably will hear testimony from many people in this room later on about the nature of the fees that would be charged for raising this revenue. I would say we are discussing those details with many of the bar groups and there remains room for change and agreement and perhaps adjustment to the proposal. But I want to stress at this point that the details are less important than the need for funding, to mention to you. And that is what is crucial for legal services and also to assure us, the judicial branch an adequate and predictable and reliable source of funding for technology.

As you know, over the past several years we've come to rely more and or on the use of technology in order to efficiently serve the public. And we are also, as many other government agencies are, operating under severe staff and financial constraints. We have, for example, 250 fewer employees today than we did a little over a year ago. And the use of technology is vital for us to be able to resolve disputes and adjudicate criminal matters in a fair and timely manner.

Currently we have had funding for technology through bonding, which has not been stable or consistent. To give you an example, in 1997 the executive and legislative branches

accepted our long-term technology plan that at that time totaled 56 million. In the past 15 years just about a third of that has been appropriated to us, 18.5 million. And you can imagine that our ability to carry forward our plan has been significantly impacted by such unpredictable funding.

Accurate and timely court data forms the cornerstone of our entire justice system. Criminal justice agencies rely on the data and that is really critical to public safety. Now if funding were provided through this mechanism, primarily to legal services, but in part to the branch, we would be able to replace our criminal motor vehicle system which is over 25 years old, making that transmission of data to criminal justice agencies more timely and comprehensive.

We would be a key component of the criminal justice information system currently being developed in accordance with Public Act 0801, which you may know by its acronym of CJIS. It would implement electronic filing in family as well as civil cases, allowing that process to move forward in an efficient way. It would allow us to maintain and upgrade our technology infrastructure, including the expansion of our storage capacity and upgrading servers and switching in order to ensure the integrity of court files and reliable access to those files.

Let me also add that unlike many states, the judicial branch does not charge the public or attorneys for access to the information we make available on our website, and it is not our intent to do so. We believe that our dedication to public service and access to justice indicates that we should not do so. Passage of this bill however would ensure that

we can continue to provide free access to our website information. So we urge you to support this proposal.

HB5365

Let me turn now to the second bill, which is An Act Concerning Court Operations and Victim Services. This bill, much of which was before you last year, would make a number of changes that will approve the operation of the judicial branch. It covers a variety of topics so I'll just highlight a few of those.

One section would allow for the electronic communication of court orders, one more necessary step to move to an electronic rather than a paper-based system. Other sections codify into statute a common practice in our criminal courts regarding fee amounts and their collection.

Some sections improve and clarify certain victims compensation provisions and there are technical provisions, for example, regarding the authority of our courts to handle dissolution of civil unions that were solemnized in other states. There are some changes to eviction and some reprocess procedures. Some sections would repeal obsolete provisions. Each of these items taken individually is relatively minor, but as a whole I think they would allow us to operate more efficiently and effectively.

HB5290

Let me turn just briefly to the leasing of judicial branch facilities. This bill would allow the commissioner of administrative services to delegate leasing authority to the branch under certain circumstances. Currently it has entered into 47 leases for facilities and parking, which are about 20 percent of the State's overall leasing portfolio. Our lease facilities include court locations and office

last few years and is, of course, necessary for us to move forward.

Thank you very much for your consideration. I'd be happy to answer any questions that you have.

SENATOR COLEMAN: Thank you, your Honor.

Are there questions for Judge Quinn?

Senator Meyer and then Representative Baram and Representative Gonzales.

SENATOR MEYER: Good afternoon, Judge Quinn. Nice to see you.

THE HON. BARBARA M. QUINN: Good afternoon.

SENATOR MEYER: I wanted just to chat with you the court fee bill, House Bill 5388.

You appeared to -- you give a strong argument; advocate for this bill, but you seem to reflect some concern about the increase in the court fees. And I was just looking at the bill and most of the increases under the bill are only about $25 and that seems to me quite modest.

And I just wanted to see if there were any other parts of the court fee proposal that gave you concern. Because it seems to me that what we're doing here is reasonably modest.

There are a few additional fees added that have not been before. I noticed if an attorney is coming into the state from another state, pro hac vice is going to -- there would be a new fee for that. That sounds reasonable to me. Do you have any particular concerns with respect to the fees?

THE HON. BARBARA M. QUINN: I guess what I'm doing is addressing some concerns I've had -- I mean, I've heard. I don't personally have any concerns about our proposals. We're trying to come up with a fair and evenhanded way to raise some fees. The idea being that 60 percent of them would go to support legal services.

There's been some concern from members of the bar that perhaps it falls unfairly, or more so on one side than another and we're certainly open to discussing that. There is one new fee and that is the one that we've heard the most about and you'll, I'm sure, hear a little bit about this afternoon. And that is a certificate of closed pleadings.

We noticed that many other states charge for that. We have never charged for that, so that's another new one. But most of the other increases are indeed relatively modest and we would hope would not place too great a burden on anyone.

I also want to say for the record that all of our fees for pleadings, entry fees and otherwise are subject to motions as to why they should be waived for individuals who are indigent and cannot afford to pay them. So we don't perceive this to be an access to justice issue because that relief does exist and allows the court to review the financial information. And it allows individuals who believe we have turned them down unfairly to have a hearing on our decisions. So I think that process is quite robust and is available to people who do need it.

SENATOR MEYER: Thank you.

SENATOR COLEMAN: Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Good to see you, Judge Quinn. Actually one of the questions I was going to ask was what Senator Meyer suggested, that there is an opportunity to ask for a waiver of fees if somebody is indigent or can't make payment. And I assume even the new fees that are being suggested would fall under that option as well.

THE HON. BARBARA M. QUINN: Yes, Representative Baram. You're absolutely right. They would.

REP. BARAM: The other question regarding 5388 is the new revenue that's being raised from these fees. I'm wondering if we have any projections of what that might be and is that going to be a meaningful number to sustain legal services?

THE HON. BARBARA M. QUINN: We do have an estimate. The total revenue estimates are $8,600,000, of which 60 percent would go to the bar foundation for legal services which would be about 5 million 200,000. And about 3,400,000 would go to the branch for our technology needs. That's our best estimate based on the numbers that we have in our data system.

REP. BARAM: And in talking to legal services, is that a number that would sustain them and allow them to continue operations consistent with what they are accustomed to?

THE HON. BARBARA M. QUINN: I would say it's probably consistent with where they are now.

As you know, they've had some drastic reductions that they've made in years past.

They do continue to receive the funds from the previous increases. The primary avenue for funding for legal services used to be the interest on lawyers' trust accounts. That source of money is more or less completely gone. And so we obviously have struggled in this State to come up with a mechanism whereby some level funding can be secured.

And I know that they will -- certainly you will hear from them in a more eloquent way than I can express what they need. It is certainly the case that there are considerable unmet legal needs of the poor and we've never had adequate funding to even begin to address all of that. So to say it's adequate, I don't know. But it's probably a reasonable amount that we can move forward with.

REP. BARAM: And just one last question switching topics to the 5290, the leasing bill.

THE HON. BARBARA M. QUINN: Yes.

REP. BARAM: Does that legislation in some way define the kind of lease that the judicial department wants to assume responsibility for? And you said, you know, some of the more mundane and minor --

THE HON. BARBARA M. QUINN: Yes.

REP. SHABAN: Is that defined somehow?

THE HON. BARBARA M. QUINN: It is defined in a bit and, of course, we need in each and every instance to secure the approvals. So there's appropriate control, if you will, in the agency that must have the oversight function, and I think probably does.

REP. BARAM: Thank you very much.

SENATOR COLEMAN: Representative Gonzales.

REP. GONZALEZ: Thank you, Mr. Chair.

(Inaudible) Judge Quinn.

HB 5388

When I think about the percent that is going to legal services, I really like that. But I still have concerns with legal services because most of the time when the people in our community call and ask for services, most of the time they are denied, for whatever reason.

So indigent people in our community are not getting services for legal aid services. So that's what I'm saying. More money for legal services for what? But anyway, I understand that you're trying to help.

But my question is -- help me understand because I'm not a lawyer. I'm not a judge. But if I hire -- let's say that I don't have a lot of resources and I've got a case, a housing matter case and I hire a lawyer. I'm struggling here to pay my lawyer.

Now the lawyer is going to put a motion on the house matters and the increase (inaudible) that is $75 for any motion on a housing matter, it's going to come from my pocket. So I'm almost indigent here and I don't have no money. I'm struggling to pay my lawyer, but now the increase in court fees is going back to me because the lawyers are going to pay, but me, as the client, I'm not paying.

So I will say, if this is to help, that percent is to help, the people that really need help -- or this is something different because I need help and I'm paying my lawyer

all these court fees, and not coming from the lawyer. It's coming from our pocket.

So how really this is going to help the poor people when this, all this increasing court costs is going to come from our pocket?

THE HON. BARBARA M. QUINN: Representative Gonzales, let me just say as I said in my earlier testimony, there are enormous unmet legal needs for the indigent and for those people that don't fall exactly into that definition, but are only a hair above that definition.

We always do the best we can. We hear fee waivers from people on a regular basis, to look at their current circumstances and see what we can do. I understand how difficult it is.

REP. GONZALEZ: Okay. And in small claims, if I go to the court to address a small claim, most of the people that, you know, that I know, they go and they represent themselves, small claims. I did it years ago and I did it now.

I'm going to court for a small claim matter and I don't hire -- I can't hire a lawyer. So what's going to happen? I will end up paying also the court fee?

THE HON. BARBARA M. QUINN: In small claims and in other cases if you're successful you can recover some of the fees. But let me say that our statistics show that between 75 and 80 percent of the activity in small claims cases are by business collecting fees and unpaid amounts from individuals.

So it is not as great a number of small -- of individuals suing to protect their rights.

But it obviously has an impact. I don't mean to deny that. All of these fees have an impact.

REP. GONZALEZ: If I'm an indigent person and I am going to put a small claim matter, I will have to pay.

THE HON. BARBARA M. QUINN: Up front.

REP. GONZALEZ: I will have to pay upfront. So in a way this is not helping, you know --

When you look at this and you say, all these court fees have come from the people's pocket, not from the lawyers, I don't think that this is helping the poor people when they have to come up with that money even though sometimes it's 25 dollars or 75 dollars, it's a hundred, but still, you know, sometimes it's hard for these people to come up with this money.

Thank you.

THE HON. BARBARA M. QUINN: Yes. Thank you.

SENATOR COLEMAN: Representative Shaban.

REP. SHABAN: Thank you, Mr. Chairman.

With the interest on the IOLTA account, that's -- that mechanism is still going to continue in place. Correct?

THE HON. BARBARA M. QUINN: It is in place, but there have been changes, as you know, in the real estate practice. And the interest rates being paid mean that the amount generated is very negligible. So it stays in place. It doesn't repeal that.

REP. SHABAN: Very good. Thank you.

Thank you, Mr. Chairman.

SENATOR COLEMAN: Are there other questions for Judge Quinn?

Seeing none, thank you very much, Judge.

THE HON. BARBARA M. QUINN: Thank you.

SENATOR COLEMAN: We have gone beyond the first hour which was reserved for the testimony of state agency heads, legislators and chief elected and municipal officials. So I will begin to call from the public list.

The first person on that list is Jacquie Ivel. And Jacquie will be followed by Michelle Cruz.

JACQUIE IVEL: Good afternoon, Senator Coleman, Senator Kissel, Representative Fox and ranking members and other members of the Judiciary. I'd like to thank you for the opportunity to speak here before you today.

As you've stated, my name is Jacqueline Ivel and I'm the collection manager of Standard Oil of Connecticut, Incorporated. And Standard Oil is located in Bridgeport, Connecticut, and it provides heating oil to customers throughout Fairfield and New Haven County.

And I'm here to speak in opposition of H.B. 5388, An Act Concerning Court Fees and the Delivery of Legal Services to the Poor for the following reasons. The bill's title, while on the surface sounds like a good idea, will have an ultimate impact and is detrimental to both businesses and consumers alike. Upon scratching the surface, businesses are affected by the initial cost of filing claims as well as the increasing cost to recover

claims and in order to recoup their lost revenue. Once you dig a little deeper it is apparent that the consumer is ultimately bearing this cost.

First, the very fact that the consumer is being sued depicts that the consumer is most likely already experiencing financial hardship. And most collection cases are initiated, not because the defendant does not want to pay, but because they cannot afford to pay.

Additionally, given the current economic condition many middle class people are suddenly finding that they are underemployed or out of work with no foreseeable remedy in sight. These people are witnessing their middle-class status shrinking right before their eyes when they are being sued. All filing costs are always being assessed back to them to pay.

So in essence this is the same defendant who's already experiencing -- about a financial hardship and is now being ordered to repay back the fees to get himself out of it. While it's very understandable that there are needs, there needs to be a way to fund legal services for people who cannot afford it. I do not believe that this is the right way to impose an additional fee during these tough economic times.

Second, an increase in filing fees will also immediately and adversely impact businesses as fewer claims will be filed resulting in an immediate loss of revenue as many businesses may find that they are no longer able to afford to use the small claims courts and turning many of their receivables into bad debt, which may result in those same

businesses hesitant to extend credit as they may feel that they are unable to recoup their losses largely in part to the rising cost of trying to recover and the likelihood of ever recovering on a judgment, which inevitably will result in the loss of jobs.

In a time where the financial equilibrium of our State is already teetering on the brink of disaster can we the employers and we the consumers afford another bill that in the end may lead us to buyers remorse?

I have attached a flow sheet that shows the cost to the consumer with these fees associated. If I have a $200 claim and I seek to recoup it in small claims court and they default on that, by the time they're paying all of the fees, that $200 damages now equates to $541.79 with all the court fees. That's more than 100 percent of my principal amount owed to me.

Those are fees -- and we haven't even begun to receive -- that's not saying we're getting postjudgement interest. We just want our $200. $541, you have court costs, the filing fee, you have the execution fee, you have the bank fee just to serve that execution, you have the marshals fees. These are no ifs, ands, or buts. The defendant is paying this fee. So this is just -- for my $200 now equals $541.79 in actual fees that the defendant is now going to be ordered to pay who's already struggling to make ends meet as it is.

Again, I'd like to thank you for the opportunity to speak and if there are any questions I'll be happy to answer them at this time.

SENATOR COLEMAN: Are there questions?

Representative Shaban.

REP. SHABAN: Thank you, Mr. Chairman.

A related question. Would you be in favor of raising the cutoff for small claims? I forget what it is now. 1500, 2,000 -- I --

JACQUIE IVEL: It's 5,000 now.

REP. SHABAN: It's 5,000 now. Yeah.

I mean, would you -- would that somehow change your opinion here? Because it would kind of open up the universe.

JACQUIE IVEL: It would actually -- I think -- sometimes I believe the quality of the services even coming is not well. And many people are feeling that in order to get a fair shake in the courts they are trying to get to superior court.

The problem is, either way when you're talking about this big amount of money -- 5,000 is a lot of money even for myself. It's a lot of money and I may say, I think I'm better off hiring an attorney. And you don't want to start limiting, you know, can I afford the attorney or can I afford the court costs?

And you want to make it accessible to everybody, but it's just -- it doesn't make sense at this point when you're talking about people who, you know, on paper, because they are working 20 hours they may seem like they're, you know, they don't qualify for legal services. Some middle-class people don't even realize who were middle class all this time and now suddenly lost their job;

don't even realize that these services are out there because they've never had to ask or inquire about these services all their lives.

So there's a lot of things going on in the court, of course, you know, that I wish was restructured. Perhaps today is not the time to talk about that, but I don't think raising the fee higher than that when you have so much on the line for -- 5,000 is a -- could be a life-and-death situation for many people in Connecticut and to raise that when there, they don't quite know, it's just not a good idea.

A VOICE: (Inaudible.)

SENATOR COLEMAN: You're welcome.

Other questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Hi. In answering the question to Representative Shaban, I'm not sure that you understood what he was saying. When you raise the limit for small claims from 5,000, let's say, for example, to 10,000 what he meant, you know, I believe is that you could bring a matter that is valued over 5,000 and still have a faster, more expedited system with a less -- less of a filing fee.

And in most cases you don't need an attorney. You can bring, you know, anybody you want with you to help you make your presentation. So it's not a cost. It's actually raising the limit of cases so that you can bring more cases into small claims arena.

JACQUIE IVEL: Perhaps I wasn't -- I should explain

it better. Usually anything 5,000 or more is a very complex matter generally. We're not talking about, I gave you $200 to borrow to pay this and pay it back. We're probably talking about my roof was leaking.

This is a more -- now you owe me $6,000 and I got to go track down the contractor. That's a lot of money for -- and I'm not -- and I -- nothing against contractors or anybody, but they may be more savvy in trying to avoid the repayment of the judgment. Where I'm out $6,000 of real money or my grandmother is out $6,000 to get her roof fixed.

And now she's doing this on her own to recoup back a considerably large amount of money. That's why I don't think it's a good idea to start raising it to 10,000 or -- I mean this is real money. And an attorney is better equipped to say, these are the remedies open to you. These are the remedies open to you.

It's just when you're talking about, you know, that's a life-changing amount of money for a lot of people in Connecticut. It certainly would be life changing for me, you know, if I just had $10,000 out there. I want to know how to recoup that and it could be very costly for somebody who doesn't know on top of going in there to fight a case on a very complex matter to now go in and, should I pay this? This didn't work out. Now I have to pay this. And they're kind of doing a trial by, you know, does that work? Does that not work? And that becomes costly. And again, the same person who is indigent or, you know, just doesn't have the money or the know how is now limited.

So just because they can get into court, the fact that they can't access or utilize the

court in the most efficient way, it is limiting to them.

REP. BARAM: I will just say, and you might want to inquire more on your own, many people in small claims do bring attorneys with them. And usually the fees are much less because you don't have to deal with all the pleading practice and hearings and whatnot. And that's why many lawyers won't even go to small claims because it's, for many it's not worth their time. But still there are a substantial number of attorneys who do have small claims practice.

So it will be much less expensive to take an attorney if you need one to go to small claims. And it might be an option, you might want to give it some thought, that that would alleviate the concerns you're worried about in terms of increased costs for superior court, but I'll let you do the research.

Thank you.

SENATOR COLEMAN: Are there others with questions? Seeing none, thank you Ms. Ivel.

JACQUIE IVEL: Thank you, Senator Coleman.

SENATOR COLEMAN: Michelle Cruz is next. Ms. Cruz will be followed by Scott Esdale.

HB5365

MICHELLE CRUZ: Good morning. I always say good morning twice. So good morning, Senator Coleman, Representative Fox and distinguished members of the Judiciary Committee. For the record, my name is Michelle Cruz and I am the State Victim Advocate for the Office of Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony today.

So I think in particular you struck a really good chord regarding this issue, because I think in attracting -- trying to diversify our bench has always been problematic, but when you tie in the fact that African-American, Latino and other individuals of color that are highly-qualified attorneys are so much in demand. And then also when you layer upon that the extraordinary cost --

SCOTT X. ESDALE: The student loans.

SENATOR KISSEL: -- the student loans, It makes it almost impossible for potential candidates to say yes, I want to go in this direction.

So thank you so much for taking the time to appear and speak.

SCOTT X. ESDALE: Once again, thanks for having me.

SENATOR KISSEL: You've got a great organization.

SCOTT X. ESDALE: Thank you.

SENATOR COLEMAN: Are there others with questions for Mr. Esdale?

Seeing none, thanks very much.

SCOTT X. ESDALE: Thanks for having me.

REP. G. FOX: Next we have Timothy Fisher.

HB 5388

TIMOTHY FISHER: Good morning, members of the committee and thank you very much. I'm Tim Fisher. I am president of the Connecticut Bar Association -- bar -- excuse me, president of the Connecticut Bar Foundation, which is the organization charged with administering the funding to Connecticut's legal aid network

under the statutes that are assisted, including court fees and (inaudible). And I'm here to speak in favor of H.B. 5388.

Our mission is to enhance access to justice, and we understand that to mean that when you folks pass laws to grant rights to people and to protect folks, that we make sure that those are just not empty words, but that in fact, they help real lives. And that the people in the legal aid network are able to help families and avert disaster that might otherwise overcome them. We're able to do that because our grantees are able to grant a voice to the folks you mean to protect.

We were here before you three years ago at the time when the credit crisis was first eliminating the great majority of our IOLTA financing. And at that point we believe that we had adequately stabilized the situation. And we now realize that we did not. The continuing of the recession has caused bank rates to continue to drop and we have lost banks that had held on at the leadership bank rate of 1 percent which was, in retrospect, a subsidized rate.

So the increased court fees in the bill before you will not restore our funding and the legal aid staffing to where it once was, but they will stabilize it and they will enable our grantee agencies to avoid another round of layoffs.

I will point out that this is not the only thing we're trying to do. We're working hard to leverage the skill sets and the resources of our agencies. We are expanding our support of the Chief Justice's pro-bono initiative to bring more and more lawyers from private practice into representing indigent folks.

We have provided the pro-bono portal website that the judicial branch has used as a single entry source for any lawyer seeking to donate pro-bono services to appropriate organizations. We, through our grantees, established a website called CTLawHelp.org, which provides legal information for -- that's relevant to the poverty community, client community and has again, enabled us to reach people that we could not reach through direct services by our lawyers.

And it's certainly true, as one of your members asked earlier, that there is no way that we could reasonably meet the full need of the poor community in the state as we certainly wish we could under the goals of these statutes, but we can certainly, through these efforts, stabilize that and reach as many as we can.

Finally I'll observe that from what we have heard there's no one who opposes the goal of this bill. The issues that we think you're hearing about and that we're hearing about have to do with whether the allocation of the fee increases is the appropriate one. And the allocation you have in front of you is that which we understand was developed by the judicial branch based on their review of volumes of filings and where fees were that would be below other states in the country and would eventually total the amount that's needed.

We understand that conversation is continuing with the goal of finding the right balance that doesn't put the burden too heavily on one side or the other, but yet achieves the idea of modest fees that aren't sufficient as to actually change anyone's fundamental ability

to use the courts.

Thank you very much.

SENATOR COLEMAN: Thank you.

I guess I want to express -- I don't want to call it a concern, but a consideration perhaps might be the best way to put it. And being the optimist that I am, or try to be, what will happen when the real estate industry rebounds and IOLTA revenues return to a level somewhat near what they were when they were certainly adequate to fund legal services operations?

What would be your comment concerning what happens with respect to legal services and the fee increases that we're talking about today? I'd be interested in your thoughts.

TIMOTHY FISHER: Sure. We don't see any prospect that we'll ever be back to where we were five years ago and there's several reasons for that. One is that for the foreseeable future, while interest rates probably won't be at the .1 to .2 percent, which many of our banks are paying right now, we don't see them ever getting back to where they once were that many years ago.

Much more to the point however, apart from the interest rates themselves, IOLTA is a product of the total balance that is in lawyers funds overnight. And we have seen a structural shift in the -- especially in the real estate finance industry, so that fewer and fewer mortgage companies are using Connecticut lawyers to hold funds overnight or for more than one night.

And so while Connecticut has traditionally

been one of the strongest IOLTA states in the country because law firms tend to handle a large number of real estate closings, we anticipate they'll be less involved in holding funds from real estate refinance and that will be harder, and that mortgage companies are more and more finding ways to limit the amount of money that actually is tied up in a Connecticut closing overnight.

Now these are general trends that we're trying to understand by talking to folks in the title community and the legal community, but they cause us concern that we'll never get back to where we once were.

SENATOR COLEMAN: Thank you.

Other questions?

Chairman Fox.

REP. G. FOX: Thank you, Mr. Chairman.

And thank you, Attorney Fisher. And as a follow-up to Senator Coleman's question, I can say that I have seen as well the -- it is very difficult to get funds for a closing at a time when you can plan them, for example, a morning closing.

Because you are correct in that they try to -- there's oftentimes almost always same-day wires. And when you have clients who say, well, I'll come in at nine o'clock or 8:30 for a closing, it's -- we can say, well, that's great, but the odds are the money won't be here.

And so it is something that I agree with you, that it probably will not get back to where it was given that practice as well.

Okay. Are there any other questions?

Representative Smith.

REP. SMITH: Thank you, Mr. Chairman.

And just to follow-up on your point, I think it goes a long ways -- or the committee actually might want to consider something along the lines of what you're talking about in terms of requiring the lenders to actually fund the transaction at a reasonable time.

I can't tell you how many closings I've sat through where it's three o'clock in the afternoon and we're still waiting for the wire to hit. And it's five o'clock and -- but the bank is in California, so they're thinking everything is fine on their end, but it's not so fine here.

Doesn't address -- I mean, it addresses your concerns that the money is really in and out so rapidly there's no interest being accrued on it. But it's something that we probably should look into try to make it realistic for those trying to close the transaction to actually get funds in on a reasonable time. So a little -- just a commentary. That's all.

TIMOTHY FISHER: Certainly.

REP. G. FOX: Thank you. This seems to be a statewide bipartisan problem that we've dealt with.

So are there other questions?

Well, thank you. Thank you very much.

telling us that experience.

Are there any questions?

Thanks for being here today. It does help.

Diane Whitney will be followed by Ed Gavin.

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DIANE WHITNEY: Good afternoon. Thank you for giving me this opportunity to speak with you. I'm Diane Whitney. I'm a partner at Pullman & Comley where I head the environmental law department. That's my day job.

My passion is working with Greater Hartford Legal Aid as a board member, and for the last several years as the president of the board. And it is in that role obviously that I'm here to speak with you here today. And I'm sorry to have to be here speaking with you again asking for money again, because as many of you know, we've done this before and we keep thinking we've solved a problem and then it turns out that we haven't. I know that you're aware of the dire IOLTA situation where the predictions turn out to be very bad and then they get much, much worse, and that's certainly where we are today.

I would like to talk with you a little bit about what we've done. We come asking you for money often and it's a legitimate ask, but I think you have the right to ask us, what have you done to try and work with this situation? And so that's why I would like to tell you, at Greater Hartford Legal Aid a couple of years ago when thing started to go very, very wrong with IOLTA we laid off six attorneys. That was like cutting off your arm.

The six attorneys we laid off of course where the newest ones to join. They were bright.

They were committed. They were, many of them bilingual, which is such an advantage to our client population. And they were just so enthusiastic, and laying them off was just painful beyond belief. We also laid off all our paralegals. We have not filled any of those roles, so we're dealing with a significantly reduced staff at this point and have been for the last two or more years.

We are running the leanest operation we can possible run. There are a few of us who joke about years and years and years ago when we had a -- we always have an annual board meeting. And the joke was that we would have shrimp at this, at this annual meeting. Well, let me tell you, we haven't seen shrimp in a long, long, long time, nor are we likely to. And in fact, our board dinners look more like boards snacks. And any possible way that we can be saving money, we are doing that.

We are doing everything we can to raise funds. The Greater Hartford Legal Aid Foundation is our fundraising arm and they are a marvelous group and they are doing their very best. They're in the middle of a campaign right now. And we get good support from the private bar.

United Technologies Corporation, I probably should have asked them if I may use their name in. I hope it's okay. Their legal department contributes 100 percent to Greater Hartford Legal Aid Foundation. 100 percent of their attorneys sends us -- send us checks. A couple of years ago I volunteered to write personal notes for all the people who gave checks above a certain amount and it was a pretty generous amount. And I wrote 43 personal notes.

The private practice bar also supports us

well. This year I challenged my firm. I said, you know, if United Technologies, if all their attorneys can give, all of us can give. And so every attorney in Pullman's Hartford office has given also.

We also make all the use we can of private pro-bono services and that is extensive. I unfortunately didn't have time to really collect much in the way of statistics for you, but I know in our firm alone, in one case alone we have contributed more than $60,000 worth of services and the case is not over. And we will see it through to the end.

The caseloads of course for legal services are up. They're way up. People are in dire situations because of the economy. And of course some people with various handicaps and disabilities always have difficulties, as the one you just heard about. Those are our cases and we turn away more cases than we accept. And we don't turn them away because they don't deserve the services or because we don't want to provide them. We turn them away because we simply can't manage the caseload with the reduced number of attorneys we have.

I have been quoted in the past as saying that legal aid organizations change lives, and I've changed that actually. I think legal aid organizations save lives and we can give you any number of situations that prove that case.

So I understand that it's hard to find dollars anywhere these days, but I certainly speak in favor of Bill 5388, and ask that you help us overcome this. And we will try our very best to continue doing the very best job we can for people who need it. And we will also continue to try and find other sources of funds whenever we can.

Wonderful timing.

SENATOR COLEMAN: Perfect timing.

DIANE WHITNEY: Thank you very much.

SENATOR COLEMAN: Madam President, I'm not sure -- do any of the members have questions for Attorney Whitney?

Well, I don't have a question either. I do want to make a comment, though. I was invited to the retirement -- the event for Margaret Moriarty. I regret that I was here and unable to attend that. And I do have plans of reaching out to Margaret to express best wishes and congratulations.

DIANE WHITNEY: I'm sure she'd like that. Today is her last day.

SENATOR COLEMAN: Well, if you should happen to see her, please convey my best wishes to her.

DIANE WHITNEY: I will certainly do that. Thank you.

SENATOR COLEMAN: Thank you.

Ed Gavin. And Attorney Gavin will be followed by Shalisha Miller.

ED GAVIN: Chairman Coleman, distinguished members of the Judiciary Committee, my name is Edward Gavin. I'm the past president of Connecticut Criminal Defense Lawyers Association. We're an organization of approximately 350 practicing criminal defense lawyers in the state of Connecticut. And I'm here to support urging of Governor's Bill 31, the Act Establishing the Commission on

SENATOR COLEMAN: Shalisha Miller to be followed by Raphie Podolsky.

SHALISHA MILLER: Dear members of the committee, my name is Shalisha Miller. I have been a client at Greater Hartford Legal Aid. Legal aid helped me get custody of my son, my 15-year-old son.

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My son is now doing very well in the Manchester school system. When he was in the Hartford school system, my son was bullied and his teachers were not paying attention to his special needs. Now my son feels safe and I am very proud that his grades have improved. This is the reason I am testifying in support of increased funding to legal aid.

Without the help I received from legal aid I would not have gotten custody of my son and my son would not be doing as well as he is in school. I love and I feel very proud of my son.

Thank you.

SENATOR COLEMAN: Thank you.

And I'm not sure -- is the young lady to your right also providing testimony --

My daughter.

SENATOR COLEMAN: How are you, daughter?

A VOICE: I'm fine.

SENATOR COLEMAN: Good.

Any questions for Ms. Miller?

Well, there are apparently no questions. Good

apartment tenants and no one has asked -- other than as sort of a quasi technical matter, nobody has asked to conform them. And they shouldn't be conformed.

I mean, a notice to quit for a regular apartment tenant is three days. It's 30 days for nonpayment of rent in a mobile home park. It's 60 days for breach of the lease. And there's a -- the timelines are different. It's 535 days if you're going to close a park, which is -- there's nothing equivalent to that for any apartment renter.

And so there's just numerous ways in which the Legislature has adapted the landlord-tenant statutes for mobile home park residents. It's different. Same structure, but the greater rights.

REP. SMITH: Thank you. Appreciate the clarification. That was helpful. Thank you.

RAPHAEL PODOLSKY: Thank you.

SENATOR COLEMAN: Are there further questions from any other members? If not, thank you Raphie.

RAPH PODOLSKY: Thank you very much.

SENATOR COLEMAN: Nancy Piccirillo to be followed by Russell London.

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NANCY PICCIRILLO: Hi. My name is Nancy Piccirillo. I'm 59 years old. And I'd like to share with you my story and share my experience that I've had with legal aid. I'd like to share that with you.

Two years ago I was renting a room from someone and it was on a temporary basis. It was only for six months. I faced the prospect

of being homeless and the daunting task of trying to find the monies to move into an apartment on my SSI income, which at the time was about $700 a month. So therefore to find my own apartment I would need the security, the last month's rent and the first month's rent, and on $700 a month that was very difficult for me.

I didn't know which way to turn and I was fearful -- very, very scared and fearful and very worried about it. It really affected me. And I was terrified of being homeless. I've never been homeless and I was just terrified of it. I wouldn't even know where to begin to survive.

So I kept looking around and wondering, what could I do. What am I going to do? And how would I live? How? Would I have to sleep in the streets? All these thoughts; it was really a very difficult, worrisome time in my life and I couldn't think about anything else. I was worried all the time.

I have a strong faith in God and I continue to go to my church. And it was one of the church members who informed me that legal aid may have a program and for me -- went -- call them and see if they can help me. And she said that they'd help me get started with security and rent money, rent money to get me started.

So what I did is I followed her advice. I had no other avenue. I was so, so, so scared about being homeless and where am I going to go? I have no family. So what I did is I called legal aid. I got an appointment to meet with a great woman named Milda. And we spoke and she did confirm there was a -- they have a program there that maybe I could qualify for. We filled out all the paperwork.

And it gave me hope, just this much hope where I had none. I really had none. It was a very difficult time for me and I was terrified. And she gave me this much hope.

Many of my friends said, oh, don't. No. That's -- but I believed in Milda and I continued to go and fill out the paperwork. And she gave me this much hope, which she made me feel better and I started to believe it might actually be okay. I'm not going to have to fend on the streets for myself and it might be okay. I might have a roof over my head, maybe.

Well, she prepared an application for me. She worked with my landlord. She advocated for me before the committee which controlled the funds. They agreed to pay the security deposit and helped me with my first few months rent. I was able to move into my new apartment which was just -- it was just perfect for me. It's a basement apartment. It's just what I need. Nothing extravagant.

Just -- I'm a humble person. All I wanted was a secure -- security over my head. And I began to feel better. I felt safe, secure. And you know, it really meant the world to me that they helped me and it still does and I'm very grateful.

It's been two years and I'm still in the apartment and I love the apartment. I hope to stay there forever and I'm grateful every day for the help legal aid gave me. They gave me a foundation when I really needed it. It did change my life, because who know if I'd be homeless and on the streets. So this, it really changed -- it changed my life.

And I'm still in the same apartment. I'm

doing very well. I love the apartment and I wouldn't be there if it wasn't for legal aid helping me. And they afforded me that opportunity and I know there's many that come behind me that may find themself in the same situation and they deserve the help, too. And I hope that you guys can help the legal aid.

Thank you.

Are there any questions?

SENATOR COLEMAN: Are there questions?

Thank you, Ms. Piccirillo for sharing your story.

NANCY PICCIRILLO: Oh, you're welcome.

SENATOR COLEMAN: Russell London. And Mr. London will be followed by Richard Dennis.

RUSSELL LONDON: Good afternoon, Senator Coleman --

SENATOR COLEMAN: Good afternoon.

RUSSELL LONDON: -- and Representative Fox and other members of the Judiciary Committee. My name is Russell London and I'm an attorney practicing out of Newington, Connecticut, with the law firm of London & London. And I'm also a member of the Connecticut Creditors Bar Association.

And I'm here today to oppose H.B. Bill 5388, the bill that, on its surface sounds like it's -- has a lot of positive aspects, but in fact I think it really is an antibusiness and anticonsumer bill. And I would agree with the Representative Gonzalez when she says this bill really is not going to be helping the poor people.

And basically the bill looks to raise certain court costs and impose a brand-new midstream fee into the so-called effort to help legal services for the poor and to set up a separate font apart from the general fund to cover future court technology expenses. What I find extremely troubling is that these fees being sought to be imposed are actually going to hurt many of those people that they are intended to benefit.

It makes no sense to make financially distressed people, especially defendants in a lawsuit have to come up with additional money to fund statewide legal services when they are already in financial trouble. This would be the case when a defendant looses a court case and now has a judgment against him or her which judgment includes all the state courts -- all the state costs and service fees. And I know that Judge Quinn said that these fees could be waived, but not if you're the defendant who a verdict has been rendered against you.

I would submit that if this bill was passed the bill would effectively act as a hidden attack, a hidden tax on a losing defendant in court. In addition it makes no sense to make in more expensive for people and businesses who have legitimate financial claims who need access to our courts.

Now you may not think that the increase is significant, but it does add up and it is compounded when you start seeking executions. And there's no guarantee for the creditor if they'll ever get their money back. And if they do get the money back it comes from that defendant.

You know, I might understand that these new fees, you know, were needed if there was an imbalance now with the judicial system. However it's my understanding that there are more fees being collected by the courts then what is actually spent by the judicial department. I'm not an expert here and I'm sure some of the Legislators might know better than I do. Moreover, these increases are not fair.

In September, 2009, the General Assembly increased court fees which more than doubled certain court charges, filing fees for small claims, bank garnishments, wage garnishments, et cetera. Now this bill seeks to add additional fees on top of those increases. Effectively this bill would add almost 300 percent to the cost of obtaining access to our small claims court and for obtaining certain court services since 2009.

What businesses out there in the private sector can charge 300 percent more for its goods and services? What consumers can afford to see his or her expenses tripled in less than three years?

And just to sum up, you know, also this mid processing fee of $125. You file a lawsuit and you say -- before you complete that lawsuit you've got to pay another $125 toll. I think that's unheard of from my perspective, it's unheard of from my client's perspective. And it's like saying, I bought a ticket to a baseball game, but in the 5th or 6th inning you've got to pay another fee to be able to sit in that seat.

Well, I think that this fee is kind of a toll that's not fair by any means. And I can understand that there's a need to fund legal

aid and to pay for computer systems (inaudible), but I don't think this is the way to do it.

Appropriate it if you really need it, but don't -- against those who are financially in trouble from both the business side and the consumer side, because this really is not a fair bill for those that -- who are already facing tough financial situations at this time.

If anyone has any further questions, I would be more than glad to answer those.

SENATOR COLEMAN: Are there questions for Mr. London?

Seeing none, thank you for your input.

RUSSELL LONDON: Thank you very much, Senator Coleman. Thank you, Representative Fox and other members of the committee.

SENATOR COLEMAN: Richard Dennis. Mr. Dennis will be followed by Linda Stumpf.

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RICHARD DENNIS: Good afternoon. I'm here in support of funding for legal aid. My name is Richard Dennis and I live in East Haven, Connecticut.

Legal aid recently helped me with an unemployment case I had. I had worked at the same construction company for about seven years and never expected to leave. When the company started having financial problems things got really bad. They didn't have enough money to cover payroll so my direct deposit stopped. I got stuck with overdraft fees from the bank. I found out the company had stopped contributing to my 401(k).

The president, my boss let almost all my employees go. When the customers got mad and had no one show up at their jobs and some contractors didn't get paid they called me all day and all night. But I put up with this because I needed a job. I started looking for another job and planned to stay until I found one, but my boss started acting very strange. He collected guns and had a lot of them around the office.

I started noticing bullet holes in the truck outside and one day when I was working in the office my boss shot a gun right inside the office into a bulletproof vest hanging on the wall. I didn't feel safe anymore and gave my notice. I applied for unemployment benefits so my family would have something to live on until I found another job.

When I explained what happened when I left the unemployment granted me my benefits. The company appealed and had to go to a hearing. I thought it would be okay since the unemployment office had already approved me. Just to be sure, I asked two former coworkers who had also seen my boss fire guns at work to be my witnesses.

They couldn't come into the hearing because they were working and the referee wouldn't call them. I got to the hearing. My boss lied and said that he never fired a gun. The referee believe him and asked -- I asked the referee to call my witnesses, but he refused. The decision got overturned and my benefits were cut off.

I had already gotten about $3,000, which I already spent. I called legal aid and they agreed to help me. My lawyer filed a motion

to get another hearing. She went to a new hearing with me and made sure that the referee listened to my witnesses. He finally believed me and I ended up winning my case.

I'm not on unemployment any more. I found a new job. I actually took the day off from work today just so I can come here. I was stuck in a horrible situation with unemployment and without legal aid I would not have been able to appeal my own.

I am the main provider of my wife and three kids. My wife is a part-time school bus driver. The stress of being -- not being able to pay my bills or put food on the table was a burden on -- which I would not want to wish on anyone.

I was cut off from my benefits of seven weeks and went through what I -- what was left of our savings just to stay afloat. Thanks to legal aid my attorney and I won my case. Unemployment and all funds were released and I was able to pay everything before I fell behind. Legal aid is very important to people like me who can't afford a lawyer and have nowhere else to turn. Without them I could have lost everything.

Thank you.

SENATOR COLEMAN: Thank you, Mr. Dennis.

Are there questions? Seeing none, we appreciate your testimony.

Linda Stumpf and then Kevin Rasch.

LINDA STUMPF: Good afternoon.

SENATOR COLEMAN: Good afternoon.

LINDA STUMPF: Senator Coleman and Representative Fox, my name is Linda Stumpf. I'm a member of the Connecticut Creditors Bar Association and I'm here to voice my opposition to Bill Number 5388, which we feel is unduly burdensome and has unintended consequences.

The bill is supposed to assist poor people, but is actually taxing poor people because any increase in the court fees will be passed onto the consumer who is already experiencing financial difficulty in the form of the judgment. So an unintended consequence is that the very consumers that this bill attempts to help will ultimately be paying these fees. We understand the need for additional revenue, but we feel this is a poor method.

Not only is the bill anticonsumer, it's also a anti-small business. We as attorneys are not paying the increase in the cost, it's our clients who are advancing the cost; small businesses, electricians, plumbers, landscapers who are seeking their redress in court. Such an increase makes the courts much less accessible to these small businesses. It also makes the courts less accessible to the consumer who may need to sue for redress, such as the return of a rent deposit.

The $25 increases may not seem like so much, however in September, 2009, about two and half years ago the fee to sue in small claims was increased from $35 to $75. That means that if this new increase goes into effect the fee to start a small claims action will have almost tripled in less than three years. Also the fee to collect on a judgment through a bank execution or a wage execution was also increased at the same time in September of

2009, from $35 to $75. Again, if it's increased to a hundred dollars in July, in less than three years it will have almost tripled.

Additionally there's also a new fee, $125 for claiming a case to the trial list. As you probably know, we're required to claim a case to the trial list or the case will be dismissed. So in superior court the fee for starting a new action was raised again in September of 2009 from 225 to 300. If it's raised now to 325 and you add the new fee of 125 dollars, that means in less than three years to have a trial in superior court the fee is going to be doubled from 225 dollars to 450 dollars.

By placing such a high barrier for entry into the judicial system we are precluding court access to the very people you wish to assist as well as to small businesses. We ask that you consider the financial harm to both consumers and small businesses that this bill will cause, especially in light of the most recent fee increases.

Thank you for your attention. And if anybody has any questions?

SENATOR COLEMAN: Are there questions for Ms. Stumpf, Attorney Stumpf?

Representative Smith.

REP. SMITH: Thank you, Mr. Chair.

Just thinking about this $125 fee that's now being proposed to claim the case, the trial list. And you're correct, that any time a file is going through the court proceedings, then we do have to ultimately claim it and

then pay the fee.

But right now we have a situation where if you are claiming it to the jury list I think it's $300 that we pay to claim it to the jury list. So there is already a procedure in place for that. I'm wondering if something like this might be more helpful to appease both parties, one to generate some revenue that may be needed and also give the consumer or the advocate or the plaintiff a little bit of a break if we, in fact, move the time of the payment of that fee to sometime right before trial. Because as you probably know, most cases, you know, over 90 percent will settle. And if the idea behind the $125 is, well, if you're going to have a trail, there's a judge's time and that takes money and time and effort and so forth. And there needs to be some method of paying for that.

If we had a situation in my mind where if you did need a trial, and certainly some cases do need to go to trial, then the fee perhaps could be paid at the time. Would that appease you at all?

LINDA STUMPF: As opposed to claiming it to the trial list, you mean? Well, there are also cases -- if you wouldn't have to pay a fee, there are also cases that are non-jury cases in hearings and damages cases where sometimes you can't get a judgment just on the papers and you have to file for a hearing for damages.

99 percent of the time when you do that you don't really -- the judge just takes it on the papers. You appear in court and you take it on the papers. So if you don't have to pay a fee for that or for a non -- or even for a non-jury trial and just pay it before a jury

trial, is what you're saying you're adding to the $300. That would be a different issue.

But to pay the fee -- if it's not a jury trial, to pay the fee just to put it on for hearings and damages or non-jury trial which is not going to settle, that I think would be excessive. So you wouldn't have to pay for that if it goes to something like that, but just pay it if it goes to a jury trial. That would be a different issue. So you'd be just -- be adding the cost to the jury trial fee.

REP. SMITH: Yeah. I'm not sure I followed you. Perhaps you didn't follow me. So I'll try to be --

LINDA STUMPF: No. I understand what you said, but in addition to that there are other -- you have to claim it to the trial list if -- even if there's a default. If the defendant didn't appear you have to claim it anyway and then there's hearings on damages. So that's not -- it's not always a hearing. It's just you submit papers, so it would be inequitable to have to pay the $125 fee just to do that because you're really not taking up court time.

REP. SMITH: Yeah. I understand what you're saying, I guess. I probably should caution you to be careful because it would be -- I know the $125 that, you know, we might be looking at paying it in that situation as well. I'll guess -- is what this bill proposes to do anyway.

But you know, my point being that if we really had a situation where the case is going to be tried by a judge or a referee, or whoever it may be, then perhaps at that time it is

warranted to pay the $125 as opposed to just paying it when, you know, the case is claimed. Because you (inaudible) a case to the trial list and it could sit for two years before it gets heard, or for a year depending on the court.

So -- and then you get to trial. And as you know, if you have a pretrial and there's a good opportunity the day of the trial, that the case is going to settle because it's just the nature of the beast, so to speak.

So if we can -- but if it doesn't settle and there is a need for a trial, then I would say, okay. Pay the 125 and let's let you have your day in court.

LINDA STUMPF: I understand what you're saying. And if that would preclude hearings and damages or any other case that didn't actually go to trial, I mean, that might be a consideration.

REP. SMITH: All right. Thank you.

I'm just kind of throwing out ideas, see if we can make this thing work. Thanks.

LINDA STUMPF: Thank you.

REP. G. FOX: Thank you.

Actually, Attorney Stumpf -- are there any more questions from members of the committee?

Actually I have one, if you don't mind?

LINDA STUMPF: Yes.

REP. G. FOX: I think we all recognize that we want to provide some source of funding for these

services and this is a potential source that's been presented and I have looked at the categories of proposed fee increases. And certainly the certificate of closed pleadings jumped out at me as well, having become accustomed to not paying any fee for that.

And I also look at it, though, and I see that it's the highest projected revenue amongst the fee increases. And I don't know if your organization has had an opportunity or if they -- and I don't want to put you on the spot right now, but if you do have recommendations as to where you think the revenue can be generated in a more fair and equitable manner, I think we're willing to listen.

So I think if you want to talk about that, please, you know, get back to us.

LINDA STUMPF: Okay. Yes. I will. We will be discussing that and we will try to get back to you shortly with maybe some suggestions of what you're saying.

REP. G. FOX: Yes. Thank you.

LINDA STUMPF: Thank you.

REP. G. FOX: Kevin Rasch followed by Karen Fritsche.

KEVIN RASCH: Senator Coleman, Representative Fox, members of the committee, good morning. Thank you for having me. My name is Kevin Rasch and I'm here to ask for your support in supporting House Bill 5388, An Act Concerning Court Fees and the Delivery of Legal Services to the Poor.

Currently I'm a vice president and assistant

general counsel at Mass Mutual Life Insurance Company in Springfield, but I've also spent time in public service as a government lawyer and as a lawyer in private practice. More importantly, I'm currently the chair, the vice chair of the board for Connecticut Legal Services and it is in that capacity I'm before you today.

Having worked as a lawyer in a number of realms, government, private practice and now in the corporate world, I've observed that our system of justice relies on having lawyers in place in each segment of our community. And to ensure -- and which ensures the rule of law and fundamental fairness. One of the least served segments of our -- excuse me, one of the least served segments is in the area of civil representation for low-income people.

Low-income people charged with serious crimes have the right to a state-provided legal assistance and a lawyer for the criminal case, but for low-income people in any other kind of problem, restraining orders or custody, emergencies, nursing home issues and so on, legal aid is the only resource available.

Legal aid agencies trying to meet this need receive only a fraction of the state assistance provided for the criminal defense system, which many would argue itself is underfunded. As you know, over 20 years ago Connecticut set up the IOLTA system to utilize interest on lawyers trust accounts to fund legal aid. That system worked fairly well for a long time, but in this low-interest rate environment with interest rates that will be near zero for several years to come, IOLTA has shown itself to be a broken mechanism.

H.B. 5388 could provide stability for legal

aid, albeit on a small staffing size and less service capacity than we had a few years ago. This funding does not address the justice gap, admittedly. The fact that there are so many more people that need legal aid than can get services, but it would help the situation from worsening at a time of tremendous need. And it would also allow legal aid programs to serve the people who are most in need for whom a lawyer makes the most difference.

Not only is legal aid a benefit to the specific administration of justice, the presence of legal aid is a benefit to the entire system of justice. People without lawyers are clogging courts. They don't know how the process works. They need support and extra explanations from court personnel and sometimes even from opposing counsel at every step of the way.

Having legal lawyers available to represent low people -- low-income people lets the court work more efficiently for everyone. And at a time when court resources are scarce and private clients are paying for every minute of their lawyers' time, every efficiency that gets lawyers out of court more quickly saves their clients money.

REP. G. FOX: Please continue.

KEVIN RASCH: Okay. Finally on a practical basis I would like to note the work of legal aid lawyers creates better outcomes throughout the state. Legal aid lawyers are moving disabled persons off of state welfare rolls and onto federal disability benefit programs. They are making victims -- making sure victims of domestic violence can more quickly get court orders that they need to safely leave domestic violence shelters, help establish, stabilize

and return to work.

Legal aid lawyers don't get paid that much, candidly. Even beyond that, to date they have taken unpaid days in the last few years. They work tirelessly for the people in our state who are most in need of help. Without the passage of House Bill 5388 our organization, Connecticut Legal Services will be forced to lay off up to a quarter of our lawyers and personnel. And that would be terrible for the Connecticut justice system and for low-income people in crisis and all of us.

Thank you for your interest and I'm happy to answer any questions.

REP. G. FOX: Thank you.

Are there any questions?

Thank you very much for your testimony today.

KEVIN RASCH: Thank you.

REP. G. FOX: Karen Fritsche followed by Andrew Burns.

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Senator Coleman, Representative Fox and respected members of the Judiciary Committee, my name is Karen Fritsche and I'm here to testify about preserving funding for legal services, which must be preserved since only they have the legal expertise and ability to do systemic advocacy needed to keep others from what I have experienced.

In January, 2011, my sister Nancy Fritsche was taken from the Hospital for Special Care to the ICU where she almost died. Upon her discharge I was told I had to sign papers for Qualidigm, hired by DSS, which said that my

sister could no longer stay at the Hospital for Special Care and would be sent to a lower level of care, to a nursing home.

Nancy's doctor had just written a month before that Nancy needed to be at the chronic-disease level of care because she has severe respiratory problems, degenerative neurological disease, celiac ataxia, swallowing problems and a compromised immune system which would not survive MRSA.

In the past when Nancy was much better, nursing homes could not handle her and had therefore abused her. Imagine how. I called Qualidigm and asked how to file an appeal, but they said Nancy had no rights, that there was no appeal. I called my lawyer. Neither he nor anyone in his office, nor over 20 other lawyers that he called had expertise in Medicaid nursing home law.

In the meantime I have to fill out six nursing home applications every few weeks and was told that I had to apply to every nursing home in Connecticut, even if that meant that I had to put my sister in a facility hours from the which couldn't really meet her needs.

The Mayor of West Hartford and the Office of Protection and Advocacy could not help. I turned to Senator Beth Bye who helped me fill out a form for an appeal. However Qualidigm and DSS refused to give even her any information about the standards on which patients were to be judged, saying it was proprietary information. And they had also refused to give it to the Hospital for Special Care, if you could imagine that. They couldn't even defend their own people.

I called the Connecticut Bar. All of their

referrals refused this case. George Bickford, the state expert on Social Security law who could not help me either, put me in touch with Attorney Marilyn Denny of Greater Hartford Legal Aid who had over 25 years experience in this kind of law. She informed me that Nancy had rights, including the right to be reconsidered to appeal and to go to court including that entire appeal system.

Moreover, Marilyn obtained what Qualidigm called proprietary information, the standards that they use to assess Nancy and discovered that they were excluding consideration of all her conditions except respiratory in determining her appropriate level of care.

With Marilyn's help with medical filings to Qualidigm's doctors they determined that there are only two nursing homes in Connecticut that have the respiratory therapy that Nancy requires. But this still ignores all her other multiple needs. Marilyn and I must submit summaries of Nancy's medical records every 90 days -- as much the Hospital for Special Care. Only Greater Hartford Legal Aid had the expertise to tell me my sister's rights, to find the standards which were characterized as proprietary information and to obtain the contract DSS has with Qualidigm, which indicates that DSS is paying Qualidigm $400,000 a year to try to move people to a lower level of care where they usually die.

I have spent 442 hours and over $3,000 on expense for this case. No one should have to go through this to keep his or her loved one at the proper level of care. This is a systemic problem and only Greater Hartford Legal Aid has the people with the expertise to help families fight this problem. Please fund them at the necessary level.

Also please fund a return to the old standards, the standards of medical necessity or Medicaid standards which cover people with multiple handicaps. And please also change the law so the sickest, the ones who go to an ICU are the ones who get caught in the system. And please make it possible to get a ruling that someone is at the appropriate level of care even if one deteriorates as my sister has. You can never move up. Once you're caught, you're caught.

I think of all the people at the Hospital for Special Care who have no one to help them fight this battle. They are very sick, weak and vulnerable. We are all one accident, one disease away from being like them. Dropping people to a lower level of care at which they will die in order to save the State money is a euphemism, in my opinion, for state-sponsored euthanasia.

I don't want to live in a state where the weakest and most vulnerable have no one to help them. I hope and believe that all of you members of this committee don't want to either.

Thank you for your time and attention.

REP. G. FOX: Thank you. You got a lot in in three minutes there.

KAREN FRITSCHE: I try. I was a teacher. We used to put in a lot in a very short period of time.

REP. G. FOX: Are there any questions?

KAREN FRITSCHE: Oh, and by the way, Greg Bass who is one of the two attorneys who helped me,

to have that level and that caliber of jurors come and stay on our judicial bench.

The CBA is proud of our court system and we hope that you will support the compensation package as it will continue to make our judicial branch one of the best in the country.

I thank you for this opportunity to speak to you. If there is any questions I'd be happy to answer them.

REP. G. FOX: Well, thank you, Attorney Knox.

Are there any questions?

KIMBERLY KNOX: Thank you very much.

REP. G. FOX: Thank you.

Charles Ford. Is Charles Ford here? No.

Followed by Melissa Campbell.

PETER HANCE: Good afternoon. My name is Peter Hance. And I'm about the last person you'd expect to be here in support of the Bill 5388. I'm the deputy executive director of the Bridgeport Housing Authority. I'm also an associate professor at Columbia University.

My wife and I just celebrated our 40th wedding anniversary and we just welcomed our fifth grandson. And it kind of reminded me, I'm getting kind of old and I can remember as a child having an expression my mom taught me, which was that she liked all the stones in the garden because it helped keep her hoe sharp.

Well, with Connecticut Legal Services -- has sued the Bridgeport Housing Authority

repeatedly. We have been the subject to numerous lawsuits and they've been a pain in the neck, but frankly what they've done is they've made us sharper. They may have been before us representing one client, one aggrieved party, but because of their action hundreds of other people benefited by the rulings that came down.

You in the Legislature are really good at addressing the needs of the poor. You're sensitive to it. You understand very often what's needed, but without the enforcement mechanism those laws are as effective as wind through dry grass. Connecticut Legal Services provides that repeated enforcement. They are the check we need and they do it without specialized radios or specialized equipment or without SWAT teams. They make sure the poor are protected by the word as opposed to the sword.

Now how effective are they? You know, in Bridgeport we have Father Panik Village. Father Panik Village was 1,063 housing units that were torn down by the housing authority, my predecessors, not us. We were sued on behalf of state taxpayers by Connecticut Legal Services. This was 1,063 people who are families who were put on the street that needed housing that were turned to the State for assistance, but Connecticut Legal Services didn't just sue us, they sued HUD.

And because they sued HUD over a hundred million dollars was brought into this State and I'm happy to say that we're now constructing the very last replacement units at Father Panik Village. All 1,063 units will be replaced through funding that came in due to Connecticut Legal Services' battle against us and protecting the rights of the poor. But

not only did they give us the money to build the units, but as many of you know, we're going through the whole crisis right now with state public housing and the ongoing subsidy, we have 40 years of operating subsidy from the federal government for these units. You know, I think very often my mom was right. It's good to have stones in the garden.

I also wanted to just -- boy, could I have timed that any better? Any questions or comments?

REP. G. FOX: Well first, thanks for your testimony.

Are there any questions?

Well, thank you for bringing that perspective which we have not heard as part of this public hearing. So I think that is helpful.

PETER HANCE: Thank you, sir, ma'am.

REP. G. FOX: Melissa Campbell followed by John Kennedy.

MELISSA CAMPBELL: Hi.

REP. G. FOX: Good afternoon. Can you please state your name, both of you?

MELISSA CAMPBELL: I'm Melissa Campbell.

A VOICE: And I'm her boyfriend.

MELISSA CAMPBELL: (Inaudible.)

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Okay. Sorry. I'm a little nervous.

My name is Melissa Campbell and I'm here to support funding for legal aid. I have a

wonderful son named Michael. Michael is a loving child with a big heart and a giant smile. Michael has autism.

At the age of 11 Michael still struggles to speak. He relies on assistive technology and gestures to communicate his wants and needs. Michael still needs to be reminded at school to use the toilet. He is learning to trace and copy his name, to identify and match shapes, numbers and letters. He is working on independent living skills. At times Michael can be stubborn, defiant and physically aggressive.

I first went to legal aid when I was concerned about Michael's education program in public school. The Greater Hartford Legal Aid attorney obtained and reviewed all of Michael's educational records; includes evaluation about his ability and his disabilities. She attends PPTs with me and gets to understand Michael's school program and his teaching staff.

Based on my concerns and what we learned at those meetings my attorney helped me to obtain a private evaluation for Michael by an outside autism expert paid by the school district. Once the evaluation was completed my attorney explained my rights and options to me. We decided to work with the school district to implement the recommendations to improve Michael's program and to improve the autism program for other students.

After a number of more PPTs and several months, we realized that the district simply couldn't provide Michael what he needed within a reasonable timeframe. We requested an out-of-district placement at the school that specialized in children with autism. Even at

this time Michael is required one-to-one support, but he is adapting and learning.

Without my legal aid attorney assistance I would not have been able to express or prove my concerns about Michael's public school program. And without her help my concerns would have gone ignored and unaddressed. Because of my legal aid attorney help Michael is in a better program, and hopefully because of our attempts to work with this district, the public school program has made some improvements for other children that remain in the program.

Thank you for your time and hope you will support funding for legal aid and the important work they do. I am happy to answer any questions you have.

REP. G. FOX: Well, thank you for being here and sharing your story.

Are there any questions from members of the committee?

Well thank you a lot. Thank you very much.

John Kennedy. Followed by Renee Cannella.

JOHN KENNEDY: Representative Fox, Senator Kissel, and members of the Judiciary Committee, my name is John Kennedy. I am the current president of the Connecticut Trial Lawyers Association here in Connecticut. Our organization has about 1200 members throughout the state and we deal with the courts obviously on a regular basis. I'm here to support Senate Bill 31, An Act Establishing a Judicial Commission -- excuse me, on judicial compensation -- a commission on judicial compensation.

want judges also who are in the prong of their legal careers. We need to ensure that the economic package for judges is fair and that it's predictable. It should be fair to the State and it should also be fair to the judges.

The current system is not working well. No consideration of raises in eight years and no actual raises in the last five years is a system that is not appropriate. Salaries of judges in Connecticut have declined to 45th nationally. It's not hard to see that the morale of the judges might begin to suffer under such circumstances. And as Mr. McDonald indicated today, that some judges have in fact left the bench. And also that it may be hard to attract new judges to the bench.

Senate Bill 31 creates a system that is both practical and appropriate. It sets up an independent commission and uses objective criteria to establish compensation. Frankly, it makes perfect sense. The bill lets the commission make an informed decision, which is actually a recommendation after objective study. And then of course the Legislature has the final say as to whether that's appropriate.

Every day in our courts, civil courts, judges are bound to and they also instruct juries to dispassionately compensate people for claims by using the words "fair, just and reasonable." Senate Bill 31 provides a criteria in a framework to do precisely that for judges' compensation. It uses a fair, just and reasonable approach to do that. I urge you to support Senate Bill 31.

Thank you very much.

REP. G. FOX: Thank you, Attorney Kennedy.

Are there any questions?

Well, thanks for your testimony.

JOHN KENNEDY: Thank you.

REP. G. FOX: Renee Cannella.

RENEE CANNELLA: Good afternoon, Representative Fox, members of the committee. My name is Renee Cannella. I'm an attorney from Stamford, Connecticut. I'm here to oppose Raised Bill number 5388, the Act Concerning Court Fees.

But what I want to do first is made clear that there is no argument as to how effective or how good Connecticut Legal Services is. Opposition to this bill is not an indictment of the services that are provided by Connecticut Legal Services. I think everybody in the State recognize that legal services serves a purpose and is necessary.

The question however that's raised by Bill Number 5388 is the timing of this bill and the appropriate source of funding for Connecticut Legal Services. That has to be part of the equation and in this case this is not -- neither the time, nor the source for this kind of funding.

At a time when everybody, businesses and the Joe public alike are hurting so badly financially, to add to that burden additional court fees for civil redress just doesn't make sense. I've heard my other colleagues already talk to you about the fact that these additional fees get passed on most likely to the defendant in cases because they're the

ones that are responsible for the court fees.

Very often the defendant is an individual consumer who's already most likely in a precarious financial position and that's why they are being sued in the first place. And so in some cases it's putting on them an additional burden. I don't want to sound Pollyanna. Obviously I'm also representing my clients who are businesses, but some of the businesses are small businesses. In fact, most of the businesses in our state would be considered small businesses who are also hurting horribly.

So if you take a small businessman like a landscaper who may be going after a client for $300 in small claims court, $300 may not seem like a lot, but it is to the landscaper and it certainly is if it's not his only unpaid bill. You take $300, they pay a hundred dollars now with the increased fee just to get into court. Then you add to that they get their judgment. They have to get a bank execution. That's another hundred dollars.

The bank execution doesn't work. There's no money into bank account. They get a wage execution. That's another hundred dollars. Now you have $300 that they've already been out-of-pocket, most likely for a number of years. Now they're out $600. That's huge to a small businessman and that's just one of his clients. That's what we have to remember.

They have a lot of clients and they have the right to be paid because they provided a service or they provided a product and it's not fair to them. And then if the defendant ultimately does pay, they are now paying twice as much as they initially owed, half of it going to judicial fees.

I also want to address what is now a brand-new fee that was discussed earlier, that where we have to pay $125 in order to claim a case to the trial list. That's akin to going to a baseball game, you pay good money for a Yankees ticket. You get to see everything up to the last inning. You're rooting for your team. Last inning, stop them game, come out. You have to go pay additional money to see the end of the game and to see your team win, otherwise you're dismissed from the park. You're ejected from the park. We would be ejected from the court if we don't pay this fee without ever having a chance for ultimate redress of our cases.

This is not the time to increase fees. There is no other business in the state who has tripled their fees in less than three years, which is what the State is looking to do.

Thank you.

REP. G. FOX: Thanks, Attorney Cannella.

Are there questions or comments?

Representative Hetherington.

REP. HETHERINGTON: Thank you.

How would you feel if the -- if this increase in fees was not permanent, but was for several years anticipating that the IOLTA funds probably will come back at some point?

RENEE CANNELLA: That's an excellent question, but a very difficult question to answer. These are the years when it's the hardest to implement these fees. These are the years when people are hurting so badly.

Understandably Connecticut Legal Services is hurting badly and I heard them talk about having to lay people off. Businesses across the state are laying people off and if businesses can't collect on the small amounts they're owed, the $300 here, the $500 there, they are laying off their employees. And therefore we have more unemployment in the state. Is a circuitous discussion.

So these are the years when we can't afford to raise those fees. Perhaps in richer years those fees can be raised because people will have a better opportunity to be able to pay those fees and still seek redress. Now is not the time, not when people are trying to hold onto their employees and not let people go.

REP. HETHERINGTON: Okay. Thank you.

Thank you, Mr. Chairman.

REP. G. FOX: Thank you.

Are there other questions?

Thanks, Attorney Cannella. And I know you -- actually, I have one question.

Thanks. It's good to see you here again testifying.

RENEE CANNELLA: Thank you.

REP. G. FOX: I think you were in the room when I asked a question previously about -- that you began your testimony by saying you recognize the work being done by legal services and want to be supportive, just like I think we all recognize it.

And I said that I looked at the proposed fee increases. I mentioned the certificate of closed pleading is one that was a new one for me and it caught my eye. But I don't know if you've had a chance to look through them and if you have other suggestions as to -- I mean, you probably don't want to look at the fees at all and I recognize that. But if you have areas that you think might also generate revenue, but are maybe less -- will have less of an impact on the people you're representing or describing. And you don't have to tell me now, because I know you can get a hold of me if you need to.

RENEE CANNELLA: I have one thought and -- but honestly, I haven't looked into it and done the full research, but one issue is IOLTA. And I know that was discussed earlier, I understood before I got here, when Judge Quinn was here, that you know, there's relatively little money coming in through IOLTA because the interest rates are so low right now.

However it's no longer the case that all fees that are coming into law firms are going through IOLTA accounts. There are ways of circumventing IOLTA so that individual clients have their own bank accounts through the lawyers. And so those, the fees that are coming in through lawsuits or otherwise to these entities are circumventing IOLTA.

I would suggest at this time, and maybe this could be something that is only temporary, as Representative Hetherington was suggesting before for the fees, is that from now on, for now any funds that are going through to a client have to go through IOLTA accounts without exception. Because it's the larger businesses, my understanding is, that have

these individuals accounts that are circumventing IOLTA, which means most likely there's larger funds that could be going through IOLTA accounts generating additional interest and those funds could be used in order to fund legal services.

Legal services is not obviously the only agency in the state that is hurting horribly that does wonderful work for people who need it -- sexual Assault Crisis Service Centers, which does amazing work. Everyone is hurting. We are all hurting. Everyone is laying people off, but the idea at this time, at this point to add to that burden doesn't make sense. IOLTA I think does.

REP. G. FOX: Okay. Well, thank you. And thanks for trying to provide a solution as well.

Any other questions?

Beverley Brakeman followed by Lenny Crohn.

BEVERLEY BRAKEMAN: Good afternoon, Senator Coleman, Representative Fox and members of the Judiciary. My name is Beverly Brakeman. I'm with the United Auto Workers and I'm here on behalf of our director and over 6,000 active and retired members.

For those of you who don't know the United Auto Workers strangely enough does represent legal service attorneys around this country and here in this state and we're here in support of House Bill 5388.

You have my written testimony. A lot of it's been said already. I will say it's very distressing and quite sad to me that we're arguing over fees, legal fees to support services that literally save lives and save

minds and save hearts of people with very little access to justice.

I don't know the answer. We all have to sort of figure out the answers. I don't think we're wedded to these particular fees. What we do know is that these lawyers and these workers at legal services in Connecticut, and throughout the country actually, cannot continue to provide life-saving services to poor people without help. And I know all of you get that and I know all of you care about that. I know that members of the Appropriations Committee care about that and I know you're going to do what you can, but I'm here on behalf of our membership to urge you and to offer our assistance in helping you to make that happen.

Because I've sat through hearing after hearing after hearing with these attorneys and I've talked to their clients and I know what they do and they know the importance of what they do. And if I was ever in a position where I needed it, I would hope and pray that these lawyers were here for me, or for my daughters or for my family.

So thank you for having this hearing. Thank you for giving your support to these people that work so hard. I mean, you already know they're giving up -- they're working without pay on days. And you know they're not taking their days off. They're working those days, they're just not getting paid those days.

And that's what the union has done. The union went to the table with management and they negotiated things that they could do to keep their services in tact -- not because they needed their jobs. Of course we all need our

jobs. Nobody wants to get laid off. Yes, it's a bad economy, but they did it because they knew they needed to be there to support their clients. And if they're not there, it's not just an issue of another organization having to lay off people. It's another organization that has to lay off people that then means there's a lot poor people who don't have services.

So I think it's -- I do take issue with it being compared to a company or a large organization just laying off people. I mean, laying off sucks. Right? We all hate that, but when you lay off attorneys and -- workers at legal service peoples, excuse me, people hurt. Real people hurt. And you've seen it and I've seen it and I know we all care.

And I thank you for hearing my testimony today.

REP. G. FOX: Well, thank you Beverley.

Are there any questions?

Yes, Representative Carpino.

REP. CARPINO: Thank you, Mr. Chair.

I've had the good fortune of doing some work for statewide legal services, so I know firsthand the caliber of some of your legal aid attorneys. And I've seen firsthand how many of them have either had their 20 percent in 20 percent reductions or furloughs. My question is a little more specific about the anticipated revenues that these increased fees are going to hopefully raise.

Can you tell me percentage or individual hours of the number of staff members that you're

going to be able to bring back into the fold? Are we -- I know we'll never have the appropriate amount of money to fully fund the need that we have, but how close will this get this to your staffing a few years ago? Will it potentially bring everybody that's been reduced back to full time? Can you give us some idea of what this is hoping to accomplish?

BEVERLEY BRAKEMAN: Sure. I'll take my best stab at it. Steve and others here might be able to get a better answer, but I'll do my best.

I think what we're basically trying to do is just get -- just maintain what we currently have. They've already had to have layoffs. They've already had a lot of attrition and current staff is, you know, giving up, as you know, days off. I think what we're talking about what with these fee increases is just keeping it status go, which is already too much work for the people that are there.

In terms of -- there is a chart actually which I can get you which sort of says, you know, how much money they expect each one of the fees to bring in. And I'm happy to get that for you. We think we had it here.

REP. CARPINO: Thank you. My question is more so, just the number of hour that this will allow you to either maintain the staffing as it is, or if it's going to allow you to bring folks back. Is it my understand that without these increased fees you're going to further reduce the staff?

BEVERLEY BRAKEMAN: Oh, absolutely. Yeah. Right.

Steve -- yes. I'm getting a lot of nods. Absolutely.

REP. CARPINO: And that's okay. That what I wanted to make sure I understood.

BEVERLEY BRAKEMAN: Yeah. These fee increases would allow us to keep current staffing only. So this doesn't really do anything other than just keep us on the same playing field we're on now.

REP. CARPINO: Thank you very much.

BEVERLEY BRAKEMAN: Okay. Thanks for the questions.

SENATOR COLEMAN: Are there others with questions?

If not, thank you very much, Bev.

BEVERLEY BRAKEMAN: Thank you.

SENATOR COLEMAN: Lenny Crohn. Lenny Crohn.

If not, Beverly Hedgson.

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BEVERLY HEDGSON: Senator Coleman, Senator Kissel, my name is Beverly Hedgson. And the last time I was before this body it was because I was being renewed to be a judge of the superior court. I left the court and now I'm on the board of New Haven Legal Assistance where my fervor for equal access to justice is something that's an organizing part of my life now that I work as a private mediator and arbitrator.

New Haven Legal Assistance has suffered tremendously with the collapse of the IOLTA. There have been furloughs. There have been pay cuts. There have been benefit cuts. When very valued specialists leave we can't replace them and it leaves a hole in the services that

we can provide.

You've heard Connecticut is full of good people who can't fill in applications for housing, who can't navigate the PPT systems in our schools, who can't get custody of troubled children, who can't solve their problems as consumers without the need of specialized lawyers.

I know from sitting as a superior court judge for 15 years that the kinds of things that legal aid lawyers know are not general skills held by the rest of the bar. Judges are relieved when it's legal aid lawyers in front of them because they know that they will get competent, up-to-date updates on the law and good representation for the people who are in front of us so that we could do justice. There's no place else for the people who have -- you have heard about. There's no place for them to go. And as legal aid shrinks and shrinks that problem will be even worse.

You've heard from some people saying, this is not the right way, or it's not the right time, but there's not really time to find another vehicle for this. The cuts are dire. Legal aid is on life support and these are -- this is a funding plan that, despite its imperfections, which I'm sure can be worked out, is one that I very much hope you will pass. And I'm here in fervent support of H.B. 5388.

And I'd be happy to answer any questions you might have.

SENATOR COLEMAN: And are there any questions?

Senator Kissel.

SENATOR KISSEL: Good to see you. Are you still a judge?

BEVERLY HEDGSON: I am not. I left the bench in 2003 and went private.

SENATOR KISSEL: And how many years had you been a judge before --

BEVERLY HEDGSON: Over 15 years.

SENATOR KISSEL: Wow. Well, that's dedicated public service, that's for sure. I didn't know if you were one of the two judges that left because of we weren't able to get raises in the last five years, but that's certainly not the case.

BEVERLY HEDGSON: No. I suffered probably ten years of very paltry raises before that. But I'm very happy to speak in favor of my former colleagues because that's a real problem. I have to tell you sitting there in the courtroom and being the lowest-paid high-skilled lawyer was not much fun.

SENATOR KISSEL: Thank you very much for coming this afternoon.

SENATOR COLEMAN: Are there other questions?

Seeing none, thank you.

Danielle Burns.

DANIELLE BURNS: Good afternoon. How are you guys.

SENATOR COLEMAN: Good. How are you?

DANIELLE BURNS: This is my attorney from legal aid in New Haven, Amy Eppler-Epstein. And this is

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my son Trevor. I'm here today to show my concern for legal aid of New Haven.

This organization has helped me more than I can express. In the past six months they've been able to get me a restraining order. They have given me direction in how to get my utility bills paid that were incurred by my abuser. They have assisted me in obtaining TANF and they have informed me of housing options. And they are currently representing me in a custody case for my six-month-old Trevor.

I've had many hardships in the past year. The domestic violence situation I was trying to avoid became unavoidable when my son was born. I had nowhere to live except with his father.

When I first went to legal aid I ran in with my horse carriage of a stroller holding my newborn. I was met with immediately. I had no appointment. The woman I met with was empathetic. She informed me of my rights and encouraged me to continue my efforts. She spent more than an hour with me just trying to calm me down in order to get a clear, pertinent story to give to the other staff.

After that meeting I was relieved to know that even though I didn't have enough money to even pay for the gas it cost to drive down to State Street, that there were people who wanted to represent me because I was doing the right thing.

Some lawyers represent people who have money and they don't care about their morals, their honesty or what choices they're making. My attorneys have gone above and beyond their job descriptions. They've helped me with parking when I went to court and I had no income.

They're patient with me. They always make sure that I understand everything that's going on from the concepts to the process to having it happen. The whole office, the lights when Trevor comes there and we have our meetings, they have been the supportive family that I didn't have through all these challenges.

If it weren't for legal aid advocating for me I wouldn't be able to do the same for them today. New clients may never get to know them because of their lack of funding. I feel that this organization deserves more funding than most any other because of the power they have to change people's lives.

We've been living in domestic and family shelters since October of last year. And thanks to legal aid we just moved into our new apartment last week. Please support them because they supported us.

Thank you.

SENATOR COLEMAN: Thank you.

Are there questions?

Seeing none, continue. Good luck to you.

Manita Sharma.

INTERPRETER FOR MANITA SHARMA: Good afternoon. I'll be interpreting on behalf of Manita.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: My name is Manita.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: I came to America

in 2007.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: My husband is Shabash Boccani.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: Excuse us. She's nervous.

She said that it was a very terrible marriage.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: They brought me to America as -- he brought me to America as his wife, but then I found out that the only reason --

SENATOR COLEMAN: Let me just say we're very interested in what it is that she has to say. And I know that sometimes it's very difficult to speak that this committee, but there's no need to be nervous. Take your time. We've been here all day before. We're sort of used to it, so just take your time. Relax.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: My attorney's name is Sheila Hayre from New Haven legal aid. And she's helped me a lot.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: She helped me with my immigration status by updating my green card to a permanent resident status, which was very helpful because I came over here with my husband and I had a condition on my green card

which she was able to lift for me.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: Okay. She helped me through trying to get custody for my baby while my husband was trying to pass the baby off as another woman's child.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: She's helped me get a divorce from my husband. And he's done some unbelievable things like sending me to a psychiatric hospital or to jail.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: She said Sheila Hayre, her attorney is the main reason why she's here today. She's helped to stay in the country, kept the baby with her.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: She said that she -- at the end of the month it will be the third time that she goes to court with Sheila and she's been very supportive of everything that has happened so far. And she just hopes that it stays the same as it is right now. And she believes that with Sheila's help that it will do.

MANITA SHARMA: (Speaking in Hindi.)

INTERPRETER FOR MANITA SHARMA: I think that's everything she has to say about how New Haven Legal Aid has helped her in her case.

Do you have any questions for her?

SENATOR COLEMAN: Are there any questions?

Apparently no questions, but thank you very much for your testimony.

INTERPRETER FOR MANITA SHARMA: You're welcome.

SENATOR COLEMAN: Thanks for coming.

INTERPRETER FOR MANITA SHARMA: You're welcome.

SENATOR COLEMAN: Dana Smith is next -- I'm sorry, Danielle Caquals. Danielle, looks like C-a-q-u-a-l-s.

If not, Dana Smith.

DANA SMITH: I'm writing this letter in response to New Haven Legal Assistance Association's request for additional funding in order to continue to provide services for people such as myself that simply cannot afford to retain an attorney.

HB5388

This is my story. My name is Dana Smith. I am a divorced single parent of two. My problems started in September of 2011 regarding a heating situation in our home. The property I reside in went into foreclosure and was taken over by Fannie Mae. The contractors that are responsible for maintaining the property did nothing to ensure that my family had heat for the coming winter. I am a renter and also a holder of a Section 8 voucher.

While Section 8 advised the contractor of the various violations, still nothing was done to correct the problems. Frustrated because my request for service was simply ignored, I went to New Haven Legal Assistance to request their assistance in January, 2012, because I still

had no working heat in my apartment.

To staff in this office immediately to my information and assigned me to an attorney, Amy Eppler-Epstein who promptly got in touch with me regarding my concerns. I am happy to say that my issues have been resolved all because of their efforts to ensure that people such as myself are not taken advantage of by the big corporations who are buying up the foreclosed properties with no concern for the tenants who reside in them. Therefore it is my opinion, given the condition of our economy, to reduce funding to the very people who fight for the underdogs would do our community a disservice.

What the legal aid assistance association provides for our community is a peace of mind, a sense of security when all has failed.

Thank you for your time.

SENATOR COLEMAN: Thank you.

Are there any questions for Ms. Smith?

Seeing none, thanks for being here.

DANA SMITH: Thank you.

SENATOR COLEMAN: Link Woodard.

LINCOLN WOODARD: Good afternoon. My name is Lincoln Woodard. I'm an attorney here in Hartford. I practice at Moukawsher & Walsh just across the street. Our practice is devoted to representing plaintiffs in personal injury and professional practice matters. I'm here today. I'm on the board of governors for the Connecticut Trial lawyers Association and I'm testifying today on behalf of the

HB 5388

association and its membership.

At the outset the CTLA does not oppose the effort to raise funds for legal services -- I don't have to sit here and tell the committee. We certainly recognize the extremely important work that they do and want to assist in that effort.

We have -- the opposition that we are voicing here really just concerns the -- what we see as an unfair and disproportionate burden that our clients/plaintiffs in the civil cases will bear as the bill is currently drafted.

The most -- while most of the fee increases are $25, there is one additional new fee that is attached to what we all refer to as the certificate of closed pleadings. That's the pleading that simply -- that is used primarily to alert the court that the parties have (inaudible) complained and answered and closed up the factual disputes so that we can move onto discovery and eventually selecting a trial date. It is not a -- it's something that needs to be done to advance a case in the civil system.

For that reason, typically it is the plaintiffs almost universally that files that pleading to move the case forward because they are the ones seeking the redress. They are seeking to get the case resolved as quickly as possible. These fees get passed along to the individuals who -- and certainly in many of personal injury and malpractice matters, are disabled or unable to work.

And it is a single $125 fee that really is probably -- since it's going to be filed in every case, is a significant piece of the fund-raising effort. But just from a public

policy standpoint the burden of finding that money we do not believe should be placed disproportionately on these class of individuals who already have, you know, face the increased fees for the -- it's now $300 to file a civil action. It's $425 if they seek a jury trial.

Additionally it does -- it focuses only on the trial bar as far as shouldering that burden. There's transactional attorneys and real estate attorneys and their clients that are not participating, and certainly we think it should be more of a shared effort. Thus just as written we believe it's unfairly burdensome on plaintiffs because of the nature of, primarily because of that $125 fee.

Thank you.

SENATOR COLEMAN: Thank you.

Are there questions for Attorney Woodard?

Representative Carpino.

REP. CARPINO: Thank you, Mr. Chairman.

Link, it's always good to see you. A question you may or may not be able to answer. Would CTLA be more supportive of this proposal if some of fees were shared across some of the other legal disciplines?

LINCOLN WOODARD: Absolutely. There -- and I can't recall if I actually mentioned this, but we are planning to meet with the judiciary, certainly involve the CBA as well to try and work out a fairer way to spread the -- if the fees is the way it's going to be done, that it's just spread out a little bit more evenly than as this is presented.

REP. CARPINO: Thank you.

SENATOR COLEMAN: Are there other questions?

Seeing none, thank you very much.

LINCOLN WOODARD: Thank you.

SENATOR COLEMAN: Richard Orr.

HB5388

RICHARD ORR: Good afternoon. I'm attorney Richard Orr. In my day job I work for UConn. I'm the executive officer for the president, but today I'm here as chairman of the board of Connecticut Legal Services. You've heard all the basics. Let me just recap the basic problem.

You helped us tremendously in 2009. We thought the situation was fixed then because IOLTA had worked well for 20 years, but in 2007 it was $20 million. When you helped us in 2009 it was 4. Now it's going to be 1 million and possibly less. So the fix that we all thought would work didn't work.

In 2009 we thought IOLTA was coming back so you helped us and we cut services. In some organizations that was layoffs, attritions, furloughs of up to 20 percent in various combinations, expecting that it would come back.

Even with those, that reduction, in wasn't enough, so we have been paying down our service, spending our rainy day funds to try to keep the wheels on the bus because we thought interest rate were coming back. We were wrong. They haven't. They're probably never coming back.

Lawyers are getting funded just in time as we heard earlier. More non-lawyers are handling closing and larger clients are avoiding the IOLTA system entirely. So the question is whether or not we're going to be able to maintain the current level of services.

This bill would do that through modest increases in court fees spread over a variety of pleadings, but please understand what we are asking for and what we're not. We're not asking to fill the justice gap. We're not asking for money to allow us to serve the many, many poor people who we've never had the capacity to serve.

We're not asking to go back to where legal services was in the glory days. We're not asking for funding to get us back to 2009. What we're asking for is funding to stay even, because without it beginning this summer we will be cutting probably a quarter of our staff. Because if we don't, we'll be out of business and we've got to maintain what we can and the only way to do that is to knock off 20 percent.

So this is a request for stabilizing us at the already reduced levels. And we appreciate your consideration.

Thank you.

SENATOR COLEMAN: I recall a period in time when the federal government was treating legal services programs very unkindly. And I don't know if there's been an improvement in that attitude toward legal services from the federal level, but I know that during those difficult times the IOLTA program served to insulate legal services to a certain degree.

So I guess my question is, do you recognize less hostility from the federal level these days?

RICHARD ORR: I wish I could say yes. What we in Connecticut have learned to do is, you know, we can play by any set of rules as long as we know what they are. I don't see them changing, but right now the limited amount of federal money that is available is used for things like managing the intake system that we collaborate and share. By we I mean, New Haven, Hartford and Connecticut Legal Services which is everything else.

We jointly benefit from statewide legal services which is the intake system and does a lot of the web hosting and all that, because that's not advocacy. So you don't get into the -- well, you're allowed to make this argument, but you're not allowed to make that argument. I don't see that funding increasing in the current environment for obvious reasons.

SENATOR COLEMAN: Thank you for that response.

Are there other questions for Attorney Orr?

RICHARD ORR: Thank you, Mr. Chairman.

SENATOR COLEMAN: Welcome back. Good to see you again.

RICHARD ORR: Pleasure to be here. Thank you.

SENATOR COLEMAN: Joe Latino.

HB5388

JOE LATINO: Good afternoon, Senator Coleman, Representative Fox, Senator Kissel. My name is Joe Latino. I'm a solo practitioner. I've been in solo for a while now. I've also

worked with firms. Most of my career has been spent doing primarily collections law. I'm here to oppose passage of U.B. 5388. I don't want to repeat most of what's already been said, but I would like to perhaps illuminate and plumb some of what's been said earlier.

First of all, I know some of these people from legal aid. I've worked with them and I've worked against them. And I too recognize the value of their work, undisputed. My primary concern and I think most of the attorneys' concerns that are opposing this bill is the inequity of it.

We've just heard from one council -- I believe that the Connecticut Trial Association -- who says that the burden being put on plaintiffs' attorneys is inequitable. I've also listened to someone speak on behalf of legal aid making a cogent argument that time is of the essence for them, that they are going to lose 25 percent of their staff if something isn't done. So I appreciate the urgency on their side.

The problem is, frankly -- and I'll be as blunt and simple about this as I can be -- we're the mules. We're the work mules here. You folks have put on our backs over the last three years 300 percent increases. There hasn't been one concern from my point of view -- and again, I'm sorry to point this so bluntly, but I'm a blunt person -- there hasn't been one concern about spreading the cost out equitably, fairly. Counsel was the first person who pointed that out as plainly as can be done.

In addition, if you truly value as I do legal aid's concerns, wouldn't this be appropriate to put on an appropriations bill and have the

citizens of the State, who I'm sure all value their legal aid equally, to equally bear the burden? I've not heard that. What I've seen over my ears is fee after fee after fee. In addition -- and this hasn't been mentioned yet -- part of these fee increases are for data, the technological database.

I can tell you that the 2011 electronic e-filing has hurt consumers, has hurt clients, has hurt me as a solo practitioner because it now takes me two to three times the amount of labor to e-file -- I don't know if that was the bell or not -- to e-file -- there's the bell, anticipated -- to e-file a writ. That means that my labor costs have gone up in and the amount of production has been reduced by 50 percent.

My clients -- and again, this is something I also I want to address -- over and over again I hear that 75 percent of the suits brought in small claims are by businesses. I'd like to see the breakdown of what that involves. Does it involve the solo practitioner? Does it involve a dentist? A doctor? I'm sure that it does. Again, these are smaller business entities and when they can't make a living, when they have to lay off people --

I thought that one person spoke a little too generally when they said, legal aid decisions mean life and death for people. I'm sorry to say that you need to also recognize that the loss of the job is devastating. I've seen it. I'm on the front line on this, so I see the ugliness and hideousness of this bad economy.

We've got a deep hole and to me, what I'm hearing today is we're using the same old solutions. Go back and dig the hole deeper. Everybody agrees the system does not work.

Well, how about some new ideas? How about spreading things out a little more equitably?

In terms of the automation instituted in 2011 which was instituted for small claims, that was supposed to, quote, eliminate a lot of time and burden off of judicial. I have yet to see any statistics where automating things and the data transformation has been helpful to small claims judicial. And it certainly has not been helpful to the solo practitioner who has taken on an onerous burden.

So when you talk about fees increases, you've got to look at the larger structure of all this, not just $25 here, $25 there. If you look at the broader picture you are putting an onerous burden on us without taking into account the larger scope.

Thank you. I appreciate your listening and if you have any questions I'll be happy to answer them.

SENATOR COLEMAN: Senator Kissel.

SENATOR KISSEL: Thank you very much, Mr. Chairman.

I understand where you're coming from on this. One thing I'm not clear on, though, is why is the e-filing now taking two or three times the amount of time? Because it's always been told me it's supposed to be -- speed up the process or make it easier.

JOE LATINO: Oh, that's -- you know, I'm basically a technophile. I'm a fan of technology, but there's a technological myth that is going on today and that is that technology in and of itself is a cureall. It has complicated things. We used to basically do small claims and by the way, 90 percent of collections is

in small claims.

So the Senator -- or Representative who's not here who raised the idea about raising the fee level, that's really irrelevant. Where this hurts the most are the smaller clients. The clients that have got all these larger suits, they're going to be able to pay for superior court. And I wish I had been able to address the Senator at the time.

But getting back to your point, here's what used to be done, being a small firm. We might bundle up 50 to a hundred writs at a time. We bundle them up, mail them to the court. The court then would process them. Okay. They mailed the writ and the answer to the defendants of the case. And then basically they would send the answers to us and then we'd have a hearing or we'd work something out and we were done. That was basically it.

Now -- now it's not just -- see, this is what bothers me is that people tend to kind of want to isolate these fees. What we've also got to do now is we've got to serve each defendant. Whereas small claims used to serve the defendants, we now have to -- and our clients have to advance the cost which is approximately $5 per defendant. If you've got two defendants that's an additional $10 that the client has to advance out.

In addition the law firm has got to track that. If you say, deliver the writ by delivery confirmation to two defendants, you've got to track that. You've also got to get the writs back e-filed to the court within 30 days. In addition, we're also now required to download proof of service. That is all time-consuming matters that we never had before.

In addition -- and I'm not certain about what judicial's procedures are -- we've also got to track when the answer comes back. We've got to download the answer. And when you're e-filing, what we got sold was a half a loaf with small claims e-filing. Nobody seems to want to talk about this, but I'll take the superior court e-filing system any day before the small claims. Why? Because you can file a withdrawal electronically on the superior courts'. Small claims, not a chance.

Another area of postjudgment collection, you can file e-file -- and this is another problem I've got with the end-all of electronics, is my assistant had made a mistake on a bank execution so the court sent it back. Now neither she nor I had ever encountered this before.

We spent an hour -- an hour before I finally said, enough is enough. And I called up judicial operations and I said, how do we file the corrected execution without paying an additional $75? Because it is nowhere in those long lists -- and I hope to goodness if you folks have not had an attorney or someone show you the e-filing system, they should because judicial operations told me, you've got to go to the search engine and type in, no fee. It's not listed anywhere. How on God's Earth would you know unless some expert told you? This was supposed to be, quote, the people's court for small claims. It isn't.

In addition you can't even electronically file an execution in small claims. So we still have to make bundles -- bundles, areas that would be efficient for the private practitioner -- excuse me for a minute -- are still as cumbersome as ever. What was

alleviated supposedly was the burden on small claims judicial. And sad to say, the law of unintended consequences affected small claims judicial and now that they've alleviated themselves of certain burdens, other unanticipated burdens have shown up.

Another area where it's added a burden on the private practitioner. If you make a typographical error, say, you've misspelled the name. Now it stops the case because you've got to file a correction. That all takes more -- a lot more time. My own analysis is that it is approximately two to three times the amount of manual labor.

So why you -- and I opposed small claims which go in electronic because it was supposed to be the people's court. I tried to explain to the state supreme court rules committee that what you're doing is people have difficulty understanding the process now. With the electronic e-filing and response, people understand it less.

The defendants are left more helpless now under this enlightened electronic system, which costs more money, is laborious and confusing than the system that was the people's court. The people's court today, in all honesty is, hope you've got enough money and expertise and knowledge to be able to function.

I hope I've been clear.

SENATOR COLEMAN: Clear enough.

Thank you also, by the way, for at least recognizing the sound of the chime that goes off. We've gotten into the habit of being very lenient with that.

Are there any other questions for this gentleman?

Seeing none, thank you for your testimony.

JOE LATINO: Thank you for listening.

SENATOR COLEMAN: Patricia Rosenberg.

PATRICIA ROSENBERG: Good afternoon.

SENATOR COLEMAN: Good afternoon.

PATRICIA ROSENBERG: I'm here to speak as someone opposed to the passage of 5388. I am also a solo practitioner. My question really has to do with, will the proposed bill achieve your desired outcomes? So there are two things to look at.

One is, is the legislation thoughtful and evidence based? And the second is, is it useful in terms of assisting and achieving those desired outcomes? So the query is whether any study was done to determine whether increases in costs, in particular in small claims will actually increase the number of cases filed so much -- I mean, will actually decrease the number of cases filed so much that the State actually loses money by raising the cost.

The Connecticut Legislators may look at this maybe as a possible benefit because it would decrease the caseload for the judges and clerks, thereby decreasing access, though, to the courts for both individuals and small businesses.

But more likely, they are actually looking to increase the general fund as is suggested by

the insertion of the phrases in the proposed legislation that amounts received over a certain amount will be forwarded to the general fund and as we received other testimony regarding legal aid and the benefits to them. But those benefits are only achieved if the decreases in the number of filings in small claims is not so great that you actually lose money on it.

And I'm here to say that you may not realize it, but there will be a significant decrease in filings in small claims if you put forward these increases in that area. I'd like to suggest that there maybe should be some proportionality to the claims and that there's also quite an amount of inequity against the plaintiff's attorneys.

So just in sum, I can't believe that the numbers have been run that would actually suggest to you that increases in small claims and the wage and bank executions that go along with that will actually increase the money you receive, but will actually decrease it.

Are there any questions?

SENATOR COLEMAN: Are there questions? Seeing none, thank you very much.

Attorney Rosenberg was actually the last person on our list to testify. I know that we did have a couple of people who didn't respond at the time that their names were called. Let me call them again. Lenny Crohn was one of them. Dianette Caquals was another.

Hearing no response from either, the Chair would inquire concerning whether or not there are any individuals in the audience who have not had an opportunity to address the

committee, but wish to address the committee? If there are this would be your opportunity to come forward.

Seeing none, the Chair would declare this public hearing closed.

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LINE 1

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March 9, 2012

Dear Members of the Judiciary Committee:

My name is Russell London I am an attorney with the law firm of London & London, located in Newington, Connecticut. I have been practicing law for over 20 years now and I am here today to oppose HB 5388 - An Act Concerning Court Fees and the Delivery of Legal Services to the Poor.

In short, this bill is anti-business and anti-consumer. It looks to raise certain court costs and impose a brand new midstream fee in a so-called effort to help fund legal services for the poor and setup a separate fund apart from the general fund to cover future court technology expenses. What I find extremely troubling is that these fees being sought to being imposed are actually going to hurt many of those people that they are intended to benefit. It makes no sense to make financially distressed people (especially defendants to a law suit) have to come up with additional money to fund statewide legal aid services when they are already in financial trouble. This would be the case when a defendant loses a court case and is now has faced with a judgment against him or her which judgment includes all the state court and service fees. I would submit that, if passed, this bill would effectively act as a hidden tax on a losing defendant in court.

In addition, it makes no sense to make it more expensive for people and businesses who have legitimate financial claims to gain access to our courts. I might understand these new fees if there were an imbalance. However, it is my understanding that more fees are actually being collected by the courts than what is actually spent by the judicial department.

Moreover, the increases are not fair. In September of 2009, the general assembly increased court fees, which more than doubled certain court charges, e.g. filing fees for small claims and bank and wage executions. Now this bill seeks to add additional fees on top of those increases, effectively adding almost 300% to the costs of obtaining access to our small claims courts and for obtaining certain court services since September 2009. What business out there in the private sector can charge 300% more for its goods or services. What consumer can afford to see his expenses tripled in less than 3 years.

Another puzzling part of this bill is that it seeks to impose a new "mid- proceeding" charge or what I would consider a "toll" charge. Although you have already paid a $300.00 filing fee for either a civil or family superior court case, you cannot now claim a matter to trial without paying an additional $125.00 charge. This effectively raises the price of going to trial by more than 30%.

Again, I can understand there is a need to fund legal aid services and to pay for the judicial departments computers; however, this is not the way to do it. Increasing the access charge to our court system and saddling losing defendants with additional financial liabilities makes no sense, especially in these tough economic times.

Accordingly, I encourage members of this committee to vote against HR 5388. If you have any questions, I would be happy to entertain those questions now. Thank you.

Respectfully submitted,

Russell L. London

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LINE 7

March 8, 2012

Joint Committee on Judiciary
Room 2500, Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

Re: S.B. No. 5388–An Act Concerning Court Fees and the Delivery of Legal Services to the Poor

Mr. Chairman and Members of the Committee:

I would like to voice my opposition to this bill, which is **unduly burdensome and has unintended consequences.** This bill is supposed to assist poor people; but it is actually taxing poor people, because any increase in the court fees will be passed on to the consumer, who is already experiencing financial difficulty, in the form of the judgment. Thus, an **unintended consequence is that the very consumers this bill attempts to help will ultimately be paying these fees. We understand the need for additional revenue, but we feel this is a poor method.**

The bill is actually anti-consumer and anti-business. We, as attorneys, are not paying the increase in the costs – it is our clients who are advancing the costs– small businesses, such as electricians, plumbers, or landscapers who are seeking redress in our courts. Such an increase fees are making the courts less accessible to those small businesses, as well as the consumer who may need to sue for redress, for example, for return of his or her rent deposit.

The $25.00 increases may not seem like too much; however, in September of 2009, just over two years ago, the fee to sue in small claims was raised from $35.00 to $75.00. If this new fee increase goes into effect, the fee to start a small claims action will have almost tripled in less than three years.

Similarly, the fee to attempt to collect on a judgment through either a bank execution or a wage execution, was also raised from $35.00 to $75.00 in September of 2009, and will have almost tripled in less than 3 years. Additionally, less than 9 years ago, in 2003, there was no fee for a bank execution, and the fee for a wage execution was $20. So, in 9 years, the fee for a wage execution will have increased five-fold, and a $100 fee will have been added for a bank execution.

A new fee of $125 is also proposed in this bill for claiming a case to the trial list. Wherever there are issues of fact, we are required to claim the case to the trial list, or the case will be dismissed by the Court. In Superior Court, the fee for starting a new action was raised from $225 to $300 in September 2009. If it is raised to $325, and adding on the new $125 fee, the fee to have a trial in Superior Court will have doubled from $225 to $450 in less than three years.

By placing such a high barrier for entry into the judicial system, we are precluding court access to the very people you wish to assist, as well as to numerous small businesses. We ask that you consider the financial harm to both consumers and small businesses that this bill will cause, especially in light of the most recent fee increases.

Thank you for your time and attention.

Linda Strumpf

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LINE 19

March 9, 2012
Judiciary Committee
Testimony of Nancy Piccirillo in support of
HB 5388: An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor

My name is Nancy Piccirillo. I am 59 years old and I am on disability. Two years ago I was renting a room from someone and needed to leave. I faced the prospect of being homeless and the daunting task of trying to find the monies to move in an apartment on my SSI income. I didn't know which way to turn, and was fearful and scared. I was terrified of being homeless. I kept looking around and wondering what I would do. How would I live? Would I have to sleep in the street? I couldn't think about anything else and was worried all the time.

It was a church member who informed me of legal aid. I made an appointment. My attorney's name was Nilda. She explained that there was a program that could help me to get a little help with security and rent money to get me started. As soon as I met with Nilda I felt better. She gave me hope and made me feel better. I believed it might actually be OK.

She prepared an application for me, worked with the landlord and advocated for me before the committee which controlled the funds. They agreed to pay the security deposit and help with the first few months rent. I was able to move into a new apartment which is perfect for me. I can't tell you enough how much it helped me at that time in my life. I felt safe and secure. It meant the world to me know and still does.

Two years later I am still in the apartment and I love it. I hope to stay there forever. I am grateful every day for the help legal aid gave me. They gave me a foundation when I really needed it. It changed my life. It wasn't just getting into the apartment. It was having somewhere to turn where people heard my fears and helped. It was a new start when I needed it. It was safety and security at a very scary time. The psychological impact was so great. I am grateful every day and never lose sight of that.

I have nothing but praise to give legal services. They helped me immensely. I strongly believe others should get the same help when they need it. Please help legal aid with the funding they need to continue to help people like me.

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LINE 7

To: Judiciary Committee
From: Shalisha Miller, 117B Center Street
Manchester, CT 06040
Date: March 9, 2012
Re: House Bill 5388: An Act Concerning Court Fees & the Delivery of Legal Services to the Poor

Dear members of the Judiciary Committee:

My name is Shalisha Miller. I have been a client at Greater Hartford Legal Aid. Legal Aid helped me get custody of my 15 year old son. My son is now doing very well in the Manchester School System. When he was in the Hartford School System, my son was bullied and his teachers were not paying attention to his special needs. Now my son feels safe and I am very proud that his grades have improved. This is the reason I am testifying in support of increased funding to legal aid.

With out the help I received from Legal Aid I would not have gotten custody of my son and my son would not be doing as good as he is doing in school. I love and I feel very proud of my son.

Thank you.

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LINE 9

To: Members of the Judiciary Committee

From: Beverly J. Hodgson
Board Member - New Haven Legal Assistance Association

Re: HB 5388 An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor

March 9, 2012

Esteemed members of the Judiciary Committee:

The last time I appeared before you it was for my renewal as a Judge of the Superior Court. Now that I have retired from the bench, I am pursuing my concern for equal justice for all as a member of the board of directors of New Haven Legal Assistance.

This legal aid organization has a wonderful history of helping those who would otherwise have been denied access to justice, and unless this bill, HB 5388, is passed, its ability to continue to provide services will be decimated.

For many years, proceeds from IOLTA have been the mainstay of funding for legal services for the poor. Because of the drop off in IOLTA funds from $4million per year to less than $1 million per year, Legal Aid is in dire straits. Without additional funding, lawyers with the specialized skills in the areas poor people need most will have to be laid off. The lawyers and staff have already had pay cuts and furloughs. Reserve funds are being exhausted, and there is no realistic prospect of private funds to replace the IOLTA support.

Legal Aid provides the bolts that hold the safety net up for the disabled, the elderly, tenants facing homelessness, and victims of domestic violence.

Please pass this bill to preserve these crucial services.

HB 5388

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LINE 5

Senator Coleman, Representative Fox and respected members of the Judiciary Committee. My name is Karen Fritsche and I am here to testify about preserving funding for legal services, which must be preserved, since only they have the legal expertise and ability to do systemic advocacy needed to keep others from what I have experienced.

In January, 2011, my sister, Nancy Fritsche, was taken from Hospital for Special Care, to the ICU where she almost died. Upon her discharge, I was told that I had to sign papers for Qualidigm (hired by DSS) which said that my sister could no longer stay at the HFSC and would be sent to a lower level of care, to a nursing home. Nancy's doctor had just written that Nancy needed to be at the chronic disease hospital level of care because she has severe respiratory problems, degenerative neurological disease, celiac ataxia, swallowing problems and a compromised immune system, which would not survive MRSA (a drug resistant staph infection). In the past, when Nancy was much better, nursing homes could not handle her and had therefore abused her. Imagine now!

I called Qualidigm and asked how to file an appeal, but they said that Nancy had no rights, that there was no appeal. I called my lawyer. Neither he nor anyone in his office, nor over 20 other lawyers whom he called had expertise in Medicaid-nursing home law.

In the meantime, I had to fill out 6 nursing home applications every few weeks and was told that I had to apply to every nursing home in Connecticut, even if that meant that I had to put my sister in a facility hours from me which couldn't really meet her needs.

The Mayor of West Hartford and the Office of Protection and Advocacy, could not help. I turned to Senator Beth Bye, who helped me fill out a form for an appeal. However, Qualidgm and DSS refused to give even her any information about the standards on which patients were to be judged, saying it was proprietary information.

I called the CT Bar. All of their referrals refused this case. George Bickford, the state expert on Social Security law, who could not help me, put me in touch with Attorney Marilyn Denny, at Greater Hartford Legal Aid. She informed me that Nancy had rights, including the right to be reconsidered, to appeal, and to go to court, including that entire appeal system. Moreover, Marilyn obtained what Qualidigm called "proprietary information," the standards that they used to assess Nancy, and discovered that they were excluding consideration of all her conditions except respiratory in determining her appropriate level of care. With Marilyn's help with medical filings to Qualidigm's doctors, they determined that there are only 2 nursing homes in Connecticut that have the respiratory therapy that Nancy requires. This still ignores her multiple other needs. Marilyn and I must submit summaries of Nancy's medical records every 90 days, as must the Hospital for Special Care.

Only Greater Hartford Legal Aid had the expertise to tell me my sister's rights, to find the standards which were characterized as "proprietary information" and to obtain the contract DSS has with Qualidigm which indicates that DSS is paying Qualidigm $400,000 a year to try to move people to a lower level of care, where they usually die.

I have spent 442 hours and over $3,000 on expenses for this case. No one should have to go through this to keep his or her loved ones at the proper level of care. This is a systemic problem, and only Greater Hartford Legal Aid has people with the expertise to help families

fight this problem. Please fund them at the necessary level. Also, please fund a return to the old standards, the standards of Medical Necessity or Medicaid standards, which cover people with multiple handicaps. Please, also, change the law so that the sickest, the ones that are sent to an ICU, are not the ones to get caught in the system and please make it possible to get a ruling that one is at the appropriate level of care, especially if one deteriorates, as my sister has done. I think of all the people at the HFSC who have no one to help them fight this battle. They are very sick, weak and vulnerable. We are all one accident, one disease away from being like them. Dropping people to a lower level of care at which they will die, in order to save the state money, is a euphemism for state sponsored euthanasia. I don't want to live in a state where the weakest and most vulnerable have no one to help them. I hope and believe that all of you, members of this committee, don't want to either. Thank you for your time and attention.

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LINE 19

March 9, 2012
Judiciary Committee
Testimony of Richard Orr in support of funding for Legal Services
H.B. 5388 An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor

Senator Coleman, Representative Fox, Senator Doyle, Representative Holder-Winfield, Senator Kissel, Representative Hetherington, and members of the Committee,

My name is Richard Orr. I am here to ask for your strong support of vitally needed funding for civil legal services for poor people, and to ask for your support for H.B. 5388 An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor.

In my day job I am the Executive Officer for President Susan Herbst at the University of Connecticut, but I am appearing today as the Chair of the Board of Connecticut Legal Services. Our organization, together with New Haven Legal Assistance Association and Greater Hartford Legal Assistance, provides urgently-needed civil legal help to families and individuals in crisis throughout the entire state of Connecticut.

The staff in our programs provide essential services to about ten thousand low-income people facing life crises every year. Their work is a central part of the social service network. Legal services lawyers are the people to whom every social service agency, court, police department and legislative office refers the most complicated and urgent situations facing poor people. Legal services lawyers address situations involving domestic violence, foreclosure and homelessness, basic medical care, nursing home issues, children's education, and more. Legal aid benefits individual clients, but more importantly, it benefits our entire society -- the costs to our state would be enormous if these problems were left unanswered.

Legal aid in Connecticut is in crisis.

Legal aid programs are facing a huge budget shortfall that will, by the middle of this year, force us to slash legal services staff and services, unless additional funding is provided by the General Assembly.

As many of you know, the legal aid budget gap results from the IOLTA crisis. That funding crisis has gone on for four years, and has now gotten worse. IOLTA stands for Interest on Lawyer Trust Accounts. The Legislature set up IOLTA to provide most of the funding for legal aid, and it had been working for 20 years. In 2007 IOLTA produced over $20 million of revenue for legal aid. But as a result of the Great Recession, by 2009 IOLTA had fallen by over $16 million to $4 million. We thought that was the floor, that IOLTA couldn't go lower. In 2009 multiple strategies were employed to fill the gap: In 2009 the legislature increased court filing fees to fill part of the gap; the legal aid programs have worked hard on increasing private fundraising. And unfortunately, the legal aid programs have used a combination of layoffs, attrition and unpaid days to fill in some of the rest.

That still was not enough. The remainder of the gap has been made up by legal aid programs draining our cash reserves, using up our own "rainy day" funds.

We thought the reserves would last until interest rates came up and IOLTA increased. That has not happened.

Instead, our cash reserves are running out. IOLTA has not gone up as we expected. On the contrary, it is going down even further IOLTA now appears to be headed towards just $1 million a year or even less. Without additional help, the programs will be forced to lay off approximately one-fourth of all staff, with layoffs to begin later this year. These are additional cuts, beyond those we have already made.

Fortunately, a solution has been proposed.

The Judicial Branch has, with the support of the Administration, submitted H.B. 5388 to address this crisis. The proposal is to raise certain court filing fees to produce $5.2 million in revenue for legal services, along with $3.4 million in revenue for the Judicial Branch's technology needs. We respectfully urge you to support this proposal.
At the same time we are asking for help, we also have been working very hard on other ways to close our budget gap.

- We have had some success in increasing our private foundation and corporate support even in the face of a down economy.

- We have also pushed hard to build our donor campaign from lawyers and law firms; we now bring in almost $1 million a year from those donors. (Many of these lawyers and firms also provide free (pro bono) legal help to low-income clients.)

- We are supported by virtually every United Way in the state.

All that work, though, produces added revenue in the hundreds of thousands of dollars, not the millions we need to stabilize our funding base and continue current services.

We have also cut costs by minimizing our non-personnel budgets. We have saved personnel costs using various strategies among the programs ranging from attrition to layoffs, from pay cuts to unpaid furlough days. Staffing cuts unfortunately also mean service cuts, and that is why, in this time of enormous client need, we are trying to preserve our remaining infrastructure.

With the funds proposed in the Judiciary bill (and the restoration of the appropriations line, an issue we have testified to before the Appropriations Committee), legal services will be stabilized. We are not asking for funds to address the remaining Justice Gap – the tens of thousands of people each year who need civil legal services and can't get help, many of whom appear without a lawyer in court or, without a lawyer, aren't even able to appear.

We are only seeking sufficient funding to preserve the service capacity we have now – the dedicated staff who have been hanging in through impossible times, and have been providing the highest standards of legal help to low income people in terrible need.

Let me give you an example. Services for victims of domestic violence are one of our core priorities, and for many years we have had a strong working relationship with all 18 domestic violence shelters in the state. We make sure that every domestic violence shelter has a specific connection to one of our family law attorneys, to be sure the most urgent cases get the attention and help they need. If we have to lay off one-fourth of our staff, that level of collaboration will simply be impossible. We won't have enough lawyers left to be able to ensure that there is state-wide civil legal help to victims of domestic violence shelters. And the same problem repeats for people facing homelessness, people dealing with disability, and on and on through the spectrum of core priorities that we currently address.

We have already shrunk during this funding crisis; please support H.B. 5388 so that this situation does not get any worse, and so that at least the low-income people in this state with the most urgent cases can get the help they need.

Thank you for your time and attention. I would be happy to answer any questions.

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LINE 7

Testimony of Dana Smith
March 9, 2012 – Judiciary Committee
In support of House Bill 5388, providing
Funding for Legal Services

I am writing this letter in response to the New Haven Legal Assistance Association, Inc. request for additional funding in order to continue to provide services, for people such as myself that simply cannot afford to retain an attorney:

This is my story-

My name is Dana Smith; I am a divorced single parent of two. My problem started in September of 2011 regarding a heating situation in our home. The property, I reside in, went into foreclosure and was taken over by Fannie Mae. The contractor's that are responsible for maintaining the property did nothing to ensure that my family had heat for the coming winter. I am a renter and also a holder of a Section 8 voucher. While Section 8 advised the contractor of the various violations, still nothing was done to correct the problem. Frustrated, because my request for service was simply ignored, I went to the New Haven Legal Assistance, to request their assistance in January 2012 because I still had no working heat in my apt.

The staff in this office immediately took my information and assigned me to an Attorney, Amy Eppler Epstein, who promptly got in touch with me regarding my concerns.

I am happy to say that my issues have been resolved, all because of their efforts to ensure that people such as myself are not taken advantage of by the big corporations who are buying up the foreclosed properties with no concern for the tenants who reside in them.

Therefore, it is in my opinion given the condition of our economy, to reduce funding to the very people who fight for the underdogs would do our community a dis service. What the Legal Assistance Association provides for a community is a piece of mind, a sense of security when all else has failed.

Thank you for your time

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LINE 1

Legislative Testimony of Manita Sharma

March 9, 2012

Judiciary Committee
Testimony in support of
HB 5388: An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor

I grew up in India, where I lived until 2007. I had a cousin who was married to an Indian man, and they lived together in the United States. They convinced me that I should come and live with them, and that they would help me find a husband and establish a life in the United States as well. I was taken to the embassy in Bombay where I signed a lot of documents in preparation for the journey. When I left India in December of 2007 with my cousin's husband, I learned that they had just gotten a divorce and that I was to be his new wife. He showed me a marriage certificate with my signature on it, which I must have signed with all the other immigration papers. After he raped me, I knew I had no choice but to stay with him because I would be chastised were I to return to India.

My new husband, who was thirty years older than me, took me to Austria, where we lived for the next two years. He abused me physically, sexually, and verbally from the moment we arrived. I became pregnant with our daughter Divyana.

Finally, we moved to the United States in 2009. There, I was shocked to find out that my new husband and I would be sharing a house with my cousin, my husband's ex-wife. He immediately began treating her as his wife, and I slept on the couch and then in my own room with my young daughter. I was treated like a servant by both my cousin and my husband. They kept me isolated in the house, preventing me from making any outside contacts and only allowing me to call my family in India under their close observation. I suffered abuse from both my husband and my cousin, and my daughter witnessed a great deal of the violence.

In late 2009, my husband sent me alone to India, forcibly separating me from my seven-month-old daughter for eight months. When I returned, they treated me worse than ever. Worst of all, I realized that they were passing off my daughter as their own, taking her on family outings while I was forced to stay home. They even told the child's doctor and dance teacher that my cousin was her mother. This was extremely harmful to me emotionally. My husband and cousin kept me in a state of fear by threatening to take my daughter away from me.

I thought that I would never have a chance for happiness until I luckily made contact with a volunteer from a domestic violence shelter. After great trouble, I was finally able to leave my husband and make my way from a shelter and eventually into a rental room of my own. With the help of legal aid lawyers at New Haven Legal Assistance, I was able to get child support that allows me to care for my daughter and myself. Now the lawyers there are helping me fight my husband for custody of my daughter and to get a divorce. I am still afraid that he will try to take her from me, but having a lawyer makes me feel that I will be able to keep my daughter with me and live happily in peace.

PAGE 12
LINE 19

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Testimony of Kimberly A. Knox, Vice President
Connecticut Bar Association
House Bill 5388, An Act Concerning Court Fees and the Delivery of Legal Services to the Poor
Judiciary Committee
March 9, 2012

Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, and members of the Judiciary Committee, thank you for the opportunity to comment on House Bill 5388, An Act Concerning Court Fees and the Delivery of Legal Services to the Poor.

My name is Kimberly A. Knox and I am the Vice President of the Connecticut Bar Association. The CBA is well aware that the Judiciary Committee is considering House Bill 5388 that would increase certain court fees as a vehicle to provide funds for Connecticut's legal aid programs and technology improvements for the Judicial Branch. The CBA has not adopted a position on the bill, so I am not authorized to comment on the specifics contained therein. However, we hope that the Committee is well aware of the CBA's long-standing commitment to the crucial work being done by legal aid. Our members have a long history of supporting that work by volunteering to provide pro bono legal services to low income clients, by making individual financial contributions, and by endorsing public funding for legal aid.

We look forward to working with the various stakeholders on finding a way to help fund the critical work performed by legal aid providers and to assist the Judicial Branch to make technology improvements that will benefit both the public and the bar.

Thank you.

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LINE 6

WRITTEN TESTIMONY IN SUPPORT OF HB 5388-
AN ACT CONCERNING COURT FEES AND
THE DELIVERY OF LEGAL SERVICES TO THE POOR
MARCH 9, 2012 – JUDICIARY COMMITTEE

My name is Tina St. Pierre and I am here to support funding for legal aid and to share my story of how legal services has helped me help my uncle in the past year.

Growing up, Floyd Hull was a wonderful uncle. He was always so funny and did every thing he could for my siblings and me. During his adult life, he worked at Stone Container where he acquired a small pension and then, years later, got a job at Walmart. Floyd had undiagnosed "uncontrolled diabetes" and on December 29th of 2009 my sister found him unresponsive in his apartment. He was rushed to the hospital where doctors had no choice but to amputate his leg due to gangrene. Unfortunately due to his age and other conditions, my uncle was never able to learn how to walk and became confined to a wheelchair for the rest of his life.

Since he didn't have the money to pay out-of-pocket for home health care, we had to tell him that he wouldn't be able to leave the nursing home. He was devastated and so were we. He didn't belong there; but we knew he wasn't able to care for himself. I stepped up to take care of him and became his Power of Attorney. I thought that, as someone who works for an insurance company, I knew I would have the best chance of helping him navigate the complicated rules surrounding his care.

In September of 2010, I heard about a way for Uncle Floyd to get out of the nursing home: a program called Money Follows the Person. I thought our prayers had been answered. It wasn't until much later that we realized that because of a small disability payment from his time at Walmart, he was $26 dollars over the eligibility level; and in order to remain qualified for the MFP program I was told that we would need to get a trust established to handle the $26.00 overage.

By this time, I basically had a part time job trying to navigate all of the in and outs of the legal systems. Between Medicaid, Social Security Disability, liquidating all of his assets, spending down, trying to keep up with all the medical bills, copays, deductibles, fighting the insurance company to pay for services, I started to breakdown. I didn't think I could do this anymore. Everything felt like everything was collapsing and, after a lifetime of work, my uncle didn't deserve this.

I started calling people and someone mentioned that there were services at legal aid that I might be able to use to help me navigate the rules of the special needs trust at little or no cost to my uncle. I left a message with Connecticut Legal Services and received a call back the very next day from a wonderful woman by the name of Esther Rada. I couldn't believe it. It was the fastest anyone had gotten back to me when it came to dealing with my uncle's stuff.

After many months of setbacks and new obstacles, Attorney Rada helped me negotiate a settlement with the disability insurance carrier that would keep Uncle Floyd eligible for Money Follows the Person without setting up a costly and nonsensical special needs trust. She also found out that we could use the disability settlement to get him the basic household necessities that he would need to start his life away from the nursing home. She obtained all of the needed

approvals in writing and informed the DSS social worker of my uncle's rights when it came to 'spending down" this income.

As of this week, and two years and three months after he entered the nursing home, my uncle is finally two weeks away from leaving the nursing home. He will have his small apartment, but more importantly, his dignity and the care and quality of life he deserves.

I can not begin to tell how grateful I am for the help we got from our legal services attorney. Esther was an indispensable resource for us. She was extremely knowledgeable, professional and compassionate. She always understood where I was coming from. If I had a concern, she got us the answers we needed, whether it was about Medicaid, spend-downs, or my role as Power of Attorney. Without her clear guidance and commitment to our case, my uncle's hopes of regaining some level of independence would have been lost and he would have been confined to a life of misery.

When I think of other elderly people in situations like my uncle's not having legal aid, I am heartbroken. The hurdles and complications of the systems surrounding elder care are too great for even the smartest people to manage without a lawyer's help. This is why I am asking you to make a commitment to legal aid funding going forward. Our elder population needs more Legal Aid Attorneys like Esther Rada, not less.

Thank you.

Tina St. Pierre
132 Lakeshore Drive
New Hartford, CT 06057

PAGE 7
LINE 6

Standard Oil of Connecticut, Inc.

S.B. 5388 AN ACT CONCERNING COURT FEE AND DELIVERY OF LEGAL SERVICES TO THE POOR
Judiciary Committee- Public Hearing
March 9, 2012

Testimony
Of
Jacqueline Ivel
Standard Oil of Connecticut, Inc.
299 Bishop Avenue
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Tel. 800-822-3835 x 3595 Fax 203-337-3520
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Recommended Legislative Action: Oppose the passing of S.B 5388

Thank you for the opportunity of speaking to you today

My name is Jacqueline Ivel and I am the Collection Manager of Standard Oil of Connecticut, Inc Standard Oil is located in Bridgeport, Conn and provides heating oil to customers throughout Fairfield and New Haven Counties

I am here to speak in opposition to H B 5388 *An Act Concerning Court Fees and the Delivery of Legal Services to the Poor* for the following reason,

The bill's title, while on the surface sounds like a good idea, will have an ultimate impact and is detrimental to both businesses and consumers alike Upon scratching the surface, businesses are affected by the initial cost of filing claims as well as the increasing cost to recover claims in order to recoup lost revenue Once you dig a little deeper, it is apparent that the consumer is ultimately bearing the cost

First, the very fact that the consumer is being sued depicts that the consumer is most likely already experiencing financial hardship Most collection cases are initiated not because the defendant does not want to pay but because they cannot afford to pay

Additionally, given the current economic conditions, many middle class people are suddenly finding they are underemployed or out of work with no foreseeable remedy in sight These people are witnessing their middle class status shrinking right before their eyes When they are being sued, all filing cost are always assessed to the defendant to repay, in essence this is the same defendant who is already experiencing a bout of financial hardship While it is very understandable that there needs to be a way to fund legal services for these people, I don't believe the right way is to impose an additional fee during these tough economic times

Second, an increase in filing fees will also immediately and adversely impact businesses As fewer claims will be filed resulting in an immediate loss of revenue, as many businesses may find that they can longer afford to use the small claims courts turning many of their receivables into bad debts, which may result in those same businesses hesitant to extend credit, as they may feel they are unable to recoup their losses largely impart to the rising cost of trying to recover and the likelihood of ever recovering on the judgment, which will inevitably result in loss of jobs

In a time where the financial equilibrium of our state is already teetering on the brink of disaster, can we the employers and we the consumers, afford another bill that in the end may lead us to buyer's remorse?

I have attached a flow chart which outlines the financial impact to consumers as a result of the passing of this bill

I would like to thank you again for the opportunity to address the panel today

Jacqueline Ivel
Standard Oil of Connecticut, Inc
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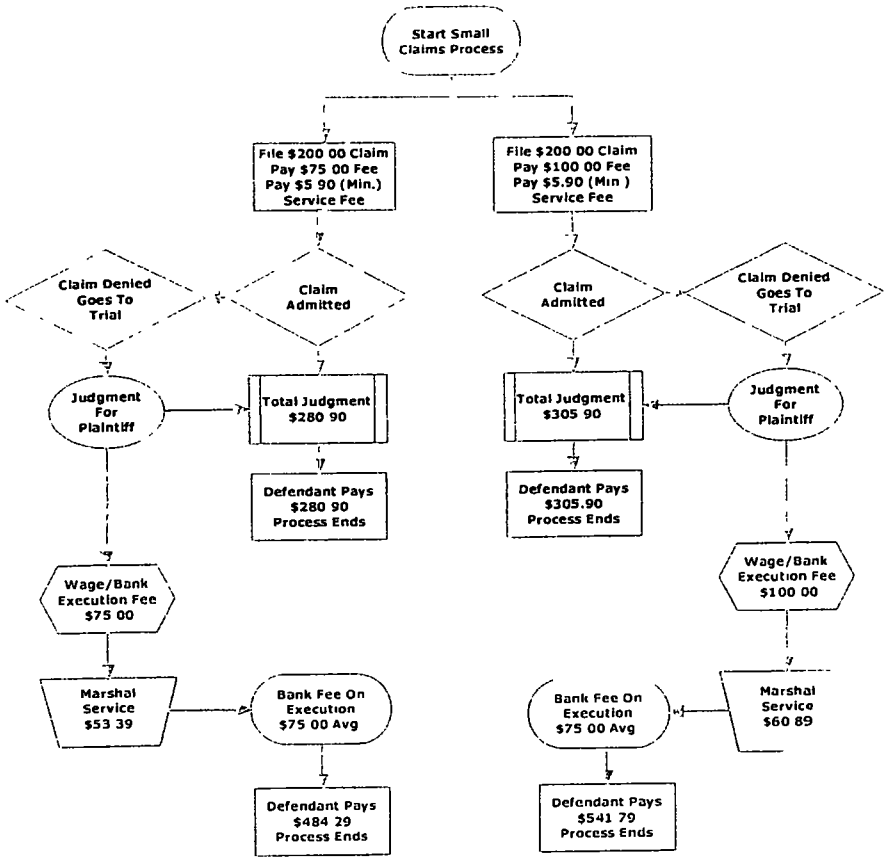
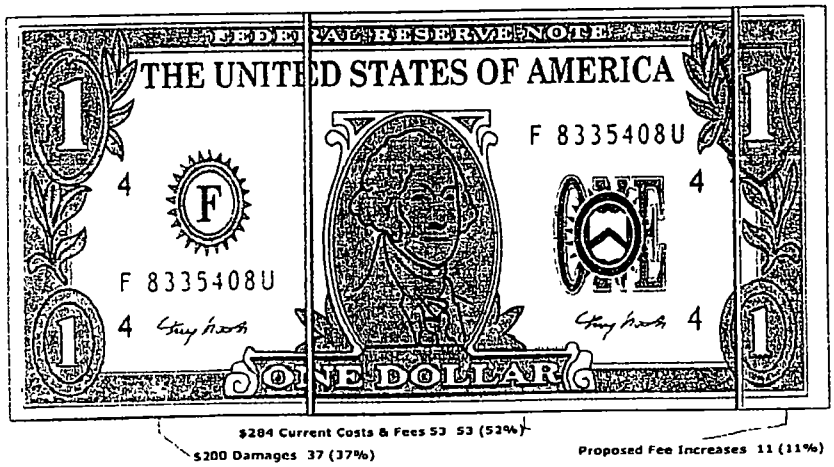
1-800-822-3838 x 3595

Justice Overpriced = Citizens Overburdened



$200.00 In Damages Can Become $541.79 With Court Costs And Other Fees - A 171% Increase - Can The Creditor Afford The Fees - Can The Debtor Ever Pay Them??



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Judiciary Committee
Public Hearing
March 9, 2012

Raised Bill No. 5388-AN ACT CONCERNING CONCERNING COURT FEES AND THE DELIVERY OF LEGAL SERVICES TO THE POOR

TESTIMONY OF ATTORNEY **RENÉE CANNELLA** OF THE CANNELLA LAW FIRM, STAMFORD, CT IN OPPOSITION TO RAISED BILL NO. 5388

Chairman Fox, Chairman Coleman and Distinguished Members of the Judiciary Committee:

With the current state of economic devastation, for so many, individuals and businesses alike, the suggestion of increasing court fees at this time is contrary to common sense and removed from the reality of how these increases will affect the very people they are purportedly proposed to help.

SMALL CLAIMS FILING FEE
While the effects of the fee increases will be felt by all who utilize our courts I will focus my first remarks on the chilling affect these increases will have in Small Claims court. Small claims court is used by individuals and businesses for claims to recoup money owed to them for a variety of reasons but most often for rent, unpaid loans, or for services or products which were provided and remain unpaid. As recently as 2009, the filing fee for small claims court more than doubled when it was raised from $35 to $75, an increase of almost 115%. Now, less than three years later an additional almost 34% increase? Thus the fee for getting into small claims court has almost tripled in less than three years.

POST JUDGMENT COLLECTION FEES
Then, looking at post judgment remedies to collect a judgment which a defendant has failed to pay, there is now a proposal to increase bank and wage execution fees to $100.00, again almost a tripling of what the fee was less than three years ago.

SAMPLE CASE
From a practical standpoint, it would be helpful to consider a typical case in small claims court. A landscaper who is owed $300.00 and in all likelihood has gone unpaid for years must pay 1/3 of what he is owed just to get into court. He goes to court and obtains a judgment for the $300.00 plus the court fee of $100.00. He is now owed $400.00. The defendant defaults on that payment. The landscaper has to come up with an additional $100.00 to move the court for a bank execution. The bank execution is unsuccessful. Now the landscaper moves the court for a wage execution for which

he must pay an additional $100.00. Court fees have now doubled the loss the landscaper had initially suffered. An amount of money he can ill afford to advance even if the costs are ultimately the responsibility of the defendant who owed the original $300.00 Which takes us to the next part of this equation- The defendant, who is most likely already in financial straits, now owes twice as much as he did initially. So now you may say perhaps the landscaper should just write off the loss and not pursue his rights in court. But a small business person cannot afford to write off $300.00 or even $200.00 or less, nor should he have to. Our state should not be placing businesses in such a position. If businesses cannot reasonably seek redress in our courts for services or products they have provided but have not been paid for they cannot continue to operate and if they cannot continue to operate they cannot continue to employ the citizens of our state and that is the slippery slope we are now on. I can assure you, no private businesses have tripled their fees/rates in the past three years, how can the state justify doing so?

NEW FEE- CLAIM TO THE TRIAL LIST

Part of the bill adds a brand new fee, specifically,

> *There shall be paid to the clerk of the Superior Court a fee of one hundred twenty-five dollars at the time any claim to the trial list is filed.*

If a case is filed in Superior Court and the case is not resolved by a default judgment or a motion for summary judgment, where there are issues of fact the matter must be claimed to the trial list or it will be dismissed. In order to prevent a case from being dismissed without an opportunity to be heard, Raised Bill 5388 will require a payment of $125.00 in addition to the initial filing fee the plaintiff already paid.

Imagine you buy tickets to a baseball game; you spend a few hundred dollars. You're watching the game, taking it all in, looking forward to seeing your team win. Before the last inning, an announcement is made. If you want to watch the end of the game you have to now pay an additional fee or you will be ejected from the stadium. I do not believe that scheme would feel fair to most who consider it. And in this scenario we are just talking about a game, entertainment. In court we are talking about the adjudication of legal rights.

Thank you for your consideration and I urge you to consider the vast ramifications of increasing court fees on Connecticut businesses and consumers.

Renee Cannella

Written Testimony for the Record Submitted by
Brian Sullivan
Director of Policy
Connecticut Coalition Against Domestic Violence

Submitted to the
Joint Committee on Judiciary

Hearing on
H.B. No. 5388 (RAISED) AN ACT CONCERNING COURT FEES AND THE DELIVERY OF LEGAL SERVICES TO THE POOR

Hearing Held March 9, 2012
Written Testimony Submitted March 8, 2012

Co-Chairman Eric Coleman, Co-Chairman Gerald Fox and Members of the Committee,

I am pleased to have the opportunity to submit written testimony on behalf of the Connecticut Coalition Against Domestic Violence (CCADV) to be included in the Committee's official record of the hearing held March 9, 2012, on "H.B. No. 5388: An Act Concerning Court Fees and the Delivery of Legal Services to the Poor"

CCADV is the leading voice of domestic violence victims across the state, and represents its 18 member organizations, which work to provide counseling, support services and safe accommodations for victims and their children. We work tirelessly to change social conditions through advocacy, public awareness, technical assistance and education.

I commend you, Co-Chairmen Coleman and Fox and the entire Committee for holding this important hearing, which provides a useful forum to examine the need for additional legal aid funding for victims of domestic violence in Connecticut.

CCADV has a long-standing working relationship with Connecticut's Legal Aid programs, as victims of domestic violence turn to legal services for help when they need restraining and/or custody orders (especially if their abuser has an attorney), when they need help keeping their housing or employment because the abuser's harassment is causing problems for them, and for a whole host of other legal issues that are especially problematic for the poor.

Last year alone, about **1500** victims of domestic violence across the state received Legal Aid services. If Legal Aid programs are forced to reduce services by the projected 25% figure because additional funding sources cannot be developed, just under **400** victims of domestic violence will no longer have access to legal services in our state

The prospect of further service reductions and layoffs is unacceptable, especially given the fact that in our most recent CCADV survey, 85% of our domestic violence advocates agreed that having *more* Legal Aid attorneys was necessary Additionally, the indigent population across Connecticut continues to rise, as the number of state residents needing food stamps has almost

doubled since 2007 As such, we can expect a similar increase in the number of people who will not be able to afford private legal representation, placing further strain on our already packed Legal Aid system

Legal Aid employees and supporters have been doing everything in their power to maintain their level of service to poor people in Connecticut, despite the difficult economic climate of the last few years Because of their ramped-up fundraising efforts, donations from the legal community have actually increased Legal Aid has received foundation funding, maximized federal funding, and maintained their support from local United Ways But even with these newly developed sources, and the vital state funding boost they received in 2009, Legal Aid programs have shrunk through layoff, attrition, and continued unpaid days

As such, without the passage of HB5388, which will impose increases in court fees to raise an additional $5.2 million in Legal Aid funding, poor people in Connecticut who have already been victimized by their abusers *will* lose access to the legal services they so desperately need, and be forced to suffer once more through no fault of their own.

This legislation is vital to ensuring that the less fortunate members of our community will continue to have access to Connecticut courts. The projected $5.2 million infusion that will result from the passage of HB5388 will be a solid investment for the people of Connecticut, since Legal Aid services help people get out of domestic violence shelters, avoid homeless shelters, help disabled people access federal benefits, and help senior citizens maintain their independence. Legal aid programs reduce the number of unrepresented people flooding the courts, and leverage donated legal help for the poor from the private bar. Reductions in legal services will increase cost in other safety net programs and delay access to justice to everyone who needs access to our courts

CCADV stands ready to support HB5388 and additional funding measures for Connecticut's Legal Aid programs because we know that access to the courts is paramount to impoverished victims of domestic violence, who have no other means of obtaining the justice or services they so desperately require. We invite the Committee to reach out to CCADV for expertise on all legislation that potentially impacts the rights of victims of domestic violence, and look forward to a close working relationship in the future.

TESTIMONY OF RANI SIKAND-TRUDEAU

BEFORE THE JUDICIARY COMMITTEE

SUPPORTING HB 5388: AN ACT CONCERNING COURT FEES AND THE DELIVERY OF LEGAL SERVICES TO THE POOR
MARCH 9, 2012

Good evening. My name is Rani Sikand-Trudeau. I live in Willimantic, Connecticut. I am here to advocate for funding of Legal Aid for low-income and elderly people

I have relied on Connecticut Legal Services many times in the past. In 2003, when I lost Medicaid funding for transportation to my psychologist in West Hartford, I asked CLS to help me. I really trusted this psychologist who had been helping me for over 16 years. It was very important to my mental health to continue seeing him. CLS attorneys represented me at a fair hearing and all the way to the Supreme Court trying to keep my transportation in that case. Even though we lost at the Supreme Court, I was able to continue seeing my psychologist while the case was on appeal which I believe helped me stay in the community.

In 2006, after I lost my transportation to my long –term psychologist, my mental and physical health deteriorated. I stopped seeing any psychologist and ended up in the hospital on many occasions. Finally, after my last hospitalization, my doctor determined I should go to a nursing home for rehabilitation in 2007.

When I was in the nursing home, I was not treated fairly. The nursing home tried several times to discharge me back to my home in the community or send me to a different hospital. Each time this happened, Connecticut Legal Services attorneys intervened and prevented the nursing home from discharging me.

In August 2008, I was sent to UMass Medical Center in Worcester due to a physical illness. While I was on my way back to the nursing home, the ambulance attendants dropped me from the gurney and I broke my upper arm. The hospital readmitted me to set my arm, but when the hospital was ready to discharge me again, the nursing home refused to readmit me. Again, CLS attorneys represented me at a fair hearing to get the Department of Social Services to order the nursing home to readmit me. Before DSS issued a decision in the case, however, the nursing home finally agreed to take me back and I was readmitted in March 2009 after seven months in the hospital.

When I went back to the nursing home, I needed more rehabilitation which was unavailable at the hospital. I continued my therapies and weight loss program. I eventually lost 180 lbs. and changed my personality. I volunteered to start an exercise program at the nursing home which I led from my wheelchair twice a week.

My goal had always been to go back home to live with my fiancé. When the Money Follows the Person program became available, I was accepted and was able to successfully move back home in August 2010. On the day I left, the nursing home staff and residents threw a big farewell party for me and wished me well.

I continue to volunteer at the nursing home twice a week where I lead an exercise class from my wheelchair. In November 2010, I was finally able to marry my long- time fiancé after being together 18 years Our marriage is wonderful and a dream come true!

I'm grateful for the help Legal Aid gave me and I urge you to support their funding.

March 9, 2012
Judiciary Committee
Testimony of Dorette Barnett in support of
HB 5388: An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor

My name is Dorette Barnett I am here to support funding for legal aid. Greater Hartford Legal Aid has helped me advocate for appropriate school programs for two of my children, and given me counsel and support in dealing with juvenile court and DCF

My oldest son, Michael, has significant attention issues, and had emotional and behavioral problems while in school and at home. My legal aid attorney reviewed all of Michael's educational and medical records, represented me at school meetings, and clearly explained to me the special education process, my rights and options for Michael. She helped me to voice my concerns with the school. We worked together to increase supports for Michael and to tailor Michael's program in the public school. Ultimately, Michael's needs were too great for public school and he was placed in a private clinical day program, and later in residential Throughout this period, my legal aid attorney also assisted me with advocating with DCF for increased supports for Michael through the voluntary services program I am happy to say that with my tireless efforts, with the support of my legal aid attorney, Michael is now emotionally and behaviorally stable, and thriving in college He hopes to enter the culinary profession.

My middle daughter, Shaqiea, is now in 11th grade. Throughout elementary school, Shaqiea did very well at school. Her attention and behavioral issues really started to show themselves in middle school and then high school. She repeated Michael's earlier behavior, but also became physically aggressive My first thought was to get in contact with my legal aid attorney because of our great success with Michael She stepped in, and through the special education process, Shaqiea was identified as eligible to get special education supports. Through the following school years, we worked together to tailor Shaqiea's public school program to meet her needs. We advocated against excessive discipline against Shaqiea because those discipline methods did little to address Shaqiea's distinct needs Through this period, Shaqiea also became involved with Juvenile Court and DCF. My legal aid attorney carefully explained this process to me and tried to coordinate services with the school. Shaqiea is now placed in a private clinical day school getting the help she needs. And, I am again optimistic for her future.

I am so grateful for the knowledge and support that my legal aid attorney has given me through the years with both of my children I believe it will be detrimental to families and children, and the community as a whole, if funding is taken away from legal aid and people in need can't secure legal aid's help. Please support funding for legal aid so they can continue with their important work and help other parents I am happy to answer any questions that you have Thank you for your time and consideration

Dorette Barnett
860-881-1919
274 Cornwall Street, 2nd Floor, Hartford, CT

March 7, 2012

Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

Re: HB 5388: Proposed filing fee increase bill to fund Connecticut's legal services programs

Dear Members of the Judiciary Committee of the Connecticut General Assembly:

This letter is being submitted on behalf of Connecticut's four affinity bar associations, the Connecticut Asian Pacific American Bar Association (CAPABA), the Connecticut Hispanic Bar Association (CHBA), the George W. Crawford Black Bar Association (Crawford) and the South Asian Bar Association of Connecticut (SABAC). CAPABA, CHBA, Crawford and SABAC write this letter to express our strong support for the bill HB 5388 (the "Bill") proposed by the Judicial Branch that would increase court filing fees to fund legal services for Connecticut's low-income populations.

Our organizations represent the interests of many of Connecticut's minority lawyers, judges, legal professionals and law students. We share a common interest in the goals of ensuring access to justice by the minority communities that we represent, and every lawyer's ethical responsibility to support and participate in the provision of legal services to the poor

Connecticut Legal Services, Greater Hartford Legal Aid and New Haven Legal Assistance represent low-income clients through Connecticut in thousands of cases each year. These organizations provide much-needed free legal assistance to low-income families facing imminent homelessness, victims of domestic violence, disabled adults and children seeking state and federal benefits, elderly individuals facing nursing home problems and collection actions, among countless other civil legal difficulties. At the same time, the longstanding method for the funding of these programs, Interest on Lawyers Trust Accounts (IOLTA), has dropped from $20 million a year to nearly $1 million over the last few years. Interest rates on these accounts are below 1%, and will likely remain at those levels for the foreseeable future. These funding difficulties come at a time when the number of low-income individuals in need of these vital legal services continues to grow

Donations from the legal community have increased significantly, and prior legislative assistance in 2009 has helped address some of the shortfall. Connecticut's legal services programs have additionally struggled to obtain other grants, maximize federal funding, and maintain other sources of funding such as the United Way While these efforts have helped stabilize the worst of the effects of the IOLTA funding crash, Connecticut's

legal services programs have continued to shrink due to layoffs, attrition without the possibility of replacement, and unpaid furlough days.

The Bill will ensure the continued provision of quality legal services to Connecticut's most vulnerable populations. Legal aid programs reduce the number of unrepresented people flooding the courts, and help marshal pro bono legal help for the poor from the private bar. Reductions in legal services will increase costs in other safety net programs and delay access to justice to everyone who needs access to the courts.

Thank you for your consideration of this letter of support. We sincerely hope that you will support this initiative to help create a stable and reliable source of funding for legal services to the disadvantaged.

Sincerely yours,

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Testimony of Richard Dennis

March 9, 2012 before the Judiciary Committee

For HB 5388: An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor

My name is Richard Dennis and I live in East Haven, Connecticut. Legal aid recently helped me with my unemployment case. I had worked for the same construction company for about seven years and never expected to leave. When the company started having financial problems, things got really bad They didn't have enough money to cover payroll, so the direct deposit stopped and I got stuck with overdraft fees. I found out that the company had stopped contributing money to our 401K accounts The president, my boss, let almost all of the other employees go When customers got mad because no one showed up for jobs, and when subcontractors got mad because they didn't get paid, they called my cell phone and yelled at me, at all hours of the day and night But I put up with it because I needed the job

I started looking for another job and planned to stay until I found one, but my boss started acting very strange. He collected guns and had a lot of them around the office. I started to notice bullet holes in a truck parked outside the warehouse. One day, I was working and my boss shot a gun right inside the office, into a bulletproof vest hanging on the wall. I didn't feel safe any more and I gave my notice. I applied for unemployment benefits so that my family would have something to live on until I found another job When I explained why I left, the unemployment office granted me the benefits

The company appealed and I had to go to a hearing. I thought it would be okay, since I the unemployment office had already approved me. Just to be sure, I asked two former coworkers who had also seen the boss fire a gun at work if they would be witnesses. They couldn't come to the hearing because they were working, but they said the referee could call them. When I got to the hearing, my boss lied and said that he had never fired a gun at work, and the referee believed him I asked the referee to call my witnesses, but he refused The decision I got in the mail not only cut off my benefits but said I could even have to repay the benefits I had already gotten, about $3,000 which I had already spent. I called legal aid and they agreed to help. My lawyer filed a motion to get another hearing. She went to the new hearing with me and she made sure that the referee listened to my witnesses. He finally believed me and I ended up winning the case.

I'm not on unemployment anymore, I found a new job. I actually took a day off from work today just so I could be here. I was stuck in a horrible situation with unemployment and without legal aid I would not have been able to appeal on my own. I am the main provider for my wife and 3 children, my wife is a part-time school bus driver , the stress of not being able to pay my bills or put food on my table was a burden and I wouldn't wish this on anyone I was cut from my benefits for 7 weeks and went through what was left of our savings to stay afloat Thanks to legal aid and my attorney I won my case with unemployment and all funds were released and I was able to pay everything before I fell behind Legal aid is very important to people like me who can't afford a lawyer and have no where else to turn Without them I could have lost everything

JULIE KUSHNER
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INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA-UAW

BOB KING, President

DENNIS WILLIAMS, Secretary-Treasurer

March 9, 2012

To: Senator Coleman, Rep. Fox and Members of the Judiciary Committee

From: Beverley Brakeman, UAW Region 9A

Re: HB 5388 - An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor.

Good afternoon, my name is Beverley Brakeman and I am here to testify on behalf of UAW Region 9A Director Julie Kushner and over 8,000 active and retired UAW members living in Connecticut.

I am here to ask for your support of HB 5388 An Act Concerning Court Fees And The Delivery Of Legal Services To The Poor.

UAW represents thousands of legal aid attorneys and workers across the country and here in Connecticut UAW Local 2320, the National Organization of Legal Service Workers (NOLSW) is our national local which provides services in states across the country to low income individuals dealing with domestic violence, homelessness, housing, lack of disability benefits and more.

The facts speak for themselves as to why passing this bill is critical to the state's safety net infrastructure:

1. Interest on Lawyers Trust Accounts (IOLTA), the major source of funding for legal aid, has been devastated by the downturn in the housing market and reduction in interest rates. Five years ago, IOLTA provided $20 million to legal aid programs, this year that number is projected to be $1 million;
2. The need for these services is growing while the programs are having to cut resources and staffing;
3. There are more poor people in this state and country then there has been in a long time. Without programs like ours, they do not have access to justice or representation;
4. Legal aid attorneys and workers have sacrificed enormously by taking unpaid days off, attrition and layoffs. They are barely managing their growing caseloads at a time when they too are under enormous personal stress and strain;
5. Legal aid is a good investment which reduces the number of unrepresented people flooding the courts, gets people out of violent situations, helps them avoid homeless shelters and gets disabled people access to benefits. NOT funding these services will result in greater cost to the state and its taxpayers if not addressed.

Our members are over-worked, under-resourced and under paid. Yet they have maintained unprecedented levels of professionalism and commitment to their clients and to their employer. They have all sustained pay cuts and reduced hours while managing growing and more complicated client loads and responsibilities.

If this state is unable to sustain these programs the ripple effect ends at your door step with your constituents who cannot get services and assistance and have nowhere to go An investment in these programs and our members pays for itself and we cannot afford to not to fix this problem

You will hear from many of our members and their clients tonight. I am here because I want you to know that the UAW stands together with our members and their clients and I urge you to do the same. Thank you

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Raised Bill 5388
Public Hearing 3-9-12

TO: **MEMBERS OF THE JUDICIARY COMMITTEE**
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION
DATE: MARCH 9, 2012

RE: ***OPPOSITION TO RAISED BILL NO. 5388***
AAC Court Fees and the Delivery of Legal Services to the Poor

The Connecticut Trial Lawyers Association ("CTLA") respectfully opposes Raised Bill No. 5388 as currently drafted. The CTLA certainly supports and agrees that additional funds are needed to support Connecticut's legal aid services, as well as the computer upgrades sought by the Judicial Department. However, the CTLA opposes Bill No. 5388 because it places an unfair and disproportionate burden for the costs of this effort on plaintiffs in civil actions, and the trial bar in general.

The proposed Bill raises certain existing civil filing fees and adds a new $125.00 fee each time a trial claim is filed in a case. This filing, known also as a Certificate of Closed Pleadings, must be filed in every civil lawsuit. The filing, however, is almost always submitted by the plaintiff prosecuting the case because without it, the case does not progress in the court system. The purpose of the filing is to simply alert the Court that the pleading process has concluded so that it can then schedule the rest of the discovery and ultimately a trial date for the case. For this reason, the Certificate of Closed Pleadings is rarely filed by the defendant

Eventually, this new fee is borne by the individual plaintiff. In personal injury cases, the plaintiff is frequently an individual who has sustained a serious or life altering injury, is disabled and unable to work. From a standpoint of public policy, the burden of funding legal services should not be placed disproportionately on this class of individuals, who already pay $300.00 to file a civil case and another $425.00 if they seek a jury trial.

Additionally, the bill fails to spread the cost across all areas of law where legal services are consumed. Transactional attorneys, real estate attorneys, probate attorneys and their clients, as well as other attorneys and clients outside of the litigation context, are excluded from the effort. As such, this bill unfairly places the burden on one particular practice area, namely civil litigation, rather than across all areas of practice where legal services are consumed.

The CTLA would certainly be willing to participate with the Connecticut Bar Association and the Judicial Department in an effort to reach equitable alternatives that will achieve the same very worthwhile goal.

Accordingly, CTLA respectfully opposes Raised Bill No. 5388.

STATE OF CONNECTICUT
JUDICIAL BRANCH

EXTERNAL AFFAIRS DIVISION

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Testimony of the Honorable Barbara M. Quinn,
Chief Court Administrator
Judiciary Committee Public Hearing
March 9, 2012

H.B. 5388, An Act Concerning Court Fees and the Delivery of Legal Services to the Poor

H.B. 5365, An Act Concerning Court Operations and Victim Services

H.B. 5290, An Act Concerning the Leasing of Judicial Branch Facilities

H.B. 5034, An Act Concerning Retirement Provisions Relating to Judges, Family Support Magistrates and Compensation Commissioners

Good morning, Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, and members of the Judiciary Committee. I appear before you today to testify in favor of four bills that are important to the Judicial Branch. I will start out by discussing the three bills that are part of the Judicial Branch's legislative package: H.B. 5388, *An Act Concerning Court Fees and the Delivery of Legal Services to the Poor*; H.B. 5365, *An Act Concerning Court Operations and Victim Services*, and H.B. 5290, *An Act Concerning the Leasing of Judicial Branch Facilities*, and will conclude with H.B. 5034, *An Act Concerning Retirement Provisions Relating to Judges, Family Support Magistrates and Compensation Commissioners*, which is a Governor's bill.

H.B. 5388, An Act Concerning Court Fees and the Delivery of Legal Services to the Poor

This proposal calls for an increase in certain court fees and requires the revenue realized from these fee increases be used to provide additional funding for legal services for the poor and Judicial Branch technology. There is a significant crisis in funding for legal

services, and we believe this proposal begins to address that crisis. If something is not done to provide additional funding to legal services, we will see an even greater number of self-represented parties seeking assistance from the Branch because they have no place else to turn. Meeting those needs will require the Branch to focus more of its time and staff resources on the needs of the self-represented, impacting the level of service provided in clerk's offices and in courtrooms.

Some of the details about what fees will be charged as contained in this proposal are being discussed between the Judicial Branch and some bar groups. There remains room for change and agreement. I wanted to stress that at this juncture the details are less important to discuss and can still be altered, but the need for funding is crucial. Because I am certain that there will be many others who will testify on that point today, I will now concentrate my testimony on the need for an adequate, predictable and reliable source of funding for Judicial Branch technology.

Over the past several years, the Judicial Branch has come to rely more and more on the use of technology in order to minimize the impact of the budget and staff reductions on the public. We are operating under severe staff and financial constraints. The Judicial Branch has 250 fewer employees today than we had in January 2011, and only 1 out of 7 employees leaving the Branch is being replaced. The use of technology is vital for the Judicial Branch to resolve disputes and adjudicate criminal matters in a fair and timely manner with fewer employees. It is critical that we have an adequate and reliable funding source for technology. Stable and reliable technology resources are imperative, given the overwhelming increase in the number of self-represented individuals using the court system.

Currently, funding for technology is provided through bonding, which has not proven to be a stable or consistent source of funding. For example, in 1997, the Executive and Legislative Branches accepted a Judicial Branch long-term technology plan that totaled $56 million. However, over the 15 years that have passed since that time, only $18.5 of the $56 million has been allocated by the Bond Commission, around one third of the amount. As you can appreciate, our ability to carry out our technology plan has been significantly negatively impacted by such unpredictable funding.

Accurate and timely court data forms the cornerstone of the entire justice system. Criminal justice agencies rely on the data the Judicial Branch collects and transmits. The

data we enter as cases come to court is the basis of all criminal justice record information in the state. Accurate and timely data entry, retrieval and storage are critical to public safety.

If the funding is provided through passage of this bill, it will be used for the following purposes:

- Replace our criminal/motor vehicle system, which is over 25 years old, making the transmission of data to criminal justice agencies more timely and comprehensive. An updated and reliable criminal/motor vehicle system will be a key component to assuring the success for the CJIS information system currently being developed in accordance with Public Act 08-01.
- Enhance notice to crime victims about the status of court cases and offender tracking.
- Implement electronic filing in family cases within the next several years, providing virtually 24-hour-a-day access to documents and file information; allowing documents to be filed with the court from any computer at any time; providing faster and more predictable calendaring of motions and pleadings; and speeding up the processing of orders and decisions.
- Increase access to court information for members of the public and the bar.
- Provide self-represented parties the ability to e-file civil, family matters and additional small claims documents.
- Expand Help Desk hours outside of the normal business hours in order to support outside users.
- Develop a system of electronic notice to provide attorneys and law firms with information regarding filings, notices, scheduling or other court and case-related information, through a secure server or by email.
- Maintain, upgrade and enhance our technology infrastructure, including expansion of our storage capacity and upgrading servers in order to ensure the integrity of court files and reliable access to those files.
- Provide attorneys with nearly instantaneous 24-hour access to digital audio recordings of court hearings and trials on a daily basis, so that they can review a

day's testimony from their own computer, without the expense or delay of an official transcript.

Let me add that, unlike many other states, the Judicial Branch does not charge the public or attorneys for access to the information we make available on our website, and it is not our intent to start doing so. When we considered the various options that would provide us with consistent and reliable funding to support the technology that is integral to making this information readily available, we made a conscious decision not to begin charging for website access. Passage of this bill will ensure that we can continue to provide free access to our website information.

House Bill 5365, An Act Concerning Court Operations and Victim Services

This bill would make a number of changes that will improve the operation of the Judicial Branch. It covers a variety of topics, so I thought it would be best not to go through it section by section, but to highlight the most significant provisions of the bill.

One section allows for electronic communication of court orders, one more necessary step to move to an electronic rather than a paper based court system. Other sections codify into statute a common practice in our criminal courts regarding fee amounts and their collection. Some sections improve and clarify certain victims' compensation provisions. There are technical provisions regarding the authority of our courts to handle dissolutions of civil unions solemnized in other states, there are other technical provisions concerning evictions and summary process procedures. Some sections would repeal obsolete provisions of the General Statutes. As you can see, each of these items taken individual is relatively minor, but as a whole they are important to ensuring that the Judicial Branch is able to function more effectively and efficiently.

House Bill 5290, An Act Concerning the Leasing of Judicial Branch Facilities

This bill would allow the Commissioner of Administrative Services (DAS) to delegate leasing authority to the Judicial Branch under certain circumstances.

On behalf of the Branch, DAS has entered into approximately 47 leases for facilities and parking, which comprises approximately twenty percent of the state's overall lease