



**CONNECTICUT TRIAL LAWYERS ASSOCIATION**

**Oppose in Part S.B. No. 593 (Raised)**

The Connecticut Trial Lawyers Association opposes in part S.B. No. 593 (Raised), “An Act Concerning Offers of Compromise and Offers of Judgment”. The Offer of Judgment statute was amended last term by P.A. 05-275, Section 4, et seq. Section 3 of S. B. No. 593 seeks to address a technical error which exists in Public Act 05-275, Section 4. The Connecticut Trial Lawyers Association supports Section 3 of S.B. No. 593 as it simply confirms the intent of the legislature when passing Public Act 05-275. However, we object to Sections 1 and 2 of S.B. No. 593, which make substantive changes to the offer of judgment statute which are unnecessary or harmful to injured citizens of Connecticut.

Section 1 of the Bill would extend the pre-filing requirements applying to med mal cases, to all cases. Under the proposal, a plaintiff would have to provide the defendant with an unlimited HIPAA authorization before the plaintiff could file an offer of judgment. Why a plaintiff who is claiming a simple shoulder injury, for example, would have to provide an unlimited medical authorization is not clear. It seems as though this would raise all types of privacy concerns and allow access to the defendant to obviously unrelated medical records, some of which may be embarrassing.

If the concern to defendants is that they have all relevant records to evaluate the claim, the 2005 amendment to the statutes addresses that problem by preventing the plaintiff from filing the offer of judgment for 180 days from service of suit. The defendants have six months to collect all of their information through written discovery and through depositions. The standard written

discovery promulgated by the Judiciary does not allow unfettered access to all medical records; rather it requires production of all relevant pre and post accident records. The proposed legislation would be an “end run” on the standard discovery requests that are in place.

Passage of Section 1, may result in fewer offers of judgment being filed. Some plaintiffs will object to producing a HIPAA authorization and therefore will not be eligible to file. Some plaintiffs lawyers will not want, for whatever reason, to comply with the “pre-filing” requirements. The result will be fewer offers of judgment. Offers of judgment encourage settlement. If they are not filed, the impact can only be negative in terms of the backlog of pending files at the courthouses.

Section 2 of Raised Bill No. 593 is even more puzzling. Why reduce the time limit for the plaintiff to accept the offer of judgment from sixty days to ten days? Why would defendants have thirty days to accept an offer of judgment and plaintiffs have ten? What is the possible reasoning there, other than to cause plaintiffs to not timely accept? When people are on vacation (either the lawyer or the client) it may be impossible to make contact and convey the defendant’s offer within ten days. A plaintiff may want to consult with family before acting on a defendant’s offer of judgment and that may not be achievable within ten days. There can be no “good reason” for reducing the time limit. For years, plaintiffs only had ten days to accept an offer of judgment filed by a defendant. Public Act 05-275, Section 6 changed that time limit to sixty days to cure that inequity. There is no reason, one year later to return to the ten day time limit.

Wherefore, the Connecticut Trial Lawyers Association supports Section Three of S.B. No. 593 and opposes Sections One and Two.

Respectfully Submitted,

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