



Raised Bill 1241
Public Hearing: 2-28-07

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: FEBRUARY 28, 2007

RE: OPPOSITION TO RAISED BILL 1241 – AN ACT CONCERNING OFFERS OF COMPROMISE

The CTLA **opposes raised bill 1241**, and respectfully contends that the bill should be defeated.

Section 1 of this 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. This raises all types of privacy concerns and allows access to the defendant obviously unrelated medical records, some of which may be embarrassing to the plaintiff.

If the concern to defendants is that they have all relevant records to evaluate a claim, the 2005 amendment to the statutes (P.A. 05-275, Sec. 4, et seq.) 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 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 reports. 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 plaintiff 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 this bill is even more puzzling. Why reduce the time limit for the plaintiff to accept the offer of judgment from sixty to ten days? Why should defendants have thirty days and plaintiffs have ten? What is the possible reasoning there, other than to cause plaintiffs to not timely accept? A plaintiff may want to consult with family before acting on a defendant’s offer of judgment and may not be able to achieve this within ten days. There can be no “good reason” for reducing the time limit. For years, plaintiffs only had ten days to accept, Public Act 05-275, Sec. 6 changed that time limit to cure the inequity. There is no reason to two years later return to the ten day time limit.

WE RESPECTFULLY URGE YOU TO DEFEAT RAISED BILL 1241. Thank you.