Judiciary Committee
C/O Connecticut General Assembly
Legislative Office Building
Hartford, Connecticut

370 Vineyard Point Road
Guilford, CT 06437
March 8, 2009

Dear Judiciary Committee members,

I offer this written testimony on various bills on the public hearing agenda with regard to the Probate Courts of Connecticut.

I was elected Judge of Probate for the Guilford District in November 1995 and have served in office ever since. During the last thirteen years, the issue of Probate Court consolidation has been aired consistently. This has allowed me to have an institutional memory over a period of years and develop a historical perspective of the consolidation struggle.

The original argument proffered for consolidating the courts was the prediction of a financial crisis, which never occurred on the timeline predicted. When the Connecticut Succession Tax was phased out, a Public Act charged the Probate Court Administrator with addressing the ways and means of finding new sources of revenue. The Probate Court system is, after all, the only judicial system in Connecticut that is entirely self-funded by user fees. The Administrator never pursued this mandate, but instead, pursued the establishment of the Regional Children's Courts, which helped exhaust the balance in the Probate Administration Fund. Approximately $2.5 million was budgeted for the children's courts in 2008.

Concurrently, the budget for the Administrator's office nearly doubled and fees for counsel for indigent persons mushroomed to approximately $4 million in 2008. This manner of runaway spending with the knowledge of a pending financial crisis supports the impression that there was maneuvering to bankrupt the system and, in so doing, mount the argument for Court consolidation.

To add fuel to the consolidation argument, a new tack emerged within the last couple of years: portraying the system as inept, broken, and destined for bust. A segment of the Connecticut Bar Association and the Hartford Courant raised the hue and cry. Part of the cry has been that the Connecticut Probate court system is unlike any other probate court system in the U.S. and that it has outlived its usefulness.

If you canvass attorneys-at-law who bring matters into the Probate Courts, you are likely to hear something very different: that these courts, having evolved over a period of 310 years, are user-friendly, extremely accessible, and deliver rapid services. The appeal rate of Probate Court decisions in contested matters is so low that these Courts must be doing something right. Rolling 117 Probate Courts into 36 courts for the sake of regionalization would invariably create a new bureaucracy not too unlike the Superior

Court system of Connecticut, which is often recognized as case-jammed, slow, and inefficient and not user-friendly. In many of the Probate Courts, fifty percent or more of users appear without attorneys. The relatively informal style of the Probate courts is highly conducive to dispute resolution and mediation.

It might be deduced that the very reason that the Probate Courts are so unique from their out-of-state counterparts gives reason to preserve them, albeit with adjustments—not wholesale reform. The clamor by a select few to regionalize the Probate Court system totally obfuscates the basic issue of how to collect funds needed to support the entire system. As noted, the system is uniquely fee-based, yet nothing has been done since 1998 to address increased user fees.

Statistics from the Probate Court Administrator's office readily show that some of the larger probate districts, such as Bridgeport, New Haven, and Hartford, are running deficits that the smaller districts are not running. The historical perspective from this indicates that the motive for regionalization has far more to do with centralization of power and control than it does a system that is allegedly broken. By consolidating smaller, wealthier districts represented by the smaller, wealthier towns, the larger city courts can gain financially. Through the creation of a proposed Probate Court system akin to the regionalized Superior Courts, entirely unfriendly to pro se parties, attorneys-at-law stand to gain new clients.

In re: S.J. No. 63: the elimination of the Probate Courts is radical and premature. No data is available to prove or even suggest that rolling the Probate Courts into the Superior Court system will provide a continuum of service or produce a cost savings.

In re: H.B. No. 6385: reform of the Probate Court system is likewise radical and premature with unproven results and costs.

In re: H.B. No. 6626: transfer of contested probate matters is yet another back-door approach to foster involuntary consolidation of the Probate Courts. The Probate Courts have been hearing contested matters since 1719.

To serve the best interests of the people of our great State who have occasion to use the Probate Courts during some of the most difficult times of their lives, the above three bills should be defeated in their entirety.

Respectfully submitted,

Joel E. Helander
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District of Guilford