

**TESTIMONY OF WILLIAM J SWEENEY
SWEENEY & GRIFFEN
NEW BRITAIN CT
WJS @SWEENEY GRIFFEN.COM
860-827-6453
MARCH 21, 2011**

RE:HB6605

I support the adoption of HB 6605 and relate the following tale of woe that I personally have been involved in.

Following the testate death of Stanislaw Kosiorek on or about May 16, 2004, Stanley Kosiorek was appointed Executor of his father's estate. On or about June 15, 2006, Attorney Jacek Smigelski entered into a written fee agreement with Stanley Kosiorek, agreeing to represent the Kosiorek estate in a case already pending in the Judicial District of New Britain entitled, Stanislawa Wisniewski, et al. v. Bronislawa Kosiorek, Docket # CV-04-4000453-S. That case sought declaratory relief, invalidating the marriage between the decedent, Stanislaw Kosiorek and Bronislawa Kosiorek. On or about August 16, 2006, the Plaintiffs obtained a settlement in which the lawsuit was withdrawn for the payment of the sum of \$35,000 to Bronislawa Kosiorek in exchange for her conveyance of her entire interest in the disputed property back to the estate of the decedent. The Kosiorek estate then employed the Jacek Smigelski to represent it in the sale of the property from the estate to the son of Stanley Kosiorek for \$212,500.00. The estate also agreed to contribute \$42,500.00 as a gift of equity to the purchasers. Smigelski represented the Kosiorek estate at the December 21, 2006 closing for the sale of the property, with the net proceeds of the sale totaling \$155,300.82, an amount that Stanley Kosiorek authorized be

given to "Jacek Smigelski, Trustee." After the closing, the Plaintiff paid himself a fee of \$65,833.33 in addition to an already received retainer of \$5,000.00 for a total of \$70,833.33 out of the estate funds that he was holding. The net sum for the sale of the house to the estate, prior to the payment of fees to the Plaintiff was \$155,300.82. The Plainville Probate Court determined thereafter that the fee was excessive and that an appropriate and reasonable fee for the Plaintiff's services was \$15,000 plus \$1,000 reimbursement for expert fees, ordering the sum of \$54,833.33 be restored to the estate. Jacek Smigelski refused to acquiesce to the findings of the Probate Court, failing to adjust his fee and refund the difference to the Kosiorek estate. Upon this refusal, a cause of action was brought against Jacek Smigelski in the Superior Court of New Britain alleging Breach of Contract, Breach of Good Faith and Fair Dealing, Unjust Enrichment, Breach of Fiduciary Duty, CUTPA Violation, Civil Conversion – Violation of § 52-564, Fraudulent Conveyance, and Violation of §52-552a et. seq

On October 13, 2010, a jury returned a verdict in favor of Kosiorek against Smigelski on five separate counts; Breach of Contract; Breach of Good Faith and Fair Dealing; Breach of Fiduciary Duty; CUTPA and civil conversion. On October 14, 2010 the court entered a partial verdict in favor of Kosiorek in the amount of \$226,762.20, reserving decision of the CUTPA Attorneys and Punitive Damages). On December 1, 2010, that Court awarded an additional \$71,696.09 in CUTPA Attorneys Fees and costs, opting not to award additional punitive damages. Kosiorek v. Smigelski, 2010 Conn. Super. Lexis 3105 (2010).

Smigelski filed an appeal of that trial court decision with the Connecticut Appellate Court on November 26, 2010, which is currently pending.

Smigelski has no malpractice insurance yet he was allowed to take advantage of the se people with no concern .He has quite a disciplinary history as well being previously reprimanded in 1997, 1999, 2000 and 2006. After the last reprimand, he was required to take an ethics course. Yet he was still allowed to continue to practice without coverage. While the passage fo this bill can't prevent unscrupulous lawyers it would allow a fund to recover from for their conducts