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**Raised Bill No. 5545**  
**Public Hearing: 3/23/12**

**TO: MEMBERS OF THE JUDICIARY COMMITTEE**  
**FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)**  
**DATE: MARCH 23, 2012**

**RE: SUPPORT OF SECTIONS 2 THROUGH 4**  
***RAISED BILL 5545 AAC FINANCIAL LIABILITY OF AMBULANCE***  
***SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS, AND***  
***LIENS IN WORKERS' COMPENSATION CASES***

The Connecticut Trial Lawyers Association respectfully urges the members of the Connecticut General Assembly to pass Sections 2 through 4 of Raised Bill 5545. The CTLA specifically supports Sections 2 and 3, which pertain to evidence of collateral source payments, as well as Section 4, which clarifies the effective date of legislation passed last year pertaining to the Workers Compensation Statute.

### ***Collateral Source Payments***

Sections 2 and 3 of Raised Bill 5545 seek to correct current ambiguity existing in the calculation of collateral source payments pursuant to Connecticut General Statute § 52-225a. The proposed revision to C.G.S. § 52-225a, and the corresponding revision to § 52-174, serves to clarify the manner in which insurance "write offs" are handled under the statute.

In terms of historical context, prior to 1987 Connecticut followed the common law collateral source rule. Under this rule, a plaintiff was entitled to recover his entire damages from the tortfeasor, regardless of whether any portion of those damages were paid by a third party, including health insurance. The rationale for the rule was that a wrongdoer should not benefit from payments by an outside source. *Rametta v. Stella*, 214 Conn. 484, 489-90 (1990).

In 1987, the Connecticut Legislature partially abrogated the common law collateral source rule by enacting Connecticut General Statute § 52-225a-c, commonly referred to as the Collateral Source Statute. Pursuant to this statute, after a verdict the court conducts a hearing to reduce the amount of economic damages awarded by the amount that has been paid by collateral sources (i.e. health insurance), less the amount paid by the claimant to secure the collateral

source benefit (i.e. health insurance premium). There is no reduction for collateral source payments for which a right of subrogation exists. The stated purpose of the Collateral Source Statute was to prevent the plaintiff from obtaining a double recovery, whereby a jury awarded compensation for medical bills incurred, even though a health insurance carrier had paid the medical bills.

The legislative scheme enacted in 1987, and still in place today, fails to address the situation where a healthcare provider has accepted less than full payment for a medical bill and then "writes off" the balance. Since health insurance companies frequently do not pay the full amount of the medical services billed, the "write off" situation is very common and has created confusion and uncertainty in the courts with regard to the manner in which "write offs" should be handled under the statute.

Raised Bill 5545 seeks to resolve that ambiguity. Pursuant to Section 3 of Raised Bill 5545, a party would be entitled to offer the total medical bill into evidence at the time of trial as evidence of the reasonable and necessary cost of medical care received as a result of an incident. Section 2 of Raised Bill 5545 then amends the Collateral Source Statute, § 52-225a, to include an insurance "write off" as evidence of a collateral source pursuant to the terms of that statute. In this vein, the stated purposes of the 1987 legislative enactment are fulfilled and an insurance "write off" is treated in the same manner as a medical bill that has been paid by insurance. The plaintiff does not receive double recovery and the defendant receives credit not only for the amounts that have been paid by insurance, but also for any amounts that have been "written off" by the healthcare provider.

### ***Revision to Workers Compensation Statute***

Section 4 of Raised Bill 5545 presents a technical change to the legislative changes passed last year relative to the Workers Compensation Statute, Connecticut General Statute § 31-293. In the wake of last year's passages, numerous questions arose as to whether the recent revision applied to pending cases. The proposed statutory revision clarifies that the statutory changes from last year are applicable to any action pending on or after July 1, 2011, the effective date of the passage of the bill.

This revision serves to clarify the effective date of the statutory provision and thereby provides guidance to both plaintiffs and defendants relative to the application of the statutory changes.