CONNECTICUT CREDITOR BAR ASSOCIATION, INC.

Middlefield, CT 06455-0244 PO Box 244

Joint Committee on Banks
Public Hearing
February 14, 2013

HB 6173- AN ACT CONCERNING THE REFORM OF DEBT COLLECTION PRACTICES IN THE STATE

Good afternoon Chairmen Leone and Tong, Ranking Members Linares and Alberts, and members of the Banks Committee. Thank you for this opportunity to testify on HB 6173- An Act Concerning the Reform of Debt Collection Practices in the State.

My name is Adam Olshan and I am a debt collection attorney in East Hartford. I am here today to represent the Connecticut Creditor Bar Association (CCBA) as their President. The CCBA would like to voice our strong opposition to this bill as currently drafted.

The goal outlined in HB 6173 is to make Connecticut's court process and pleadings more understandable for self-represented consumers. This goal has already been achieved by new 2011 court rules that followed collaborative bench-bar discussions held by local consumer attorneys, local creditor attorneys, local judges and local court clerks. In 2008, the same year as the economic meltdown that damaged so many consumers, Administrative Judge Barbara Quinn empanelled a bench-bar committee to discuss how self-represented consumer debtors could have better access to court while also creating more transparency in lawsuit pleadings. These local stakeholders attended twenty-nine meetings to collaborate over modifications of small claims court rules and courtroom practices to meet this goal. These stakeholders did this to help the self represented parties while not unduly burdening the legitimate needs of the creditor plaintiffs. The Connecticut General Assembly should not legislate court pleading practice because the 2011 Connecticut court rule modifications already address the precise goals of this bill. The process in modifying these court rules to address this litigation need was conducted very inclusively - by bringing together all the local stakeholders for a thorough and in- depth collaborative discussion that resulted in knowledge-based recommendations to our Connecticut Rules Committee.

Following this turn of events, the Rules Committee judges then met several times to review every aspect of these recommendations all while continuing to include members of the local consumer bar and creditor bar in these discussions. The resulting 2011 court rules provided for creditor pleading requirements that were ground-breaking on a national level and these new rules were applauded by the Federal Trade Commission while also being

used as a roadmap by other bench-bar committees in many other state jurisdictions across our country.

Additionally, the 2012 Connecticut Rules Committee is now recommending that these same newly modified 2011 Small Claims court rules be adopted by the Superior Court so self-represented consumers may be afforded these same protections in all state court pleadings. That recommendation will be voted on by all Connecticut judges in June of this year.

How do these new court rules better protect consumers while also being fair to creditors? For starters the rules specifically require that for default purposes, debts be fully itemized in the pleading - where a plaintiff is a "financial institution and subject to federal requirements for the charging off of accounts, it is the intention of this rule that the federally authorized charge-off balance may be treated as the "principal" and itemization regarding such debts is required only from the date of the charge-off balance." The judges decided this because the charge off balance is pervasively regulated by the federal government and this inherently reliable balance should not need to be itemized for default purposes. The new rules also require that the plaintiff plead information to establish that the Connecticut statute of limitations is current. In cases where a plaintiff has purchased a debt from a bank, the plaintiff is required to include full bills of sale that fully illustrate proper ownership of the debt. Additionally, the Bench Bar Committee recommendation caused modifications to the courtroom process to ensure that proceedings were fully understandable for self-represented parties.

The Connecticut General Assembly should stand by the collaborative bench-bar process as described above because all local stakeholders were fully engaged in these discussions and the results provide the protections that consumers need in a fair fashion. As such, I ask that this bill not move through the legislative process following this Banks Committee public hearing.

Thank you for your time.

Adam J. Olshan
President, Connecticut Creditor Bar Association
860-528-9991 x339