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Testimony against S.B. 1121 (Hearing April 1, 2013)

Dear Legislators:

I have been representing low income consumers for over 40 years. In the current economy many people are jobless or struggling to pay their debts. And debt buyers who buy old debts for pennies on the dollar are overwhelming the judicial system with default judgments. People cannot even get 1% from financial institutions on savings accounts.

An automatic rate of 10% is simply a windfall to judgment creditors; even more so to debt buyers. It is oppressive to our struggling citizens. It will undoubtedly result in more bankruptcies.

As Judge Sheldon said recently, We are in “extraordinarily difficult economic times, in which interest rates have been at historic lows. With that fact in mind, the Court cannot in justice award the defendant interest for loss of use of its money during that period at anything close to the statutory maximum rate.” Coppola Constr. Co. v. Hoffman Entl. Ltd. Ptshp, HHD-CV-09-5034505-S Doc. No. 28 at 13 (Superior Court Hartford Feb. 21, 2013) (awarding 4% in a commercial setting).

Rather, leave the system as it is, since it is working now. Let the courts apply their equitable discretion. Connecticut law is well established that an award of postjudgment interest is discretionary and requires a factual demonstration that the amount obtained by judgment had been wrongfully withheld by the debtor. Urich v. Fish, 112 Conn. App. 837, 843-844, 965 A.2d 567 (2009) (the allowance of interest depend upon whether the detention of the money is or is not wrongful under the circumstances). Likewise, Connecticut law is well established that an award of prejudgment interest requires a factual determination that payment of the underlying amount had been wrongfully withheld by the debtor. Travelers Prop. and Cas. Co. v. Christie, 99 Conn. App. 747, 763 (2007).

At best, the rate should be pegged to an external objective standard, such as the treasury bill rate.

Respectfully,

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