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**Board Certified-Consumer Bankruptcy*

H.B. No. 6924 (RAISED) AN ACT CONCERNING THE MAXIMUM AMOUNT OF MONEY DAMAGES IN A SMALL CLAIMS ACTION FROM \$5,000 TO \$10,000

PLEASE USE MY EMAIL AS PART OF THE RECORD FOR THE CONNECTICUT LEGISLATURE AND POST THE SAME TO WWW.CGA.CT.GOV WEBSITE

March 4, 2015

Dear Representatives and Senators:

I'm Dave Falvey and I have been practicing bankruptcy law and representing debtors for the last 30 years. I'm located in Groton and I am Board Certified in Consumer Bankruptcy and have an AV rating by Martindale-Hubbell. My practice concentrates on representing consumers who find themselves in financial problems. Many times bankruptcy is not the solution for consumers and we must then go to the Connecticut Courts.

And, of course, I see many times that a consumer can have a potentially valid defense and the only way that defense can be presented is through discovery. Small Claims does not allow for discovery as of right. If the consumer wants and/or needs discovery, he/she has to have the Small Claims Case transferred to Superior Court. But there is a very important issue in transferring a case from Small Claims to Superior Court where you have the right to discovery. If the Court does not decide in your favor, then you are responsible for attorneys' fees to the Plaintiff. Consequently, many important rights of the consumer can be lost due to the worry of 'losing a case' and then not only having to pay the judgment but, also, the attorneys' fees which can be double, triple or quadruple the amount of the original debt which was running at 18%-35% interest rate.

Small Claims has this steep prohibition against transferring a case to Superior Court in order to avoid frivolous defenses and preventing unnecessary delays. One prime objective of Small Claims is to expedite the hearing of a complaint. Therefore, discovery is not allowed as of right in Small Claims Court and there's no penalty in the Practice Book if a request for discovery is sent to a Plaintiff Credit Card Company and they simply ignore the request. The reason behind this approach is to 'stream line' the process and that's why Small Claims Court can represent 'rough justice'.

But Small Claims Court is for 'small matters' where it is hoped that discovery is not needed or necessary. And what is a small matter? My research shows that 46% of all Small Claims Court in the United States has debt limits of \$5,000 or **less** for the jurisdictional amount for what is considered a Small Claims matter. There are 24 states with debt limits of \$5,000 or **less**. And there are 22% or 11 states in the U.S. with debt limits of \$6-7,000 for Small Claims matters and 12% or 6 states in the US with debt limits of \$10,000 for Small Claims matters. There is no disputing the fact that a \$10,000 debt limit in Small Claims Court is in the highest percentile. Therefore, by adopting this most extreme debt limit, the legislature would not allow the average consumer the benefit of his/her day in Court. Connecticut's present standard for \$5,000 as a debt limit for Small Claims as measured by other states across the nation is within the scope of the vast majority of states.

However, we all know that there are 'lies, damn lies and then there's statistics'. What the above statistics do not show is that in California with a Small Claims Debt limit of \$10,000 is that you can't bring more than 2 cases in any one year in Small Claims Court and if you bring more than 2 cases in Small Claims Court within year, the debt limit in Small Claims Court is than reduced to \$2,500.

And as they say on the infomercial, 'Now wait, wait, there's more'. In California as in **MOST** states, you have the right to **APPEAL** a Small Claims Decision. **THERE IS NO RIGHT OF APPEAL FROM A SMALL CLAIMS DECISION IN CONNECTICUT!!** Connecticut **is not** in the majority of states where there is a right to appeal from a Small Claims Court Decision.

By enacting a debt limit in Connecticut for Small Claims Court of \$10,000, and not having any right in Small Claims to discovery and no right of appeal, and with the potential of being highly penalized for exercising the right to discovery, this will ultimately frustrate consumer from having 'his day in court' and will simply be a boon to the credit card industry because they can remove themselves further from judicial scrutiny and consumer complaints. The Court system is, of course, 'equal justice for all' and this proposal is tipping the playing field in favor of the credit card industry, debt buyers, and credit card collection law firms. And this is called 'injustice'.

In this time of 'cutting the budget' at all levels of government, I haven't seen any economic analysis or in-depth study about this proposal and the effect it will have in reducing the income of the judicial system because the filing fee for Superior Court is \$350 versus \$150 in Small Claims.

I want to vehemently protest this proposal to increase the debt limits from \$5,000 to \$10,000 because this proposal will work to create injustice for the average consumer and remove the judicial spotlight of truth away from illegal and fraudulent collection practices.

Very truly yours,



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