



Testimony of Brian Corvo
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Before the Judiciary Committee
February 21, 2020

RE: Testimony in Support of HB 5053, AAC The Reduction of Economic Damages in a Personal Injury or Wrongful Death Action for Collateral Source Payments Made on Behalf of a Claimant.

Senator Winfield, Rep. Stafstrom, Senator Kissel, Rep. Rebimbas, members of the Judiciary Committee, thank you for the opportunity to submit testimony on HB 5053. My name is Brian Corvo and I am Associate Counsel to CBIA, the Connecticut Business and Industry Association. CBIA is Connecticut's largest business organization, with thousands of member companies, small and large, representing a diverse range of industries from across the state. Ninety-five percent of our member companies are small businesses, with less than 100 employees.

CBIA supports HB 5053. C.G.S. §52-225a provides that "there shall be no reduction for (A) a collateral source for which a right of subrogation exists." The Connecticut Supreme Court in *Marciano v. Jimenez*, 324 Conn. 70 (2016) strictly construed this provision and held that where a right of subrogation exists in any amount, a trial court cannot make any collateral source reduction for damages. A right of subrogation exists in the context of a variety of cases including, but not limited to: workers' compensation, Medicaid, Medicare, and ERISA (cases involving lienholders). Because of the *Marciano* decision, plaintiffs in lawsuits can recover medical expenses that no one and no entity ever paid. In essence, when there is a plaintiff's verdict, defendants and their insurers are obligated to pay (sometimes exorbitant sums of money) for medical treatment even though the doctor or hospital accepted a far lower amount as full payment for the treatment. If medical bills were paid by entities that have a lien, (Medicaid, Medicare), a defendant is forced to pay the full "sticker" price of those bills.

For example:	Medical bills charged by hospital /doctor:	\$100,000
	Amount accepted by hospital/doctor as full payment:	\$30,000

Prior to the *Marciano* case, losing defendants would owe the \$30,000

As a result of *Marciano*, defendants now owe \$100,000, providing plaintiffs and their attorneys a windfall of \$70,000 known as "phantom damages" - damages that no one paid, that do not represent economic loss, and will result in higher settlements and verdicts.

HB 5053 remedies this injustice and allows for a post-verdict collateral source reduction of \$70,000 in the above example. HB 5053 aims to allow collateral source reduction in cases where a right of subrogation exists, as is the practice in cases where no right of subrogation exists. Limiting economic damages to cases where plaintiffs have suffered actual financial loss, as opposed to phantom damages, will enable defendants' insurers to lower their insurance premiums and prevent double recovery and windfalls to plaintiffs. For these reasons, CBIA urges you support HB 5053. Thank you for your consideration.