

## TESTIMONY OF GEICO IN SUPPORT OF HB-5053

The GEICO group of companies (“GEICO”), the largest private passenger auto insurer in Connecticut and second largest in the country, supports HB-5053.

HB-5053 would prevent plaintiffs in personal injury actions from collecting economic damages for medical bills that were never paid or subject to reimbursement by a third party pursuant to a right of subrogation.

HB-5053 addresses an issue raised by the Connecticut Supreme Court in *Marciano v. Jimenez*, 324 Conn. 70, 151 A.3d 1280 (2016).

In *Marciano*, the court reversed a longstanding practice of discounting damage awards, pursuant to Conn. Gen. Stat. § 52-225a, where medical services were billed, and a technical right of subrogation exists, but no person or entity actually paid the full amount charged for the medical services in question.

In changing the law, the *Marciano* court indicated that it was legally compelled to strictly construe the current language of Conn. Gen. Stat. § 52-225a and award these phantom damages.

Inviting a legislative correction, the *Marciano* court noted that,

Courts may not by construction supply omissions ... or add exceptions merely because it appears that good reasons exist for adding them. ... It is axiomatic that the court itself cannot rewrite a statute to accomplish a particular result. That is the function of the legislature.

HB-5053 makes it clear that only the specific amount paid for medical services and to which a right of subrogation exists for that specific amount, would be exempt from a collateral source reduction.

The *Marciano* case held that the current statute precludes consideration of the entirety of any collateral source payment, even if only a small fraction of the payment would be subject to subrogation. HB-5053 would modify the statute to provide that only the portion of a payment that is subject to subrogation would be excluded.

Unless and until the *Marciano* holding is corrected by statute, defendants and insurers, will be compelled to pay, as economic damages, portions of medical bills that the plaintiff did not have to reimburse, is not liable for or which no right of subrogation is being pursued. This has created a windfall to plaintiffs in recovering economic damages for which no right of subrogation exists. This has led to artificially inflated economic damages for which defendants and insurers become liable. These inflated damages result in an increase in costs that are passed on to consumers in the form of higher premiums

GEICO urges your support of HB-5053.

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