



Jeremy Thiesfeldt

STATE REPRESENTATIVE • 52nd ASSEMBLY DISTRICT

Testimony on AB 523

Greetings Chairman Ott, members of the committee. I authored AB 523 to restore the interest rate on judgments in small claims actions to 12%.

Sweeping legislation to limit interest rates on judgments was signed into law in 2011. The intent of the original legislation was to limit interest assessed on high dollar verdicts, but the amended final bill reduced interest on all judgments. The unintended consequence is that the law now affects judgment interest owed to small businesses, counties, cities, and collection agencies that rely on small claims court for relief in minor disputes and debt collection.

Judgments are now calculated bi-annually using the prime rate plus one percent. Keep in mind that the prime rate is usually the interest rate that commercial banks charge their most credit-worthy customers, and certainly not those that default on obligations. Prior to passage of the law, small claims judgments were assessed at 12% interest which allowed the plaintiff to be compensated for the time lapse between recovery and served as an encouragement for the defendant to pay the judgment. By reducing the interest rate, the cost is now shifted from the debtor to the businesses or individual that was the victim of the crime.

As you will hear during the testimony from credit collection agencies, creditors use the interest rate to motivate payment and to compensate them for the costs they are incurring in collecting the debt. Current law gives scofflaws no incentive to settle their outstanding debts in a timely manner. It actually encourages default so that people will get a lower interest rate.

The current law requires the interest rate to be calculated bi-annually which has proven difficult and time-intensive to calculate. This legislation is a way to ensure a stable rate regardless of the prime rate, which has fluctuated over 50 years from the current lowest rate of 3.25% to a high of 21.50%.

Finally, agencies that collect these debts have seen a substantial decline in income. This income drop has not helped expand businesses nor keep up with typical business expenses like health care. This bill will put collection agencies in a position to grow and thrive and help businesses have their debt collected.

Serving the communities of Fond du Lac, Oakfield, Byron, Empire, Taycheedah, and the western half of Calumet township

Good morning,

I am a landlord of several properties in the Fox Valley under the name of PITA Properties, LLC and PITB Properties, LLC.

We support the bill to change the interest rate to 12%. Please vote accordingly. Landlords already have laws which support some tenants who destroy property, refuse to leave, don't pay rents and utilities, etc. Any help you can support to keep our business ethical and honest is appreciated.

Thomas Graverson
PITA Properties, LLC
PITB Properties, LLC

As a real estate broker, investor and land lord and judgment holder, I strongly support the bill to change the interest rate of judgments back to 12% simple interest.

I support this for 2 main reasons:

1. The bill provides a very simple way to calculate what a debtor owes to the judgment/lien holder, and
2. The Prime +1% rule can currently give a huge break to those individuals that have not fulfilled their promised obligations. Consider a credit card debtor with a 24% interest rate. The lenders will not negotiate so the debtor stops paying and under the current law they would pay only around 4% interest. A 12% interest rate is fair because it eliminates those involved on both sides from taking advantage of the system.

Thank you for consideration in this matter.

Doug Norton
Broker / Owner

Please support the 12% change.

S.R. Knoll

I wanted to contact you to let you know that I am in favor of reverting the interest rate applicable to unpaid judgments back to a rate of 12% as opposed to the current terms of 1 + prime rate and am asking that you support this change as well.

Thank you,

Tom Simson

Director Product Consulting - Penta Technologies, Inc.

I support the 12% bill. When my business makes a mistake with the government or bank they charge me 12% but when tenants owe me money that I need to pay these bills, I'm out the difference between this 12% and what the court allows. If it's fair for me then it should be fair for the defendants. Paul Datta



Testimony of Tina Hanson
President, Wisconsin Collectors Association
Assembly Bill 523

Mr. Chairman and members of the committee:

My name is Tina Hanson and I am the Executive Vice President of State Collections based in Madison and the owner of Protocol Financial Service in Beloit. I want to thank you for having this hearing on AB 523.

For a bit of background our businesses employ over 350 people and we have been in business for 65 years working in a third generation of a family owned business.

I am also the President of the Wisconsin Collectors Association, the state based association representing 65 collection agencies across the state who employ 1,487 taxpaying Wisconsin employees and many are the quintessential small business that spread economic growth. For more information on the financial impact of these collection agencies on Wisconsin's economy, please refer to the included information sheet.

On behalf of myself and the WCA, I want to thank you for having this hearing on AB523 and I want to especially thank Representative Thiesfeldt for leading the effort to repair an unforeseen and unintended consequence of 2011's Act 69. The goal of AB523 is to make a minute, technical change to restore small-claims judgments to their pre-Act 69 interest rate.

As a bit of background, a portion of Act 69 aimed to tackle tort reform by lowering the interest rate on intentional tort judgments from 12% to 1 plus the prime rate. Unknowingly, the language applied to all judgments, even small-claims judgments. This bill restores the small-claims rate to 12%.

The post judgment interest rate was meant to be a penalty when a consumer had the ability to pay, did not pay and a court ruled they did in fact owe the debt. It is only used in a last and final attempt to collect a debt from a consumer that has the ability to pay but does not pay. Our goal as an industry is always to resolve and settle debts and avoid the courtroom, but sometimes legal action is the only way a business will get reimbursed. Filing suit and going to court is an expensive and time consuming process to business. This is a process a business would rather not do. The post judgment interest rate was meant to offset the time and expense of the creditor to collect monies owed them. These creditors are hospitals, grocery stores, convenience stores, municipalities, counties, state agencies, small businesses, or anyone who offers goods or services for credit.

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Wisconsin Collectors Association – AB 523 – Testimony

Believe me, we would much rather work with people to resolve and settle debts rather than go to court. The 12% rate did not generate profit; it only helped to offset the higher cost to recover the original funds.

With the new law, it now puts a consumer that pays their bills on time, every month, at a higher interest rate, than a consumer that does not pay, has a judgment entered by the courts and now has a lower interest rate than most of the general public at a rate of prime plus 1. Most of us are not able to get that kind of a rate at any bank. There exists today, an incentive to not pay your bill in order to get the interest rate lowered. This puts creditors at a disadvantage of recovering costs incurred and the price of the goods and services that are provided by the creditors are rising to offset the costs of failure to pay.

When Act 69 dropped the judgment rate from 12 to 1 plus the prime rate, collection agencies and the creditor had to absorb those costs directly. For many, this meant setting aside plans for growth, stagnating pay, and even reducing staff. In the long run, it has increased the cost of doing business for the creditor because of the risk of non-payment and the reduced recovery rate.

Mr. Chairman, our board and association members have spent many hours with Representative Thiesfeldt and many others in this building to craft a solution that makes only a minor change to the statute to restore, in a very limited way, the judgment rate that helped sustain our businesses. We have considered a myriad of solutions, from raising the small claims limit to carving out exemptions for collection agencies and their clients. Yet of all solutions, AB 523 most effectively aids small businesses and the creditors in seeking to recover debts.

Again, we appreciate having this hearing today and would be happy to answer any questions you may have regarding AB 523.



Serving the Public, Private and Non-Profit Sectors

The Wisconsin Collectors Association promotes lawful consumer debt collection for creditors and government. We serve members by providing education and training; promoting ethical professional conduct; and acting as a voice in business, legal, regulatory and legislative matters. WCA provides services to the following industries:

- Financial Services
- Banks / Credit Unions
- Colleges/Universities
- Government
- Healthcare / Medical
- Hospitals
- Telecommunications
- Utilities
- Professional Services
- Retail
- Non-Profit Organizations
- Small Business

Vital to America's Economy

Economic impact of third party debt collection

Returning Assets

Gross Amount Recovered **\$55 B**

Providing American Jobs

Direct Jobs **148,272**

Direct Payroll **\$5 B**

Direct & Indirect Jobs **302,000**

Direct & Indirect Payroll **\$10.1 B**

Paying Taxes

Direct State / Local Taxes **\$509 M**

Direct Federal Taxes **\$495 M**

Total State / Local Tax Impact **\$1 B**

Total Federal Tax Impact **\$970 M**

Giving Back

Charitable Contributions **\$85.2 M**

Employee Volunteer Hours **652,300**

Vital to Wisconsin's Economy

Economic impact of Wisconsin based agencies

Returning Assets

Gross Amount Recovered **\$647.1 M**

Providing Wisconsin Jobs

Direct Jobs **1,487**

Direct Payroll **\$48 M**

Direct & Indirect Jobs **2,824**

Direct & Indirect Payroll **\$91 M**

Paying Taxes

Direct State / Local Taxes **\$5.4 M**

Direct Federal Taxes **\$5.1 M**

Total State / Local Tax Impact **\$10.1 M**

Total Federal Tax Impact **\$9.1 M**

Giving Back to Wisconsin

Charitable Contributions **\$536,000**

Employee Volunteer Hours **5,500**

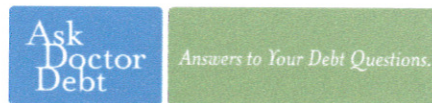
Source: Ernst & Young, 2011 – www.acainternational.org/impact

Wisconsin Collectors Association Priorities

- Support our 65 members and their employees through education and compliance programs.
- Educate and work collaboratively with Wisconsin lawmakers, regulators, media and consumers.
- Advocate for federal, state and local issues important to the industry.
- Treat consumers with honesty and integrity.
- Uphold ACA's code of ethics.

Consumer Education

AskDoctorDebt.org is an invaluable resource for consumers on debt collection and their rights. AskDoctorDebt is available in English and Spanish – free, no registration.



www.askdoctordebt.org

For More Information on Debt Collection in Wisconsin

Wisconsin Collectors Association

E: wcaexecutivesecretary@gmail.com W: www.wisconsincollectorsassociation.org

ACA International's Blueprint for Modernizing America's Consumer Debt Collection System

About the ACA International Blueprint

Recovering rightfully-owed consumer debt is essential to our nation's economy. Businesses from Main Street to Wall Street rely on the repayment of credit to pay employees, utilities, taxes, insurance and other business expenses. Federal, state, and local governments also rely on the repayment of billions of dollars in uncollected court fees, taxes and other delinquencies. Failure to recover this debt results in business closures, layoffs, higher prices, less available consumer credit and tax increases to close government budget gaps.

The explosive growth in the use of cell phones, the Internet, social media, e-mail and other new technologies has changed how people communicate. ACA's Blueprint is a road map to modernize consumer credit and debt collection in America. Specifically, it outlines substantive public policy proposals to remove unnecessary impediments to effective, straightforward communications between consumers and debt collectors.

- ▶ **1. Use Modern Technology Responsibly:** Allow consumers and collectors to efficiently communicate with each other using modern technology, such as e-mail and cellular telephones.
- ▶ **2. Better, Simplified Communications with Consumers:** Allow consumers and collectors to better and more effectively communicate about debts.
- ▶ **3. Advocate for Responsible Litigation in the Collection Industry:** Ensure equal access to the judicial system for all classes of litigants and hold those litigants acting in bad faith accountable for their actions.
- ▶ **4. Assure Proper Debt Documentation:** Improve the flow of information by clarifying the specific debt information that must be maintained by creditors and asset buyers in order to allow debt collectors to provide documentation responsive to a consumer's dispute regarding the amount of the debt, to whom the debt is owed or who is responsible for paying the debt.
- ▶ **5. Adopt a Federal Seven-year Statute of Limitations for the use of Litigation to Collect Debt:** Impose a seven-year Federal limitations period on the use of litigation to collect debt and prohibit filing or threatening to file suit on time-barred debts, while still allowing for the collection of the debt.

ACA International Members Will...

- Lead in advocating for modernization of America's federal and state credit and debt collection laws including the Fair Debt Collection Practices Act (FDCPA), Telephone Consumer Protection Act (TCPA) and the Truth in Lending Act (TILA).
- Collaborate with the Consumer Financial Protection Bureau, Congress, Federal Trade Commission, and state lawmakers and regulators on the above issues, as well as current and proposed policies, to create a balanced system for debt collection that allows a vital industry to function and protect consumers.
- Actively work to prevent, reduce and resolve consumer complaints. ACA will provide members with education and training to help them, and their employees, better understand how and why they need to prevent, manage and resolve consumer complaints. ACA members must abide by a stringent code of ethics and those who engage in illegal activities should be held fully accountable under federal and state law.

About ACA International

ACA is the comprehensive, knowledge-based resource for success in the credit and collection industry. Founded in 1939, ACA brings together more than 5,000 members in the United States and abroad, and their more than 150,000 employees, including third-party collection agencies, asset buyers, attorneys, creditors and vendor affiliates. ACA establishes ethical standards, produces a wide variety of products, services and publications.

For more information about ACA International contact Mark Schiffman, Director of Public Affairs at (952) 928-8000, ext. 124, schiffman@acainternational.org or visit www.acainternational.org/Blueprint.



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Testimony of Christopher Stombaugh
on behalf of the
Wisconsin Association for Justice
before the
Committee on Judiciary
Rep. Jim Ott, Chair
on
2013 Assenbly Bill 523
December 19, 2013

CHAIRMAN OTT AND MEMBERS OF THE COMMITTEE, my name is Christopher Stombaugh. I am a partner in the Keenan Law firm Platteville, Wisconsin and the president of the Wisconsin Association for Justice (WAJ). Thank you for the opportunity to testify on Assembly Bill 523 (AB-523).

Last session, the Legislature passed 2013 Wisconsin Act 69, which lowered interest rates on all judgments from 12 percent to the prime rate plus one percent. The amount is calculated twice a year for judgments entered during that six-month period. WAJ opposed the legislation. We warned that the legislation was passed in haste, was not well thought out and the interest rate was too low. Like lots of 2011 bills that were passed in haste, it has had “unintended consequences,” also known as “blow back.”

Now AB-523 seeks to raise the interest rate back to 12 percent on small claims judgments. When the interest rate bill was introduced in 2011 – September Special Session Bill 14 – it was only to apply to tort and consumer actions. WAJ objected to the unequal treatment and the Legislature agreed that all judgments should be treated equally. Once again, WAJ objects to the separate and unequal treatment this change in interest

rates will make. Why is it fair for small claims judgments to be higher than large case judgments?

Small claims cases are made of many types of civil cases – money damages, contract claims, landlord-tenant claims and personal injury actions. Why does a claim that is worth less than \$10,000 (\$5,000 for personal injury claims) deserve a higher interest rate than one with a higher value? In other words, why should a hospital bill under \$10,000 have a different judgment rate than one over that amount?

As we note in 2011, the new law is very low compared to what the Legislature requires from delinquent taxpayers. By statute, the Legislature requires delinquent taxpayers to pay one percent interest per month or 12 percent a year, plus cities, counties and the state can assess a .5 percent penalty a month. This interest rate structure reflects a total payment of 18 percent a year. Wis. Stat. § 74.47.

We believe the current law in Wisconsin provides an incentive to delay paying valid claims. A judgment debtor is allowed to delay payment, invest the funds due the claimant, and make more money even if it loses its case in court. For the claimant, however, delay increases the financial loss. While awaiting their day in court, claimants often need to cover ongoing medical bills and lost wages by borrowing against credit cards or home equity loans, rarely if ever receiving favorable prime plus one percent interest rate on that loan. People are forced to accept less than what a Wisconsin Judge decided they deserve simply to get the matter settled under extreme financial duress or be bankrupt.

In addition, if an injured person prevails at trial, the lower interest rate leads to an increased monetary incentive to appeal the case or delay the settlement process, even if there it is unlikely that the judgment will be overturned or modified. Justice delayed will be justice denied. And more appeals will be filed with the Wisconsin Court of Appeals and Supreme Court simply to delay paying a valid judgment.

We urge that every person appearing in court be treated fairly and a uniform interest rate be adopted on all judgments. “What is good for the goose, is good for the gander.”