HOUSE . . . . No. 1572

The Commonwealth of Massachusetts

———————

PRESENTED BY:

Eugene L. O'Flaherty

———————

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act granting discretion to the superior court to allocate certain settlement proceeds.

———————

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Eugene L. O'Flaherty	2nd Suffolk

The Commonwealth of Massachusetts

_____

In the Year Two Thousand and Nine
_____

AN ACT GRANTING DISCRETION TO THE SUPERIOR COURT TO ALLOCATE CERTAIN SETTLEMENT PROCEEDS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1   SECTION 1. Chapter 231 of the General Laws, as appearing in the 2004 Official Edition, is hereby

2   amended by inserting after section 72, the following section:-

3   Section 72A. In any action in which an injured person enters into a settlement with, or obtains a

4   judgment upon trial from a third party and benefits for his injuries have been paid under chapter one

5   hundred and fifty-two, and the injured person and the insurer paying said benefits do not agree to the

6   amount each is entitled to recover out of such settlement or judgment, there shall be a just and reasonable

7   apportionment thereof in accordance with this section. If the settlement, judgment or funds available to

8   satisfy the judgment are less than the amount of plaintiff's total damages, the court or other authority

9   authorized to approve settlements under section fifteen of chapter one hundred and fifty-two may reduce

10   after a hearing the amount of said insurer's lien in the action, after evaluation of the plaintiff's total

11   cognizable damages at law. Except in the case of a final judgment, where the plaintiff is dissatisfied with

12   the apportionment by the court, he may withdraw his consent to the settlement.