

**HOUSE . . . . . No.**

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**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:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1649 OF .]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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**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.  
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