

June 21, 2011

Via E-Mail

Michigan House of Representatives
Honorable John J. Walsh, Chair
Judiciary Committee
124 N. Capitol Avenue
P.O. Box 30014
Lansing, MI 48909-7514
email: JohnWalsh@house.mi.gov

RE: House Bills 4672 and 4673

Dear Representative Walsh and Other Members of the
Judiciary Committee:

I write to you to ask you to vote against House Bills No. 4672 and 4673. I will be present on Thursday, June 23, 2011 seeking to testify before the House Judiciary Committee. I have been a practicing family law attorney for 39 years.

The bills claim to codify current law. The current law is embodied in a Michigan Court of Appeals decision *Hanaway v Hanaway*, 208 Mich App 278, 527 NW2d 792 (1995) in which the appreciation from shares of stock in a business owned by the husband were divided after a 25 year marriage. The case has been cited by the Michigan Supreme Court as the law of the State of Michigan. There have been over 150 cases which discuss the issue of *Hanaway* and all support the decision. *Hanaway* gives discretion to the court to divide separate property when the marital labor of either party adds to the value of the separate property. This is as it should be. Quoting from the case on why asset appreciation should be included in the marital estate, the court opined:

“[t]he fruits of [husband’s] efforts in the business were both the increase in the value of the business...and the salary he drew over the years. The parties were building an asset as well as enjoying its fruits on an ongoing basis. That [wife’s] contribution to the asset came in the form of household and family services is irrelevant. The marriage was a partnership...[T]he

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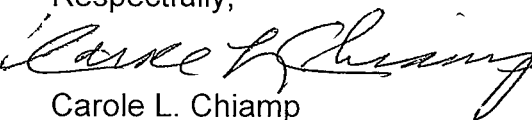
asset at issue did not increase in value simply by earning interest. Rather, it appreciated because of [husband's] efforts, facilitated by [wife's] activities at home."

Since I represented Ms. Hanaway in her successful appeal and have followed the development and clarification of the law, I have a view that may assist members of the committee. My view is that the House Bills eviscerate the present well-developed law of the State of Michigan and are anti-family and anti-marriage.

I cannot believe the haste with which your committee is trying to pass this bill without any support from the State Bar of Michigan Family Law Section of the State Bar. Indeed, the members of the family bar who know about it are shocked and outraged that these bills are "fast tracked" without any input from the State Bar Family Law Section. Can this matter not be reviewed and dealt with in an orderly fashion before a serious mistake is made?

There are many august bodies which have studied this issue for years. The most prominent is the American Law Institute (ALI) which brings together judges, expert professors and consultants. Before overlooking the opinions of almost all experts in this field, I suggest you review what the ALI has recommended in this area. If not the present law why not review other law and proposals? I request a NO vote on the bills. Please pause to make a reasoned decision.

Respectfully,



Carole L. Chiamp

CLC:saa

pc: House of Representatives
Judiciary Committee:

Honorable Kurt Heise, via email	Honorable Judson S. Gilbert, via email
Honorable Kenneth B. Horn, via email	Honorable Paul Scott, via email
Honorable Kurt Damrow, via email	Honorable Paul Muxlow, via email
Honorable Bradford C. Jacobsen, via email	
Honorable Peter Pettalia, via email	Honorable Pat Somerville, via email
Honorable Mark S. Meadows, via email	Honorable Bob Constan, via email
Honorable Stacy Erwin Oakes, via email	Honorable Lisa Brown, via email
Honorable Jeff Irwin, via email	