HOUSE DOCKET, NO. 2712 FILED ON: 1/21/2011

HOUSE . . . . . No. 2149

The Commonwealth of Massachusetts

PRESENTED BY:

Garrett J. Bradley

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:

An Act relative to court proceedings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Garrett J. Bradley	*3rd Plymouth*

HOUSE DOCKET, NO. 2712 FILED ON: 1/21/2011

HOUSE . . . . . No. 2149

By Mr. Bradley of Hingham, a petition (accompanied by bill, House, No. 2149) of Garrett J. Bradley relative to court proceedings and settlements. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to court proceedings.

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

SECTION 1. Section 70A of chapter 111 of the General Laws, as appearing in the 2008 official edition, is herby amended by inserting after the first sentence the following sentence:-

The expense of any attorney ' s fees and costs incurred in enforcing the liability of the tortfeasor and in obtaining such judgment, compromise or settlement shall be divided between the health maintenance organization, or hospital, medical or dental service corporation and the injured person in proportion to the amounts received by them from any such judgment, settlement or compromise. If the settlement, judgment or funds available to satisfy the judgment are less than the amount of plaintiff ' s total damages, the court may reduce after a hearing the amount of said insurer's lien in the action, after evaluation of the plaintiff's total cognizable damages at law.

SECTION 2. Section 13B of chapter 231 of the General Laws, as so appearing is hereby amended by adding the following sentence:-

In civil actions in the superior court, plaintiffs, through their counsel, may ask at trial for a specific monetary amount for damages.

SECTION 3. Said chapter 231 is hereby further amended by inserting after section 72 the following section:-

Section 72A. In any action in which an injured person enters into a settlement with, or obtains a judgment upon trial from a third party and benefits for his injuries have been paid under chapter 152 , and the injured person and the insurer paying said benefits do not agree to the amount each is entitled to recover out of such settlement or judgment, there shall be a just and reasonable apportionment thereof in accordance with this section. If the settlement, judgment or funds available to satisfy the judgment are less than the amount of plaintiff ' s total damages, the court or other authority authorized to approve settlements under section 15 of

24 chapter 152 may reduce after a hearing the amount of said insurer ’ s lien in the action, after
25 evaluation of the plaintiff ’ s total cognizable damages at law. Except in the case of a final
26 judgment, where the plaintiff is dissatisfied with the apportionment by the court, he may
27 withdraw his consent to the settlement.

28 SECTION 4. Section 28 of Chapter 234 of the General Laws is hereby amended by
29 inserting the

30 following after the second paragraph:

31 Notwithstanding the above, in all jury trials, both criminal and civil, the following
32 procedures shall govern.

33 (l) In addition to whatever jury voir dire of the jury venire is conducted by the court, and
34 subject to the provisions in subparagraph (3) of this act for the Commonwealth in criminal cases
35 involving multiple defendants, the court shall permit, upon the request of any party or any party's
36 attorney, the party or the party's attorney to conduct, under the direction of the court, an oral
37 examination of the jury venire.

38 (2) The court may impose reasonable limitations upon the questions allowed during such
39 examination. Additional time may be granted in the discretion of the court.

40 (3) In criminal cases involving multiple defendants, the Commonwealth shall be entitled
41 to the same amount of time as that to which all defendants together are entitled.

42 (4) This act shall not limit the number of peremptory challenges a party is entitled to by
43 statute or court rule.