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February 22, 2000

The Honorable Joseph F. Vallario, Jr.  
Chairman  
House Judiciary Committee  
110 College Avenue  
Annapolis, Maryland 21401-1991

Re: Testimony on House Bill 15.

Dear Chairman Vallario:

Over the past two years, I have been the Chair of the Committee on Business Litigation of the Business Law Section of the Maryland State Bar Association (the "MSBA"). During this time, at the request of the Business Law Section, the primary focus of the Business Litigation Committee has been to study the feasibility of and to support the creation of one or more Business Court Divisions in Circuit Courts throughout the State of Maryland. We have discussed the business court concept with national experts, members of the Litigation Section of the MSBA, scholars, judges, representatives from the executive branch and representatives of members of the legislature. During the Business Litigation Committee's two years of deliberations and discussions, the Committee and the Business Law Section have become convinced that Maryland could obtain significant benefits from the implementation of a coherent business court strategy.

Mr. Chairman, the Business Law Section strongly supports the concept of the creation of a business and technology division within the Circuit Courts of the State of Maryland. In furtherance of this goal, and in cooperation with the Board of Governors of the MSBA, the Business Law Section also supports the formation of an MSBA Task Force to study the establishment of a business and technology division to report its findings on or before December 1, 2000. As a result of its support of this concept, the Business Law Section strongly supports, and urges you to favorably report, House Bill 15, together with the Speaker's proposed amendment to establish the MSBA Task Force.

Effective January 1, 2000, Pennsylvania became the most recent State to implement a business court. In so doing, Pennsylvania joins what is rapidly becoming a large number of states in this growing trend. Among these states, many, such as Pennsylvania,

Delaware, New Jersey, New York and North Carolina are close to Maryland and compete with Maryland for economic development. The Business Law Section believes that Maryland should join this growing trend so that Maryland does not risk falling behind other nearby states.

While the fact that other states are implementing business courts should not be the reason that Maryland implements a business court, the Business Law Section believes that business courts provide significant advantages, not only in economic development and in showcasing Maryland's pro-business climate, but in improving the efficiency with which all cases, criminal and civil, are disposed. In New York, for example, in the first year alone, the business court: (i) achieved a 29% reduction in the average time to dispose of cases; (ii) achieved an 85% increase in the number of cases settled before trial; (iii) achieved a 26% decrease in the volume of pending cases; (iv) achieved a 6% increase in case dispositions; and (v) permitted New York to use three judges in one jurisdiction to resolve disputes that were previously disposed of by four; thus, freeing one full judge's time to address and dispose of other cases on New York's civil and criminal dockets.

The Business Law Section believes that a coherent business court strategy in Maryland could:

- save judicial resources in business cases by not having to repeatedly reeducate different judges on the facts of a complex business case;
- increase the predictability (critical to businesses and their advisors) of judicial decision-making in business cases;
- utilize technology to improve paper management (complex business cases are typically highly paper intensive) in business cases;
- act as a venue for testing new technology for the benefit of the entire court system;
- bring economic development benefits and promote Maryland as a business friendly state;
- ensure the success of the niche markets Maryland has created as a national leader in the formation of real estate investment trusts, investment companies and limited liability companies.

The Business Law Section believes that by providing these benefits to business cases, a business court can improve judicial efficiency for all cases and can do so at little or no cost to the State.

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The Business Law Section strongly supports, and urges you to favorably report, House Bill 15, together with the Speaker's proposed amendment to establish the MSBA Task Force.

Respectfully submitted,

Eric G. Orlinsky