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CHIEF EXECUTIVE OFFICER
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April 1, 2021

The Honorable Craig Blair
Lieutenant Governor and Senate President
Room 229M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Roger Hanshaw
Speaker of the House of Delegates
Room 228M, Building 1
State Capitol Complex
Charleston, WV 25305

RE: West Virginia House Bill 3300
Governor's Proposal

Dear Lieutenant Governor Blair and Speaker Hanshaw:

The Center for Law and Public Policy is the national policy arm of DRI, Inc., a defense bar association of more than 16,000 attorneys, corporations, and insurance companies. The DRI Center for Law and Public Policy through scholarship, legal expertise, and advocacy provides the most effective voice for the defense bar in the national discussion of substantive law, constitutional issues, and the integrity of the civil justice system. Our membership includes defense lawyers in every state, Canada and twenty-two other foreign countries, and we have sixty-five affiliate state and local defense organizations including the Defense Trial Counsel of West Virginia.

We write to you today to express our strong opposition to West Virginia House Bill 3300 and the Governor's Proposal, which, if adopted, would tax professional services in your state. In addition to the following specific objections to the proposed legislation, perhaps the most compelling reason for not passing these bills is that if they are enacted, West Virginia would become one of only four states that tax legal services. Doing so would compromise West Virginia in the eyes of the national defense bar and our members' corporate clients. We further believe that adopting such an isolated and unenviable position will eventually find West Virginia following Massachusetts, Michigan, and Florida – states that enacted legislation taxing legal services but whose legislatures later reconsidered the long-term viability of such taxes and repealed those laws.

The proposed legislation will tax all legal services and disproportionately impact clients in criminal, divorce, domestic abuse, and other non-discretionary matters. At a time when the national conscience is focused on improving access to justice and eliminating discrimination, a tax on legal services would find the poor paying a greater portion of their income for mandatory legal services than their wealthier counterparts and undermine West Virginia's efforts to improve the quality of life for its citizens in need. This taxation would further impair the noble efforts of those attorneys who frequently provide such services at reduced fees. Emerging and small businesses that are financially unable to retain in-house counsel would also suffer the unintended consequences of increased expense at a time when they are least able to afford it.

West Virginia House Bill 3300 | April 1, 2021
Governor's Proposal

We believe taxing legal services will place West Virginia lawyers at a competitive disadvantage. If lawyers can pass the tax to their clients – a possibility that is far from guaranteed – it creates a disincentive to employ West Virginia attorneys. Corporate clients in general scrupulously manage legal expenses, and the likelihood they will accept this tax as part of their services is not great. The consequence is that clients will more frequently turn to lawyers in other states for services, or West Virginia lawyers will be required to absorb these costs. Neither prospect serves the interests of West Virginia nor the professionals who practice there.

We respectfully request that you oppose the passage of House Bill 3300 and the Governor's Proposal when they are called for a vote.

The Center for Law and Public Policy

Toyja E. Kelley

Toyja E. Kelley
President, The Center for Law and Public Policy

Dean Martinez

Dean Martinez
Chief Executive Officer, DRI, Inc.

Emily G. Coughlin

Emily G. Coughlin
President, DRI, Inc.

Kathleen M. Guilfoyle

Kathleen M. Guilfoyle
Chair, The Center for Law and Public Policy

cc: The Honorable Members of the West Virginia Senate
The Honorable Members of the West Virginia House of Delegates