

Received(Date): 1 MAY 2003 12:10:02
From: "Matal, Joe (Judiciary)" <Joe_Matal@Judiciary.senate.gov> ("Matal, Joe (Judiciary)" <Joe_Matal@Judiciary.senate.gov> [UNKNOWN])
To: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
Subject: : RE: ISCRAA (Kyl-Cornyn)

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:"Matal, Joe (Judiciary)" <Joe_Matal@Judiciary.senate.gov> ("Matal, Joe (Judiciary)" <Joe_Matal@Judiciary.senate.gov> [UNKNOWN])
CREATION DATE/TIME: 1-MAY-2003 12:10:02.00
SUBJECT:: RE: ISCRAA (Kyl-Cornyn)
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Yes. I am at 224-4076. (Or, if you are on the Hill, at 325 Hart.)

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, May 01, 2003 11:56 AM
To: Matal, Joe (Judiciary)
Subject: Re: ISCRAA (Kyl-Cornyn)

Can we talk today at 4:00 about this?

(Embedded
image moved "Matal, Joe (Judiciary)"
to file: <Joe_Matal@Judiciary.senate.gov>
pic00447.pcx) 04/23/2003 03:44:31 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: ISCRAA (Kyl-Cornyn)

Brett: I understand through the rumor mill that you are one of the people who has been asked to look at S.887, the Kyl-Cornyn attorneys fee bill. I have also heard that some business groups have expressed concern that the bill sets a precedent for having the IRS regulate businessmen's salaries. To address this issue, I've written a memo (attached) that explains that the bill has courts, not the IRS, apply

the fee formula to mass-tort attorneys. (This is one of the parts of the original Horowitz bill that Senator Kyl has changed.) The memo also quotes authorities making clear that courts have always distinguished lawyers, as fiduciaries, from ordinary businessmen, and that lawyers already are subject to ethical rules requiring them to charge only reasonable fees. The memo contains at the end the portion of Senator Kyl's speech addressing this issue in greater depth.

As for the question of how the tax purists will receive ISCRAA: Americans for Tax Reform is with us. ATR sent out a legislative alert to Senate offices yesterday declaring that it "strongly supports passage of S. 887." I am working with ATR (and other groups) to persuade state governors to ask their Senators to cosponsor the bill.

Additionally, I have included with this email our basic information packet on ISCRAA, and, for completeness, Senators Kyl and Cornyn's full, footnoted speeches introducing S.887. Senator Kyl's speech addresses issues of access to justice, freedom of contract, why ISCRAA will apply to only a few cases a year, and retrospective effect. Senator Cornyn's speech addresses (at the end) the issue of why the excessive portion of an attorneys fee is the property of (and must be restored to) the client. The bulk of Senator Cornyn's speech addresses the gross corruption involved in the tobacco settlement fee awards.

Please do not hesitate to call me if you have any questions about how ISCRAA works or any other aspect of the bill. We plan to try to do this bill on reconciliation, meaning that it will only need 50 votes. By our head count, it will be decided by just a few votes. How the Administration comes down could very well be decisive for this bill - and whether we allow 20 billionaire tort lawyers to turn this country into the ATLA version of post-Soviet Russia.

Joe Matal
Counsel to Senator Kyl
work 224-4076

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