



## **Nuts & Bolts: Connecticut Tenant Security Deposit Returns**

**October 26, 2018**

**10:00 a.m. – 11:30 a.m.**

**CBA Law Center**

**New Britain, CT**

**CT Bar Institute Inc.**

CT: 1.5 CLE Credits (General)

## Lawyers' Principles of Professionalism

As a lawyer I must strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, not only will I comply with the letter and spirit of the disciplinary standards applicable to all lawyers, but I will also conduct myself in accordance with the following Principles of Professionalism when dealing with my client, opposing parties, their counsel, the courts and the general public.

Civility and courtesy are the hallmarks of professionalism and should not be equated with weakness;

I will endeavor to be courteous and civil, both in oral and in written communications;

I will not knowingly make statements of fact or of law that are untrue;

I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;

I will refrain from causing unreasonable delays;

I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

When scheduled hearings or depositions have to be canceled, I will notify opposing counsel, and if appropriate, the court (or other tribunal) as early as possible;

Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

I will refrain from utilizing litigation or any other course of conduct to harass the opposing party;

I will refrain from engaging in excessive and abusive discovery, and I will comply with all reasonable discovery requests;

In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and refrain from engaging in acts of rudeness or disrespect;

I will not serve motions and pleadings on the other party or counsel at such time or in such manner as will unfairly limit the other party's opportunity to respond;

In business transactions I will not quarrel over matters of form or style, but will concentrate on matters of substance and content;

I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the court, that excessive zeal may be detrimental to my client's interests as well as to the proper functioning of our system of justice;

While I must consider my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation;

Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

I will withdraw voluntarily claims or defense when it becomes apparent that they do not have merit or are superfluous;

I will not file frivolous motions;

I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

In civil matters, I will stipulate to facts as to which there is no genuine dispute;

I will endeavor to be punctual in attending court hearings, conferences, meetings and depositions;

I will at all times be candid with the court and its personnel;

I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

I will endeavor to keep myself current in the areas in which I practice and when necessary, will associate with, or refer my client to, counsel knowledgeable in another field of practice;

I will be mindful of the fact that, as a member of a self-regulating profession, it is incumbent on me to report violations by fellow lawyers as required by the Rules of Professional Conduct;

I will be mindful of the need to protect the image of the legal profession in the eyes of the public and will be so guided when considering methods and content of advertising;

I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance;

I will endeavor to ensure that all persons, regardless of race, age, gender, disability, national origin, religion, sexual orientation, color, or creed receive fair and equal treatment under the law, and will always conduct myself in such a way as to promote equality and justice for all.

It is understood that nothing in these Principles shall be deemed to supersede, supplement or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which lawyer conduct might be judged or become a basis for the imposition of civil liability of any kind.

*--Adopted by the Connecticut Bar Association House of Delegates on June 6, 1994*

# STATEWIDE LEGAL SERVICES OF CONNECTICUT, INC.

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Client Hotline: 1-800-453-3320

Web Site: <http://www.slsct.org>

## **NUTS & BOLTS: CONNECTICUT TENANT SECURITY DEPOSIT RETURNS**

### **About the Program**

Interested in providing pro bono legal help to a low-income family, but only able to offer a few hours of pro bono assistance? Interested in learning about basic Connecticut landlord-tenant security deposit laws?

Join the Connecticut Bar Association and Statewide Legal Services of Connecticut, Inc. in celebrating **National Pro Bono Week** by learning how to provide pro bono legal assistance to low-income families initiating or challenging claims on their housing security deposits.

Every year pro bono attorneys donate their time at the Statewide Legal Services of Connecticut, Inc. Pro Bono Security Deposit Clinic assisting low-income individuals in completing the necessary forms to initiate return of their security deposit. As a result, 58% of the low-income clients have successfully recovered their security deposits. Recovering a security deposit allows a low-income family to secure new housing options or maintain a safe place to live. In lieu of a course fee, we ask attorneys to commit to attending at least one in-person Statewide Legal Services of Connecticut, Inc. pro bono security deposit clinic in 2019.

### **You Will Learn**

- Basic Connecticut Security Deposit Laws
- Tenant Rights and Responsibilities relating to return of security deposit
- How to initiate Return of Security Deposits
- How to complete Small Claims Writ and Notice of Suit, Application for Fee Waiver, and Statement of Service

### **Speakers**

Ashleigh M. Backman, Pro Bono Attorney Manager, Statewide Legal Services of Connecticut, Inc.

Elizabeth Pisarski-Buchholz, Housing Attorney, Statewide Legal Services of Connecticut, Inc.

## **Faculty Biographies**

### **Elizabeth Pisarski-Buchholz, Staff Attorney, Statewide Legal Services of CT, Inc.**

Elizabeth Pisarski-Buchholz is a Staff Attorney at Statewide Legal Services of Connecticut (SLS), which is a civil legal aid law firm providing (1) free legal advice to low income Connecticut residents and (2) legal intake and case referrals to our pro bono programs and the other legal aid offices in the state.

Elizabeth advises low income clients in the Housing and Benefits departments. She assists people in knowing their legal rights before going to housing court, getting their security deposits back, and keeping their housing subsidies. She also helps people obtain and maintain disability benefits, food assistance, and medical coverage.

Elizabeth graduated from Assumption College and Western New England University School of Law.

### **Ashleigh Backman, Pro Bono Attorney Manager, Statewide Legal Services of CT, Inc.**

Ashleigh Backman is the Pro Bono Attorney Manager at Statewide Legal Services of Connecticut (SLS), which is a civil legal aid law firm providing (1) free legal advice to low income Connecticut residents and (2) legal intake and case referrals to our pro bono programs and the other legal aid offices in the state.

As a legal aid attorney, Ashleigh represents low income clients seeking criminal pardons in Connecticut. As a Managing Attorney, she oversees SLS's four pro bono programs and pro bono coordinators, recruits pro bono attorneys, students, and paralegals, and educates community-based providers about SLS's free civil legal aid resources.

She has previous experience at the Connecticut State's Attorney's Office in New Haven and as a permanent substitute teacher in the Wolcott Elementary School system.

Ashleigh graduated from Bryn Mawr College and the University of New Hampshire School of Law, where she was Doris Monroe Rapee Scholar and a Franklin Pierce Public Interest Scholar. Ashleigh is a member of the Connecticut Bar Association's Pro Bono Committee and Young Lawyers Section.

# Nuts & Bolts: Connecticut Tenant Security Deposit Returns CLE (EPB181026)

Presented by:  
Statewide Legal Services of Connecticut, Inc.  
Elizabeth Pisarski-Buchholz, Esq.  
Ashleigh Backman, Esq.

*Celebrate Pro Bono*

**National Pro Bono Week**

**Oct. 21-27, 2018**

Do Good • Do Justice • Do Pro Bono





# TODAY'S AGENDA

- ▶ Introduction: SLS pro bono programs
- ▶ Security Deposit Clinic: What to expect as a pro bono attorney
- ▶ Tips: Working with low-income clients
- ▶ Security Deposit Return: Laws, rights & responsibilities
- ▶ Overview: Small Claims Court & forms

# Statewide Legal Services of Connecticut

- ▶ *Statewide Legal Services of Connecticut empowers low-income people in Connecticut to obtain justice by providing tools to address their civil legal needs.*
- ▶ At Statewide Legal Services we believe knowledge is power. We are a legal aid advice and referral center helping low-income people solve their legal problems. We believe that everyone should have access to justice.
- ▶ Statewide Legal Services of Connecticut, Inc. serves low-income men, women, and families living in 169 of our Connecticut towns. SLS provides legal assistance to low-income individuals who are typically at or below 125% of the federal poverty level.

125%			
Family Size	Annual	Monthly	Weekly
1	\$15,175	\$1,265	\$292
2	\$20,575	\$1,715	\$396
3	\$25,975	\$2,165	\$500
4	\$31,375	\$2,615	\$603
5	\$36,775	\$3,065	\$707
6	\$42,175	\$3,515	\$811
7	\$47,575	\$3,965	\$915
8	\$52,975	\$4,415	\$1,019
Each Add'l	\$5,400	\$450.00	\$104



# Network of Civil Legal Aid Programs in Connecticut

Statewide Legal Services of Connecticut (SLS) is the initial entry point for Connecticut residents seeking free, civil legal help.

SLS conducts applicant financial eligibility and legal issue eligibility.



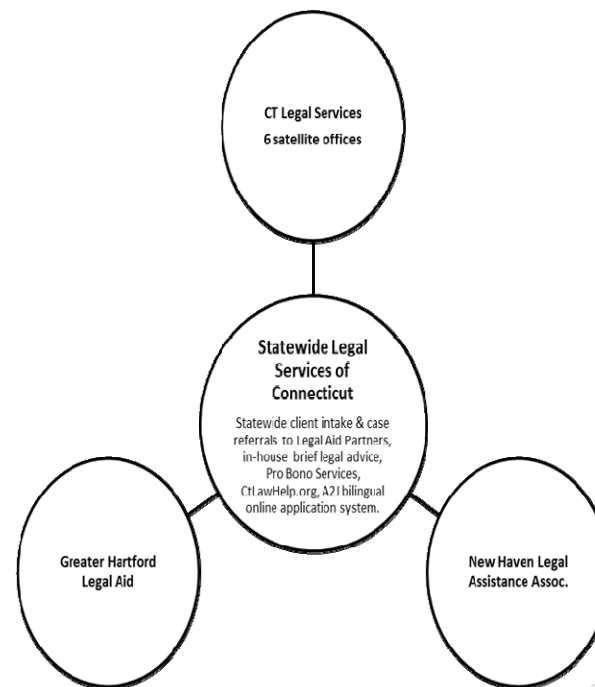
SLS provides telephonic legal advice to eligible clients



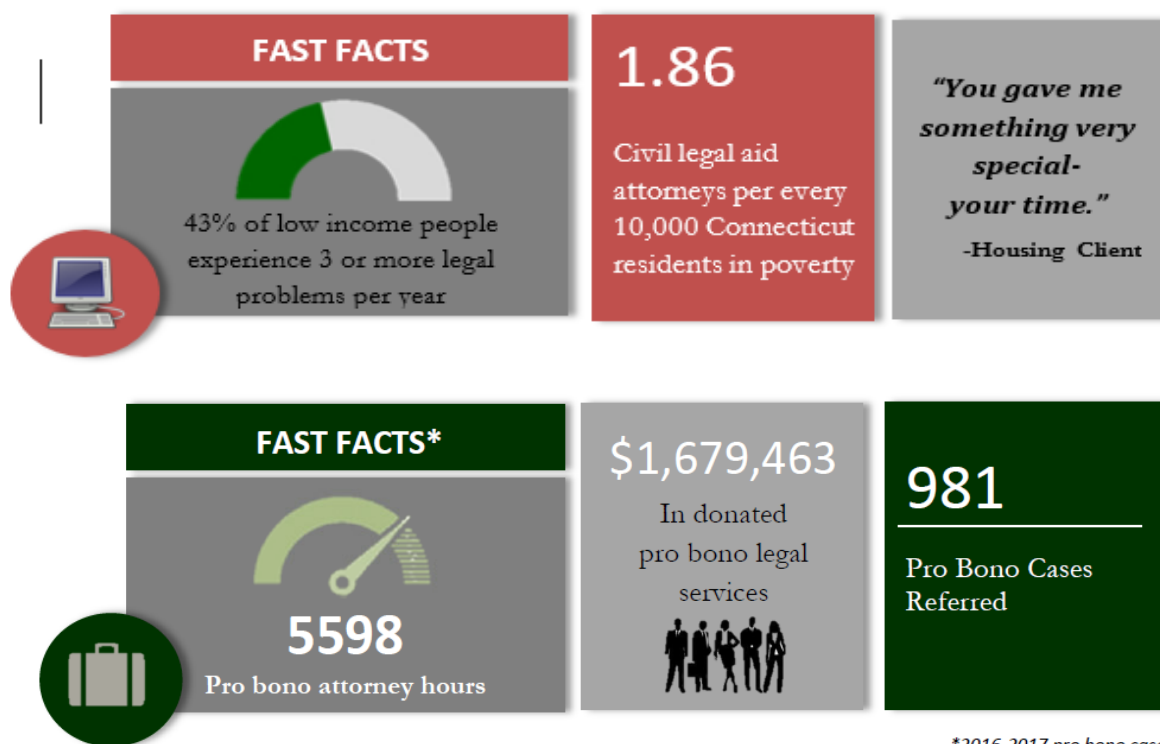
Some cases are referred to our Network of Legal Aid Programs for direct representation



Some cases are referred to our SLS Pro Bono Programs for legal assistance by our Pro Bono Attorneys.



## Bridging the Justice Gap: How pro bono attorneys support our work



\*2016-2017 pro bono cases

# Security Deposit Clinic: How clients are referred to the pro bono clinic

- ▶ Client has been advised by an advocate to complete the following tasks:
  - ❑ Send demand letter to landlord
  - ❑ Get proof of notice of demand letter to landlord
- ▶ Client has successfully completed these tasks and has the following:
  - ❑ Has gotten no response or an unsatisfactory response from landlord
  - ❑ Has proof of payment of security deposit
- ▶ Client has been identified by an attorney as needing an elevated level of legal assistance, beyond telephonic advice and counsel.
  - ❑ Elderly
  - ❑ Handicapped
  - ❑ Language barrier



# Security Deposit Clinic: How pro bono attorneys volunteer at the clinic

- ▶ Pro Bono Attorney Coordinator sends notification of upcoming pre-scheduled clinic dates to listserv
  - ▶ Date / Time
  - ▶ Name of clients
- ▶ Pro bono attorney conducts internal conflict check
- ▶ Available pro bono attorneys email Pro Bono Attorney Coordinator, if available.
- ▶ Expectation : Two clinics / year
- ▶ Time Commitment: Less than three hours / clinic

## Security Deposit Clinic: What to expect as a pro bono clinic attorney

- ▶ SLS provides malpractice coverage to pro bono attorneys assisting pro bono clients
- ▶ SLS pre-screens pro bono clinic clients for financial and legal issue eligibility
- ▶ SLS offers on-site legal aid attorney support
- ▶ SLS provides client retainer agreements and explains to client pro bono brief service representation, prior to meeting with pro bono attorney.
- ▶ SLS provides office space, court forms, and landlord information.



# Security Deposit Clinic: Responsibilities as a pro bono attorney

- ▶ Pro bono attorney visits SLS' Wethersfield office at 9:00am (or evening appointments) on the scheduled day of the clinic
- ▶ Pro bono attorney meets with SLS Pro Bono Attorney Coordinator prior to meeting with client.
  - ▶ Receives detailed client facts
  - ▶ Reviews legal strategies with Pro Bono Attorney Coordinator
  - ▶ Opportunity to ask questions
- ▶ Pro bono attorney assists client to complete:
  - ▶ Small Claims Writ and Notice of Suit
  - ▶ Application for Waiver of Fees
  - ▶ Statement of Service

# Security Deposit Clinic: Pro bono impact on the lives of low-income clients

- ▶ Understanding the challenges unique to pro bono assistance can facilitate what can be a gratifying experience, recognizing that advocacy means not just legal representation, but being an amplifier for your client's voice to be heard.
- ▶ More than 58% of pro bono security deposit clinic clients gained access to the legal system by successfully filing a return of security deposit.
- ▶ Of the 58%, 100% of pro bono security deposit clinic clients filed and were granted court fee waivers.
- ▶ Client statements,
  - ▶ "I never would [have] known how to get my security deposit back. I have a safe and new apartment because of you. "
  - ▶ "You gave me hope when I didn't know where to go."
  - ▶ "I don't know how to thank you for your time."

## TIPS: Working with low-income clients

- ▶ As a [pro bono](#) volunteer, the challenges in representing low-income clients consist of more than learning a new area of the law or gaining experience in client interaction. Representing a pro bono client may be vastly different from a corporate client, and a significant hurdle can be the socioeconomic challenges themselves.
- ▶ Clients may struggle with financial, cultural, educational, and/or emotional barriers, requiring more foresight and sensitivity by the volunteer.
- ▶ Be patient; try to explain clearly without "legalese" and condescension.
- ▶ Beware of the emotional response. Your role is to provide legal assistance to the client. If the client is struggling with emotional issues, you can firmly explain your limited role as a volunteer at the clinic.
  - ▶ Locate one of the Pro Bono Coordinators to support you in this conversation.



## TIPS: Working with low-income clients



# SECURITY DEPOSIT TRAINING



Elizabeth Pisarski-Buchholz  
Statewide Legal Services of Connecticut



# When a tenant moves into a new apartment...

- Tenant signs a written lease or agrees to an oral lease
- Landlord wants a security deposit
  - Maximum of two months rent **CGS §47a-21 (b)(1)**
  - Maximum of one month for tenants 62 and older **CGS § 47a-21(b)(2)**
- Tenant receives proof of security deposit
- Security deposit goes into escrow account **CGS §47a-21 (h)**
  - LL shall maintain each account as escrow agent and shall not withdraw funds unless in accordance with **CGS §47a-21 (h)(2)**
  - LL shall provide each tenant with written notice of amount in account, and name and address of financial institution no later than 30 days after landlord receives the security deposit from tenant

# Security Deposit

CGS §47a-21 thru §47a-22a

- What is a security deposit?
  - Any advance rental payment **CGS §47a-21(a)(11)**
    - last month's rent
    - pet deposit
- A security deposit is NOT: **CGS §47a-21 (a)(11)**
  - first month's rent
  - a key deposit
  - special equipment deposit

# Moving Out: Tenant's Responsibilities

CGS § 47a-21(d)

- The current owner of the property (landlord) is responsible for the return of the tenant's security deposit.
- Tenant should give landlord a written request for the return of the security deposit and provide a forwarding address.
- Letter should be sent to the current landlord by certified mail return receipt requested **and** regular mail.

# How do you find out who is the current landlord?

- Local tax or property assessor's office
  - Some towns have their property records online-check the town website
- Business entities – call Secretary of State's office
  - Online at [www.concord.sots.ct.gov](http://www.concord.sots.ct.gov)
- Trade Names or DBAs (doing business as) – Town Clerk in the town where the business is located

# Moving Out: Landlord's Responsibilities

- Landlord must send the full deposit with interest or an itemization of damages and a check for the balance. CGS §47a-21(d)



# Moving Out: Landlord Liability

- If the landlord does not contact the tenant within the statutory period of time, he or she may be liable for double damages.
- The statutory period of time is 30 days after termination of tenancy or 15 days after receiving written notice of tenant's forwarding address, whichever is later. [CGS § 47a-21\(d\)\(2\)](#)

# Tenant Liability

- What can the landlord deduct from the tenant's security deposit?
  - Damages by tenants or their guests that are not normal wear and tear
    - Normal wear and tear examples: old paint, normal carpet wear
  - Unpaid rent
  - Legal fees if there was an eviction (only if legal fees are a term in a written lease)

# Tenant Recourse

If tenant has....

- sent a demand letter and has proof of notice to the landlord (i.e. return receipt, mail not returned), and
- gotten no response or an unsatisfactory response, and
- has proof of payment of the security deposit...

➤ tenant will need to sue landlord in small claims court to get security deposit back.

# What if the landlord is out of state?

- If the landlord is a person living outside of CT:
  - Landlord can be sued only if he/she owns property in CT
  - Any form of service can be used
- If the landlord is a business entity outside of CT:
  - Landlord should be registered with the Secretary of State, so check to see if there is an agent for service
  - A proper officer/marshal must be used to serve the landlord

# How to serve the defendant

- By priority mail with delivery confirmation
- By certified mail, return receipt requested
- By nationally recognized courier
- By proper officer/ marshal

# Overview of Small Claims Court

After the Writ and Notice of Suit are filled out....

- Serve the defendant (**Writ and Instructions to defendant**)
- File the paperwork (**Writ, Instructions to defendant, Fee waiver, Statement of service**)
- Wait for an answer date and docket number from the clerk
- Hearing date
- Possible settlement
- Possible hearing
- Enforcement

# Forms tenant needs to file with the court

1. Small Claims Writ and Notice of Suit
2. Application for Waiver of Fees
3. Instructions to Defendant
4. Statement of Service

**\*\*Note- the cost to file a small claims case is \$95, so it's important that clients fill out the Fee Waiver.**



# Writ and Notice of Suit

1. Location information (town where the property is located)
2. Case type code **H 11**
3. Landlord/Tenant matter?
4. Town where property is located
5. Plaintiff's information
6. Plaintiff's attorney
7. Landlord's information

# Writ and Notice of Suit (cont.)

## 8. Statute of limitations

- Written lease- 6 years
- Oral lease- 3 years
- **CGS §52-576, CGS §52-581**

## 9. Landlord address verification

## 10. Amount claimed (can check double damages, if applicable)

## 11. Reason for lawsuit

- Ex. "I moved into 15 Well St. on Jan 1, 2017. I had an oral lease. I paid \$1500 security deposit and have a receipt. I moved out on Sept 1, 2018. I sent my landlord a demand letter with my forwarding address on Sept 2, 2018. It is now Oct 15, 2018 and I have not received any communication from my landlord about my security deposit. I am asking for the return of my security deposit \$1500, plus .08% interest, plus double damages in the amount of \$1500."

## 12. Signature (in front of clerk, notary or commissioner of the court)

# Application for Waiver of Fees

- Name of case (Tenant v. Landlord)
- Location of court
  - Check judicial website for information on which court to file case
- Plaintiff information
- Type of case (Small Claims case)
- Fee to be waived (Entry fee- Small Claims, possibly Service of Process)
- Financial information- household, income, expenses, assets, debts
- Signature (in front of clerk, notary or commissioner of the court)

# Statement of Service

- Name of defendant
- Method of service, with amount paid
- Plaintiff's signature

# Additional Filing Information

- Writ and service of suit must be returned to the court not more than 1 month after the date of service
- Clerk will then set an answer date and will mail notice of the answer date and docket number to the plaintiff and defendant. The clerk will also send an answer form to the defendant.

# Defendant's Response

- Defendant may:
  - File an answer
  - Counterclaim
- Defendant may not answer, but:
  - Show up at court, or
  - Not show up at court (possible default)
    - Tenant will need to file a military affidavit in order to get a default judgment

# On the Hearing Date

- Settlement
  - Agreement between the parties
- Default judgment
  - If military affidavit filed
- Hearing
  - Evidence and witnesses



# Hearing

- Present physical evidence (lease, receipts, photos) and testimony to the Magistrate.
- Defendant will have a chance to present their case.

# Judgment

Magistrate will accept the agreement of the parties and enter it as a court order

Or

Enter a default judgment

Or

After hearing, Magistrate will decide from the bench or will take it on the papers.

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**Note:** if tenant wins, landlord will be ordered to pay the amount of the judgment in full by a certain date

# Enforcement

- If the Defendant does not make payments, you can ask that the clerk issue a wage, property or bank execution (\$105 fee for each application).
  - Since there is no order for periodic payments in a landlord/tenant matter, if you want a wage execution you will need to file a motion for an order of periodic payments.
- An execution authorizes a state marshal to attach a person's wages, nonexempt property (not real estate) or bank account.
- Judgments can be enforced for 10 years.

## Contact info

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