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**Testimony of Arthur Towers
Before the Senate Committee on Judiciary
In Support of HB 2807-A with proposed amendments
May 24, 2017**

Thank you for the opportunity to testify today in support of the amendments to HB 2807. Nearly three months ago, we had a lengthy discussion about the impact of compensation caps on the lives of severely injured or traumatized Oregonians. You heard from victims of sexual assault. You heard from a survivor of child abuse by his scout leader. You heard from a gentleman who was permanently paralyzed when defective scaffolding collapsed.

The proposed solution to the challenges that these Oregonians and others like them has changed. We have worked hard to reach a compromise that will still meet the needs of the vast majority of those who suffer from paralysis, disfigurement, the loss of a limb, the loss of vision, or other serious injury.

A Compromise that Protects the Rights of Oregonians

The proposed amendment would be a step down from the system Oregon had in place from 1999-2016. As you remember during that 17 year period, there was no compensation cap for victims of serious injury. The amendment would cap compensation for non-economic loss at \$10M. This is compensation for the loss of the quality of life – the inability to enjoy nature, to live independently, to walk, the loss of sexual function. As we discussed compensation for economic loss is not capped – to the extent it can be proven at the time of trial.

A Compromise that Protects Community Safety

The \$10M cap is high enough to ensure community safety from defective products. Betty Rotting was 73 years old when she was sexually assaulted in the back of an ambulance. She courageously fought not just for adequate compensation but also for the re-design of ambulances so there is no longer a partition between the driver and the back of the ambulance.

Amber Newcomb was 9 years old when her mom asked her to get the clothes out of the washer. She had seen mom do this a hundred times. But when Amber reached in, the rotor did not stop and broke every bone in her right forearm. After 8 surgeries, Amber's arm was amputated. The Newcombs committed themselves to getting the manufacturer to install a kill switch on the lid so when it is lifted, the machine now shuts off.

The threat of a big verdict led directly to community safety for Oregonians.

Our willingness to accept this cap is a big step for our organization. We believe in the right of a jury to make decisions on a case-by-case basis. The amendment compromises that principle. A cap of this size would allow juries in most cases to make a decision based on the specific facts of a case, after hearing from both sides. However, **Oregon has already seen settlements and at least one verdict in excess of \$10M.** A jury heard how Scott Busch was walking to work and crossing the street in a crosswalk with the light when a garbage truck hit him and severed his leg. The jury understood that the truck driver had a poor driving record but no discipline from the company. They understood that the truck had made an illegal turn. In this case, the jury awarded in excess of \$10M. Mr. Busch will receive less because of this cap.

The proponents made a second compromise by eliminating any changes to the wrongful death cap. That \$500,000 compensation cap for grieving families has not been increased in 30 years.

A Compromise that Aligns with the Will of the Voters

The system in place for the first 15 years of this century worked pretty well. Again this was the system with no caps on injuries. **Voters supported the rights of juries twice when they defeated caps proposed in Measure 81 and Measure 35.**

A Compromise that Aligns with the Facts About the Medical Industry

In the last 15 years, we have experienced 38% inflation, and much higher medical inflation. Yet in February, the insurance industry testified that during much of that 15 year period medical liability insurance premiums declined and are lower than they were in 2002.

Our testimony from February, which we have resubmitted here as an exhibit, demonstrate the facts about the growth in the number of doctors throughout the state during the period without caps.

But this is not about the medical industry – this is about the rights of Oregonians. This is about the sanctity of the jury trial and the 7th Amendment guarantee to a trial by jury.

A Compromise that Helps Victims of Injuries and Abuse

This is about John Anderson, the child whose life was changed forever when he suffered abuse at the hands of a coach or religious leader or a teacher. And all the other kids similarly victimized. This is about Erin Vance and the other women who were sexually assaulted by an anesthesiologist during surgery, and the employer that did little to protect the victims. This is about Zeferino Vasquez, the 21-year-old farm worker permanently paralyzed by a defective piece of equipment that squeezed his waist into a space an inch and half wide.

I worry this is about the children in Coos County who were exposed to pesticides at their day care center.

Thank you for your repeated support of injured and vulnerable Oregonians. We urge your support for an amended HB 2807.