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The Judicial Proceedings Committee
of the Maryland Senate

Re: Favorable Support of SB0538

Dear Committee Members:

I write this letter to urge a favorable report on SB0538.

I am a trial lawyer, who for over twenty-five years, has represented clients who have suffered life altering injuries as a result of the carelessness and negligence of others. Sadly, despite suffering life altering injuries, Maryland law has repeatedly prevented many of my past and current clients from holding the people and corporations fully accountable for the catastrophic life changing harm that they have negligently caused. Two of these clients are Doug and Monica Murphy whose son was killed as a result of the negligence of a driver of a commercial van who was smoking crack and ran him over. I also submit this testimony on behalf of the rest of the citizens of our state, many of whom in the future will also suffer life altering injuries as a result of future carelessness and negligence of people and/or corporations that injure them.

Sitting on a jury is the one chance that ordinary citizens have of exercising direct democracy in the form of a verdict. The members of the jury who are called upon to hear personal injury cases hear all of the evidence, deliberate, and decide if negligence was a cause of the injuries that are being asserted. If they find that negligence was a cause of the injury they then consider all of the evidence to determine what amount it owed to the victim to compensate the negligently injured victim.

In addition to compensation juries determine on their verdict, as Judge Learned Hand observed well over two hundred years ago, the tort system exists to make society a safer place for everyone. When people and corporations know in advance that they will

be held fully accountable for the injuries their negligence causes they have an incentive to be more careful. As a result, less people become injured and society benefits as a whole.

The current state of the law prevents the tort system from achieving either of its founding goals. When legislatures, who have heard none of the evidence of the actual catastrophic injuries a victim of negligence has suffered, arbitrarily determine the maximum amount of recovery the law will allow, victims of negligence are not fully compensated. Negligent actors no longer need to worry about being careful because they can avoid any direct repercussions for their negligent acts by obtaining enough insurance to cover them for the damage cap. Consequently, the two goals that the tort system was founded upon are seriously undermined if not eliminated entirely to a number on a business spreadsheet.

I mentioned that I will be testifying on behalf of my past clients Doug and Monica Murphy. You have heard from the Murphy's on a previous bill to enhance criminal penalties for impaired driving. I watched the video of their testimony and saw how hard it was for them to testify. They did testify in support of SB0538 in the House and I simply could not ask them to go through this pain and emotional damages a third time.

You may recall, their son Matthew was killed by the negligence of a drugged driver driving a company vehicle. Tragically Monica was present when this drugged driver ran up onto the curve and actually witnessed her son die. As you will hear, the insurance adjuster who was assigned the case told me that there was Five Million Dollars in coverage that the drugged driver's company had purchased and could be used to pay out the claim. The adjuster then told me that the Murphy's case was worth every penny of the Five Million Dollars in Coverage.

Amazingly, the insurance adjuster then told me that she was upset and disturbed by the fact that Maryland had a cap on non-economic damages because the existence of this stator cap prevented her from paying the full amount of the coverage. She lamented that her company would not allow her to pay what the law the allow did not allow my clients to recover. In short, the business who insured the drug impaired driver bought coverage in an amount to make sure that if its employees caused catastrophic harm that they would be compensated. Unfortunately, Maryland law would not allow this compensation to take place.

Thank you for allowing me to be heard on their behalf and on behalf of my other past and future clients who have or will find themselves in the same situation as the Murphy's if SB 0538 does not pass.

Sincerely,

THE HARAK LAW FIRM, LLC



DAVID A. HARAK