



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Testimony in Support of HB 832
Testimony by Delegate Vaughn Stewart
February 21, 2024 • Judiciary Committee

What the Bill Does

HB832 codifies the definition of “damages” in Maryland law. Crucially, that definition includes nominal damages. Nominal damages are awarded when the defendant has violated a plaintiff’s rights but the plaintiff has not suffered any quantifiable harm.

Why the Bill is Important

About a decade ago, Taylor Swift countersued a radio personality who groped her for assault and battery. However, she requested only one dollar in damages, which the court awarded her. She explained that she did not sue for more substantial damages because her goal was to hold the defendant accountable and to strengthen social norms against sexual assault. This bill aims to protect plaintiffs like Ms. Swift and others whose aim is vindication and dignity, and for whom the damages are unimportant or unquantifiable.

Nominal damages are a long-established judicial remedy for invasions of personal legal rights. Under English common law, nominal damages were often awarded to plaintiffs who proved a legal violation, but could not prove they were entitled to compensatory damages. *See, e.g., Robinson v. Byron* (1788), reported in 30 Eng. Rep. 3, 3 (1903) (awarding nominal damages where the plaintiff’s riparian rights were violated and where the plaintiff elected not to seek compensatory damages); *Marzetti v. Williams* (1830), reported in 109 Eng. Rep. 842, 846 (1910) (concluding “that wherever there is a breach of contract or any injury to the right arising out of that contract, nominal damages are recoverable”).

American courts have largely embraced the use of nominal damages. In a 19th century case, Justice Story wrote that “wherever there is a wrong, there is a remedy to redress it and, if no other damage is established, the party injured is entitled to a verdict for nominal damages.” *Webb v. Portland Mfg. Co.*, 29 F. Cas. 506, 507 (C.C.D. Me. 1838) (No. 17-322).

The Supreme Court’s recent decision in *Uzuegbunam v. Preczewski* endorsed the use of nominal damages. The Court held in an 8-1 opinion written by Justice Thomas that an award of nominal damages can redress a past injury and therefore defeat mootness. Justice Thomas wrote: “By permitting plaintiffs to pursue nominal damages whenever they suffered a personal legal injury, the common law avoided the oddity of privileging small-dollar economic rights over

important, but not easily quantifiable, nonpecuniary rights.” In that case, nominal damages would provide relief for the dignitary harm resulting from restrictions on students’ ability to distribute religious literature at a public college.

However, Maryland courts have never been asked to weigh in on the validity of nominal damages as a basis of a lawsuit under state law. Given a rash of federal cases that have closed the courthouse doors to plaintiffs in a variety of ways, there is a legitimate risk that this remedy could be stripped from Marylanders. For example, in *TransUnion v. Ramirez*, the Court went the other way, reversing a class action award after finding that a legal violation without “concrete harm” could not survive standing requirements.

This bill would make it more difficult for future courts to limit the rights of Marylanders to have their day in court.

Why the Committee Should Vote Favorably

When our neighbors, constituents, and favorite pop stars bring civil lawsuits, they often express sentiments like “I just wanted the defendants to admit they were wrong” or “I wanted my rights respected by a court of law.” That’s because civil litigation has never solely been about material redress for quantifiable loss. Litigation is often a quest for less tangible forms of relief—respect, dignity, or vindication.

A nominal, in-name-only award of one dollar signals that the plaintiff is entitled to dignity. To phrase it differently, nominal damages do provide relief from a genuine harm: the denial of respect. By codifying the availability of nominal damages, this bill protects Marylanders from judicial activism designed to rewrite our law by blocking plaintiffs from having their rights vindicated.

Violations of Marylanders constitutional, civil, and consumer rights leave a wound that cannot always be calculated. Violators of the rights of Marylanders should not avoid judicial accountability merely because the harm they caused cannot be quantified into a compensatory award.

I urge a favorable report.