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The Hon. Luke Clippinger
Chair, House Judiciary Committee
101 Taylor House Office Building
6 Bladen Street
Annapolis, Maryland 21401

**HB 1099 – Civil Actions – Punitive Damage Awards – Surcharge
FAVORABLE WITH AMENDMENTS**

Dear Chair Clippinger and Distinguished Members of the House Judiciary Committee:

I write to support House Bill 1099, which allows the recovery of “punitive damages” in civil actions where a jury finds by clear and convincing evidence that the defendant’s wrongful conduct rose to the level of “gross negligence,” defined as conduct characterized, *e.g.*, by willful, wanton, or outrageous misconduct, or by conduct that demonstrates an indifference to legal obligations or to the rights and safety of others.

House Bill 1099 further assesses a surcharge equal to 50% of any award of punitive damages and directs that the surcharge be paid directly to the State of Maryland. I would ask for an amendment to HB 1099, replacing the surcharge with a tax on awards of punitive damages. This is consistent with the practice in other jurisdictions, in which punitive damages are shared by the State and the plaintiff whose action resulted in the award.

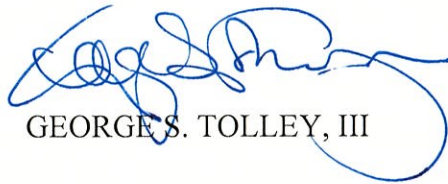
Throughout history, a critical function of the civil justice system has been to deter unsafe practices by imposing financial liability on wrongdoers. Punitive damages are an effective tool, allowing juries to punish bad actors and to deter others from engaging in similarly reprehensible conduct in the future.

Punitive damages are different from actual damages. Actual damages (or compensatory damages) are intended to make a plaintiff whole by returning the plaintiff to the position he or she was in prior to the alleged harm caused by the defendant. Actual damages include economic damages and noneconomic damages. In contrast to actual damages, punitive damages do not compensate the plaintiff. Rather, punitive damages are designed to punish and deter behavior that is particularly egregious and dangerous.

In 2016, the House of Delegates assembled a Workgroup to study the issue of punitive damages in Maryland. The Workgroup noted that Maryland and North Dakota are the only States requiring proof of “express malice” – the narrowest standard in the country – to support an award of punitive damages. *See* Workgroup Report, at 6. House Bill 1099 brings Maryland law into line with the majority of States that allow punitive damages under a standard broader than “express malice.”

I respectfully ask for an **FAVORABLE** report on **House Bill 1099** with an amendment to remove the 50% surcharge.

Sincerely,



GEORGE S. TOLLEY, III