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To: Senator Kellie Warren, Chair
Members of the Senate Judiciary Committee

From: Matthew E. Birch, Shamberg Johnson & Bergman, Chtd.

Date: February 10, 2026

Re: SB 463 Limiting negligence claims and recoveries of loss except under certain circumstances; eliminating duties of owners/occupiers of land except in certain circumstances; limiting claims of negligent security; requiring documented proof of citizenship or lawful residency for any action arising out of an auto accident (OPPOSED)

Thank you for the opportunity to testify before the committee. I stand in opposition to SB 463.

First, we do not know the impetus for SB 463 or the problem that it is intended to address. But if passed, courts could interpret its broad terms to eliminate claims even where the defendant's recklessness or lack of responsibility are the cause of plaintiff's significant, sometimes life-altering or even life-ending injuries.

Our system of justice relies on accountability, and reasonable care for others' safety, and SB 463 creates imbalance. Section 1 (c)(1), SB 463 changes a well-understood, common-sense duty of landowners/occupiers to protect invitees and licensees that are on their property. If passed, landowners would no longer have a duty to assure the property was safe unless the landowner has "actual knowledge" of previous incidents of wrongdoing within the prior year. Proving a landowner has actual knowledge of prior incidents, if indeed there were any, is a high bar to meet and would have the effect of protecting the irresponsible and eliminating meritorious claims. It would encourage landowners to ignore security deficits on their premises so they can later feign ignorance and claim they had no actual knowledge in the event someone is seriously injured or dies on their property and files a meritorious lawsuit.

In Section 1 (c)(2), landowners' duty to protect licensees/invitees from the harmful conduct of a third person is eliminated. "Wrongful conduct' can be a minor infraction of law, such as possession of marijuana, underage drinking, or disorderly conduct. Yet if the invitee/licensee is harmed by a third party and at the same time engages in "wrongful conduct" the landowner is completely relieved of any responsibility they may have had for the dangerous conditions that led to the injuries.

Section 1 (b)(1) appears to be intended to identify anyone that is not in the United States legally, and/or prevent them from pursuing negligence claims following an auto accident. The section requires proof of US citizenship or permanent residency before any "general damages" may be awarded. But Section 18 of the Bill of Rights to the Kansas Constitution provides "all persons" with the right to remedy by due course of law. Our constitution does not limit the right to citizens.

SB 463 is unnecessary because of Kansas' law on contributory and comparative negligence. Injured plaintiffs must show that the actions of defendants were the larger proportional cause of their injury. If a jury finds that the plaintiff and the defendant were each 50% at fault, the plaintiff recovers nothing.

The current law on negligence, duties of property owners to those entering their land, and Kansas's longstanding comparative fault system work well. Kansas judges and juries can be trusted to hear the law, facts and evidence of a case and rule fairly.

For these reasons, I respectfully request that the committee take no action and oppose SB 463. Thank you for the opportunity to offer my concerns.