KANSAS TRIAL LAWYERS ASSOCIATION

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

From: David R. Morantz, Shamberg, Johnson & Bergman, Chtd.
On behalf of the Kansas Trial Lawyers Association

Date: February 10, 2026

Re: SB 463 Concerning civil actions; relating to negligence; prohibiting actions and recovery of damages in certain situations (OPPOSED)

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Thank you for the opportunity to testify on SB 463. I respectfully request that the committee oppose the bill.

SB 463 is notable for being a "punishment does not fit the crime" bill. Meaning, injured plaintiffs, or their heirs in wrongful death claims, lose their right to bring negligence actions and recover their losses, if a defendant can show the plaintiff was engaging in, attempting to engage in or participating in wrongful conduct. "Wrongful conduct" can be inconsequential compared to the harm plaintiff suffers and the defendant's negligence.

SB 463 defines "wrongful conduct" to include anything from jaywalking or crossing against a light, speeding, or driving with an expired driver's license. If a person committed any of these infractions and concurrently was hit by a reckless or impaired driver, most Kansans would still expect the injured person to be protected by the law. Most Kansas would believe the law allows a righteous claim against the driver, access to the court and the ability to seek recovery of losses due to the collision.

A law that protects a dangerous driver merely because of an injured plaintiff's insignificant "wrongful conduct" would be shocking. And yet that is what SB 463 appears to do. It shields reckless and dangerous defendants from accountability for the harm they caused. And it removes an injured plaintiff's legal recourse because they were engaged in "wrongful conduct", however minor.

Consider the following examples that demonstrate the severe and arbitrary impact SB 463 will have on Kansans:

A woman is terribly and permanently injured on Interstate 70 by the driver of semi-truck who at the time of the collision is drunk and high. His log was falsified. Accident reconstruction shows that the injured woman was driving 5 MPH over the speed limit at the time of the accident. Once the semi-driver provides proof the woman was engaged in "wrongful conduct" – speeding - SB 463 is prohibited from bringing a negligence claim or collecting damages for her injuries.

A 16-year-old teenager is sexually abused by a trusted adult. During the period of abuse, the abuser provided her with alcohol, marijuana, and edibles. After the abuser is found guilty of criminal charges, the teenager seeks to hold him accountable in civil court. But evidence from the criminal trial is sufficient to establish the teenager was a minor in possession of alcohol and controlled substances and engaged in "wrongful conduct" during the time when the incident occurred. The teenager is blocked from bringing any claims against the abuser, or recovering damages, for lifelong harm the abuser caused.

A drunk driver speeding through an intersection doesn't see the red light and T-bones another car, injuring the car's driver. The tags on the injured person's car are expired. The injured person's "wrongful conduct", driving with expired tags, nullifies their negligence claim and ends the possibility of recovering any losses from the drunk driver.

The overall effect of SB 463 is to eliminate an injured plaintiff's meritorious claim because of their inconsequential wrongful conduct, to eliminate the defendant's duty of care, or to make it discouraging and difficult for injured parties to bring and resolve claims that may include significant expenses. It is important to consider the costs an injured plaintiff incurs do not go away simply because the Legislature immunizes defendants. A plaintiff's costs could include medical care, now and in the future, lost wages, medication and rehabilitation, and pain and suffering.

If those that cause harm no longer are held financially accountable for the injuries they cause, who pays? Hospitals pay by absorbing the costs of uncompensated care. The State of Kansas and taxpayers pay higher taxes. Those with private insurance, primarily employers, and their employees, pay, through increased health insurance premiums. Employers will pay again when they are unable to recoup the costs paid by workers compensation for workers injured by negligent third parties. And charities also pay when there are funds available to make up shortfalls.

When no one is accountable, no one is safe. If industries as well as individuals that have caused serious, permanent injury or death are permitted to nullify Kansans' legal claims and damages with evidence of a "wrongful conduct", the Legislature will have removed a critical part of the justice system that rewards safety and punishes those that act dangerously, unreasonably, and recklessly.

Thank you for considering my testimony. On behalf of the members of the Kansas Trial Lawyers Association, I respectfully request you oppose SB 463.