Support Testimony for Senate Bill 413
Before the Senate Judiciary Committee
Senator Warren, Chair
By the Kansas Motor Carriers Association and the American Trucking Associations
February 5, 2026

Chair Warren, Vice Chair Titus, and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill 413 on behalf of the Kansas Motor Carriers Association (KMCA) and the American Trucking Associations (ATA). KMCA represents over 600 members in Kansas' trucking and transportation industries. ATA is the national trucking association, which in conjunction with the 50 affiliated state trucking associations, including KMCA, represent over 30,000 motor carriers of every size, type, and class of operation.

Anchoring is a well-documented social psychological phenomenon. The term "anchoring" is used to describe the effect that exposure to an initial number can have on decision-making tasks. Anchoring techniques have been sales and marketing short cuts for quite some time: using one high priced product to make another choice seem better by comparison, tying tunes, images, or slogans to a product, or tying a personal feeling to a product. The technique has now been adapted for use in civil litigation. In the context of litigation, it is a dollar amount for noneconomic damages suggested by an attorney for one of the parties in the lawsuit. Given the amount of information a juror will receive during a trial, the juror unknowingly welcomes a suggested amount since it reduces the cognitive effort needed in a juror's decision process. Because there is no objective means to calculate damages for pain and suffering, an anchor is an effective method of communicating a tangible value that an altruistic jury can adopt. Jurors have no frame of reference during jury deliberations when it comes to determining what constitutes fair and reasonable noneconomic damages. Jurors are not privy to demands, settlement amounts, or other verdicts before they begin their deliberations; they are not subject matter experts on damage values in personal injury lawsuits. Anchoring works because it gives the jurors a reference point – a data point – that they otherwise would not have had and they can use that reference point to adjust, up or down, based on other facts and information learned during the trial.

The problem that is causing the increasingly common award of an inflated verdict – a nuclear verdict - is the fact that there are often no constraints on the reasonableness of the dollar amount that can be suggested and/or the timing of when a dollar amount can be suggested. Plaintiff attorney anchoring practices have evolved and now can become aggressive, unrealistic, and unreasonable. Plaintiff attorneys will suggest a substantial number for damages from the jury, and they will do so as soon as possible in their presentation to the jury at trial. Plaintiff attorneys formerly made suggestions about damage awards during summation, but now there are times when anchoring is improperly used during jury selection, opening statements, and even trial witness examinations.

In 2023, the Texas Supreme Court in the *Gregory v. Chohan* case (a case involving trucking company, New Prime, and its truck driver) put under the microscope the technique of "unsubstantiated" anchoring, defined as a "tactic whereby attorneys suggest damages amounts by reference to objects or values with no rational connection to the facts of the case." In the trial of that case, plaintiff's counsel referred to a $186M Mark Rothko masterpiece, a $71M F-18 fighter jet, and the number of miles driven by all New Prime's trucks. The Texas Supreme Court sharply rebuked the plaintiff attorney's references, noting that there was no rational basis for these comparisons which were all equally flawed analogies intended to improperly influence verdicts. Coincidentally, in 2024, in another case involving New Prime, *Alonzo v. John*, the Texas Supreme Court remanded the case to the trial court, focusing on the inflammatory argument of plaintiff's counsel who suggested an award of $10-12M to the venire and then revisited that same range several times in closing arguments. In voir dire, the range of $10-12M was referenced by plaintiff counsel no less than 18 times, and he used the word "million" to the panel 51 times. Venire members mentioned the range 23 times in answers to various questions. In closing, plaintiff's counsel also referenced the salaries of baseball players, stock options that may be given to a CEO, and the price of a recently sold Van Gogh painting. As Dr. Sonia Chopra, a litigation consultant, explained in a March 2013 issue of *Plaintiff* magazine, "once an anchor number has been provided, the number exerts undue influence on the final figure" and "can sway decisions even when the anchor provided is completely arbitrary." States are increasingly recognizing that there can be abuses of the anchoring tactic, most notably with the enactment of Georgia SB 68, a provision of which amends the Georgia code relating to how pain and suffering may be argued. And even if these excessive awards are reduced or overturned post-trial or on appeal, the post-trial review or appellate process is costly, inefficient, and uncertain.

Personal injury cases can involve tragic accidents, life-altering injuries, or loss of life. Jurors understandably feel great empathy and sympathy for those injured. Jurors want to do what is right, fair, and just. Jurors struggle with how to place a monetary value on a person's pain and suffering or other harm that is not objectively quantifiable. Jurors should not be influenced by statements that inflame passions and that suggest incredible sums that are beyond amounts sustained in comparable cases or manipulate outcomes with formulas and calculations. Passage of SB 413 serves an admirable goal –fair and evenhanded administration of justice throughout the courts in Kansas by allowing jurors to decide appropriate compensation for noneconomic damages without manipulation by counsel.

We thank the Committee for considering our feedback, and we thank you for the opportunity to appear before you this afternoon and to present the viewpoints of our members on this legislation. I am happy to stand for questions at the appropriate time.

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