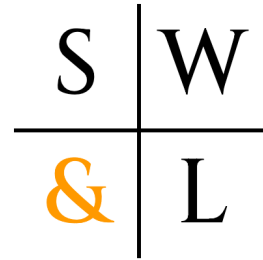


January 19, 2025



ATTORNEYS

Chairwoman Larson and members of the Judiciary Committee,

I write today in opposition to the proposed legislation capping non-economic damages at \$500,000 for truck crash cases in North Dakota. This cap infringes on the constitutional right to a trial by jury, undermining one of the most fundamental principles of our justice system.

Article I, Section 13 of the North Dakota Constitution guarantees that “[t]he right of trial by jury shall be secured to all, and remain inviolate.” This right was enshrined in our constitution when North Dakota became a state, ensuring that juries would determine the facts and damages in civil cases. At statehood, juries held the exclusive authority to assess all damages, including those for pain and suffering. By imposing an arbitrary cap, this legislation usurps the jury’s role, substituting the legislature’s judgment for that of citizens entrusted to weigh the evidence. Such interference violates the North Dakota Constitution by diminishing the jury’s critical function as the sole decision maker on total non-economic damages.

The Supreme Court of North Dakota has long recognized that the jury’s fact-finding function is an essential incident of the right to trial by jury. In *Landers v. Goetz* (1978), the Court affirmed that this right extends to having the jury decide the full measure of damages. A statutory cap like the one proposed here strips jurors of their duty to determine damages based on the unique facts of each case, instead imposing a one-size-fits-all limit that ignores the profound human losses resulting from catastrophic truck crashes. The cap is not only an affront to the injured but also an erosion of the jury’s power—a cornerstone of North Dakota’s democracy.

If this right can be taken away under the guise of legislative efficiency, where does it end? The same rationale could be used to erode other rights, undermining the protections our founders fought to secure. This is a slippery slope that constitutionalists and defenders of personal liberty should find alarming. Today, it is the right to a jury trial; tomorrow, it could be other fundamental rights that citizens hold dear.

Beyond its constitutional defects, the proposed cap disproportionately harms those who suffer the most catastrophic injuries. Truck crashes often result in lifelong disabilities, disfigurement, and the loss of loved ones. Non-economic damages are the only avenue to recognize these profound human losses, and limiting them unfairly shifts the burden of care to families and taxpayers, while insulating wrongdoers from full accountability.

Finally, I urge the committee to consider the broader implications of this legislation. Limiting damages does not make our roads safer. Instead, it denies justice to those most in need and weakens the deterrent effect of our civil justice system. We should be working to protect our

citizens, not protecting those unsafe out of state drivers and companies who cause harm from accountability.

I respectfully urge you to reject this proposed cap and preserve the Constitutional right of North Dakotans to have their cases heard and decided by a jury.

Thank you for your time and consideration.

Sincerely,

[Nathan Severson](#), Attorney
([ND #06402](#))
SW&L Attorneys
www.swlattorneys.com
Nathan.Severson@swlattorneys.com
Phone: (701) 297-2890