

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE JOINT
4 RESOLUTION 46

By: Anderson

5
6 AS INTRODUCED

7 A Joint Resolution relating to damages; ordering a
8 legislative referendum pursuant to the Oklahoma
9 Constitution; limiting certain damages; establishing
10 requirements for certain adjustment; providing
11 exception to certain damage limitation; defining
12 term; stating exception to applicability; stating
13 applicability to certain actions; providing for
14 codification; providing an effective date; providing
15 ballot title; and directing filing.

16 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
17 2ND SESSION OF THE 51ST OKLAHOMA LEGISLATURE:

18 SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
19 Constitution, there is hereby ordered the following legislative
20 referendum which shall be filed with the Secretary of State and
21 addressed to the Governor of the state, who shall submit the same to
22 the people for their approval or rejection at the next General
23 Election.

24 SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 61.2 of Title 23, unless there
is created a duplication in numbering, reads as follows:

1 A. Except as provided in subsection B of this section, in any
2 action not arising out of contract, the amount of noneconomic
3 damages awarded shall not exceed Three Hundred Thousand Dollars
4 (\$300,000.00), regardless of the number of parties against whom the
5 action is brought or the number of actions brought with respect to
6 the personal injury. The dollar amount prescribed by this
7 subsection shall be adjusted annually based upon any positive
8 increase in the Consumer Price Index that measures the average
9 changes in prices of goods and services purchased by urban wage
10 earners and clerical workers' families and single workers living
11 alone (CPI-W) for the preceding calendar year. The adjustment
12 required by this subsection shall be made by the State Treasurer and
13 certified to the Administrative Director of the Courts on April 1 of
14 each year or not later than thirty (30) days after the date upon
15 which the Bureau of Labor Statistics releases the CPI-W inflationary
16 data for the preceding calendar year, whichever date first occurs.
17 No adjustment to the dollar amount prescribed by this subsection
18 shall be made for any year in which there is a decline in the
19 Consumer Price Index.

20 B. If the jury finds by clear and convincing evidence that the
21 acts of the party which caused the damages were grossly negligent or
22 committed intentionally or with malice toward others, and the court
23 finds, on the record and out of the presence of the jury that there
24 is evidence beyond a reasonable doubt that the defendant was grossly

1 negligent or acted intentionally or with malice toward others, the
2 jury in a separate proceeding, conducted after the jury has made
3 such a finding and awarded actual damages, may award noneconomic
4 damages in an amount the jury deems appropriate without regard to
5 the limitation set forth in subsection A of this section. Any award
6 of noneconomic damages under this subsection awarded in any manner
7 other than as required in this section shall be void and reversible.

8 C. As used in this section, "noneconomic damages" means all
9 subjective, nonmonetary losses including, but not limited to, pain,
10 suffering, inconvenience, mental anguish, emotional distress, loss
11 of society and companionship, loss of consortium, injury to
12 reputation and humiliation; provided, however, noneconomic damages
13 do not include exemplary damages, as provided for in Section 9.1 of
14 Title 23 of the Oklahoma Statutes.

15 D. Nothing in this section shall apply to an action brought for
16 wrongful death.

17 E. The provisions of this section shall apply only to actions
18 that accrue on or after November 1, 2009.

19 SECTION 3. This act shall become effective November 1, 2009,
20 upon approval by the people.

21 SECTION 4. The Ballot Title for the proposed act shall be in
22 the following form:

23 BALLOT TITLE

24 Legislative Referendum No. _____

State Question No. _____

1 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

2 This measure adds a new section of law to the Oklahoma Statutes.
3 It adds Section 61.2 to Title 23. It limits the amount of
4 noneconomic damages in some actions to \$300,000.00. It allows
5 this dollar amount to be adjusted every year. It allows a
6 higher amount of damages if the defendant was grossly negligent
7 or acted intentionally. It gives a definition of noneconomic
8 damages. It does not apply the damage limitation to wrongful
9 death cases. It applies the damage limitation to actions after
10 November 1, 2009.

11 SHALL THE PROPOSAL BE APPROVED?

12 FOR THE PROPOSAL - YES _____

13 AGAINST THE PROPOSAL - NO _____

14 SECTION 5. The President Pro Tempore of the Senate shall,
15 immediately after the passage of this order for legislative
16 referendum, prepare and file in accordance with Section 3 of Article
17 V of the Oklahoma Constitution, one copy of this order for
18 legislative referendum, including the Ballot Title set forth in
19 SECTION 4, with the Secretary of State and one copy with the
20 Attorney General.

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