

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE JOINT
4 RESOLUTION _____

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 1ST SESSION OF THE 52ND 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 a
6 personal injury. The dollar amount prescribed by this subsection
7 shall be adjusted annually based upon any positive increase in the
8 Consumer Price Index that measures the average changes in prices of
9 goods and services purchased by urban wage earners and clerical
10 workers' families and single workers living alone (CPI-W) for the
11 preceding calendar year. The adjustment required by this subsection
12 shall be made by the State Treasurer and certified to the
13 Administrative Director of the Courts on April 1 of each year or not
14 later than thirty (30) days after the date upon which the Bureau of
15 Labor Statistics releases the CPI-W inflationary data for the
16 preceding calendar year, whichever date first occurs. No adjustment
17 to the dollar amount prescribed by this subsection shall be made for
18 any year in which there is a decline in the Consumer Price Index.

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

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

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

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

16 E. The provisions of this section shall apply only to actions
17 that accrue on or after January 1, 2011.

18 SECTION 3. This act shall become effective January 1, 2011,
19 upon approval by the people.

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

22 BALLOT TITLE

23 Legislative Referendum 17

State Question No. _____

24 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

1 This measure adds a new section of law to the Oklahoma Statutes.
2 It adds Section 61.2 to Title 23. It limits the amount of
3 noneconomic damages in some actions to \$300,000.00. It allows
4 this dollar amount to be adjusted every year. It allows a
5 higher amount of damages if the defendant was grossly negligent
6 or acted intentionally. It gives a definition of noneconomic
7 damages. It does not apply the damage limitation to wrongful
8 death cases. It applies the damage limitation to actions after
9 January 1, 2011.

10 SHALL THE PROPOSAL BE APPROVED?

11 FOR THE PROPOSAL - YES _____

12 AGAINST THE PROPOSAL - NO _____

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

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