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# RICK GUNDRUM

STATE REPRESENTATIVE • 58<sup>TH</sup> ASSEMBLY DISTRICT

## Testimony on Senate Bill 613

Senate Committee on Judiciary and Public Safety | January 30, 2024 | Room 411 South

Chair Wanggaard, Vice-Chair Jacque and members of the Senate Committee on Judiciary and Public Safety, thank you for giving me the opportunity to testify on Senate Bill 613. Last year I was made aware of an issue called “nuclear lawsuits” by a trucking company in my district. The company is E.H. Wolf & Sons, Inc. which was established in Slinger in 1941 and has been around ever since. The company strives to teach their drivers the importance of driving safely on the roads to keep themselves safe and other drivers safe. It also monitors their drivers to make sure they are driving safely.

Despite the hard work and efforts of E.H. Wolf & Sons to improve road safety, they have to deal with the risk of a nuclear lawsuit. A nuclear lawsuit occurs when the jury award is an exceptionally high amount. This has become a rising property for the transportation industry. The average verdict size for a lawsuit above \$1 million involving a truck crash has increased nearly 1,000% from 2010 to 2018, rising from \$2.3 million to \$22.3 million according to a study by the American Transportation Research Institute.

Additionally, a report from Marathon Strategies has found that the median verdict greater than \$10 million against corporate defendants grew by 55%. Since 2020, the sum of corporate nuclear verdicts nearly quadrupled from \$4.6 billion to over \$18.3 billion in 2022. The median verdict from \$21.5 million in 2020 to \$41.1 million in 2022. The trucking industry was at the forefront of this report.

While a plaintiff hurt in an accident with a trucker certainly has the right to file lawsuit, the problem with the rise in nuclear verdicts is that they are now seriously beginning to damage the trucking industry. It leads trucking businesses to pay higher insurance rates, redirect their resources away from investing in their workforce, prolongs the purchase of new equipment, and worsens supply chain issues.

What I desire with Senate Bill 613 is to find a balance for the trucking industry and those would file a lawsuit. I authored SB 613 with Representative Spiros and Senator Tomczyk to create a reasonable cap on noneconomic damages of no greater than \$1 million. Those damages would include compensation pain or suffering. They are different from more direct damages, such as medical expenses for treatment. I believe this cap will provide a middle ground that is necessary to keep the trucking industry afloat in Wisconsin. I thank you for your time today and I hope your support this bill.



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# CORY TOMCZYK

STATE SENATOR • 29<sup>TH</sup> SENATE DISTRICT

## Testimony – SB 613

Senate Committee on Judiciary and Public Safety

Tuesday, January 30, 2024

Chairman Wanggaard and Members of the Senate Committee on Judiciary and Public Safety,

Thank you for taking the time to hear SB 613.

In recent years, the commercial trucking industry has seen an accelerating increase in large scale litigation. A July 2023 report from the US Chamber of Commerce Institute for Legal Reform highlighted that despite a decline in fatal crashes of more than 34% over the past two decades, there has been a significant inflation in the valuation of verdicts and settlements with the average settlement award reaching \$27.5 million.

These lawsuits, often referred to as “Nuclear Lawsuits”, result in costs to both small businesses and the consumers they serve. The mere threat of these lawsuits have increased insurance costs and have served as tools to bloat settlement agreements due to threat of sky high litigation; settlements that may not reflect the actual value of damages occurred due to an unfortunate accident.

SB 613 addresses this rising problem by placing a reasonable cap on noneconomic damages, those including pain and suffering, of no more than \$1 million. This bill however does not include limits on direct damages such as medical expenses. This reasonable cap strikes an important balance between delivering justice for plaintiffs and preventing arbitrary and unreasonable damages to small businesses.



(262) 644-5030

mawolftrucking.com

501 Kettle Moraine Dr. S,  
Slinger, WI 53086

## M.A. WOLF TRUCKING, INC.

An E.H. Wolf & Sons, Inc. Company

January 29, 2024

### To whom it may concern;

My name is Steve Kreuser. I am the Environmental Health and Safety Officer for MA Wolf Trucking and EH Wolf & Sons. Craig Wolf is exactly correct. The accident he referred to was staged, it was a set up. The other party lied to the officer and thank God we had the cameras to protect our driver and our company.

Now while every accident isn't a set-up, this is an example of what the trucking industry is up against. In addition to all the time invested to investigate the incident, fight the ticket that my driver was given, take the initial steps to fight the potential lawsuit, have the ticket removed from our Federal Motor Carrier Safety Administration score, the crash still impacted our FMCSA score and our insurance premiums.

Fraudulent claims and excessive non-economic judgements have had a huge impact on our insurance premiums. We have seen a 14% increase in our auto insurance over the last 3 years. The more painful increase came with the umbrella coverage that we purchase. We have seen a 71% increase in the cost of our umbrella coverage over the last 3 years. Because we are a hauler of petroleum products, we are required to have a minimum umbrella coverage of \$5 million dollars. With the threat these excessive non-compensatory judgements pose to our company and the 85 families employed by us, we purchase an additional \$5 million in coverage. The cost of the additional coverage is \$43,000 per year. Given the very thin freight margins in the trucking industry, it is unfortunate that under the current law, that this is a necessary expense.

We are a trucking company that takes the safety of our drivers and the public very seriously. That's one of the primary reasons we invested in multi-view cameras in our trucks. While the cost of the camera systems isn't an insurance expense, the roughly \$50,000 per year we spend on the camera systems is a worthwhile expense to help protect us against a fraudulent claim like the one Craig described or other claims that in the end we may not have been responsible for.

Again, we are asking for your support of Senate Bill 613. The bill would still provide that we are responsible for all economic expenses a trucking company is liable for along with reasonable non-economic damages that may be determined.

Thank you for your time.

**STEVE KREUSER**

**Environmental Health and Safety Officer**

M.A. Wolf Trucking, Inc. | E.H. Wolf & Sons, Inc.



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501 Kettle Moraine Dr. S,  
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## M.A. WOLF TRUCKING, INC.

An E.H. Wolf & Sons, Inc. Company

January 29, 2024

### To whom it may concern;

My name is Craig Wolf, third generation owner of M.A. Wolf Trucking Inc. and E.H. Wolf and Sons Inc., based in Slinger, Wisconsin. I am here today to ask for your support of Senate Bill 613.

My industry, the trucking industry, is under attack by the trial attorneys. Everyone hears the radio advertisements, sees the billboards, the TV advertisements, "One call that's all," with a picture of a truck in the background. "You don't pay unless we win." "If you're injured by a trucking company, we will make them pay," and it goes on and on and on.

Support of SB 613 will not prevent me from paying what I am liable for or the compensation for the wrongful actions of my company. I should be held accountable if I or any motor carrier acts wrongfully and fair compensation should be made for all injuries and property damage. However fair compensation has been overtaken with profiteering due to excessive verdicts which has created an environment for fraud against the trucking industry. Because there is no cap on damages, specifically non economic damages, the messaging of huge settlements has created a dangerous environment. Many of these so called trucking accidents are being staged. This has placed a target on professional truck drivers and trucking companies like my own.

Last year one of my drivers was picking up a bulk load. While waiting for the traffic light on the offramp to change so he could make a right turn, he made impact with a car that was supposedly parked on the shoulder of the road next to the drive lane my truck was in. My driver told the police he had never seen the car. He received a moving violation ticket.

The driver of the car told the police she and 3 other occupants were parked on the side of the road so they could adjust the seat for a child who was also in the vehicle. They told the officer that my truck crossed the white line and impacted their vehicle. Within a few days we were notified by our insurance carrier that they received an accident and personal injury claim from the individuals in this car. Shortly after that we were notified by a law firm that they were hired to proceed with a lawsuit for the 3 adult occupants in the car.

Thankfully we had cameras on the truck. The side view cameras showed the car pulling up and parking in a blind spot after my truck had already stopped at the intersection. The camera also showed that as my truck proceeded to make a legal right turn, the driver of the car drove forward across the solid white stripe of the drive lane my truck was in and made impact with my trailer.

If we didn't have the cameras, we would not have been able to prove we were not at fault. This could have been a huge settlement for an accident we were not responsible for. This is unfortunately the reality of the world we live in.

What we are asking for is a reasonable limitation on the non economic damages to control the excessive verdicts that have created a dangerous climate for the trucking industry. This limitation is not dissimilar to current legislation limiting non economic damages for the medical malpractice in our state and similar legislation limiting non economic damages for the trucking industry has also been passed in other states. Please support SB 613.

Steve Kreuser is our company Environmental, Health and Safety Officer. Steve will go through the additional details of how this staged accident has impacted our auto insurance and Federal Motor Carrier Safety Administration score.

**CRAIG WOLF**

President

M.A. Wolf Trucking, Inc. | E.H. Wolf & Sons, Inc.



January 9, 2024

**PETER M. YOUNG**  
PRESIDENT, WAUSAU

**NOAH D. DOMNITZ**  
PRESIDENT-ELECT, MILWAUKEE

**DANIELLE M. SCHRODER**  
VICE-PRESIDENT, MADISON

**REBECCA L. DOMNITZ**  
SECRETARY, MILWAUKEE

**CHRISTOPHER J. MACGILLIS**  
TREASURER, APPLETON

**ALLAN M. FOCKLER**  
PAST-PRESIDENT, BROOKFIELD

**BRYAN M. ROESSLER**  
EXECUTIVE DIRECTOR

## Trucking Bills are An Attack on Public Safety and Wisconsinites' Rights

*AB-647/SB-613 should be opposed. The bill is an attack on Wisconsin citizens' ability to obtain justice after experiencing catastrophic injuries and death on Wisconsin roadways.*

**Trucking is Dangerous.** Large trucks weigh between twenty and thirty times as much as passenger cars and trucks. Their large wheels, height, and significant ground clearance present additional, grave safety dangers when involved in crashes with passenger cars.

- In 2021, there were 5,788 people killed and 154,993 injured nationally in traffic crashes involving large trucks. This was a 17-percent increase from 4,945 in 2020. The National Highway Transportation Safety Administration (NHTSA) had previously declared it a "crisis" level safety concern in 2021 when the number hit 5,600 (with a 13 percent increase).
- Large trucks are more likely than other vehicles to be involved in multi-car crashes.
- In 2021, an estimated 523,796 large trucks were involved in police-reported traffic crashes nationwide.
- There was a 52% increase in truck crash fatalities between 2010 and 2021. Seventy-two percent (72%) of people killed in large-truck traffic crashes in 2021 were occupants of other cars.
- Heavy and tractor-trailer truck driver deaths account for sixteen percent (16%) of fatal work injuries recorded in the U.S. in 2020.

**Damage Caps Target the Most Seriously Injured and Harm Vulnerable Groups.** Caps on non-economic damages, by definition, target the most seriously injured people by reducing the obligation that negligent truckers face for the harm they have caused.

**These Bills Undermine Wisconsinites' rights to a Civil Jury Trial.** Article I, § 5 of the Wisconsin Constitution establishes that Wisconsin citizens have the right to a civil jury trial. Article I, § 9 establishes that citizens also have a right to remedy for wrongs done against them. Stepping in to protect an inherently dangerous industry unnecessarily puts that industry above the wants, needs and rights of Wisconsin citizens and anybody else who travels on our roads by interfering with their ability to invoke their constitutional rights.

**Truck Drivers Work Incredibly Long Hours; Are Susceptible to Lack of Sleep and Distraction.** Typical long-haul truckers endure 60- to 70-hour workweeks (or longer), driving on average 400 to 700 miles a day.

**Drivers of Large Trucks are More Likely than Other Drivers to Have Prior Crashes.** According to NHTSA, drivers of large trucks involved in fatal traffic crashes in 2021 had a higher percentage (20.8%) of previously recorded crashes compared to drivers of other vehicle types (motorcycles, 19.9%; passenger cars, 18.2%; and light trucks, 17.2%).

**Trucking Companies Frequently Put Unsafe Trucks on the Road.** Between October 1, 2021 and June 30, 2022, roughly ¼ of inspected trucks were forced out of service for failing to meet federal safety standards.

[Welcome to the Brain Injury Resource Center of Wisconsin - The Brain Injury Resource Center of Wisconsin \(bircofwi.org\)](http://www.bircofwi.org)

## Bari's Story



High school was done for the 2004-2005 school year, the dance recital was over, summer vacation was starting, and Bari had begun to take driving lessons. Bari (15 years old at the time) and her then-boyfriend had been invited to a house party to

celebrate the birthday of a friend. Before leaving for the party, Bari and I had decided that it was best if she called me to pick her up from her boyfriend's house later that evening. The party location and her boyfriend's house were about 45 minutes northwest of our house. As her mother, I was worried that her boyfriend would be too tired after their long day and I was worried for his and her safety. My husband was out of town on business and like a lot of moms, I cannot sleep until Bari is back at home anyway.

Bari called me near 9:30 p.m. to let me know they were leaving the party at 10:30 p.m. and would be on their way to his house and that she was indeed tired and would soon be ready to come home. His house was only 15 minutes from the party. Shortly after 10:00 p.m. I got in my car to drive the 45 minutes to his house expecting to find Bari watching for me out the window, but when I got there what I encountered was his frantic mother telling me we had to get to the hospital right away because the kids had been in a car accident.

At that moment I was not in a panic, since I made the assumption that they may not be too injured and were going to be alright. I guess I just didn't have enough details and I didn't imagine the worse. His mother did tell me they were hit by a truck, but she didn't know what kind of truck it was. I remember thinking maybe a pick-up truck or something of the sort. They were not going to be on the freeway and I could not imagine that traveling the side roads and quiet city streets that time of night could cause anything worse than a fender-bender. I was so terribly wrong. His mother told me they were taken to our local Children's Hospital so I took the freeway since it was the quickest and most direct route, with his step-father following us in their car. Had I known what I was about to find out, I may not have decided to drive myself to the hospital.

While we were en route, her cell phone rang. It was her son on the other end speaking in a rather frantic tone of voice. I asked her if I could talk to him and she handed me the phone where I simply asked him to tell me what kind of truck they were hit by. He replied, "We were run over by a semi and they can't get her out." Those words live in my memory to this day. I felt like my mind stopped thinking at that moment, I handed the phone back to his mom.

When we entered the Froedtert Hospital/Children's Hospital emergency room, his parents were taken directly to the back where their son was already being treated and waiting for them. I told the lady at the desk that my daughter was in an

accident and that her boyfriend was already there. I gave her Bari's name and they told me she was being transported by flight for life but that it had not arrived yet. As I sat down in the waiting area, a woman came over to me and asked if she could speak with me in private. She took me to a small room, handed me a tissue box, and said "Ma'am I am sorry to tell you but Flight for Life was called to a fatal accident." Then without another word, she just left.

I sat there for what seemed like forever when another woman came in from Children's Hospital abruptly and said, "No, no, that is not your daughter. That was a different accident." She took me out of that small room and escorted me into another room to wait for an update. Bari was still not at the hospital since the extrication took quite a while. I sat there alone not sure what to do or think. A woman came in to ask me if there was anyone they could call, but my mind was blank. I stared at her and didn't know what to say. When I was just 2 months pregnant with Bari, her birth father was killed in a car accident. My only thought at that moment was is this really happening again? How was I going to call her father in NY and tell him what had just happened? This was not the call on Father's Day weekend that anyone expected to make. The hours that passed and the events of the evening were very powerful reminders of the life that hung in the balance. Due to the plethora of friends, teachers, and family members that came to the emergency room, they had to close it and send everyone home. The accident had happened only a few blocks from the party and the impact was so loud that the party-goers could hear the crash. They began to call everyone that knew Bari and they came to the hospital to offer support and comfort. I did not witness what happened in the waiting room but was told later about the out-pouring of emotions and the number of people that just kept coming.

It was in the early morning hours on June 18, 2005, that I was finally taken to the PICU to see Bari. What I saw when I walked into her room was this little tiny girl, with long blond hair still with blood and glass in it. An ICP (probe) had been inserted into her head to measure brain swelling. She required a "respirator breathing machine", an IV line giving her medication, machines monitoring her heart, a chest tube had been inserted, a catheter in place, wounds that had been stitched, so many machines, and so many sounds, and my gift from God, my small helpless little angel struggling to stay alive.



Bari sustained multiple injuries. She had 17 stitches to close a laceration on the right side of her head, they had to sew through three layers of flesh to close a five-inch wound to her right calf, she sustained 5 fractured ribs, one bruised lung, and one punctured lung, there were tears to her spleen and liver and she had a blown right pupil.

She required two blood transfusions. She was eventually given a feeding tube and once the respirator was removed, an oxygen nose piece was used. Her left arm and leg moved constantly, while her right side was paralyzed and her right arm was bent at an angle across her chest, immobile as if frozen in place. Bari was a dancer and her ankles were stiff and not flexible, with her feet and toes pointed out, as if she were dancing and about to go “en pointe.”

Using the Glasgow Coma Scale, Bari had a rate of three. She was placed in a medically induced coma at first, but then it continued. I was told by the doctors that Bari had a traumatic brain injury and its classification was “severe”. Her post-traumatic amnesia was also rated as very severe since the duration was greater than 7 days. In addition to the catheter, Bari’s bowels had stopped working for nearly 9 days. We were told this function was not only important to allow her body to prevent the buildup of toxins but to also allow the internal bleeding to be expelled from her body.

After seven days in the PICU, Bari was moved to the Rehabilitation Floor. Overstimulating would have been a detriment to Bari’s recovery, so the decision was made to list her as “Jessica B” on the nurses’ boards. She was given a private room due to the size of the “tent” bed that she was in. This type of bed was required since Bari’s left side movements were becoming more active even though her right side still was paralyzed. The bed prevented her from falling out since all four sides of this bed were made of a heavy-duty mesh material that could be zipped closed.

August 5th, (50 days after the accident) Bari was discharged from the hospital today and was home in time for supper. I bought a baby monitor for Bari’s room to listen for her. I placed a sign on the left and right sides of her bed to remind her not to get out of bed without me. This visual reminded her to call into the monitor and that I would be there. The next morning at 5:30 a.m., I heard this little voice call “Mommy” on the monitor.

Bari's recovery seemed impossible, fifteen years of life and learning had been wiped out in an instant. It was by the Grace of God that Bari survived and is who she is today. Prayer chains from all over the world were participating in active prayer due to the vast amount of people aware of Bari's situation. Daily talks with God gave me the strength to face each new day and each new situation. Unconditional love and support from family and close friends gave my husband and me the reassurance that we could get Bari and ourselves through this.

God had blessed the many medical professionals that would treat and care for Bari with the skills needed to keep her recovery continuous. We were told that at the scene so many things went right the night of the accident that I strongly feel that God was watching her and guiding the many policemen, paramedics, firefighters, and Flight for Life people that were present. It is apparent that these individuals have been blessed with the skills and abilities that save lives. Many doubt the power of prayer and the presence of God, but how can you deny "God-Given Talents" as they are so often referred to? We do not always recognize our purpose in life, but when we do, we must act upon it. While this account does not detail the whole story, it is also not the end of the story. Where this account stops, the Brain Injury Resource Center of Wisconsin begins.

## **The Beginning of the Brain Injury Resource Center of Wisconsin**

This 501c3 non-profit organization was formed because our lives were changed in a dramatic way in June of 2005. Living, loving, and encouraging a survivor of brain injury for the past several years has not only shown us how hard it is to find the answers, but how difficult it can be to get someone to really care about the little issues that occur after the fact. Keeping a silent voice, ignoring it, denying the condition, or hoping it will all go away someday isn't the answer and unfortunately not always the reality. When our daughter Bari was made a part of the brain injury world in 2005, no one in our immediate circle knew what that really meant. No one was prepared for what lay ahead.

Bari had been a dancer for over nine years. Her passion for dance led her to perform in various talent shows, become a demonstrator for her dance studio, and eventually compete in the Dance Masters of WI Pageant. Her passion and talent enabled her to be a part of an elite group known as “Tour De Force” at the Milwaukee High School of the Arts. Each Tour De Force Dancer has a contract and the “Bari Clause” was written into her contract in anticipation of her return to Tour De Force.

This “clause” would allow her to remain a part of the group during her recovery. None of us knew at the time that due to her internal injuries, paralysis, and severe traumatic brain injury that Bari would never be able to return to the world she once knew and loved. Bari was outgoing and vivacious. She entered the American Coed Pageant, joined Tennis and Cheerleading, performed in the musical West Side Story, became involved in modeling, and many other pursuits. None of us knew at the time that the change in her that was a result of her severe traumatic brain injury would cause her to lose the many friends that she had come to know and love.

She was an academic achiever. She was part of the National Honor Society and National Society of High School Scholars. She won the prestigious Rexnord Award of Excellence and was the Wisconsin State Academic Achievement Award recipient from the American Coed Pageant. Prior to her accident, she expressed the desire to attend college in Florida and possibly use her passion for dance to intern at Disney World. She expressed interest in possibly entering the field of Psychiatry, her motivation again stemmed from the dance world and the insecurities that dancers deal with in terms of self-esteem, body image, stereotypes, etc. Bari was ready to take on the world and this is but a small account of the world that Bari was a part of before everything changed.

None of us knew at the time that this severe traumatic brain injury would limit her job and career choices either. Day by day we began to realize that all the hopes, dreams, and aspirations that had been a part of Bari’s life plan prior to the accident would soon be placed in a box and put on a shelf. Reminders of who she was would be hidden for years to come. Painful reminders of the past were more than Bari and the family could bear. To this very day, certain songs on the radio will cause emotions that went dormant to awaken and the tears to begin to flow. Certain types of television shows and movies are too hard to watch due to the graphical

depictions and content as it relates to an individual being injured due to a vehicle-related accident. Even books can be a challenge whether they are fiction or not.

We have not taken Bari's recovery for granted. We do not feel "lucky" to be where we are today. In our hearts, we believe that it was by the Grace of God that we are where we are today. God can't prevent all tragedies, stop all accidents, nor stop all the man-made mistakes that cause us so much pain. Bari's ultimate survival and continued recovery are in God's hands. He has blessed the many physicians, therapists, and other medical professionals with the gift of healing that have been a part of Bari's life since June 2005. He has provided the strength needed for those that love and support Bari. He has opened the minds and hearts of many who have encountered Bari during this journey of recovery.

Knowing what we know now and why we know it gave birth to this Organization. We can't change the past, but our goal is to bring more knowledge, comfort, and support to families just like us who live with brain injury every day and encounter a different challenge around every corner. Unfortunately, not every situation will have the same outcome, but everyone needs someone to listen and offer empathy when needed and sympathy when appropriate.

### ***Fast forward to October 10, 2015***

If anyone ever doubts that the Lord does not hear our prayers, then you are not really paying attention when the answers come.

Two years and a little over a month later – the date was July 20, 2007. Gary Rieth was the passenger in what was been described as a motor vehicle versus a tree accident. Gary sustained a severe traumatic brain injury and multiple other injuries. Gary's story is featured in Vol 6, Issue 1 of the BIRCoWI Bulletin. Bari and Gary were destined to meet and be an inspiration to the brain injury community. I prayed day in and day out for the Lord to give Bari a beautiful life. He answered this prayer the day that Gary entered her life. On October 10, 2015, Bari married Gary Rieth. These two are a true testament that perseverance, determination, family support, and faith are key components in recovery! Together with their dogs Lilly and Chloe, they make an adorable new married couple!

**Gary and Bari have come a long way since their injuries. The road has been long and hard, but the struggles have all been worth it. Who could have**

**guessed that these two survivors would one day meet, get married, and then start a family? Babies are a true gift from God and these two will be magnificent parents!**

**The bottom line of this story is that no one can predict where** life will go regardless of the highs and lows, ups and downs, good, bad, and in-between times. Unconditional love, support, encouragement, and giving them security in knowing that they can achieve what they really **desire is not out of their reach.**

## **Who are we?**

We are a 501C3, Registered Charity 27-4483622, Tax Exempt Organization.

We are 100% funded through the generosity of people like you.

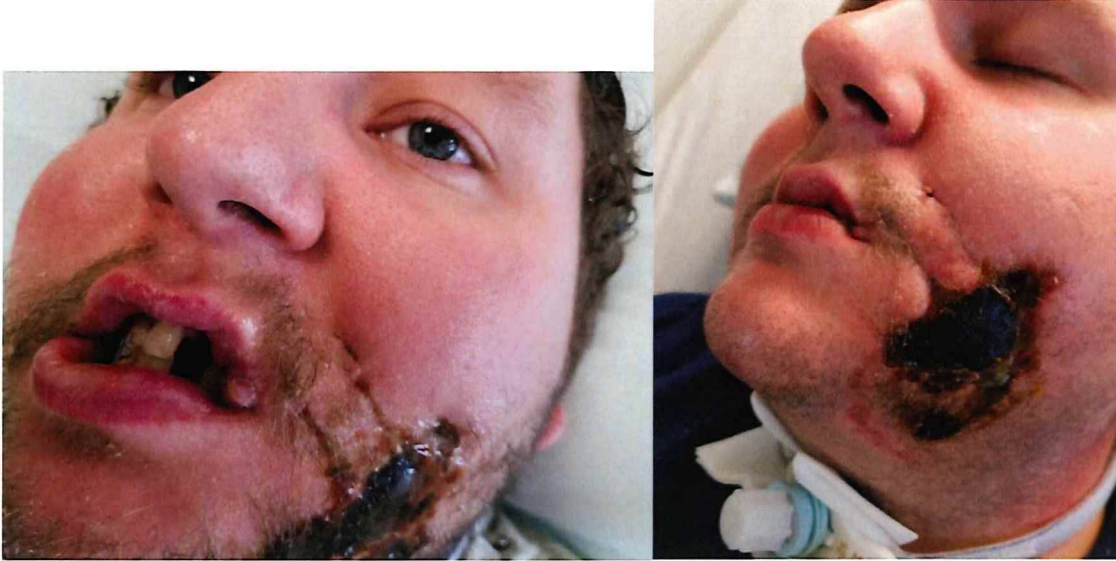
## **Our Vision**

A world where all preventable brain injuries are prevented, all unpreventable brain injuries are minimized and all individuals who have experienced brain injury maximize their quality of life.

## **Our Mission**

To offer assistance, provide resources and information, and reassure survivors that they are not walking this journey alone.

Mr. Brown would spend almost three weeks inpatient at UW Hospital—fighting for his life and going through unspeakable pain.



After discharge from the hospital, he would be transferred to a rehabilitation facility where he would spend nearly three weeks. Just a few of the countless and catastrophic injuries Mr. Brown suffered are listed below. Simply put, the injuries ravaged his body, and have caused him indescribable pain and the crash has caused him indescribable horror.

- Diffuse traumatic brain injury
- Encephalopathy
- Acute respiratory failure
- Acute kidney failure
- Nasal bone fractures
- Left and right wrist/arm fractures
- Jaw fracture
- Neck fracture

Mr. Brown has gone and continues to undergo extensive treatment, rehabilitation, and surgeries. His medical bills to date total more than \$1.6 million and are still accruing as this terrible crash happened a little over six months ago. Mr. Brown will likely continue to need significant and intensive medical care.

The pain and injuries he has experienced and continues to experience are life-altering, unfathomable, excruciatingly painful, mentally taxing, exhausting, and have robbed him of countless moments with his young son.

Mr. Brown is a 31-year-old man who married the love of his life Kayla, in May 2020 and they recently began their family. Matt and Kayla's son, Bennett, is 2 years old. Prior to this crash, they had their whole lives ahead of them, creating a family and making memories together. They were happy. They had just gotten to that point in life where they were comfortable and all of their dreams were coming true.

Not being able to be a father to Bennett since the crash has been absolutely devastating to Mr. Brown and is something he will never get over. Aside from feeling absolutely helpless because he struggles to maneuver from a sitting to standing position on his own, his heart aches when little Bennett reaches for him, and Matt just can't hold him. Because Matt lived several months with a feeding tube, a tracheostomy, multiple incisions, broken bones, a large facial wound and two broken hands, he was unable to hold his son.

Additionally, Mr. Brown is employed as a commercial driver. He has missed substantial time from work and is likely to never be able to drive commercially again. This is devastating to Mr. Brown.

AB-647/SB-613 would victimize Wisconsin Janesville resident Mr. Brown. He and his family's world has been shattered.

Enclosed for your consideration is a video pertaining to the devastation this crash has caused Mr. Brown and his family.

LINK: <https://vimeo.com/MatthewBrownVideo>

## Antoinette Jordan

Date of Crash: June 15, 2020

This tragic and life-altering collision occurred on June 15, 2020 in Racine, Wisconsin. To fully understand why this collision occurred it makes sense to go back to May 8, 2017—the date the Defendant trucking company hired the Defendant driver. Ms. Jordan believes the Defendant driver should never have been hired by the company. At the time of his hire, the Defendant driver had a criminal history that included maintaining a drug trafficking place, possession of THC, and possession of drug paraphernalia. Moreover, the Defendant driver's first pre-employment drug test came back as diluted. On top of this, the Defendant's Safety Director at the time of the June 15, 2020, collision, admitted the company was not diligent in contacting the Defendant trucker's references prior to hiring him—which is extremely important in this safety sensitive job. The Safety Director indicated that had the company known at the time of the Defendant driver's hiring what they know now, they would not have hired him in the first place.

The problems didn't stop with just the hiring of the Defendant driver. In the three years that followed Ms. Jordan believes the company failed to train and supervise the Defendant driver in the slightest regard. Had they taken the time to supervise and train the Defendant driver they would have found that he lacked a basic understanding of the company's internal policies pertaining to alcohol consumption and driving a semi as well as that the driver lacked an understanding of the Federal Regulations regarding the same. Had the company trained or supervised the Defendant driver properly it is perhaps likely that he would have curbed his Sunday routine of drinking a 12-pack of beer before having to work at 5:00 A.M. on Monday—still impaired from the day and night of drinking the day before.

To most people the concept of drinking between 12 to 18 beers deep into a Sunday night, getting four hours of sleep, and then getting up early Monday morning and driving a semi would be reprehensible and unfathomable—but not to the Defendant truck driver. Not only is this what the truck driver did on June 14, 2020 into June 15, 2020 but this was essentially what he did to start every work week during his tenure at the company. This type of behavior was a ticking time bomb. However, the Defendant driver didn't have any reservations about the aforementioned behavior and after a day and night of heavy drinking on June 14, 2020 woke up feeling hung over (and still impaired) and got in his semi to start his work for the day.

In the early morning hours of June 15, 2020 the Defendant truck driver was traveling west on Rapids Drive in Racine, Wisconsin as he headed toward the company at approximately 5:50 a.m. His blood alcohol concentration was approximately .13 g/100 mL. As the Defendant trucker approached the intersection of Rapids Drive and Golf Avenue, Antoinette Jordan attempted to cross Rapids Drive, traveling south, in the crosswalk on the east side of the intersection with the walk sign and the right of way and was violently struck by the Defendant truck driver's semi. A video of this devastating impact is enclosed.

Ms. Jordan survived but her injuries were severe and life-threatening. As such, Ms. Jordan was rushed to the Hospital and underwent multiple surgeries. She was inpatient in the hospital for over two weeks and had the following injuries:

- Left femur fracture
- Distal radius fracture
- Left tibia and fibula fracture
- Multiple rib fractures
- Acute blood loss resulting in anemia
- Sinus tachycardia

This crash caused permanent and life-altering injuries to Ms. Jordan. It robbed her of her freedom, independence, and piece of mind as she still struggles both physically and with PTSD to this day.

The passage of AB-647/SB-613 eviscerates the concepts of accountability and responsibility.



## The Terrazas Family

Date of Crash: January 1, 2019

This crash occurred on January 1, 2019, in Jefferson County, Wisconsin. The Terrazas family—Hugo, his wife Lisa, and his daughter Giana were driving home after spending New Year's Eve in the Wisconsin Dells. They briefly stopped in Johnson Creek before continuing the drive back to their home in Milwaukee.

Unfortunately, as they were leaving Johnson Creek, the Terrazas family was involved in a horrific crash involving an out of state semi-tractor-trailer being driven by an out-of-state truck driver—a truck driver with a problematic driving history. Specifically, before this crash, the Defendant-truck-driver had previously had his license suspended twice. Furthermore, the driver had a history of Hours of Service violations. Ultimately, the safety manager for the out-of-state trucking company admitted that the truck driver mere months before this crash, was deemed by the company to be unsafe to drive.

Inexplicably, the company kept him on the road, endangering the motoring public despite their own documentation. If the Defendant driver had been pulled off the road by his company, as he should have been, this crash would have never happened, and the lives of a Wisconsin family would not have been destroyed by a careless out-of-state trucking company with a careless out-of-state truck driver.

The crash killed Lisa. Hugo sustained a massive traumatic brain injury. He now requires 24/7 supervision and a permanent Guardianship. Hugo, a business owner before this crash, incurred over \$2,000,000 in past medical bills as well as future losses to his business and future medical. Giana, Hugo and Lisa's daughter, was only 11 at the time of this crash. She was tragically trapped inside the vehicle for 20 minutes forced to lay witness to her dead mother in the front seat and her incapacitated father—who was clinging to life in the driver's seat. Giana also suffered multiple orthopedic injuries in this crash. Moreover, her mother was killed and her father lacks the mental capacity to take care of himself, let alone be any sort of a father to Giana. Giana, and the rest of her family are devastated and absolutely destroyed by the losses they have suffered.

Hugo was taken from the scene via Flight for Life to UW-Hospital in Madison where he was placed in a medical coma due to massive facial fractures and brain swelling. The family was told he had a 50% chance of surviving the first 24 hours.

Hugo's injuries include the following diagnoses:

- Severe traumatic brain injury
- Multiple skull fractures
- Large left posterior temporal/cerebellum epidural hematoma
- Acute hypoxic hypercarbic respiratory failure
- Toxic encephalopathy
- 3rd degree burns to both feet
- Bilateral rib fractures
- Right clavicle fracture
- Left acetabular fracture
- Left pubic ramus fracture

Hugo remained in a medically induced coma for about 6 weeks until his brain swelling subsided enough to safely wean him off the medications. The range of outcomes the family was told were vast and ranged from "he may not wake up", to it may take months to wake up, to he may wake up with little brain function. Either way, they were told to expect a vastly different person than their dad pre-crash. They were told to prepare themselves for their dad never being the same—and as fate would have it, he never was. Though a grown adult with a commanding physical presence, Hugo now functions similar to that of a young child due to his debilitating brain injury.

If passed, AB-647/SB-613, would shield countless out-of-state drivers and trucking companies from accountability to the absolute devastation that can be done to Wisconsin Families in terrible crashes like this. It would strip Wisconsin residents, like Hugo and Giana, of their constitutional right to have a jury decide the value of the horrors they have been through as well as Defendants that callously endanger the safety of the motoring public.

James Shearer

Date of Crash: October 23, 2023

James Shearer was only 45 years old at the time of his passing, leaving behind two teenage daughters and his wife Shirley. On October 23, 2023 in St. Croix County, Wisconsin, James was killed by an out-of-state truck driver. The truck driver smashed into the back of James' vehicle and sandwiched James vehicle between the striking semi and the semi that was in front of James. This horrific crash was caught on video and is enclosed for your review. As you can see, shortly after the impact, a fire erupted.

James was trapped inside his vehicle and perished in the crash. The final moments of James' life were likely indescribably horrific and painful. The medical examiner's report noted the following injuries:

- A. Diffuse charring of the body with splitting of the muscle and charring of the bone.
- B. Focal partial and full thickness burns of the skin of the waist and feet.
- C. Calvarial fractures with avulsion of the cerebral tissue.
- D. Evisceration of the small bowel.
- E. Thermal injuries to the brain, right lung, and liver.
- F. Fractures of the right clavicle, right ribs 8-10, radii, ulnae, left femur, tibiae, and fibulas.
- G. Dislocation of the right arm.
- H. Contraction and partial consumption of the hands and feet.

In the years before his passing James had served as a volunteer fire fighter for United Fire & Rescue, which ironically, was the same department that responded to this terrible crash. He was hard-working and a family man. He loved nothing more than spending time with his wife and kids.

The pain James suffered in his final moments is immeasurable—the loss his wife and daughters struggle with every day is immense. AB-647/SB-613, if passed, would rob Wisconsin residents and families, like James and his family, of the accountability they deserve as a result of the carelessness and life-altering actions of an out-of-state truck driver and trucking company. Wisconsin residents and families deserve better.

Richard Wysocki

Date of Crash: September 8, 2022

Richard Wysocki passed away in a tragic truck crash on September 8, 2022. He was 69 years-old at the time of his passing and had been married to the love of his life, Darlene for 29 years. Rick had a daughter and four grandchildren whom he absolutely adored and loved to spend time with.

On September 8, 2022 Rick was driving a semi-tractor-trailer traveling south on Interstate 43 in Belgium, Wisconsin. The defendant semi-truck driver was driving a semi-tractor-trailer that was traveling north on Interstate 43 when he went off the roadway, through the grassy median, and struck the semi-tractor-trailer being driven by Rick. Rick was keenly aware of the Defendant trucker's semi barreling toward him and did his best to avoid the impending crash, but he was unable to, and a horrific crash ensued. The crash resulted in a massive fireball explosion. Rick died as a result of the crash.

Rick was an avid outdoorsman. He loved ice fishing, hunting, and gardening. He had a passion for woodworking. Rick's greatest passion, however, was his family. He loved spending time with Darlene. They spent countless hours gardening together and playing cribbage with friends and family.

The passage of AB-647/SB-613 would significantly harm the Wisconsin public.

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# WISCONSIN CIVIL JUSTICE COUNCIL, INC.

*Promoting Fairness and Equity in Wisconsin's Civil Justice System*

**To:** Chairperson Van Wanggaard  
Members, Senate Committee on Judiciary and Public Safety

**From:** R.J. Pirlot, Executive Director

**Date:** January 29, 2024

**Re:** Please support SB 613, limiting the recovery of noneconomic damages from a commercial motor vehicle carrier.

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The Wisconsin Civil Justice Council and its members work together to promote fairness and equity in Wisconsin's civil justice system, with the goal of making Wisconsin a better place to work and live. Our positions are set by WCJC's board that consists of representatives from Wisconsin's leading business and professional organizations.

On behalf of our sixteen members, we request you please support SB 613, authored by Sen. Tomczyk and Reps. Gundrum and Spiros. SB 613 would cap the total amount of noneconomic damages that a person may recover from a commercial motor vehicle carrier for injury, death, or other loss resulting from an act or omission by an employee of the commercial motor vehicle carrier while acting within the scope of employment to \$1 million. Each plaintiff under SB 613 could be awarded up to \$1 million in non-economic damages, meaning the cap is a per-victim cap and is not a per-accident or per-incident cap. Non-economic damages are, for example, awarded to compensate for experiencing pain, emotional suffering and mental anguish, worry, loss of enjoyment of activities, loss of consortium, or loss of society and companionship as a result of one's injuries. Economic damages would remain uncapped, that is, damages awarded to compensate for past and future medical expenses, lost wages or lost earning potential, property damage, and any other out-of-pocket costs.

Trucking is at the heart of our economy, moving nearly three-quarters of domestic tonnage shipped. Not only is trucking an economically-efficient way to move goods in the United States, the industry has steadily made safety improvements. For example, according to the Federal Motor Carrier Safety Administration, though the number of fatal crashes involving large trucks has been fairly steady since 1975, the earliest year listed in the most recent FMCSA pocket guide, the rate of fatal crashes per 100 million vehicle miles traveled has been dropping. In 1975, the rate of fatal crashes per 100 million vehicle miles traveled was 4.58. In 2000, it was 2.23. In 2021, the latest year in the most recent pocket guide, it was 1.57.

Yet, despite the improvement in trucking safety, the size of verdicts against trucking companies in civil suits are increasing. An American Transportation

Research Institute study of verdicts over \$1million calculated a nearly 900 percent increase in the average size of verdicts in the trucking industry between 2010-2018. This nearly 900 percent increase is not due to overall inflation or healthcare cost inflation, both of which increased at much lower rates of 16 percent and 26 percent, respectively.

And let's not let anyone be comforted by a notion that these verdicts are against "just big businesses." Over 90 percent of motor carriers have ten or fewer trucks and are small businesses. Now, to be fair, motor carriers do have some protection from insurance, with federal law generally requiring most carriers to have at least \$750,000 in insurance, with a large majority of carriers having \$1 million or more of coverage. The problem is that as the size of verdicts have gone up, understandably, the insurance premium cost per mile has gone up, too, with the American Transportation Research Institute pointing to the cost of litigation, the size of verdicts, and the desire to settle cases putting upward pressure on premiums. And to be clear, the insurance companies aren't the bad guys here. As verdicts and settlements increase, insurance costs understandably increase.

To help control the growth in these verdicts and to help ensure premiums remain reasonable, SB 613 would cap non-economic damages at \$1 million per plaintiff. Economic damages would remain uncapped, so plaintiffs can continue to be made whole for their medical expenses, lost wages, lost earning potential, property damage, and any other out-of-pocket costs. Plaintiffs will continue to be able to receive reasonable compensation for their economic losses.

Capping damages is not unusual. Wisconsin already caps non-economic damages in medical malpractice cases to help keep medical malpractice insurance affordable. The limit on non-economic damages in medical malpractice cases is \$750,000. Wisconsin also caps other types of damages. For example, in a wrongful death suit, Wisconsin caps compensation for loss of society and companionship at \$350,000 for the loss of an adult and \$500,000 for the loss of a child.

Trucking and the movement of goods affects all of us, just as the growing size of verdicts against trucking companies affects all of us in the form of, ultimately, higher prices and potentially reduced access to goods. SB 613 would be a positive step towards addressing the increasing size of these verdicts.

If you have any questions, please do not hesitate to contact me at 608-258-9506.



# WISCONSIN

MOTOR CARRIERS ASSOCIATION

*"Wisconsin's Economic Engine"*

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[nkedzie@witruck.org](mailto:nkedzie@witruck.org)

January 30, 2024

Submitted to: Senate Committee on Judiciary and Public Safety

**RE: Support for SB 613 – Limiting the recovery of noneconomic damages from a commercial motor vehicle**

Dear Chairman Wanggaard and Members of the Committee:

Thank you for the opportunity to testify before you today in support of **SB 613**, legislation that will limit (per victim) the total amount of noneconomic damages that a person may recover from a commercial motor vehicle carrier to \$1 million.

I am Neal Kedzie, President of the Wisconsin Motor Carriers Association (WMCA). We are a trade association with more than 1,200 members that serves as the voice of the trucking industry. Our primary focus is on the safe, efficient and legal operation of commercial motor vehicles within the State of Wisconsin. I am here today in support of **SB 613** and hope to briefly explain why it is so critically needed by the motor carriers that transport 72 % of essential products and 95% of all manufactured goods to the residents and businesses of Wisconsin.

If you are not aware, the trucking industry has become a frequent target of lawsuits that have resulted in what is known as "nuclear verdicts". A nuclear verdict is defined as an exceptionally high jury award that surpasses what should be a reasonable or rational amount. An American Transportation Research Institute (ATRI) study found there was an 867% increase in the average size of verdicts against trucking companies between 2010-2018. The most alarming nuclear verdict occurred in 2022 when a Florida jury handed down a billion dollar decision involving two trucking companies.

Components of those verdicts are split between three categories: economic damages, non-economic damages, and punitive damages. A 2022 study by the U.S. Chamber of Commerce's Institute for Legal Reform found that *non-economic* damages make up 42% of total verdicts and more often than not far exceed the amount of economic damages awarded. In fact, it is not uncommon for plaintiffs' attorneys to focus entirely on non-economic damages. They urge juries to issue non-economic damages for things like pain and suffering to send a message or punish the defendant, even though non-economic damages are intended to be compensatory and not punitive. They choose non-economic damages to circumvent limitations on when and how much punitive damage may be imposed. **SB 613** is about setting reasonable limits to curb the growing abuse of non-economic damages.

PO Box 44849 \* Madison, WI 53744-4849 \* Phone: (608) 833-8200 \* Fax: (608) 833-2875

Wisconsin Movers Association \* Wisconsin Milk Haulers Association \* Wisconsin Motor Coach Association \* Wisconsin Towing Association

Non-economic damages are awards for amorphous, difficult-to-quantify things like pain and suffering, emotional anguish, and loss of consortium. Because they are difficult to quantify and are not subject to guardrails established by the Supreme Court on punitive damages, they can be unfettered. Judicial review of non-economic damages awards also uses imprecise standards. These factors combine to drive up verdicts, increasing costs for trucking companies, and ultimately affecting services and at times, literally driving carriers out of business - particularly small motor carrier companies. It should be noted that 92% of motor carriers have 10 or fewer trucks and are small businesses. Those costs are paid by all consumers, who are overwhelmingly dependent on trucking to deliver their goods.

A 2023 study by the Institute for Legal Reform of trucking accident litigation trends showed the various ways that non-economic damages are used to artificially inflate verdicts. One method is through anchoring – that is where the plaintiff’s attorney suggests a method for or amount of damages without putting on evidence to justify that amount or method of calculation. Another is where a doctor that is part of a plaintiff’s attorney’s referral network and thus has a biased interest, testifies as to subjective items like pain and suffering as “evidence” of the amount of the award. While each of these problems merit their own approaches, **SB 613**’s cap on non-economic damages is a targeted measure that would mitigate the overall harm of nuclear verdicts.

Let me be clear, nothing in **SB 613** would limit economic damages. Those are damages intended to compensate for actual and objectively verifiable monetary losses, such as loss of past and present wages, or past and present medical bills owed. Additionally, nothing in **SB 613** would change Wisconsin law on the availability of punitive damages. The bill is solely focused on non-economic damages.

The fact of the matter is that the trucking industry has made meaningful safety improvements over the last twenty years. During that period of time, over which verdicts have been skyrocketing, the rate of fatal crashes per 100 million miles traveled has decreased by 34%. And the overwhelming majority of crashes are not the fault of the truck driver. A University of Michigan Transportation Research Institute study found that passenger vehicle drivers alone contribute to 70% of the fatal crashes involving trucks.

Admittedly, as the industry strives for zero accidents, trucking companies are not perfect. Accidents do happen. For that reason, Wisconsin trucking companies want to ensure a civil justice system that facilitates prompt and fair compensation for those injured or killed in an accident where the trucking company is at fault. But a healthy Wisconsin trucking industry cannot survive where purely subjective, non-economic damages depart from being compensatory to being a litigation jackpot.

Your support of **SB 613** is encouraged and greatly appreciated. Thank you for your consideration.

Respectfully submitted,

**Neal Kedzie**  
President  
Wisconsin Motor Carriers Association



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WI MOVERS ASSOCIATION



# WMC

Wisconsin's Chamber

**TO:** Senate Committee on Judiciary & Public Safety

**FROM:** Evan Umpir, Director of Tax, Transportation, and Legal Affairs

**DATE:** January 30, 2024

**RE:** **Support for SB 613**, Relating to: limiting the recovery of noneconomic damages from a commercial motor vehicle carrier.

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Wisconsin Manufacturers & Commerce (WMC) urges you to **support Senate Bill (SB) 613**. WMC supports this proposal as it will keep transportation costs for businesses in check by curbing catastrophic damage awards that ultimately raise the cost of doing business and prices for consumers.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. That mission includes advocating for legislation, like SB 613.

It is important to institute this cap for the trucking industry because of the alarming trend in noneconomic damage awards and the vital role trucking plays in commerce. In 2022, 64% of freight tonnage (661 million tons) in Wisconsin was transported by truck accounting for 67% of freight value (\$389 billion).<sup>1</sup> **“About one in four auto accident trials that resulted in a verdict of \$10 million or more involved a trucking company.”**<sup>2</sup>

“[T]he average size of verdict[s] from 2010 to 2018 increased from \$2,305,736 to \$22,288,000 – an increase of 967 percent.”<sup>3</sup> **Between June 2020-April 2023, the average verdict was nearly \$32 million and the median over \$300,000**; settlements the average was over \$10.5 million and median over \$210,000.<sup>4</sup> Yet another study examined “nuclear verdicts” across a number of industries and found trucking had the greatest increase in the value of their verdicts, a 17,681% increase from 2020-2021 (led by two exceedingly large verdicts) and **the increase from 2020 to 2022 was a 638% increase, indicating a continued trend from the prior decade.**<sup>5</sup>

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<sup>1</sup> 2023 Wisconsin State Freight Plan, available at: <https://connect2050.wisconsin.gov/plan/state-freight-plan>.

<sup>2</sup> “Nuclear Verdicts: Trends, Causes, and Solutions,” U.S. Chamber of Commerce Institute for Legal Reform (September 2022) at 6, available at: [https://instituteforlegalreform.com/wp-content/uploads/2022/09/NuclearVerdicts\\_RGB\\_FINAL.pdf](https://instituteforlegalreform.com/wp-content/uploads/2022/09/NuclearVerdicts_RGB_FINAL.pdf).

<sup>3</sup> “Understanding the Impact of Verdicts on the Trucking Industry,” American Transportation Research Institute (June 2020) at 18, available at: <https://truckingresearch.org/wp-content/uploads/2020/07/ATRI-Understanding-the-Impact-of-Nuclear-Verdicts-on-the-Trucking-Industry-06-2020-3.pdf>.

<sup>4</sup> “Roadblock: The Trucking Litigation Problem and How to Fix It,” U.S. Chamber of Commerce Institute for Legal Reform (July 2023) at 9, available at: <https://instituteforlegalreform.com/wp-content/uploads/2023/07/Roadblock-The-Trucking-Litigation-Problem-and-How-to-Fix-It-FINAL-WEB.pdf>.

<sup>5</sup> “Corporate Verdicts Go Thermonuclear,” Marathon Strategies (March 13, 2023) at 67-68, available at: <https://marathonstrategies.com/wp-content/uploads/2023/03/Corporate-Verdicts-Go-Thermonuclear-0313.pdf>.

Are these explosive verdicts a problem in Wisconsin? **The effects of “nuclear verdicts” are felt across the economy and are slowly baked into insurance costs for trucking companies across the country, including Wisconsin, a cost of doing business, and ultimately raise the cost for the businesses utilizing trucking for transportation and the consumer who will have to pay more for the goods being transported by truck. Earlier this month one freight shipper indicated on an investor call that 2024 insurance premiums were increasing 50-60% and attributed the lion’s share of that increased to claim costs.**<sup>6</sup> Ultimately, as verdicts grow larger and cost the trucking industry more, the cost to consumers likewise increases for truck-transported goods.<sup>7</sup>

**This bill focuses on *noneconomic* damages, *not* economic or punitive damages—victims are made whole by the justice system through compensatory damages. Noneconomic damages are different from the quantified, compensatory damages from an accident and *in addition to punitive damages* which are specifically to punish and deter conduct by an at-fault party and others that may engage in similar conduct. Noneconomic damages should not be a substitute or work-around of compensatory and punitive damages in order to raid a deep pocket by obtaining a large award.**

Additionally, **this cap would not affect any noneconomic damage awards below the cap.** As noted above, a recent study found the *median* trucking verdict of over \$300,000.<sup>8</sup> Data from national studies may show nuclear verdicts can skew *averages*, but the data show most noneconomic awards would *not* be affected by the \$1 million cap. **If noneconomic damage awards are not routinely exceeding or nearing the \$1 million cap in SB 613, then the cap effectuates a public policy to prevent noneconomic awards that are excessively out of the norm which could otherwise cripple a business or lead to increased consumer prices.** This cap will *not* diminish or prohibit economic, compensatory damage or punitive damage awards; this bill *only* applies to excessive noneconomic awards, similar to the medical malpractice noneconomic damages cap (*see* Wis. Stat. §893.55(1d)(b)).

**SB 613 strikes an appropriate balance between providing reasonable compensation for noneconomic damages in trucking accident cases and preventing business-crippling damage awards while keeping prices low for consumers purchasing truck-transported goods.**

I urge you to support SB 613. Thank you for your consideration.

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<sup>6</sup> Robert Hum, “A stealth inflationary cost is hitting corporate profits and consumer wallets,” CNBC (January 19, 2024), available at: <https://www.cnbc.com/2024/01/19/insurance-costs-hit-corporate-earnings-at-travelers-and-jb-hunt.html>.

<sup>7</sup> *Supra* n. 2 at 35.

<sup>8</sup> *Supra* n. 4 at 9.

# WEST BEND TRANSIT & SERVICE Co.

*Since 1911*

January 9<sup>th</sup>, 2024

Attention: Distinguished ladies and gentlemen of the Assembly and Senate,

My name is Christopher Greenberg, and I am the Chief Operating Officer of West Bend Transit in West Bend WI. We are celebrating our 113<sup>th</sup> continuous year in business. That could not happen without having an excellent team of professional drivers and staff adhering to our Make Safety a H.A.B.I.T. program.

The first tenet of that safety journey is that Everyone Returns Home Safely. Not just our employees but all who share the roads with our trucks.

We just completed one of the best truck safety and worker injury years in our history, yet our insurance policy was raised by 13%. When our insurance company was questioned, it was stated that insurance companies are fearful of the nuclear verdict. This is 13% that we cannot pass along to our customer in terms of higher rates, 13% that we cannot offer to our teammates in higher wages and 13% that is rarely negotiable. We were told to be proud of our good year or the percentage would have been much higher.

According to a Travelers Institute report, "nuclear verdicts" are extreme jury awards that exceed \$10 million. From 2015 to 2019, the average verdict in the National Law Journal's Top 100 Verdicts more than tripled from \$64 million to \$214 million. The rise of nuclear verdicts is driven by several factors, including social inflation, trial advertising, unregulated third-party funding, and a savvy legal strategy from plaintiffs' attorneys.

Social inflation is the phenomenon of unexpected rising insurance claim costs due to societal trends and views toward litigation. It is driven by factors such as increasing litigation, broader definitions of liability, more plaintiff-friendly legal decisions, and larger compensatory jury awards.

The actions of unsafe drivers and carriers coupled with the TV advertising ambulance chasers make the award of \$100,000 rise to \$1,000,000 and the \$1 million award rise to \$10 million. These do not qualify as "nuclear" as shown above but they are certainly felt by the industry as such.

While we, and the majority of our industry, do not subscribe to the "butt in a truck" philosophy of any applicant is a good applicant, the industry runs background checks, conduct driver tests and provides significant onboarding before a driver is allowed in a truck. We then provide regular monthly training, both in operational and safety topics.

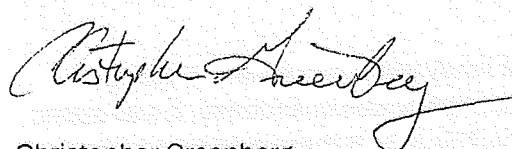
The trucking industry (nor any industry for that matter) can absorb these verdicts and continue to operate much less, operate profitably.

I am asking for two things. Continued support by law enforcement to get unsafe trucks off the roads and your support of the AB 647 and SB 613 bills which will compensate properly the injured while holding the trucking company responsible to their safety and training without putting otherwise good operating companies and their employees out of business.

Trucking companies have been recognized as essential workers through the pandemic and also worked through all of the supply chain challenges of 2022/23. The vast majority are professional, patriotic Wisconsinites who share the roads with not only your families, but mine.

Thank you for allowing me to share my comments and I am available at any time for any questions you may have. I wish you the best in your 2024 legislative sessions.

Regards,



Christopher Greenberg  
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