



**Testimony of Kimberly McCullough, Legislative Director
In Support of SB 487
Senate Committee on Judiciary
February 28, 2017**

Chair Prozanski and Members of the Committee:

I am Kimberly McCullough, Legislative Director for The American Civil Liberties Union of Oregon (ACLU of Oregon). We are a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights. We have more than 28,000 members in the State of Oregon, and that number is growing as we speak. The ACLU of Oregon strongly supports Senate Bill 487.

Amongst the most basic of civil liberties is the right to a jury trial. This right was crucially important to our national and state founders, as it is protected in both the Bill of Rights of our U.S. Constitution and our Oregon Constitution. When Oregonians fought for the right to bring citizen initiatives to the ballot in the early 1900s, one of the first citizen-led initiatives was to strengthen the power of juries. It passed overwhelmingly. And in the last 16 years, Oregon voters have twice been asked to limit the power of juries and both times rejected these attempts to circumvent our democratic system of justice.

If an Oregonian is a victim of a traumatic, life-changing event, he or she has a constitutional right to hold the negligent party accountable for their actions. Restrictive, one-size-fits-all caps undermine the judicial branch as a pillar of our democracy. They remove case-by-case justice that should be afforded to victims and survivors. Access to a fair jury trial is a fundamental right. Twelve people from our local communities come together to hear both sides of a case and render a decision based on the facts.

You, as legislators, have the power to right the wrongs of the court's decision in *Horton*, and to protect the sanctity of our right to trial by jury. The finding of the court essentially said that Oregonians have the right to a jury trial, but not a jury decision, rendering the right to a jury trial in civil cases as simply procedural. It makes little sense that we entrust juries to choose when to convict and imprison individuals in criminal cases, but we do not entrust juries to make a decision about the impact of life-long injuries on their fellow Oregonians.

One-size-fits-all justice goes against our civil rights and liberties. It allows an across-the-board cap to be placed on the value of one's quality of life and the dramatic changes survivors go through as a result of someone else's negligence or wrongdoing.

For all these reasons, I ask you stand up for our civil liberties and fundamental, constitutional right to a trial by a jury of our peers making decisions on a case-by-case basis after hearing the facts. We urge your yes vote on Senate Bill 487.