

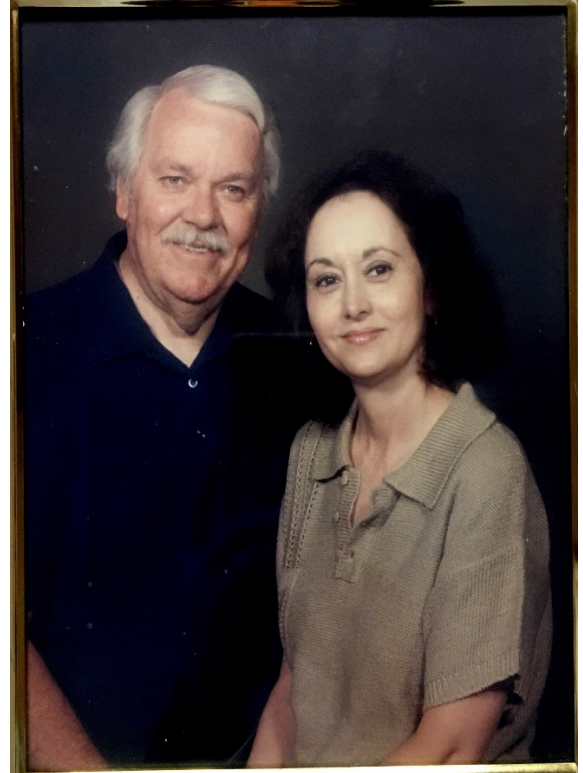
**To: Kansas House Committee on Judiciary
Regarding HB 2291**



Mark Castleberry

DOB: 2-25-1963

DOD: 2-23-1991



Barbara Castleberry

DOB: 12-21-1934

DOD: 1-29-2009

Submitted by Larry Wall
8623 E 32nd Street N, Suite 300
Wichita, Kansas 67226
Ph: (316) 265-6000
F: (316) 262-6253
<https://www.whtriallaw.com/>
email: larry@whtriallaw.com

My name is Doug Castleberry. I am 89 years of age. I live at 50 Cottonwood Point Lane in Augusta, Kansas. I cannot be present today because of my health.

I married Barbara in November 1958. Barbara and I were married for over 50 years. We were happy until she was paralyzed She was hurt because her doctor was careless. We had three children. Susan was born on 7-9-61. She is 58 years of age. She lives in Wellington, Kansas. Susan works full time. Susan has two children. Mark was born on 2-25-63. Mark was killed because of a reckless truck driver. He was not married. He was a devoted son. His loss is still devastating. I could use his help. Scott was born on 2-15-65. He is 54 years of age and lives in Wichita. Scott blessed us with 3 more Grandchildren. Scott works full time at Spirit.

Mark was killed on February 23, 1991. His death occurred two days before his 28th birthday. After Mark was killed by a truck driving too fast and without brakes Barbara and I retained Larry Wall to represent us. We were shocked when we learned that the wrongful death cap for his death was \$100,000.00. Mark was killed by a man was driving a truck and trailer way too fast and he couldn't stop it. The case warranted punishment. We were annoyed to learn that punitive damages could not be imposed because Mark had died. Had Mark lived, punitive damages, could have been imposed. The law is wrong.

The driver and the owner of the trucking company got off scot-free. This case could have served as a warning to other commercial truckers that the Kansas legislature deemed the lives of its citizens priceless. Larry Wall told us that hopefully the law will be changed. We didn't get involved and press for changes. That haunts me. That is one reason I am presenting this statement. The main reason is Kansas should value life much higher than \$250,000.00.

On December 6, 2007 my wife Barbara, had what she thought might be warning signs of a stroke. We sought medical care and advice from Brian DeBrot M.D. We saw Dr. DeBrot two times in December 2007. The last visit was December 19, 2007. At this visit Barbara complained [again] that she was worried she would have a stroke. Dr. DeBrot told her "don't worry, go Christmas shopping". The next day my soul mate suffered a massive stroke. My Barbara died because of Dr. DeBrot's negligent practice of medicine.

I retained Larry Wall to represent me and our children. Our lawsuit was filed on December 3, 2009. The case involved reckless conduct by Dr. DeBrot. We discovered he was impaired when he treated my wife. We learned that he failed to properly and safely treat my wife's elevated blood pressure. His treatment was contrary to national guidelines. He chose to guess instead of test. She had classic signs of an impending stroke.

The defendant offered nothing at mediation before trial. Larry Wall and Tina Huntington prepared the case for trial. On May 21, 2013 the trial began and lasted 3 weeks. Our lawsuit ended on June 14, 2013 with a verdict that left us with a small sense of closure having a jury acknowledge the loss we endured. That little satisfaction was shattered when the trial court reduced the jury's verdict. The verdict was reduced because of the Kansas caps on pain and suffering and wrongful death. The entire family was hurt. All our friends doubted us when we told them about the law in Kansas as it relates to wrongful death and punitive damages.

After we won the jury trial, we had to endure 5 additional years of appeals. Finally, after winning all the appeals, we are paid the verdict over a period of several years. The laws of Kansas do not favor the injured. The laws for victims are not fair to both sides. I have been in Court two times for wrongful death matters. Believe me, I know the wrongful death laws need changed.

I and my family have been hurt by the cap on recovery for wrongful death. I believe if we want more of something [reckless conduct for example] then we should encourage it by limiting the damages the careless must pay. But if we want less death caused by reckless conduct then we should allow the heirs to punish the wrongdoers. This can be accomplished by allowing punitive damages in wrongful death actions. It will be further accomplished by eliminating the cap on wrongful death. If you leave a cap, then please make certain the cap will be adjusted for inflation. Otherwise, the amount gets less valuable each year. That style of legislation rewards the careless and punishes the victim. That is wrong.

Please eliminate the ban on punitive damages in wrongful death actions and please eliminate any cap on a recovery for wrongful death. If you retain any cap, please allow for the number of heirs and increase the amount by the rate of annual inflation. Thank you.

Doug Castleberry
2/19/2019 Augusta, Kansas