

Chair Prozanski, Vice Chair Thatcher and Members of the Committee,

Throughout our careers each of us has represented Oregonians at the trial court and appellate levels who have faced tragic circumstances because of negligent recreational operators. Our cases have ranged from injuries and deaths that occurred while skiing, rafting, and enjoying indoor activities such as trampoline parks and fitness gyms.

More recently, we have each participated in hours of work group conversations with lawmakers and recreational industry representatives on the topics of enforceable waivers, inherent risks, and negligence. In these conversations, we have been clear that we all have an obligation, in any solution, to make certain Oregonians' constitutional rights are protected if negligence caused their harm. We have participated in these conversations in good faith, proposing concepts and language that serve that collective goal. Nonetheless, other than the reckless and irresponsible approach contained in SB 1593 and HB 4071, we have seen no counter proposals from the proponents that would reflect a more tailored approach and that would respect victims of negligence. In many ways we have found this to be a one-sided conversation.

In the face of an extremely hyperbolic public relations campaign by the recreation industry, the stories of victims have been lost. Somehow, policymakers have now come to believe the falsehood that tragic consequences must always be a result of gross negligence. They are not.

While we appreciate the thought and care that lawmakers have brought to these conversations, we cannot support the proposed amendments you are considering today, as they go too far in protecting negligent behavior that can have tragic consequences for Oregon families.

For us to support the framework contained in the -7 amendments, three changes would need to be made:

1. A provision would need to be added to say that waivers could not be enforced for claims resulting from risks created by the recreational operator.
2. The amendment and bill would need to be limited to outdoor recreation only, and
3. The amendment and bill would need to make clear that a parent or legal guardian could not waive the constitutional rights of their minor child.

We want to express our gratitude for the thought and nuance that members of this committee have brought to this important conversation. We remain committed to working

with you to ensure that any changes made to the law preserve the rights of Oregonians to seek justice when they are harmed by the negligent actions of others.

Sincerely,

Lara Johnson

Joe Pucci

Nadia Dahab