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**MEMORANDUM**

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**TO:** Senate Commerce Committee  
**FROM:** Anthony M. Anastasio, President  
**SUBJECT:** S467  
**DATE:** June 17, 2022

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The New Jersey Civil Justice Institute (“NJCJI”) is a statewide, nonpartisan coalition of New Jersey’s largest employers, small businesses, and leading trade associations. NJCJI advocates for a fair, predictable, and efficient civil justice system in New Jersey, which is an essential ingredient for a functioning economy. NJCJI has serious concerns about the negative impact that Senate Bill 467 (S467) would have on our civil justice system.

In New Jersey, drivers have the legal option of agreeing to limit their ability to bring accident lawsuits for “noneconomic” damages, such as pain and suffering, in exchange for lower insurance premiums. This option is the result of fifty (50) years of legislative efforts to contain skyrocketing automobile insurance costs in the state. *See DiProspero v. Penn*, 183 N.J. 477, 485-490 (2005)(outlining the history of those efforts).

But under current law, even if drivers opt to limit their ability to bring such lawsuits, they can still seek damages for noneconomic damages when an accident results in death, dismemberment, significant disfigurement or scarring, displaced fractures, loss of a fetus, or permanent injury (which spans a variety of less extreme injuries). Accordingly, people injured in serious car accidents are almost always able to pursue such damages, despite their earlier choice to pay for a cheaper policy with limitations on lawsuits for noneconomic damages. And for drivers involved in minor accidents resulting in minor injuries that fall within a limitation on such lawsuits, personal injury protection (“PIP”) coverage is still available to cover medical expenses.

This limitation on lawsuit option is commonly referred to as “the verbal threshold”. It has been effective in reducing automobile accident litigation and containing insurance costs in New Jersey. Because 97% of New Jersey drivers select the limitation on lawsuit option, it has allowed insurance companies to provide competitive premiums and quickly cover minor losses, while eliminating the need for our civil justice system to address questionable lawsuits based on minor accidents.

S467 would be the first step backwards away from this successful regime, with no cognizable benefit to the driving public. S467 seeks to eliminate the verbal threshold when automobile accidents are caused by drivers convicted of either drunk or reckless driving at the time

of the accident. It would transform otherwise minor accidents that just happen to involve reckless or drunk driving into time-consuming litigation for New Jersey's overburdened and short-staffed Judiciary to resolve. By exposing insurance carriers to increased litigation and settlement costs in such cases, it would ultimately result in increased insurance premiums for all drivers. In a time of soaring inflation and backlogged courts, this is *not* what New Jersey needs.

For these reasons, NJCJI opposes S467.