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**Interested Party Testimony to SB 47
House Commerce and Labor Committee
March 8, 2022**

Chair Stein, Vice-Chair Johnson, and Ranking Member Lapor-Hagan,

Thank you for providing the opportunity to testify to Senate Bill 47. My name is Hans Nilges, and I am a wage and hour attorney in Cleveland. I am here on behalf of the Ohio Association for Justice (OAJ), of which I serve on the Executive Committee. OAJ's mission is to support Ohioans' Seventh Amendment right to a civil trial by jury, which is achieved most efficiently when government stays out of disputes between parties.

I, and the OAJ, are deeply concerned about AM 2183. In summary, the amendment would completely change the mechanism for litigating and settling overtime claims and intentional limit how many blue collar workers will be compensated for unpaid overtime served.

I think we can agree that our laws should not incentivize or be easily ignored to advantage one business over another. Nor should the law incentivize underpaying employees. AM 2183 would allow for both.

The amendment eliminates opt-out claims and shifts those claims to an opt-in system. To explain, when all similarly tasked employees are not paid for overtime served, they get to be grouped into a single lawsuit requesting the unpaid wages; employees can opt-out of the suit. However, the amendment would change this process. Instead, similar employees would have to affirmatively and publically join the suit. It's a tough task to sue your employers. No one wants to be seen as ungrateful or litigious. But everyone deserves to be paid for work they've performed.

Sadly, this legal maneuvering will limit employees' ability to recover unpaid overtime wages. Opt-out claims also prevent repeat litigation, because the defendant only needs to settle the one suit and all employees would be paid only how much they are owed. By changing to the opt-in system, multiple claims for similar unpaid overtime wages are likely.

Finally, in overtime law, there are no penalties for not paying overtime wages because the opt-out mechanism allows everyone to be fully compensated. However, opt-in procedures, like we have in the Constitutional minimum wage law, allow for penalty damages as a means of deterring minimum wage law violations. This amendment is the best of both worlds for the employers and the worst of both for unpaid employees.

Why should restorative statutes like overtime laws make it harder on employees to be made whole than any other statute? Furthermore, why should the statute grant a competitive advantage of lower wage costs for companies that violate overtime laws?

Thank you for giving me the opportunity to testify, and I would be glad to address any questions from the committee.