

## MEMORANDUM IN OPPOSITION

**Date:** 5/26/2019  
**Bill Number:** S.4006/A.5612  
**Sponsor:** HOYLMAN/WEINSTEIN  
**Subject:** AN ACT to amend the estates, powers and trusts law, in relation to payment and distribution of damages in wrongful death actions  
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### Summary:

This legislation would amend the Estates, Powers, and Trusts Law (EPTL) to expand the types of compensation available to family members in a wrongful death claim to include grief and emotional anguish. The current law permits families of a victim of wrongful death to collect the full value of any economic damages (for example medical costs, loss of support, loss of a future inheritance, etc.), damages for pain and suffering experienced by the victim, and punitive damages if the defendant's conduct was particularly malicious and/or intentional. Furthermore, New York courts have expanded the variety of damages that may be awarded to include potential benefits the victim may have received if they had lived, future earnings, parental support that would have been provided, and more.

### Why We Oppose this Legislation:

The existing EPTL provides juries the ability to fairly compensate the families of victims. Emotional damages by their very nature are subjective and impossible to quantify, and in tort cases where they are awarded, are often sizeable. Ultimately the cost of these awards are borne by policyholders and the public writ large, through higher premiums, loss of affordable coverage options, and higher taxes. A recent study found that this legislation could increase average annual premiums for New York residents and businesses by \$2.2 billion or 12.6%<sup>1</sup>

*Big I NY is New York's leading association representing independent insurance agents and brokers, representing over 1,800 agencies and their 13,000 employees. We believe independent insurance agents serve customers best with trusted advice and the right coverage options to protect what matters most.*

<sup>1</sup> Ryan, T and Schaaffe, D (2019). Review of New York Bill S4006: Proposed Expansion of New York's Wrongful Death Act. Milliman.