

Chair Fagan and members of the Committee,

I am urging you to revisit and correct an injustice that exists in the current Oregon wrongful death law. I am writing because of my own experience and for other families that lose precious members of their family due to negligence.

I met this injustice head on when I lost my loving wife of 48 years due to negligence. It was a devastating loss for me and my sons and grandchildren. My wife, Connie, was a health conscious person. She was very involved with the community and served as Board President and Board Member at the University of Oregon Art Museum for 15 years, donating thousands of hours of her time. She was a fashion model, designer and producer for fashion shows in Seattle and Eugene. She was an artist and student of music. Most importantly, she was a wonderful wife and mother. We had retired shortly before her death and looked forward to our future time together with family and friends.

In June of 2009, Connie went to her primary care doctor complaining of a chronic cough months in duration. She was referred to a radiologist for a chest x-ray who reported the x-ray as normal when in fact one lung had a stage 1 cancerous lesion present. Connie was not a smoker. The cough disappeared after a few months but returned 2 ½ years later and was much worse. A new order for another chest x-ray revealed both lungs were now full of cancer which proved to be terminal. The initial cancer had also metastasized into brain tumors. Shortly before she died, we were asked why she did not treat the initial tumor 2 ½ years prior. Imagine our anguish and shock to learn, at that moment, about the tumor on the original x-ray. The radiologist missed the tumor at stage 1 which had a 90 % cure rate. I was told by the pulmonologist "she should be alive and well today, not lying on her death bed." "Somebody owes you an apology" were his exact words. As a retired medical professional myself, I knew that was quite unusual to hear from a doctor I had never met. You can only imagine our grief and shock. The lungs were inoperable. She had brain surgery which left her paralyzed for the remainder of her life. I spent my entire career working in health care. This couldn't be happening.

What happened to Connie should not have occurred. After deep thought about what, if anything, I should do, I decided to consult an attorney. During that meeting I was informed of the existing Oregon law that limits surviving beneficiaries in a wrongful death case to no more than \$500,000 in non-economic damages. Because Connie worked in a voluntary role at the Museum of Art there were no economic damages to her estate.

It took months of litigation and the pain of reliving the tragedy of her death before the insurance company for the radiologist finally settled her case. And because of the cap, the

insurance company knew there was a \$500,000 ceiling so they negotiated a much lower offer before they finally settled 2 weeks before we were set to go to trial. The insurance cap prevented proper justice, if there is such a thing. This suit was not about money which will be given away. It was about righting a wrong that should never have occurred and doing our part to make sure it doesn't happen to another family.

No amount of money can replace my Connie and the void it has left in me and my sons lives. A law that treats the loss of life as a lesser form of injury is illogical and wrong. Please help grieving families who have suffered egregious harm caused by negligence by increasing this insulting and arbitrary "value" of their loved one's life.