

In Support of HB 4136

Grieving Families Deserve Justice: Raise the Wrongful Death Cap

An Oregon case example

The \$500,000 cap has not changed for the last 29 years yet the value of the dollar has decreased and therefore, so too has the arbitrary value of one's life. It has also created some of the most negative stalling maneuvers imaginable. Defendants know if they delay and deny settlement long enough, they can potentially escape larger consequences if the plaintiff dies before reaching an agreement. To state it bluntly, injured Oregonians are cheaper dead than alive. Here is an example:

- In 2006 a Multnomah County asbestos case with a terminally ill mesothelioma victim was about to go to trial after a year of litigation. The victim was gravely ill and in hospice care. The day before his trial, settlement talks deadlocked in another, much smaller case against the same defendant, scheduled before the same judge on the same day as the mesothelioma trial. Because it appeared that the mesothelioma trial could be delayed for as many as 2-3 weeks if the other case did not settle and knowing that the victim would likely die in the meantime, the major defendant dug in and was unwilling to settle the smaller case.
- It literally was "banking" on the victim's death so the wrongful death cap would kick in. Understanding the maneuvers the defendant was utilizing to keep the case off the docket, a local judge mediated an agreement on the smaller case overnight and the mesothelioma case was scheduled to begin the following morning. The defendant realized that it would start the trial with a living victim with no caps on the case so they settled for an amount above the wrongful death cap. Four hours later the asbestos victim died in hospice.