

I thank Senator Linares and the entire Committee for the opportunity to testify before you today on the importance and necessity to change the statute of limitations to notify the Transportation Commissioner of an injury resulting from a highway defect from 90 days to 180 days. My name is Caitlin Banning and I am here today on behalf of my mother and two sisters and in honor of my late father, Richard.

The seminal event in our lives that caused us to become advocates for this change occurred on March 20, 2013. That morning, we were all shell shocked to learn that my father had been killed in a car accident on Route 85 in Salem just before 6:00 A.M. My dad was on his way to work, where, as a carpenter, he improved Connecticut's state roads every day by repairing our bridges. Travelling down Rt. 85 on his way to work, he hit 174 feet of untreated ice, so extensive we would learn, that it stretched from the edge of the roadway all the way to the center line. The ice, in the same area where the roadway curves significantly, caused him to lose control of his car, spin out and cross the center lane where he was struck by oncoming traffic. He was killed instantly.

After the accident, we were trying to learn what happened and what caused him to lose control. We contacted the state police, who had been tasked to investigate the accident, regularly and practically begged for updates. We were repeatedly given the same answer that the accident was being investigated. We understood that in a fatality, the investigation would take some time, so we waited, sometimes not so patiently.

We conducted as much research as possible on our own and we were shocked when we learned the history of this road. My mom, who also travelled that road regularly to her job, knew it could be icy and lives with the guilt of not texting my dad that morning to warn him of the icy conditions there. This particular stretch of Route 85 is especially troublesome. Prior to my dad's accident on March 20th, there were several accidents reported on that road in the same area as my dad's accident. Some people even contacted us to let us know that they had spun out in the same spot that very same morning.

Residents who live in the area commented repeatedly in news articles about how horrible the ice buildup on that stretch of roadway became in the winter. We learned that immediately following the accident, recognizing a problem, the state had brought in a crew with heavy equipment to move dirt around the roadway in an attempt to stop the buildup of ice. The state representative for the district

was even quoted in an interview following the accident discussing the dangers of that stretch of the road. We learned in August, 21 days before what would have been my dad's 56th birthday, that the state had allocated \$2.2 million dollars for the roadway defect to be corrected.

We began to think about the prospect of legal action, but we waited for more "official" information by way of the state police. Working in the legal industry in Philadelphia, I knew that the roadway defect or any negligence on the state's part needed to be the proximal cause of the accident in order to pursue a claim against the state. Without the police report, we didn't think we could make that assumption. Though unlikely, we didn't know if the driver who struck my dad was intoxicated; if my dad had a heart attack that caused him to lose control; if there had been a mechanical error with the car; and a whole host of other "what ifs."

We waited and waited, and when we still did not have a police report five months later, we contacted an attorney. Our main purpose in doing so was to try to get the police report or in the interim, conduct our own investigation to understand what happened. It was only at this time that we learned of the 90 statute of limitations that would bar any claim we might have under the Highway Safety and Defect Act. We were devastated. Not because we thought we had missed out on a monetary windfall but because no one was going to be held responsible for the failures that led to my dad's death. In our home and in our lives, we were always taught that making a mistake is okay, but when the time comes, you take responsibility for your actions and you accept the consequences. To know that this was not going to happen was like losing my dad all over again.

We got the police report in March 2014, one year after the accident. This was the first time we had official confirmation of the severity of the ice and roadway conditions and that they had been the cause for the accident. State troopers who authored the report noted the ice and that they themselves had to use extreme caution because of how slippery the roadway was. It took the state police, who have a team of professional investigators and accident re-constructionists specifically for this purpose, a year to determine what caused the accident and ultimately my dad's death. The irony of this, when juxtaposed with the 90 day notice period, is incomprehensible.

When my boss told me that morning my father had been killed in a car accident that morning, the only words I could muster were "is this a joke"? A million thoughts went through my mind. How

could this have happened? Are my mom and sisters okay? Who will walk me down the aisle when I get married? Who will my children call Pop Pop? Not once did any of us think to ourselves that we needed to run to an attorney to file a lawsuit or preserve our rights. Under the best circumstances we are not a litigious family. In these, the worst circumstances of any of our lives, our focus was on overcoming our insurmountable grief and accepting our new life without my dad. For my mom, the Executrix of my dad's estate, that involved adjusting to life as a single parent to three daughters and without her partner of 35 years.

I ask all of you this question: did you, our state's representatives at the highest level, know about this provision in the statute before today? My guess is you did not, unless you happened to pass through the gates of the Haddam Neck Fair, where my mom, a volunteer at the front gate for the past 15 years, has caught the ear of every state representative she recognizes. No one she has spoken to was aware of this statute, and one former Attorney General even told her they thought she was mistaken. Unfortunately, this is a very real statute that is very strictly enforced by the Courts and puts all of your constituents at a very real disadvantage during their time of need. If you didn't know about it, how could your constituents?

90 days is simply not sufficient time to expect someone to have come to grips with their shock and grief, particularly in fatal accidents. Not only are victim's families left grieving, but they are also in a state of shock when they are struck by such a sudden tragedy. If any of you have lost a loved one suddenly, you understand this. If not, I pray you never do. After 90 days, the grief is nowhere near gone, nor will it ever be, but some of that shock has worn off and the search for answers ensues. It would seem as though this is when victims or those they leave behind, will reach out to an attorney for some assistance and can learn of their rights and restrictions under the law.

While I understand and appreciate the necessity for the state to be protected by a shorter period of time under which to provide notice of an injury rather than the normal two year statute for personal injury claims against non-government entities or individuals, I urge the Committee to expand the notice period to come more into line with the 180 notice period required in most of the other 49 states and the District of Columbia. This will allow for your constituents to grieve for their loved ones or recuperate from their injuries before rushing to an attorney to assert a claim without all the necessary facts.

Thank you again for the opportunity to speak today. I hope my testimony will help to effectuate this vital change.