

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2025

H. P. 1946

Office of the Clerk of the House

The Committee on Legal Affairs suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mrs. Post of Owls Head

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

RESOLVE, Authorizing Edward E. Benner, Jr., Mable C. Benner of St. George and the Administrators of the Estate of Daniel E. Benner to Bring Civil Action against the State of Maine.

Edward E. Benner, Jr., Mable C. Benner, and administrators of the estate of Daniel E. Benner; authorized to sue the State of Maine.

Resolved: That Edward E. Benner, Jr., and Mable C. Benner, both of St. George, father and mother of the deceased Daniel E. Benner, and administrators of the estate of Daniel E. Benner are authorized to bring suit against the State of Maine.

Daniel E. Benner was a passenger in an automobile on February 28, 1977, which was being operated by Gordon E. King of Gloucester, Massachusetts. The King vehicle was proceeding on U. S. Rt. #1 in the Town of Waldoboro when it went into a skid, crossed the road and ran into another oncoming vehicle. As a result of the accident, Daniel E. Benner was killed.

The plaintiffs contend that the Department of Transportation was negligent and the State of Maine was also negligent in that approximately 2 hours prior to this accident, a request was made by the Lincoln County Sheriff's Department to the Augusta police dispatcher to sand the road, informing them of the extremely dangerous condition of the road and that there had already been an accident on the road, unless something was done, the road would have to be closed. The plaintiffs contend that the Department of Transportation either did not heed the advice, or did not receive same, and failed to sand the road until after the fatal accident, all of which the plaintiffs contend constitutes negligence.

Such action, if authorized, is to be brought in the Superior Court for the County of Lincoln within one year from the passage of this resolve against the State of Maine for damages, if any, and the conduct of such action shall be according to the practice of actions or proceedings between parties in the Superior Court. The liabilities of the parties and elements of damage, if any, shall be the same as liabilities and elements of damage as between individuals. The complaint issuing out of the Superior Court under the authority of this resolve shall be served on the Secretary of State by attested copy of the sheriff or either of his deputies in any county of the State of Maine. The Attorney General is authorized and designated to appear, answer and defend the action.

Any judgment that may be recovered in this civil action shall be payable from the State Treasury on file process issued by the Superior Court, or, if applicable, the Supreme Judicial Court and costs may be taxed for Edward E. Benner, Jr., Mable C. Benner and administrators of the estate of Daniel E. Benner if they recover in the action and their recovery shall not exceed \$150,000, including costs. Hearing thereon shall be before a Justice of the Superior Court with or without a jury, the Justice to be assigned by the Chief Justice of the Supreme Judicial Court, the regularly scheduled Justice presiding in the Lincoln County Superior Court when this matter is scheduled for trial.

STATEMENT OF FACT

The purpose of this resolve is to authorize Edward E. Benner, Jr., Mable C. Benner and administrators of the Estate of Daniel E. Benner to bring civil suit against the State of Maine.