



# WRONGFUL DEATH LAWSUIT **GUIDE**

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Navigating Your Wrongful Death Claim

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Accidents that result in personal injury happen on a daily basis. Whether it's on the road, in a public place or at work, when people are injured, knowing what to do next is very important.

Due to the fact that all personal injury cases will vary and each state has its own laws as to when and how you can pursue compensation, this guidebook is a great first step in understanding what to do next.

In this FREE guide, you will learn more about types of wrongful death claims, do's and don'ts, the process of filing a claim, and much more.

If you have any additional questions or would like to set up your FREE consultation with a personal injury attorney, please feel free to contact us at (800) 863-5312 or visit the Zinda Law Group website at [www.zdfirm.com](http://www.zdfirm.com).

Sincerely,

*Jack Zinda*

Zinda Law Group Founder

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## Overview of Wrongful Death Lawsuits

Accidents and unintentional injuries were the third highest leading cause for death in the United States in 2017 according to the US Center for Disease Control and Prevention. Many of these accidents and injuries are caused by the negligence of an individual or organization.

“Wrongful death” is defined as the death of an individual as the result of a wrongful act, either willful or negligent, committed by another. A wrongful death claim is a special kind of personal injury lawsuit which can only be made after a wrongful death occurs.

After the loss of a loved one, the survivors of a deceased victim can file a wrongful death lawsuit to hold the responsible party liable, and recover damages to help relieve the financial burden of their loss. Types of wrongful death cases can involve work-related accidents, vehicle collisions, and medical malpractice. However, there are many other types of cases involving wrongful death.

Because the laws for wrongful death claims differ state by state, and each case is unique, navigating this type of claim can be a tricky and difficult process. Zinda Law Group can help you determine how to move forward after the death of a loved one, and pursue the compensation you deserve.

# How Does a Wrongful Death Lawsuit Work?

## Proving Fault in a Wrongful Death Claim

In order to pursue a wrongful death claim, you must be able to prove that another person was at fault for death of your relative through their negligent actions. To do this, four things must be proven: duty of care, breach of duty, causation, and damages.

### - **Duty of Care:**

The first thing that must be proven is duty of care. This means that the person against whom you are filing the suit had an obligation to take certain precautions or behave in a certain manner in order to prevent an accident from occurring.

### - **Breach of Duty:**

Next, it must be proven that the person responsible for the accident breached this duty of care. A breach of duty occurs when a person with a duty of care fails to take the proper precautions or act reasonably.

### - **Causation:**

Even if the duty of care and breach of duty have been proven, it must also be proven that this breach of duty did in fact cause the accident that resulted in the death of your loved one.

### - **Damages:**

Finally, if the duty of care, breach of duty, and causation have been proven, it must also be proven that the accident caused damages. However, in most wrongful death cases, damages are usually assumed, as the victim is deceased as a result of the accident.

## Who Can File a Wrongful Death Claim?

Because wrongful death claims are designed to compensate the surviving family members of the person who died, it makes sense that immediate family members are allowed to file a wrongful death claim on behalf of the deceased. However, each state defines who is an immediate family member differently.

In all states, the surviving spouse of the deceased may file a wrongful death claim on behalf of his or her deceased spouse. Additionally, the parents of minors may bring a wrongful death action if one of their children is killed, and minors may also collect compensation for the death of a parent.

States disagree over the following:

- Whether parents of adult children may sue on behalf of their child
- Whether adult children may sue for wrongful death of their parents
- Whether adult siblings may sue for wrongful death on behalf of his or her deceased siblings
- Whether extended relatives such as cousins, aunts, uncles, or grandparents may sue
- Whether the romantic partner, not necessarily the spouse, of the deceased may file a claim

# Compensation for a Wrongful Death Claim

A wrongful death claim allows the surviving family members of the deceased to seek compensation for their losses as a result of the death. These losses can be broken down into two general categories: financial (economic) damages, and emotional (non-economic) damages.

## Economic Damages

Economic damages generally compensate family members for the financial support they may have been dependent on the deceased for, up to the point in time in the future that the deceased would have supported them.

- **Loss of future earning capacity:** Compensation for loss of earning potential may be awarded to compensate for the loss of future income caused by the passing of a spouse or parent. Numerous factors go into calculating this kind of compensation, such as the deceased's age, sex, salary before the accident, and general health before the accident, for example.
- **Loss of future financial support:** Compensation for loss of future financial support, other than income, may also be sought. This can include support in paying for college for the deceased's children, as well as retirement and health insurance benefits for the deceased's spouse.
- **Loss of inheritance:** Family members may seek compensation for the value the deceased would have contributed to their estate for the remainder of their natural life, had it not been for their wrongful passing.
- **Punitive damages:** Awarded in cases of serious or malicious wrongdoing, punitive damages are meant to punish the defendant, and deter others from behaving similarly. An attorney can help determine whether you may be able to seek punitive damages in your state.

## Non- Economic Damages

Compensation for non-economic damages is more difficult to calculate since they seek to provide compensation for factors that do not necessarily have a clear financial value. These compensations are based on a multitude of factors that are unique to every case. Non-economic damages may include:

- **Emotional distress:** Emotional distress damages may be awarded to compensate for the emotional anguish the deceased's family may have endured as a result of the death of their loved one.
- **Loss of consortium:** Loss of consortium damages may be awarded to compensate for the loss of companionship, love, and affection due to the death of a spouse or parent.
- **Loss of services:** Damages for loss of service may be awarded to compensate for the services the decedent provided his or her beneficiaries.

## What is a Survival Claim?

While a wrongful death claim seeks to compensate family members for their own losses associated with the death of a loved one, a survival claim seeks to compensate family members for the decedent's losses prior to his or her death, as well as the damages sustained by the decedent's beneficiaries.

Compensation awarded to family members in a survival claim may include:

- **Medical expenses:** Compensation for medical expenses may cover accident-related expenses the decedent accrued prior to death, including hospitalization, treatments, and medications.
- **Funeral expenses:** Compensation for funeral expenses cover the costs related to funeral services for the decedent, including the value of a reception, burial or cremation, and any other related costs.
- **Lost income:** If your loved one was unable to work for a period of time as a result of the accident before their death, you might be able to seek compensation for lost wages during that period.
- **Pain and suffering:** Pain and suffering damages may be awarded to compensate for the physical and emotional pain suffered as a result of the accident by the deceased before they passed. Many variables may be considered, such as the severity of the injuries and their impact on his or her quality of life.

Whether you are considering filing a wrongful death claim or a survival claim, an attorney may be able to help ensure you are seeking the full range of damages to which you may be entitled, and may negotiate for a full and fair settlement on your behalf.

# Common Causes of Wrongful Death

Every wrongful death case is unique, but they all have one thing in common. Every wrongful death is caused by the careless, reckless, or negligent actions of another person or entity.

Some causes of wrongful death include:

## Motor Vehicle Accidents

Car wrecks occur every day in America, but whenever someone is killed as a result of another's negligence, the family of the victim may seek to be compensated for those losses relating to the accident. If you've ever been hit by a drunk or distracted driver, you know how angry you become once you realize that the accident was completely avoidable.

A wrongful death may also be the result of defective manufacturing of breaks, seatbelts, tires, airbags or other vehicle parts. If this is the case, a lawsuit may be filed against the automotive manufacturing company.

## Truck Accidents

Truck accidents are similar to car accidents. However, due to the large size and weight of the vehicle, truck accidents can incur much higher damages than typical car accidents. Due to state regulations, insurance policy limits on 18-wheelers and other commercial vehicles may be very high. A grieving family may be able to recover large damages if a tragedy were to occur and fault is established.

Causes of trucking accidents are generally the same as causes of car accidents. However, there is a higher rate of truck crashes due to exhaustion, as drivers often spend many hours on the road making deliveries.

## Medical Malpractice

Medical malpractice has also become much more prevalent in the news. A medical practitioner who fails to perform his or her responsibilities to acceptable standards, and causes a patient's death, may be held liable.

This has become a significant source of wrongful death cases in America. Some 90% of medical malpractice lawsuits claim that the defendant caused death or permanent injury to another through their negligence.



# Common Causes of Wrongful Death

## Defective Products

Product liability laws require that manufacturers, product designers, and distributors work to ensure that their products are safe for public use or consumption. Testing and guidelines are occasionally lessened in favor of getting a product to market. This can leave the public at risk.

## Dog Attacks

While many people love dogs, the unfortunate reality is that some of them, even those that are well-trained, can attack without warning. Although dog bite laws differ state-to-state, the owner of a dog who has killed an individual may be held liable for the death.

## Workplace Accidents

Workplace accidents are on the rise. A dangerous work environment poses serious risks to workers. The most common workplace accidents are falls, burns, explosions, and equipment accidents. These cause many deaths each year and most often occur at manufacturing plants, construction sites, and mining operations.

Accidents on the job are often investigated to determine exactly what happened and who was at fault. OSHA standards require that certain safety features be in place at a work site. Employers must take reasonable measures to protect their workers.

## Water-related accidents

In certain cases when a water feature is not properly maintained, or is understaffed with lifeguards, the facility can be held liable for wrongful death. If this is the case, the plaintiff must clearly demonstrate that the party in charge of managing the facilities neglected to meet adequate safety standards for their pool, lake, or water park.

## Birth injuries

Birth injuries involve harm to a baby due to complications during pregnancy or delivery. If a developing fetus or newborn baby dies, and there is evidence that the causes of death were avoidable, there may be legal grounds for a wrongful death claim.

# How Do I File a Wrongful Death Claim?

## 1. Contact a Wrongful Death Attorney

If you think you may have a viable case, it is important that you contact an attorney who has experience in this area of the law. An experienced attorney will be able to walk you through the following steps and ensure that you have the best chance when seeking the compensation that you deserve.

## 2. Open a Probate Estate

Obviously, the deceased cannot file a lawsuit on their own behalf. Therefore, to be able to bring a claim, there needs to be an open probate estate.

## 3. Determine Whether You Are Eligible to File

If you are an immediate family member, you may be able to file a claim. However, as mentioned before, states have differing laws on the rights of extended family members, so discussing the laws of your state with your attorney is an important preliminary step.

## 4. Negotiate With the Insurance Company

In most cases, the person at fault will have some form of insurance to cover potential incidents. Thus, seeking maximum compensation for your case will come down to negotiating with the insurance company. The insurance company is a business, and they will attempt to pay out the smallest amount of money that they can, which makes it important that you have an attorney by your side to make sure you are treated fairly throughout the process.

## 5. Go to Trial

While most cases will end in a settlement before they ever get to the courtroom, there are some circumstances in which going to trial will be necessary to seek full compensation. Again, negotiating a trial is very complicated, and it is important to protect your interests by hiring an attorney with experience in this area.

## Do I Need An Attorney to File a Claim?

State laws dictate that a wrongful death claim may be filed any of the decedent's immediate family members, such as a surviving spouse or child. Trying to pursue a lawsuit for the loss of your loved one can lead to frustration, overwhelming paperwork, as well as a strong likelihood that your case may not be considered. Because of this, many families choose to seek the counsel of an experienced attorney to help file a wrongful death suit on their behalf.

There are many ways that an attorney can help you throughout the legal process, including:

### **Investigation and preservation of evidence**

In all wrongful death cases, the plaintiff has the "burden of proof." This means that you will be expected to prove that negligence was a factor in your loved ones death by providing evidence that satisfies the four elements of fault: duty of care, breach of duty, causation, and damages. The amount of evidence you provide is not measured, rather the quality and credibility of the evidence you provide is more important.

An attorney can help identify and compile the evidence that may prove vital to your wrongful death case, such as witness testimonies, accident reports, medical paperwork, and history of the defendant.

### **Knowledge and experience**

An experienced attorney will be well aware of deadlines that may pertain to your case, such as the statute of limitations, and will know all the necessary paperwork that must be filed for you to secure financial support, such as survivor benefits and life insurance. An attorney will also have experience with the unique laws of your state that will determine how your case can be pursued.

### **Financial support**

There are many expenses associated with filing a wrongful death lawsuit. The fees to file papers with the Court can cost upwards of \$500, and you may miss out on many days of work, and thus income, due to filing paperwork, investigating and compiling evidence, and negotiating with insurance companies. An attorney can cover all legal costs so you do not have to make any upfront payments, and they can handle all the other work so you can spend time where it matters – with your family. Furthermore, many law firms offer a No Win, No Fee Guarantee, so you only have to pay for their services if your case is won.

### **Litigation and trial experience**

Should you not reach a settlement, your case may go to trial. In a trial, a judge or jury will examine the evidence to determine whether you have met the "burden of proof" necessary to prove fault or negligence. An attorney with litigation experience may argue on your behalf at trial, present and cross-examine witnesses, and present your case to a judge or jury to seek maximum compensation.

## How Do I Find a Wrongful Death Lawyer?

When considering a wrongful death claim, it is important to obtain the right legal representation. Resolving a wrongful death claim can become overwhelming and challenging quickly. With that in mind, there are several items to consider when choosing an attorney to represent you, such as:

- Proper accreditation and good standing with the state licensing agency
- Specialty areas
- Years of experience
- Timeliness, responsiveness, and accessibility
- Client testimonials and reviews
- Case outcomes
- Industry awards
- Helpfulness and professional presentation
- Your comfort level

Today, the easiest way to search for a personal injury attorney is through the Internet. Using a search engine like Google or Bing will reveal many lawyers who have experience with wrongful death cases. It is important to take the time to review a variety of attorneys.

In addition to the above considerations, you can refer to online legal directories, such as FindLaw, Nolo, Justia, and Avvo, to obtain reviews on a particular attorney or law firm. You can also utilize reviews offered on other platforms, including Google, Yelp, and social media websites. Another effective method is to solicit recommendations from family and friends.

After doing your research and identifying qualified attorneys, contact the various law offices to arrange a free consultation. If an attorney or firm does not offer a free consultation, consider this a red flag.

At your consultation, be prepared to ask questions such as:

- Can you explain the process of a wrongful death case?
- How much experience do you or your firm have dealing with wrongful death cases?
- Who will I be working with on this case?
- What is my job throughout the course of this case?

The answers to these questions and others should help you determine whether you are comfortable with the attorney and the firm. However, if you still feel uneasy after speaking with the attorney, continue comparing your options until you find the right fit. Be patient with the process of finding an attorney, as finding the right representation will save you time, frustration, and stress later on.

# About Zinda Law Group

## Representing All Types of Clients in Wrongful Death Cases

The lawyers of Zinda Law Group, PLLC represent families who have lost a loved one due to the negligent actions of another individual or entity. We know firsthand that the losses suffered by a family after a wrongful death can be severe, and difficult to manage without your loved one.

## How Can Zinda Law Group Help?

At Zinda Law Group, our nationwide wrongful death lawyers understand how hard it can be to pursue legal action after the death of a loved one. We have the knowledge and resources necessary to help you build the strongest case possible and to pursue the maximum compensation you may be entitled to under the law.

Our firm also believes you should never have to worry about being able to afford superior legal representation. We offer free wrongful death consultations, and as one of our clients, you will pay absolutely nothing unless we win your case. That's our No Fee Guarantee.

If you have lost a loved one in an accident, call Zinda Law Group at (855) 629-4898 for a 100% free consultation with one of our nationwide wrongful death attorneys.