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WRONGFUL
DEATH
GUIDE



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California Wrongful Death Guide

Presented by:

GJEL Accident Attorneys

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ISBN-13: 978-1530836536

ISBN-10: 1530836530

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What is a Wrongful Death Lawsuit?

Losing a spouse, parent, child, or another close family member is always difficult. A loss can be magnified, however, if the death occurred because of a sudden and ultimately preventable accident. Such accidental deaths are more common than you may imagine; the Centers for Disease Control and Prevention (CDC) reports that accidental injury is the 4th leading cause of death in the United States, resulting in more than 130,000 fatalities on an annual basis.

When another person or party is to blame for a tragic accident, California law gives certain surviving family members certain legal rights. In many situations, those family members can file a legal claim for wrongful death in civil court and seek financial recovery for their losses. While money will never completely make up for your loss, it can help you move forward with fewer financial concerns and with a greater sense of justice regarding the death.

Wrongful death laws in California can be complicated, however, so it's important to have your situation reviewed by an experienced wrongful death attorney if you have tragically lost a loved one. The attorneys at GJEL have a thorough understanding of California wrongful death laws and can help you through every step of your case.

Who can Recover for a Wrongful Death?

California law is very specific when it comes to who has the right to file a claim for wrongful death. For example, while the loss of your best friend may cause you significant emotional pain, friends are not able to seek recovery for a wrongful death in California. The following are the family members who may be able to file this type of claim:

- Spouse or domestic partner;
- Biological or adopted children;
- Stepchildren, if they were financially dependent on the deceased person;
- Parents, if they were financially dependent on the deceased person;
- Parents of a deceased minor or unmarried child; or
- If no one else is eligible, anyone who would be considered an "heir" under California law.

In addition, the personal representative of the estate of the deceased person can file a wrongful death suit on behalf of any of the above qualifying parties. Determining who qualifies to file a wrongful death claim can be confusing and an experienced lawyer can evaluate your position in such a case.

What are the Causes of Wrongful Death?

A "wrongful" death is one that occurs due to the negligence or intentional act of another party. The negligent or wrongful party can be another individual, several people, a corporation, or a government entity. Parties can be negligent or harmful in many different ways and, therefore, each wrongful death case will have a unique set of circumstances with unique legal issues that may arise. The following are only some examples of common causes of wrongful death in California:

- Traffic-related accidents including crashes involving cars, commercial trucks, motorcycles, bicycles, or pedestrians;
- Falls from heights, on stairs, or serious slip and fall accidents on even ground;
- Accidents in the workplace including motor vehicle accidents, equipment malfunctions or construction accidents;
- Injuries caused by dangerous or defective products, including pharmaceuticals, household appliances, auto parts, child products, and recreational or sports equipment;
- Medical malpractice including birth injuries, misdiagnosis, medication errors and surgical errors;
- Drownings in swimming pools or deaths caused by ocean accidents, boat accidents, or watersporting accidents;
- Burns caused by fires, scalds, or electrocutions; or
- Violent acts such as gunshot wounds, stabbings, or other serious assaults.

Not every accident will give rise to a wrongful death claim, however. If the accident was no one's fault and was unavoidable, the death will not be considered to be legally wrongful. Instead, you must prove that someone was negligent or wrongful in causing the accident. Some examples of negligence can include distracted or drunk driving, failing to maintain a property, selling defective products, and more. Proving negligence can be complex and can require significant evidence. An experienced wrongful death attorney at GJEL Accident Attorneys can help you succeed.

When Should You File a Wrongful Death Claim?

California only gives you a limited amount of time to file a wrongful death claim, so you should avoid delay in discussing a possible case with a skilled attorney. While the law gives you two years to file a lawsuit, these cases can require significant preparation and investigation; it's important to give your legal team sufficient time to prepare a successful claim. For this reason, you should consult with a wrongful death law firm as soon as you think you may have a valid claim.

Benefits of Wrongful Death Claims

Many surviving family members wonder if it is really worth it to go through the legal process of a wrongful death claim. It is always worth considering, as there are many different benefits, including the following:

- Reimbursement for expenses paid for funeral services, and burial costs.
- Compensation for the income your loved one would have earned had they lived and continued working.
- Compensation for lost financial support and household services.
- Compensation for loss of affection, love, guidance, and moral support.

Many damages available in wrongful death cases are intangible and do not have a concrete value attached. Therefore, you need an experienced lawyer who understands how to calculate the full amount of recovery that you deserve in your particular case. The value of a wrongful death case can vary widely from case to case depending on many factors, including the age and health of the victim, dependence of the surviving family members on the victim, and more.

Find out How a California Wrongful Death Attorney can Help You

At the offices of GJEL Accident Attorneys, we understand how difficult and tragic it can be to unexpectedly lose a loved one due to someone else's behavior. We know that your focus should be on your family and your emotional well-being, so we will handle every step of your wrongful death case with as little stress on you as possible. Please call for a free consultation today at 866-218-3776.

Making Sense of California Wrongful Death Statutes

The idea that you can seek compensation when a loved one is wrongfully killed seems pretty straightforward. However, like many laws in California, the wrongful death statute has complicated provisions and uses complex language. For this reason, the statute may be difficult to decipher unless you have some prior understanding of wrongful death laws.

Death “caused by the wrongful act or neglect of another”

The statute begins by specifying that the wrongful death cause of action arises only from deaths that result from the “wrongful act or neglect of another.” A wrongful act generally refers to an intentional act that causes death, such as a violent assault. “Neglect” refers to the legal concept of negligence, in which a party breaches a legal duty of care and causes an accident. Examples of negligence can include medical errors, distracted driving, and similar careless acts. If an accident does not happen due to either negligence or an intentional act, there is no available legal action under the statute.

Who can File a Claim

The next large section of the statute carefully sets out who may be eligible to file a wrongful death claim in California. Simply put, the following survivors may have that right in certain circumstances:

- Spouses
- Registered domestic partners
- Children
- Parents
- Stepchildren or other minors who financially relied on the deceased person
- Other legal heirs of the deceased person’s estate
- The personal representative of the estate

The above list is a significantly simplified account of who can recover for wrongful death as the statute has many conditions and requirements for survivors to be eligible.

Damages that may be Awarded

The law then designates the specific types of damages a wrongful death action can seek. “Damages” refers to the losses for which a party is seeking compensation. The law simply states that the damages must be “just” under the circumstances of the case and gives the court discretion to determine the rights of certain survivors to certain damages. Depending on your relationship to the deceased and the losses incurred, damages often include:

- Funeral and burial costs
- Loss of future income and financial support
- Loss of household services
- Loss of love and affection, as well as other types of emotional support

The law does prohibit wrongful death claimants from seeking damages for any losses that may be available in a “survival” action, which is a different type of claim brought after a person dies.

Joining with Survival Actions

Finally, the law addresses that, for the sake of convenience, a wrongful death action may be joined together with a survival action that is brought by the personal representative of the estate, so long as both claims result from the same wrongful or negligent act. This can save everyone involved time, energy, and money.

Consult with our California Wrongful Death Lawyers for Help

As with any law, the wrongful death statute in California can be confusing. At GJEL Accident Attorneys, we have extensive knowledge and understanding of all wrongful death laws and we can evaluate and handle your case with skill and experience. Call us today for a free consultation at 866-218-3776.

What Damages are Available in a Wrongful Death Case in California?

The wrongful death statute in California is relatively vague when it comes to the damages that surviving family members can recover after proving a wrongful death. In fact, the law simply states that any “just” damages may be available in a particular situation. Many different parties may bring wrongful death claims in CA, including spouses, children, stepchildren, parents, and other potential heirs. The damages that each different party can recover will vary depending on their own specific and personal losses from the death. The law gives the court discretion to determine the rights of each party to certain damages.

For the above reasons, it is impossible to say exactly what damages you may receive without a thorough evaluation of your situation. While the best way to learn about potential damages in a wrongful death case is to consult with an experienced California wrongful death attorney, the following are some of the losses for which you may be able to recover:

- Reasonable funeral and burial expenses
- The estimated amount of income and benefits the deceased person would have earned in their lifetime had the accident not occurred
- Loss of financial support for the household
- Loss of services around the household, including cleaning, landscaping, cooking, caring for children, and other everyday tasks and contributions to the family
- Loss of intangible support, including love and affection, encouragement, moral support, guidance, attention, and more.

Some parties may have contributed to funeral expenses while others may not have. In addition, older parents may have lost financial support but not any household services if they did not live in the same place as the deceased. As you can see, the situations can vary widely depending on the specific circumstances.

Calculating Damages

Once you have determined the type of damages that may be available in your wrongful death case, it becomes necessary to calculate the exact amount you want to seek. Some damages are much easier to calculate than others--for instance, to determine funeral and burial costs, you should simply examine all of the bills and receipts you received from the funeral home and other service providers. Note that only reasonable expenses will be reimbursed. This means that if you throw a lavish funeral and reception for your loved one, you may likely only receive a portion of the costs back.

Calculating lost future earnings can be significantly more challenging as there are many factors to take into account, including the following:

- The age of the deceased and how many more years they would be expected to work;
- The education, skills, and abilities of the deceased;
- The deceased’s potential for promotions, raises, and other adjustments to income throughout the course of their career;
- Inflation and how wages and earning would be adjusted over the years; and
- The benefits and retirement account contributions the deceased would have received.

Considering all of these factors into one calculation can be complicated and you will often need the assistance of an occupational and economic expert to reach an accurate estimate.

Experts are also used to determine the monetary value of household services lost, as well as the loss of affection, love, and other intangible support. Our attorneys have the resources needed to obtain expert analysis to ensure you receive a fair and just result in your case and always seek the maximum possible damages available.

Damages Not Available in a Wrongful Death Case

In California, there are certain losses that are specifically not available in a wrongful death case because they should be recovered in a different type of legal claim called a survival action. These damages do not have to do with the losses of the family members, but instead relate to the losses of the deceased person between the time of the accident and the time of death. Such losses can include medical expenses prior to the death, pain and suffering experienced by the deceased, and punitive damages if the actions of the responsible party were particularly egregious.

Contact an Experienced California Wrongful Death Attorney for a Free Consultation

Determining and calculating damages in a wrongful death case in California can be highly complicated. At GJEL Accident Attorneys, we have extensive experience working with wrongful death claimants and the resources and skills necessary to ensure you receive the most compensation that is possible in your case. We offer free consultations, so please do not delay in calling us at 866-218-3776 to discuss your situation today.

Who Can File a Wrongful Death Lawsuit in California?

If someone you love tragically dies in an accident or due to a violent crime, it is only natural to want to obtain justice for them and take legal action. However, California law does not allow anyone to come forward and file a wrongful death claim. The following is a list of people who may file this type of claim in California courts:

Spouse -- If you are the surviving spouse of the deceased accident victim, you have the right to file a wrongful death lawsuit in California. This is also true for domestic partners and “putative” spouses. A putative spouse is a person who believed they were in a valid marriage when, in reality, the marriage was void or voidable. If the putative spouse believes they were married and financially relied on the deceased, they will have the right to seek compensation.

Children -- If you lose your biological or adoptive parent in a wrongful death, you may file a claim for wrongful death. The same is true for stepchildren who can prove that they were financially dependent on the deceased at the time of death. In addition, minors who lived with the deceased for at least 180 days before the death and relied on the deceased for at least 50 percent of their financial support may also have a claim, even if they are not legal children.

Parents -- If you have lost your minor child or an adult child with no descendants, you have the right to recover by filing for wrongful death. In addition, parents have the right to bring a claim if they can demonstrate they were financially dependent on their child.

Other Heirs -- If there is no spouse or child who survives the deceased, other family members who are deemed to be heirs under California intestacy laws have the right to file a wrongful death claim. Heirs are the people who would legally inherit the deceased person’s property if that person died without a will.

In many wrongful death cases, there may be several people who are eligible to file a claim. It may be difficult for one attorney to represent all of the claimants without an ethical conflict and these cases can become unwieldy. In such situations, it is possible to simplify the case by having the designated personal representative of the deceased person’s estate bring the wrongful death claim on behalf of all of the eligible survivors. If a settlement or award is obtained, the personal representative can then distribute the recovery appropriately to the survivors.

Discuss your Situation with a California Wrongful Death Attorney

If you have lost a loved one and are wondering about your legal rights and options, do not hesitate to discuss a possible case with the GJEL Accident Attorneys. We offer free consultations with no obligation to use our services, so you have nothing to lose by sitting down and talking to us about your loss. We are here to help you, so please call us at 866-218-3776 to schedule your consultation.

The Elements of a Successful California Wrongful Death Claim

If your loved one has died because of someone else's actions, you likely want to march into court and demand the responsible party be held accountable for your tragic loss. California law does allow surviving family members to financially recover for losses caused by a wrongful death. However, doing so is not as simple as stating that you believe you deserve compensation. Instead, state law and the courts require strict procedures be followed and legal burdens of proof be met before another party is held liable for a wrongful death.

In order to prove a death was wrongful, you must have facts to show certain legal elements. In California, you must prove the death occurred because of another party's neglect or wrongful act. You must also have enough evidence to meet the required burden of proof. A burden of proof is the amount of evidence you must present in support of your assertions to convince a judge or a jury that a wrongful death did occur. You do not have to prove wrongful death beyond a reasonable doubt. Instead, you must prove it is at least 51 percent likely the death was wrongful; this burden of proof is called the "preponderance of the evidence."

These legal terms can be confusing but a highly experienced wrongful death attorney will fully understand how to prove all necessary elements of a wrongful death case. The following is some brief information about wrongful death elements in California.

Sufficient Proof of Negligence

If your loved one's wrongful death was caused by negligence--as many wrongful deaths unfortunately are--you must sufficiently satisfy all specific legal elements of negligence. These elements are as follows:

- The liable party had a certain duty of care owed to the victims;
- The party breached that duty of care in some manner;
- The breach led to the accident and injuries that caused the death; and
- The death resulted in losses to you and other claimants.

Duties of care can vary depending on the specific type of accident that occurred. The following are some examples of duties of care and how they may be breached:

- A driver has a duty to drive in a reasonably safe manner based on the weather and road conditions. Breach of this duty can occur in many ways, including distracted driving, drunk driving, aggressive driving, violating traffic laws, or other careless acts.
- A company has a duty to sell products that are safe for their intended use and to warn consumers about potential risks. If a company produces or sells a product that is defective or unreasonably dangerous without proper warnings, this can constitute a breach of duty.
- A medical professional is expected to provide the level of care that other similarly trained and reasonable professionals would provide in the same situation. If a doctor's actions fall below that standard and a mistake is made, the duty of care is breached.
- A property owner has a duty to ensure his or her premises are free from dangerous conditions or hazards. If an owner knew or should have known about a hazard and did not fix it or warn visitors, he or she has breached the duty of care.

Once you have established breach of duty, you must then present evidence that the breach of duty caused or contributed to your loved one's injuries and death.

Proving Intentional Harm

Some wrongful death cases do not arise from negligence but instead from intentional violence. The elements to prove an intentional act are specific and are as follows:

- The person had the intent to commit the act;
- The person made non-consensual contact with the victim (this can include hitting someone with a car or using a weapon); and
- The contact caused fatal harm.

In many cases, violent deaths result in a criminal case for homicide or manslaughter, which will be handled separately from the wrongful death case. However, a skilled attorney will know how to use a criminal case to help your chances of recovery for wrongful death.

Proving Damages

If you can establish the death of your loved was caused by the negligent or wrongful act of another person, the next step is to show you have sustained damages as a result of your loss. Importantly, California courts have consistently held that damages for emotional distress are not recoverable in a wrongful death action. That being said, in many cases, a person asserting a wrongful death claim may also assert a negligent or intentional infliction of emotional distress claim against the same party.

Some of the more common damages sought in wrongful death cases in California include the following:

- Costs associated with the funeral and burial of the decedent;
- Loss of future income;
- Loss of financial support;
- Loss of household services; and
- The loss of the decedent's love, companionship, comfort, care, assistance, protection, affection, society, moral support.

Establishing these damages is often difficult and requires significant expert analysis. For example, in determining how much a person would have made over the course of his or her career, it is necessary to take a number of factors into account, including life expectancy, the normal course of advancement for a person in his or her position, inflation, and education, skills, and abilities. For this reason, demonstrating these damages in the course of a settlement negotiation or trial often requires the presentation of substantial evidence and the assistance of an attorney can be invaluable.

A California Wrongful Death Lawyer Can Help

Overall, proving the elements of a wrongful death can be complicated, though these elements are required in order for you to recover. A member of the experienced legal team at GJEL Accident Attorneys can help you bring a successful wrongful death claim, so please call for a free consultation today.

What Does a Wrongful Death Lawyer Do?

If you have lost a loved one in a preventable incident, it is critical to discuss your legal rights with a California wrongful death attorney as soon as possible. While the law does not require that you have legal representation in order to file a wrongful death lawsuit, there are many things a wrongful death attorney will do for you that require time, money, and understanding of the law. The following are only some of the ways in which your attorney will help you:

Evaluate whether you have a Claim

Just because a death occurred does not mean that it was wrongful or that you have the right to recover for your losses. In an initial consultation, a lawyer will listen carefully to your story, ask questions, and may even interview other witnesses to carefully evaluate whether you have a valid wrongful death claim.

Identify the Negligent Party

In order to file a claim, you have to determine who should be named as the liable party. In some cases, this will be obvious. For example, if a drunk driver killed your loved one and the driver was arrested with a blood alcohol content (BAC) well over the legal limit, it should be clear that the driver's actions caused the death. However, in other cases, the responsible party may not be as readily identifiable. Imagine a driver was texting while driving and did not see a pothole in time, so she hit the pothole and her defective tire blew out, causing her to lose control and triggering a fatal collision. In this case, the liable party may be the distracted driver, the local government for not maintaining the roadway, the tire company for selling a defective tire--or all three.

In complicated situations, it can require significant investigation to identify all possibly negligent parties. Your attorney can call on experts, such as accident reconstruction specialists, to give their opinion regarding the cause of the accident. Your attorney may also obtain cell phone records or surveillance videos. This investigation may be necessary before your attorney can determine the correct party to name in a lawsuit. In addition, an experienced wrongful death attorney will know how to litigate your claim whether it is against another individual, a company, a government entity, or multiple parties, as each type of case may have unique legal issues.

Represent you Throughout the Litigation Process

The litigation process can be time-consuming and stressful, involving many different rules and procedures. The following are only a few things an attorney will do during litigation:

- **Filing the lawsuit** -- A wrongful death lawsuit has many requirements and must be persuasive enough to successfully present your case and stand up to challenges by the other party.
- **Gathering evidence** -- Evidence in your favor is gathered in many different ways, including through investigators, depositions, document requests, and more.
- **Challenging the other side's defenses** -- The other party will certainly raise legal defenses to avoid liability. Your attorney will answer back to challenge those defenses and protect your rights to a recovery.
- **Negotiate a favorable settlement** -- The majority of wrongful death lawsuits are settled out of court but this does not mean you should accept a settlement that is too low just to avoid trial. Your attorney will effectively use new arguments and evidence to negotiate until you receive the settlement offer you deserve.
- **Represent you at a jury trial** -- If the liable party refuses to make an adequate settlement offer, your attorney will present your case at a trial, which involves strict rules of evidence and procedural requirements.

Call our Wrongful Death Lawyers for More Information

The above are only some of the many ways a California wrongful death attorney can help you during your case. If you would like more information about our services and what we can do for you, please call GJEL Accident Attorneys for a free consultation today.

Are Taxes Owed on a Wrongful Death Settlement in California?

California law often entitles individuals who have lost a loved one because of preventable accidents or the intentional acts of another person to recover significant financial compensation. There are two separate legal actions available to surviving family members, allowing survivors to pursue various and mutually exclusive damages:

Survival Actions – Described in California Code of Civil Procedure §377.30, survival actions are brought by the personal representatives of a decedent’s estate and allow them to pursue any personal injury claims that the decedent could have pursued had he or she lived. The damages available in these actions include punitive damages, medical expenses, lost income, and property damage. Any damages recovered become part of the estate and are distributed to family according to California probate laws.

Wrongful Death Actions – These actions are brought under California Code of Civil Procedure §377.60 and allow surviving family members such as spouses, siblings, parents, and children to bring a lawsuit in order to recover for their own losses. Examples of damages that are often successfully sought in California wrongful death actions include funeral expenses, loss of household services, loss of financial support, and loss of companionship.

The amount of compensation that family members often recover in these kinds of actions can easily rise into the millions of dollars. For this reason, many people who are considering a wrongful death or survival action wonder if they can avoid incurring significant tax liability when they receive a settlement or award.

Many Settlements and Awards are Treated as Non-Taxable by the IRS

The Internal Revenue Service considers any portion of a settlement or award that is “compensatory” as non-taxable. These compensatory damages are intended to compensate a party for a loss that he or she has already sustained, so cannot be considered “income” for tax purposes.

Unfortunately for plaintiffs, the analysis does not stop there. Many survival actions result in significant punitive damages, intended to punish a party for their conduct and discourage others from engaging in the same or similar conduct. When these actions are brought against a large corporate defendant, punitive damages are often substantial, in order to make a noticeable impact on the defendant’s financial situation. In determining the portion of a settlement or award that is taxable, the IRS will analyze the nature of the claimed damages. Furthermore, the IRS has the legal authority to challenge the way a settlement is structured in cases where the ratio of punitive to compensatory damages does not reflect the “economic substance” of the settlement.

Exceptions may Apply

As is often the case in legal matters, there are certain cases where an exception will apply and punitive damages will not be considered taxable income. A skilled attorney can help you navigate the tax implications of your wrongful death settlement.

In California, Your Award may be Taxable

Under California law, a portion of the award from a survival action may be taxable, as state law allows for punitive damages in these cases. On the other hand, as wrongful death damages are limited to compensatory damages, any settlement or award you receive may be treated as non-taxable. Of course, for specific information regarding your case, you should speak with an attorney familiar with representing clients in your position.

Contact GJEL Accident Attorneys to Speak with a California Wrongful Death Attorney Today

If you have lost a loved one in a preventable accident or because of someone's wrongful conduct, you should call an attorney immediately. Our skilled lawyers are dedicated to protecting the legal rights of survivors and understand how important it is for families to obtain closure through a successful legal action. To schedule a free consultation with one of our lawyers, call our office today at 866-218-3776.

Understanding Liability for Wrongful Deaths Caused by Car Accidents

The California Office of Public Safety indicates there were 3,074 traffic fatalities during 2014. Traveling by car, truck, or motorcycle is an inherently dangerous activity, and when crashes occur, people can lose their lives. Losing a family member or loved one in an accident is never easy and no amount of financial compensation can ever make things right. However, the practical reality is that losing a loved one often results in economic losses. In many cases, a civil lawsuit is the only way to hold a negligent party responsible for their actions.

California's wrongful death statute allows certain surviving family members to bring a legal action against a person or party that negligently causes the death of a loved one. Most wrongful death cases arising from car accidents allege that another driver, a car manufacturer, or the party responsible for the maintenance of the roadway was negligent. Below we discuss some of the ways in which these claims arise. For more information, please call our office today.

Other Drivers can Negligently Cause Accidents

A substantial number of accidents are caused by the negligent actions of other drivers. Some of the more common forms of driver negligence include the following:

- Speeding
- Distracted driving
- Failing to yield
- Poor vehicle maintenance
- Driving without headlights
- Driver fatigue
- Driving under the influence
- Failing to signal a turn or lane change
- Following too closely
- Failing to account for poor weather

After a fatal accident, a victim's family must establish the other driver was negligent in order to recover damages. In cases where this issue is contested, doing so may require a significant amount of investigation. It may be necessary to review vehicle computer data, surveillance footage that may have captured the accident, eyewitness accounts, or even to employ the assistance of an accident reconstruction expert in order to do so. Additionally, the fact that a particular accident was the result of negligence may not always be clear to the untrained eye. For these reasons and others, it is critical for family members of car accident victims to speak to an attorney about their options.

Vehicle Defects Can Lead to Accidents

Vehicle defects are another common cause of fatal car accidents. These defects tend to take one of three forms: design defects, manufacturing defects, or a manufacturer's failure to warn consumers about some non-obvious danger that could have been easily mitigated with sufficient warning. In addition, aftermarket defective vehicle equipment can lead to serious accidents.

When these defects cause a fatal accident, the vehicle or equipment manufacturer can often be held liable in a wrongful death lawsuit. Some of the more common defects that cause accidents include the following:

- Defective brakes;
- Unstable vehicle design;
- Defective tires;
- Problems with steering; or
- Explosion or fire hazards.

These problems may not be apparent until after an accident has happened and are often difficult to prove. After an accident, family members should meet with an experienced attorney to go over the full history of the vehicle and determine whether there were any potential issues with the vehicle that could have caused or contributed to the accident.

Poorly Designed or Negligently Maintained Roads can Result in Serious Wrecks

Finally, poor roadway design or maintenance can often cause accidents. These kinds of cases tend to be complicated, as most roadways are designed and maintained by public agencies. Whenever a legal claim is asserted against a government agency (such as Caltrans), a special set of legal rules apply. This is because under a legal doctrine known as “sovereign immunity,” the government has protection from lawsuits except to the extent to which it has consented to be sued. One of the special rules is a significantly reduced time limit in which to file a claim, so victims’ families should speak to an attorney immediately. Some of the more common road defects that can cause serious accidents include the following:

Call GJEL Accident Attorneys Today to Retain a California Wrongful Death Lawyer

If you have lost a loved one in a car accident, you should retain an experienced attorney as soon as possible. In many cases, you may be able to hold the party that caused the loss of your loved one responsible for their negligence and you may recover significant compensation for your losses. To schedule a free consultation with one of our lawyers, call GJEL Accident Attorneys today at 1-866-218-3776 or send us an email through our online contact form.

Wrongful Death Statute of Limitations in California

Every state has limits on the amount of time a person has in which to file certain legal claims, referred to as a “statute of limitations.” These time limits can vary significantly from state to state and from one type of case to the next. For this reason, if you have lost someone you loved due to another person’s actions in California, it is important to understand the statute of limitations for wrongful death actions under our state’s law.

Sorting through state laws to find the correct statute of limitations can be a daunting task. To further confuse matters, the statute of limitations for wrongful death claims can vary depending on the underlying cause of the death. The best way to be sure about the statute of limitations in your individual case is to discuss the matter with a highly experienced California wrongful death attorney. In the meantime, here is some brief information regarding the statute of limitations for wrongful death actions in California.

Primary Statute of Limitations

The statute of limitations that applies to the majority of wrongful death cases can be found at Section 335.1 of the California Code of Civil Procedure. Specifically, the law states that any action resulting from the death of a person caused by the negligence or wrongful act of another party must be filed within two years. In wrongful death cases, the time starts running at the time of death.

For example, if a car accident instantly killed a victim, the surviving family members would have two years from the date of the accident to file a claim. On the other hand, imagine an accident that caused a serious brain injury and the victim remained in a coma for a full year before they passed away. The family would calculate the deadline to file the lawsuit from the date of death, not the date of the accident that caused the injuries that eventually led to death.

Medical Malpractice

California Code Section 340.5 sets out the time limit if a death was caused by the negligent actions of a medical professional. In such cases, the family members have three years from the date of the injury to file a claim OR one year from the date the injury was or should have been discovered. This can get complicated and it is important to discuss the statute of limitations with a lawyer immediately if you believe your loved one was a victim of medical malpractice.

Government was at Fault

If a government entity or employee was responsible for the wrongful death, you only have six months to file a claim. This can include car accidents with city vehicles, malpractice at a government-run medical center, accidents at public schools, and more. Time is certainly of the essence in any case involving the government, so consult with an attorney immediately.

Reach out to GJEL Accident Attorneys Today to Retain a California Wrongful Death Lawyer

While it may seem like you have plenty of time before the statute of limitations runs out, you want to ensure your attorney has adequate time to prepare your claim. If you miss the statute of limitations, you will almost certainly lose your right to recover for the wrongful death, so do not delay in speaking with GJEL Accident Attorneys for free today.

Wrongful Death v. Survival Actions in California

When individuals lose their lives because of the negligence or wrongful acts of others, California law provides for two separate legal actions that may be brought by certain loved ones – a wrongful death action and a survival action. Wrongful death lawsuits are authorized by California Code of Civil Procedure §377.60, and survival actions are created by California Code of Civil Procedure §377.30. If you believe you may have a claim based on the untimely loss of a loved one, it is important to understand the difference between the two types of claims and what kinds of damages you may be able to recover under each.

California Wrongful Death Claims

Wrongful death claims can be filed by a victim's surviving spouse, domestic partner, children, grandchildren of deceased children, and other parties who would be entitled to inherit property under California law in the absence of a will. Under the statute, damages that are recoverable in a wrongful death action are those that "are just" under the circumstances of the case, but may not include those damages that are available through a survival action (discussed below). The damages that are often sought in a California wrongful death action include the following:

- Burial expenses;
- Loss of services;
- Loss of love, companionship, comfort, care, assistance, protection, affection, society, moral support; and
- The loss of sexual companionship.

Notably, the wrongful death statute does not authorize damages for a survivor's pain and suffering or punitive damages. For this reason, it is important for survivors to fully explore their legal options, as additional damages are available through a survival action.

California Survival Actions

Perhaps the best way to think about a California survival action is that it allows a personal representative to assume the legal rights of the decedent. In other words, a survival action allows the estate to obtain the damages the decedent would have been able to obtain had he or she lived. These actions are only available in cases where the decedent survived for a period of time after the accident or incident that ultimately resulted in his or her death. Damages recoverable in a California survival action are "the loss or damage that the decedent sustained or incurred before death, including any penalties or punitive or exemplary damages that the decedent would have been entitled to recover had the decedent lived." Importantly, the survival action statute does not allow for damages for pain, suffering, or disfigurement.

Contact a California Wrongful Death Attorney Today to Learn More

If you have lost a loved one due to an accident or because of the wrongful act of another person, you should discuss your legal options with an attorney as soon as you can. The California wrongful death lawyers of GJEL are committed to helping surviving family members obtain justice through the civil courts and work hard to obtain the largest settlement or award available. To schedule a free consultation, call 866-218-3776 or send us an email through our online contact form.

Notable Wrongful Death Cases

When a person loses their life in an accident caused by the negligence or wrongful conduct of others, surviving family members can usually file a wrongful death claim in order to recover for their losses. In many cases, these claims can result in compensation well into the hundreds of thousands, if not millions, of dollars. Over the years, a few wrongful death claims have caught the country's attention and received significant media coverage. Five noteworthy cases are detailed below.

Exploding Ford Pintos

The Ford Pinto was an affordable subcompact car introduced in 1970 and designed in response to the increasing popularity of smaller Japanese imports in the 1960s. The Pinto's design placed the fuel tank between the rear axle and rear bumper, where a rear-end collision could easily cause the tank to rupture. In many cases, this design flaw led to fires and explosions, often resulting in serious injury. These injuries prompted Ford to issue a massive recall. Ultimately, the issue became a public relations nightmare for Ford when it was revealed that executives had determined it was more cost-effective to settle wrongful death cases than to address the problem.

Vehicle design flaws can lead to wrongful death cases, as these flaws can often cause injury themselves or result in an injury-causing accident. For example, there has been a spate of wrongful death claims more recently arising from defective airbags manufactured by Takata and found in a variety of cars in the United States. The defect results in a dangerous situation in which the deployment of airbags can shoot metal shards at vehicle occupants. Evidence suggests that Takata has been aware of these risks for almost 10 years, potentially subjecting them to significant punitive damages.

The Nancy Grace Interview that may have Caused a Suicide

In 2006, Nancy Grace interviewed a mother whose two-year-old son had disappeared. According to reports, Grace's staff told the woman that her phone interview on the show could help locate her son. In the interview, Grace, a former prosecutor, insinuated the woman was somehow involved in the child's disappearance and that she had actually murdered her child and covered it up. Hours before the show aired, the woman shot herself in the closet of her grandparent's home. Ultimately, Grace and the woman's family settled the case. Under the terms of the settlement, Grace established a trust in the amount of \$200,000 to help find the boy. The trust must be transferred to the National Center for Missing and Exploited Children if he is not found by his 13th birthday.

Aaliyah's Plane Crash

22-year old hip-hop and R&B singer Aaliyah and 8 others lost their lives in a 2001 plane crash in the Bahamas. Her parents filed wrongful death claims against a number of parties, including Virgin Records for making unsafe travel arrangements and the airway company operating the plane. Some of the allegations made in the lawsuits include the following:

- The pilot had alcohol and cocaine in his system;
- Virgin Records was negligent for hiring the airline, as it had been cited four times for violations in as many years;
- The aircraft was overloaded by 700 pounds and was carrying more passengers than it was designed to carry; and
- The pilot lacked the necessary training and credentials to fly the plane.

The claims regarding the incident were settled for an undisclosed amount in 2003.

The Murder-Suicide of Phil and Brynn Hartman

The sudden death of comedian and actor Phil Hartman at the hands of his wife, Brynn, shocked the world in 1998. According to reports, Brynn entered the couple's master bedroom suite and shot the comedian multiple times before shooting herself several hours later. Brynn had been taking the antidepressant Zoloft at the time of the incident, prompting her family to file a wrongful death claim against the drug's manufacturer, Pfizer Pharmaceuticals. The lawsuit alleged that Brynn's use of Zoloft caused her to engage in violent behavior and take her and her husband's life. The parties settled the lawsuit for an undisclosed amount.

This is not the first time that antidepressants have been the focus of wrongful death claims. Drugs like Paxil and Prozac have also been linked to violent and destructive behavior.

The O.J. Simpson Case

If you were alive and old enough to understand what was going on in the 1990s, there is little doubt that you remember the double-murder trial involving football star and actor O.J. Simpson. Simpson was accused of murdering his wife, Nicole Brown Simpson, and her friend, Ron Goldman. After a lengthy jury trial, Simpson was acquitted, despite many observers' belief that he was guilty.

The families of both victims pursued a civil wrongful death claim against Simpson. The jury in the civil wrongful death case found Simpson liable for the deaths and awarded the families \$33.5 million. This case is now often used to illustrate how the differing burdens of proof in civil and criminal cases can lead to vastly different outcomes. The takeaway for victims' families is that you may still be able to hold a party liable for the death of a loved one even if the prosecutor does not have enough evidence to prove a criminal case.

Contact a California Wrongful Death Attorney Today to Learn More

Wrongful death cases can arise from a wide variety of accidents, including car accidents, bicycle accidents, motorcycle accidents, slip and falls, and truck accidents. In addition, if you lose a loved one in a violent incident perpetrated by another person, you may be able to hold that person liable. At GJEL accident attorneys, we are dedicated to representing the legal rights of surviving family members. To schedule a free consultation with one of our lawyers, call our office today at 866-218-3776.

CALIFORNIA WRONGFUL DEATH GUIDE

This guide was written by the experienced California auto accident attorneys at Gillin, Jacobson, Ellis, Larsen & Lucey. If you've been injured in a car accident, we encourage you to contact our firm for a free case evaluation.



GILLIN, JACOBSON, ELLIS, LARSEN & LUCEY

Some facts about GJEL Accident Attorneys:

- Over 99% success rate.
- Over \$850 Million recovered for our clients from insurance companies and corporate defendants.
- Ranked among the top law firms nationwide by our peers.
- Respected and seen as a formidable opponent by insurance companies.
- Known for helping our clients with their medical, vehicle repair and replacement, rental car and other bills from day one.
- Our attorneys attended Stanford, the University of California, the University of Chicago, and other major universities.
- Experts in accident reconstruction.
- An authority for other firms and lawyers-noted for the speed and skill with which we resolve our clients' cases.
- Free Consultations whenever and wherever is most convenient for our clients.
- Paid only upon the successful resolution of our clients' cases-no up-front fees.



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