



VENTURA
WRONGFUL
DEATH
GUIDE

ATTORNEY CRAIG MURPHY



If you're reading this eBook, let me begin by saying I'm sorry for your loss. If I had my way, you wouldn't be reading this guide. But I can't change what has happened or bring back your loved one. Instead, as a wrongful death lawyer, I can only make use of the existing laws and the court system to help bring some

form of compensation for the financial burden, pain and anguish you must be going through.

Depending on who is responsible for the loss of your loved one and the circumstances surrounding their death, your primary avenue for justice will be the criminal justice system. But sometimes that isn't possible because no law was broken or there isn't enough evidence to obtain a conviction. However, this doesn't mean there's nothing you can do.

That's where the civil courts come in. Monetary damages are available in an attempt to compensate the surviving victims of a wrongful death. These damages can help compensate you for financial losses, such as funeral expenses, medical bills and lost income. All of the money in the world won't be enough to fully compensate you for what you're going through, but it's all that's available under our current civil court legal system.

If you've recently lost someone in the Ventura area you should consider consulting with a wrongful death attorney. With all of the emotions and money potentially at stake, taking legal action for wrongful death can be a quite intense, complex and confusing process. But the right attorney can make this process a little bit more bearable and ensure you make the most of your legal rights.

WRONGFUL DEATH IN CALIFORNIA

Like other states, California provides a legal cause of action for the wrongful death of an individual. A death is considered “wrongful” if it’s due to the negligence or other wrongful conduct of another person.



Negligence refers to a situation where an individual breached a legal duty. For example, a doctor has a legal duty to practice medicine with a minimal level of competence (also known as a standard of care). Should a patient die as a result of the doctor not meeting this standard of care, then the doctor may be considered negligent.

Other wrongful acts can include recklessness and intentional conduct. Wrongful death due to intentional conduct refers to exactly what it sounds like – someone’s purposeful actions leading to the death of another. Recklessness can be thought of somewhere in the middle between intentional conduct and negligence.

A good example of reckless conduct might be someone who shoots a gun into a crowd of people intending to scare them, but ends up killing someone. This is an action that the shooter clearly knew was dangerous, but did it anyway. However, they didn’t intend to actually kill anyone. Contrast this with someone in their backyard taking target practice and accidentally killing a neighbor when a stray bullet goes through the backstop. A court is more likely to find that this accidental death from target practice is the result of negligence rather than recklessness.

Unlike a criminal prosecution for murder, the primary purpose of a wrongful death action is not to punish the person responsible, but to compensate the surviving close family members of the person who has died.

INDIVIDUALS WHO CAN BRING A WRONGFUL DEATH LAWSUIT

The ability to bring a wrongful death lawsuit is limited to only a select group of people. The primary group will be the following immediate close family members:

- » Children
- » Spouse (or domestic partner)

In certain instances, other groups of people can bring a wrongful death lawsuit, including:

- » Anyone who is in line to inherit the decedent's property
- » The decedent's putative spouse and children of the putative spouse
- » Stepchildren
- » Parents

Whether this second group can bring a wrongful death lawsuit will depend on several factors, such as whether there is a child, spouse or domestic partner capable of bringing the lawsuit or if someone was financially dependent on the decedent.

DAMAGES AVAILABLE IN A WRONGFUL DEATH LEGAL ACTION

Wrongful death damages compensate the surviving family members for both tangible and intangible financial losses. Examples of tangible financial losses include:

- » Medical expenses
- » Funeral expenses
- » Lost income, including future potential income

Intangible financial losses include things like:

- » Loss of affection and love from the decedent
- » Household services that the decedent would have provided had he or she lived

STATUTE OF LIMITATIONS

There is a deadline for which a wrongful death action must be brought. Unless an exception applies, a wrongful death lawsuit must begin within two years of the death of the decedent. These exceptions aren't very common and are sometimes difficult to obtain, so it's important to make sure any wrongful death lawsuit is brought on time.



FREQUENTLY ASKED VENTURA WRONGFUL DEATH QUESTIONS

What Are Survivor Claims?

If you have a potential wrongful death claim here in Ventura County, you may have been doing some research on the internet and seen that there are survivor actions and there are wrongful death actions. You were probably wondering what the difference is in California between a survival action and a wrongful death action. A survival action, or a survivorship action, are the injuries, pain, suffering, disability, and medical bills that have been paid for because of somebody's negligence. They don't go away just

because your loved one or family member died. All those claims survive and are still legitimate claims that can be made.

In addition to those claims, there are the wrongful death claims. Those are the losses that you and the close family members suffer because of the loss of this loved one: the loss of companionship, love, and financial support. Those are the damages that go to you. Those are the two separate, and completely different causes of action.

In California, wrongful death claims are complex. You need an attorney who is a skilled and experienced trial lawyer who will be able to fill a lawsuit on your behalf and build a case with a solid foundation and who will get the evidence necessary to support both the survivorship and the wrongful death claims.

Who Can File a Wrongful Death Claim?

Wrongful death claims are very complicated because they're spilt into two different causes of action. In other words, there are two different claims. The first claim is what's known as a survivor action. That means that the person who was injured has claims for their personal injuries, their pain and suffering, and all of the anguish that they have had to go through before their death that was caused by this negligence. In addition to that, close family members under the California probate code are entitled to bring claims for wrongful death. That means that you have lost the love, companionship, support, financial support of that loved one. Those are two different claims. There could be a number of people who actually have the right under the law to bring a claim for wrongful death.

The only way that you're going to know exactly who can bring the claim, what is necessary to build those claims, and receive the compensation that you're entitled to for the loss of your family member is to contact an attorney who deals with wrongful death claims here in Ventura on a regular basis.

Do I Have a Wrongful Death Claim?

What do you do if you have had the misfortune of having a wrongful death claim here in Ventura County? First of all, most people want to know what exactly a wrongful death is. Quite simply, that means that someone else was negligent. That they failed to follow the rules of the road, or standard company safety rules, or for some other reason was negligent, and they caused the death of your family member or loved one. What do you need to know to be able to protect yourself and your family if a loved one or family member has been killed by somebody else's negligence here in Ventura County?

These are very complicated cases. Typically, the insurance companies will do whatever they can to avoid their responsibility. Most wrongful death claims will end up in litigation. You will need to have a skilled and experienced trial lawyer on your side who is able to collect the evidence, build a foundation for your claim, and be able to take that claim into court if necessary. Until the insurance companies know that, you will never receive the full and fair compensation that you're entitled to due to the loss of your loved one or family member.

How Do I Choose a Wrongful Death Attorney?

The attorney that you choose to hire is going to be one of the most important decisions that you will make about your case. The good thing is you get to choose. You get to decide who is going to be your attorney and who is going to stand between you and the insurance company in your case. How do you go about finding the best Ventura County attorney for your wrongful death claim? Number one, you need a Ventura lawyer who's a real trial lawyer. Most wrongful death cases are going to go into litigation. The insurance companies keep records on all attorneys. They know who's a trial attorney who has the skill and the experience to build a case so that you will be ready, willing, and able to go to trial if that's required. They also know who folds and will take pennies on the dollar.

In addition to that, a wrongful death claim here in Ventura can often take years to get resolved or take to court because they are very complicated

cases. You need a very close working relationship with your attorney. The way you find the best attorney who will have the best relationship with you is to call several attorneys. See who will take the time to listen to you, answer all your questions, and who you feel cares and is concerned about your case.



How Do I File a Wrongful Death Claim?

The nature of a wrongful death preceding is complex in and of itself. The claims are split into two: there is survivorship actions and wrongful death actions. That means there are two areas of injury and damages that must be considered. In addition to that, these claims often involve very significant injuries and damages. The insurance companies

will force them into litigation. That presents a level of complexity that only an experienced and skilled trial lawyer here in Ventura County can handle because they must go out and collect all of the evidence that is necessary to build a proper foundation for your case.

More importantly, in a Ventura County wrongful death case, most of the claim is going to involve a loss to family members. You're going to need somebody who is here in Ventura, who can meet with you, get to know you, and exactly how this wrongful death has affected you and your family members now and for the rest of your life.

What Wrongful Death Damages Can I Be Compensated For?

What you must know is that, under California law, the wrongful death claim is split into two types of claims or causes of actions. The first is a survivorship action. A survivorship action means that the person who was killed by someone's failure to comply with the safety rules or the rules of the road will have sustained injuries, and damages, and suffering that leads to their death. That claim that they have for their injuries, pain, suffering, and the

anguish that they go through until their death survives that death. Those claims continue.

In addition to that, there are the claims for the wrongful death from the close family members and loved ones. You are entitled to compensation for your loss of the love, companionship, and support of that person now and into the future. Those are the two areas of compensation that are available for wrongful death claims here in Ventura County. The thing that you have to know is that wrongful death claims are very complex and that the insurance companies, due to the severe and significant level of damages that are often involved, fight these cases tooth and nail. You must get a skilled and experienced trial attorney involved in your case early on, so that attorney can go out and build your case, establish the strong foundation, and get the evidence that is required to fully develop and build your case so that the insurance company will come to the table.

What Will a Wrongful Death Lawsuit Cost?

If you have a wrongful death claim here in California, one of the common questions that people ask is how much is it going to cost? The reason is that wrongful death cases can be extremely expensive is that the insurance companies will typically fight them, and they must go into litigation. Another reason is many wrongful death actions are the result of medical care or inappropriate medical care. Those are medical malpractice cases. Those are always fought tooth and nail to the end by the insurance companies and they cost a lot of money.

If I take your wrongful death case, I will pay all of the costs upfront. When you hire me, I don't charge a penny to talk to you. If I take your case, I will pay all of those costs so that we can go along and build your case, and establish what is necessary for you to be compensated by the insurance company from the person who killed your loved one. At the end of the case, obviously, the attorney's fees and the costs will be taken from any settlement or jury verdict. What you need to know is that you do not have to come out of pocket

and pay those expenses up front because oftentimes they can be hundreds of thousands of dollars in these cases.

Most normal folks do not have the ability to pay hundreds of thousands of dollars for costs, let alone the attorney's fees that are involved. That is why we operate on a contingency fee basis. With me, you don't pay a fee until your case is won.

How Do I Prove Negligence in a Wrongful Death Case?

In Ventura, you have to prove that someone was negligent. That person's negligence is what injured your loved one and caused their death. In addition to that, you are going to have to prove under California law, your relationship to that person. Only certain people can bring a claim for wrongful death and it is typically close family members. In addition to proving that you come within the mandates of the California probate code to bring a Ventura County wrongful death action, what you have to prove is the nature of your relationship with the person who was killed.

You have to prove what your emotional and financial losses are due to the loss of that person. These are very personal cases. It takes someone to spend a lot of time with you to develop the facts and to establish what the full extent of the harms and losses are to you. You don't want to go down to LA and get somebody that says they handle cases all over the state. They're not going to give you a priority down there; you're just going to be some number or some file to them. What you need is someone who is right here who will establish a personal relationship with you, who will get to know you, and who can develop all aspects of your injuries and losses, not only now, but into the future.

Can a Sibling File a Wrongful Death Claim?

The answer to that question is that you may be able to. It depends on a number of factors. California probate law dictates who can and can't be a

claimant for a wrongful death under a California wrongful death claim. It will depend on whether or not that decedent, the person who was killed as a result of someone else's negligence, had children or were married. If they were unmarried and didn't have any children, and you are the closest relative, you may be able to bring it.



ABOUT THE AUTHOR

Craig has been licensed to practice law in California since 1990. From the beginning of his legal career in California, Craig has been a trial lawyer. He was in court the first day after being sworn in to practice law in California and has continually litigated court cases since that day.

Craig is a Board Certified Personal Injury Specialist by the State Bar of California and the California Justice Association. Craig has gone to trial and obtained jury verdicts in virtually all types of personal injury cases, including complex spinal cord injuries, car crashes, slip and falls, uninsured/underinsured first party practices, medical malpractice, and property owner liability.

Before devoting his career to exclusively representing injury victims, Craig represented doctors in medical malpractice cases, and major Ventura hotel/casinos in premises liability cases. He represented insureds on behalf of Allstate Insurance Company, Farmers Insurance Company, State Farm Insurance Company, Progressive Insurance Company, Geico Insurance Company, Hertz Rent-A-Car Company, and Avis Rent-A-Car Company. Craig has taken his insider's knowledge and now exclusively represents seriously injured people and their families against the major insurance companies and corporations who are responsible for his clients' injuries.

Craig was born and raised in Lima, Ohio. He earned a Bachelor of Science degree in communication at Ohio University. Craig attended law school at Ohio Northern University where he was awarded Dean's scholarship. During law school, Craig earned a number of American Jurisprudence awards for academic excellence. He earned the student-attorney of the year award during his third year of law school as a practicing student lawyer. Craig was an editor of the law review and graduated with distinction. Due to his academic achievements, Craig was admitted into the honorary Willis Society at Ohio Northern University.

Craig is committed to his family, church, and the legal community. Craig has been a church Elder and volunteers as a Sunday school teacher. He is a member of the prestigious Million Dollar Advocates Forum, an honor bestowed on less than 1% of all attorneys. The American Trial Lawyers Association has named him as one of the top 100 trial lawyers in California. Other lawyers recognize Craig as a leader in the legal community and elected him to serve as one of the Board of Governors of the California Trial Lawyers Association and the California Justice Association. He served as a Judge Pro-Tem for the Eighth Judicial District Court short trial program and as a District Court appointed arbitrator.

Craig's practice is dedicated to the protection of injury victims and their families. He prides himself on the level of personal service that he gives to his clients. Craig is committed to pursuing justice one case at a time. If a full and fair settlement cannot be obtained, Craig has the experience, skill, and conviction of character to take his clients' cases to trial.

