

***What is a Wrongful Death Claim?***

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## What is a Wrongful Death Claim?

**A wrongful death claim exists when someone dies as a result of the negligence of another party.** Fatal injuries occur frequently in pedestrian accidents, car crashes, and motorcycle and truck accidents. These cases differ from other injury cases because they are governed by the Florida wrongful death statute. The wrongful death statute specifically provides who is entitled to receive compensation, as well as the types of damages which may be recovered.

**There are several distinguishing factors about death claims. First, in Florida, there is a much shorter time within which a death claim must be filed, generally within two years of the date of death.** Normal injury claims in Florida, other than medical negligence, must be brought within a period of four years. The period of time within which a claim must be brought is referred to as the statute of limitations.

**Second, death claims are pursued by a personal representative appointed by the court on behalf of all beneficiaries of the decedent's estate.** There may be several people with the right to pursue claims when someone dies, such as: both parents of a surviving minor child, even though they are divorced; children of a deceased parent; or a parent and one or more children of the decedent. A petition must be filed in the Probate Court on behalf of the decedent's estate for the appointment of the personal representative, generally the surviving spouse, adult child, a parent or other relative. Once appointed, the personal representative of the estate is given authority to retain a lawyer on behalf of the estate and to pursue all claims for compensation on behalf of all beneficiaries.

Sometimes the injury lawyer retained on behalf of the personal representative may also represent the estate in the probate proceedings. More commonly, the injury lawyer will associate a probate and estates lawyer to handle the probate proceedings. It is beyond the scope of this article to outline in any detail the potential beneficiaries of a wrongful death claim and the damages they may be entitled to receive.

However, the statute provides generally for recovery for the decedent's spouse, minor or adult children, parents (in certain situations) and other survivors whom it defines. A minor under this statute means a child under the age of 25. Damage awards for the death of a loved one have the potential to be substantial because of the unique loss loved ones suffer.