

# WILENTZ

—ATTORNEYS AT LAW—

WILENTZ, GOLDMAN & SPITZER, P.A.

## Wrongful Death Attorneys in New Jersey

Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.

At Wilentz, Goldman & Spitzer, P.A., our lawyers are dedicated to pursuing claims seeking full compensation for family members who have lost a loved one as a result of the negligence or wrongful acts of another. These claims include deaths resulting from motor vehicle accidents, medical negligence, on-the-job accidents, daycare abuse and neglect, nursing home abuse and neglect, railroad accidents, bicycle accidents, as well as accidents and deaths caused by asbestos and other unsafe products.

For 100 years, the lawyers at Wilentz have been standing up for the rights of accident victims and their surviving family members. Over this time frame, we have garnered the experience necessary to competently represent our clients pursuing wrongful death claims. While we understand that there is no dollar amount that can ever give you back who you have lost, we are committed to helping you seek justice.

### Filing a Wrongful Death Claim in New Jersey

If you have lost a loved one in New Jersey, the first thing that you should understand is when a wrongful death claim is appropriate and who can bring forth a claim in our state. Per New Jersey's wrongful death statute, a wrongful death lawsuit is appropriate when the negligence of the defendant (the party against whom suit is being filed) was the direct cause of the decedent's death, and the decedent would have been able to pursue a personal injury claim against the defendant had death not resulted. A wrongful death claim is filed by the representative of the decedent, and seeks to establish the negligence of the defendant, as well as causation, in order to recover financial compensation for the actual and future losses that the decedent's survivors have and will suffer.

In New Jersey, the personal executor of the deceased person's estate, or the deceased person's personal representative, may file a wrongful death suit. Damages resulting from the suit may be recovered on behalf of the deceased person's spouse, children, parents, nieces and nephews, or anyone else that was financially dependent on the deceased person at the time of his or her death.

### Understanding Negligence as it Pertains to Wrongful Death

As stated above, in order to bring forth and win a wrongful death suit in New Jersey, the plaintiff in the suit must prove that the death would not have occurred but for the negligent actions of the defendant. Negligence means the failure to act with a reasonable level of care, and can refer to a number of actions. For example, some acts of negligence might include:

- The failure of a property owner to put up a fence around their pool, leading to a child's drowning
- The failure of a company to warn of the risks of using its product (such as a medication, lotion, etc.), leading to the development of cancer
- The failure of a driver to operate their vehicle while sober, leading to a fatal crash
- The failure of a hotel to conduct background checks of their employees, leading to a fatal assault
- The failure of a property owner to repair a hazardous condition, leading to a fatal slip and fall
- The failure of an automaker to manufacture safe vehicles, or/and recall defective vehicles, leading to a crash

The above examples are limited; negligence occurs any time a party neglects the duty of care owed to another. Types of accidents that may warrant the pursuing of a wrongful death claim include motor vehicle accidents, pedestrian accidents, bike and motorcycle accidents, slip and fall accidents, medical malpractice accidents, dog bites, product liability accidents, and abuse and assault cases.

In addition to proving negligence, a plaintiff in a wrongful death suit must also prove causation and damages.

**Causation.** Causation means proving that the death of the decedent would not have occurred but for the negligence of the defendant – i.e., the defendant’s negligence was the direct cause of death. In some cases, negligence may have occurred, but the defense will argue that the death would have occurred despite the occurrence of the defendant’s negligence. For example, if a pedestrian walked in front of the car of a drunk driver, resulting in the pedestrian’s death, the defense may argue that the drunkenness of the driver had nothing to do with the accident; the pedestrian walked in front of the car, and as such the accident would have occurred regardless of the use of alcohol, and therefore the driver should not be liable.

**Damages.** A plaintiff must also prove that they have suffered actual damages as a result of the death. Obviously, losing a loved one is damaging, but proof of medical expenses, emotional harm, lost wages, etc. must also be provided in order to receive an award or recovery.

## **What Types of Damages Are Recoverable in a New Jersey Wrongful Death Claim?**

The damages that are available in a wrongful death claim vs. a personal injury claim differ slightly. Some of the types of damages that are available in a New Jersey wrongful death claim include: the medical expenses of the deceased prior to death that were incurred as a result of the accident and injury; funeral and burial expenses; the value of the deceased’s lost wages and benefits, including future loss of earning capacity; the value of household services of the deceased that have been lost, such as child care; and the value of the loss of companionship and guidance of the decedent. Punitive damages, which are intended to punish the defendant for their actions, are not permitted.

## **Statute of Limitations for Filing a Wrongful Death Lawsuit in New Jersey**

You must file your wrongful death claim within the state’s statute of limitations. If you do not file your claim within the statute of limitations, you will be permanently prohibited from recovering damages. In New Jersey, the time limit for filing a wrongful death claim is two years from the date of death.

## **Why Work with a Wrongful Death Lawyer?**

Filing a wrongful death claim and hiring a New Jersey wrongful death lawyer is probably the last thing on your mind after losing a loved one; you are likely emotionally upset, grieving, and unsure of what your life will look like moving forward. While you certainly should take time to grieve, hiring an attorney sooner rather than later is within your best interests. An attorney can guide you through the process of filing your claim, help you to understand the amount of money that you deserve, and negotiate a fair settlement. An attorney will also help you to understand and make sense of the myriad legal rules and theories, such as negligence, a statute of limitations, and more.

At Wilentz, our wrongful death lawyers will also handle your entire claim for you, so that you can focus on the more important things in life, like caring for yourself and your family. This means that we will manage the investigation of your claim, the hiring of experts and medical professionals, the filing of your claim, negotiations and mediations, and litigation if necessary. We recognize the sensitive nature of wrongful death cases, and will approach your case with compassion and understanding.

An initial consultation with one of our seasoned personal injury attorneys is free, and we do not charge any upfront or hidden fees. You can request your case consultation by calling our offices directly, or by filling out our contact form below.

**To speak with an attorney about your legal options, please call: 732-352-9800.**