

## **Wrongful Death: Do Not Underestimate the Value of the Case**

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The loss of a loved one is a tragic event that often has catastrophic effects on the surviving family members. The trial lawyer bringing a wrongful death suit must be careful not to underestimate the value of the case. Too often lawyers are heard to say in assigning low values in death cases, that the decedent was: "too old", "just an infant", or "had no financial dependents". These generalizations should be avoided because each case is unique and must carefully be analyzed to determine what the death meant to the surviving beneficiaries. Often such analysis reveals that the beneficiaries each had a special relationship with the decedent that justifies significant damages to be awarded to them.

Damages for wrongful death in Virginia are based upon what the beneficiaries have lost, both monetarily and non-monetarily, as a result of the death of their loved one. To maximize the damages in a wrongful death case, the trial lawyer should dig deeply into the relationships between the decedent and the beneficiaries – by interviewing not only the beneficiaries, themselves, but also other family members, friends, and neighbors who observed the closeness of such relationships. This process often produces powerful descriptions of how a surviving family member depended on the decedent on a daily basis or is so affected by grief that he or she has been unable to function since the death.

Once the trial lawyer has determined the unique nature of the relationships between the decedent and each beneficiary and developed the damages accordingly, it is wise to conduct a focus group to determine how typical jurors react to the damages. Frequently, the focus group results demonstrate that the wrongful death case has more value than what the trial lawyer initially thought when he or she first started working on the case.

It is a mistake to assess a wrongful death case as insignificant based upon the age of the decedent or the fact that no one was financially dependent on the decedent. The elderly decedent may have left beneficiaries who lost their opportunity to spend time with, and enjoy, the decedent during his or her golden years. The infant decedent may have left parents who are haunted daily by the unnatural loss of their child. The decedent who left no financial dependents may have parents, children, or siblings who were so close to the decedent that they talked to him or her every day.

Juries have a great ability to empathize with surviving family members who have lost a loved one and to award substantial verdicts when presented with compelling evidence of the damages suffered. It is incumbent on the trial lawyer not to underestimate the value of the wrongful death case and to take the steps necessary to put together a compelling case of damages in every such case.

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