MARTIN & JONES PLLC
Attorneys at Law

Most of the negligence cases Martin & Jones handles involve people who have been seriously injured, but accidents can tragically result in death. Whether a person died in a car accident, or as a result of a product defect, or due to medical malpractice, the deceased victim's heirs have the right to pursue a wrongful death claim. These cases can be challenging for non-lawyers to pursue on their own. The time limit for filing a claim is shorter than usual, pursuing the claim requires setting up an "estate," and the damages are controlled by statute. If a loved one has been killed in an accident, an experienced Raleigh wrongful death attorney can review your case and help you understand your options under the law.

Time Period for Filing a Claim is Limited

While each case is different, typically, the statute of limitations for filing a wrongful death claim can vary. Meaning the claim must be settled, or the lawsuit must be on file; therefore, you have a limited time to file.

Who Can File a Wrongful Death Claim?

It is important first to understand that North Carolina limits who may file a wrongful death lawsuit - it can only be filed by the court-approved administrator of the deceased victim's estate. Under state law, only two types of people may serve as a personal representative for purposes of the wrongful death lawsuit:

- If the deceased victim has a will, the person named as the administrator of the victim's estate; or
- If the deceased victim did not have a will, anyone who would qualify as a personal representative under North Carolina's intestate succession laws.

If the personal representative is unwilling or unable to pursue the wrongful death claim, a member of the deceased victim's family can petition the court to appoint someone to act as Administrator of the Estate.

Who Is Entitled to Compensation?

While the deceased victim's estate will determine who may pursue the wrongful death claim, any compensation awarded will pass outside the victim's estate. This protects any compensation recovered in the wrongful death lawsuit from being pursued by creditors of the estate. As a result, the recovery will not pass according to the terms of the victim's will or trust, but rather according to North Carolina's intestate succession laws. Generally speaking, the intestate succession laws favor the victim's spouse and children and pass first to the closest heirs before more distant relatives. There is no single answer that applies to every case - it will depend mainly on by whom the victim is survived. A Raleigh wrongful death attorney will be able to explain who may be entitled to compensation in your case.

What Damages Are Available?

The family can pursue compensation for the following losses in a wrongful death lawsuit:

- Medical expenses that were incurred before the victim's death
- Burial and funeral expenses
- Pain and suffering the victim may have experienced
- Loss of the victim's income, both current and future
- Loss of the victim's companionship, care, and protection

The family may also be entitled to pursue a claim for "punitive damages" when the victim's death was caused by, for example, drunk driving, reckless acts or omissions, or other egregious circumstances.

Call Martin & Jones if You Have Lost a Loved One Due to Another's Negligence

If you have lost a loved one in an accident that was caused by someone else's negligence, then your family may be entitled to compensation for your loss. At Martin & Jones, we are experienced in navigating the complexity of wrongful death cases with compassion and determination. We will fight to protect your family's future so you can focus on healing. If you would like to speak with a Raleigh wrongful death lawyer about your case, call us at 800-662-1234 or contact us online to schedule a free no-obligation over the phone or in-person consultation.

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