

10 Myths & Misconceptions People Have About Filing A Wrongful Death Lawsuit

Wrongful death cases can be complex, however people shouldn't let myths deter them from consulting a lawyer to advise them on the merits & whether to pursue it.

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For most people, it usually costs them nothing to learn more about the merits of their case & whether to pursue it, since many lawyers only get paid if the people are awarded compensation.”

Charles Mandracchia, Esq.

wrongful death is when a person or entity fails to fulfill a legal obligation causing a death to occur. It is a terrible tragedy for the family of the deceased and others who may have depended on them, especially when the death could have been prevented. Although money cannot balance the loss of a loved one, sometimes the wrongful actions can serve as cause for legal engagement resulting in receiving a measure of compensation for the loss.

According to legal thought leader, Charles Mandracchia, Esq., “I have seen surveys showing that, compared to the total number of deaths each year caused by accidents or

negligence, as few as one or two percent of wrongful death lawsuits are filed in the United States. A loss is terrible enough to endure without having the surviving families suffer additional financial hardship needlessly.”

Mandracchia advises that there are 10 myths and misconceptions that many people have that sometimes prevent them from filing a wrongful death case. They include:

Myth #1: Only immediate family can file a wrongful death case.

Although typically spouses, children or parents initiate cases, the true test is whether the person who filed the case has been adversely affected by the death. In Pennsylvania, the law states that the “personal representative” can also file on behalf of the decedent’s estate. Although some states do restrict those who can file, it is wise to explore all the options.

Myth #2: One has unlimited time to file a wrongful death case.

In Pennsylvania, one has up to 2 years from the date of death to file a case.

Myth #3: Wrongful death only occurs in medical malpractice negligence.

Wrongful death can occur in a number of circumstances where accidents or negligence happens. Medical malpractice is just one of those areas. Additional situations include motor vehicles & driving, job-related, pedestrian, lifestyle accidents, product-related and others.

Myth #4: Wrongful death must prove intentional wrongdoing.

Wrongful deaths do not have to be intentional to pursue a lawsuit. Unintentional actions and accidents also are considered.

Myth #5: If the death was from an accident, one cannot claim wrongful death.

Not true. If the wrongful death was from an accident or negligence that was not intentional, one can still explore initiating a lawsuit.

Myth #6: Only actual expenses like burial, funeral, medical expenses etc. can be recovered.

It is true that burial, funeral & medical expense can be recovered, so too can loss of income, loss of support, emotional stress and other damages. It is important to assess all aspects of the event, the decedent and their potential in order to place the proper value on compensation.

Myth #7 - If the deceased has life insurance, one doesn't need to file a wrongful death case. Although life insurance can be good to have, it is typically based on a specific value that is typically unrelated to the wrongful aspect of the death. Nor does it take into account expenses relating to the fatal incident and to the deceased person's future had the incident not happened. In a wrongful death case, it is important to examine the entire incident, so as not to short-change the family or survivors.

Myth #8: If one files a criminal case, wrongful death compensation is covered for families. This is not so. Criminal cases relate to crimes committed and punishment. Wrongful death cases are civil lawsuits regarding damages. There doesn't have to be anything criminal in the accident or malpractice for the case to qualify as worthy of wrongful death compensation. Additionally, winning (or losing) a criminal prosecution will have no effect on whether compensation is awarded for the monetary losses incurred or to be incurred.

Myth #9: Wrongful death proceeds are subject to the victim's creditors.

No. Proceeds of a wrongful death lawsuit are not subject to claims from the victim's creditors.

Myth #10: One cannot file a wrongful death lawsuit if the deceased had a pre-existing



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condition.

One can file a wrongful death lawsuit whether a pre-existing condition exists or not. A successful outcome depends on the situation and the damages incurred from the wrongful death, from which prior conditions may or may not have had an effect on the event or demise.

Said Mandracchia, "Wrongful death cases can be complex requiring a great deal of research, analysis, time and experience. However, the good news for most people is that it usually costs them nothing to learn more about the merits of their case and whether to pursue it or not, since one's lawyer only gets paid if the people are awarded compensation."

ABOUT THOUGHT LEADER CHARLES MANDRACCHIA, ESQ.

Speaker, writer, legal thought leader, Charles Mandracchia, Esq. is recognized as a "Top 100" trial lawyer in the United States. With a focus on Montgomery County, Pennsylvania, Mandracchia has enjoyed a successful, results-oriented legal career for nearly four decades, distinguished by his tenacious and thorough initiative and representation in criminal and personal injury cases. The firm Mandracchia founded is also known as a leader in transactional legal work and counsel. Mandracchia is a graduate of Villanova Law School.

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