

HOUSTON
WRONGFUL
DEATH
GUIDE

ATTORNEY HECTOR LONGORIA



LONGORIA
LAW FIRM



When a loved one passes, it can take a toll on you and your family. It's hard to cope when you lose anyone. It can be especially difficult when this tragic loss is due to someone else's negligence. When people lose a loved one after such things as an auto accident or construction accident, often times there is a family left behind. This wrongful death may leave a family unable to make ends meet and in desperate need of help.

Here and Longoria Law, we recognize the pain you and your family may be in and we respect the loss you are dealing with. We are here to deal with the legal process of getting the compensation that you deserve so you can take the time you need to grieve. Houston wrongful death lawyer Hector Longoria has the experience needed to fight for you.

WRONGFUL DEATH IN HOUSTON, TEXAS

The death of a loved one due to the fault of another may be the most traumatic and horrible experiences anyone can potentially go through. And should this happen to you, all you'll be thinking about is having your loved one back. But this won't be possible. The most satisfying remedy you may have available is allowing the criminal court system to punish whoever was responsible for the loss of your loved one. But that's assuming the person violated a criminal statute.

Basically, the only other thing you can do to obtain any sort of justice for your loss is to seek monetary compensation through the civil courts. One legal remedy available is the Texas wrongful death lawsuit. Reducing the death of a loved one to a dollar amount sounds coldhearted (and it is), but it's essentially all the civil court system can provide.

Money serves as the court's way of compensating you for your pain and some of the financial burdens you may face like funeral costs, medical bills and loss of future earnings. It can also be a way of punishing the person for causing the wrongful death. Due to the seriousness and complexity of these types of cases, it takes a Houston wrongful death attorney, such as Hector Longoria, to properly handle one and help you obtain the justice you deserve.

WHAT IS A WRONGFUL DEATH LAWSUIT?

A wrongful death lawsuit is exactly what it sounds like: a lawsuit due to the wrongful death of an individual. It's a legal cause of action to provide compensation (and sometimes punishment) when a death is the result of someone else's improper actions (or inaction in some cases).

Not all actions that cause the death of another will result in wrongful death liability. The actions must be the result of someone's intentional, reckless, careless or negligent behavior. For example, imagine a car accident caused by a commercial truck driver. If the truck driver was drunk, speeding excessively or distracted because he was texting, then the truck driver is probably liable for wrongful death. But if the truck driver paid full attention to the road, obeyed the speed limit, followed all safety regulations and did everything he could avoid the accident, then it's unlikely he has any wrongful death liability.

WHAT KIND OF DAMAGES ARE AVAILABLE IN A WRONGFUL DEATH LAWSUIT?

In a Texas wrongful death case, there are two categories of monetary damages available for recovery. The first type is punitive damages. These are designed to punish those responsible for the death. These are only available

when the person responsible acted willfully or the death was the result of his or her gross negligence.

The second is compensatory damages. As its name implies, these compensate the surviving victims in a wrongful death action. Common types of compensatory damages include:

- » Loss of future earnings.
- » Funeral expenses and medical bills.
- » Loss of companionship.
- » Emotional pain and suffering (sometimes referred to as mental anguish).
- » Loss of inheritance.
- » Loss of services (such as the support, care and advice the victim may have continued to receive if their loved one survived).



WHO CAN BRING A WRONGFUL DEATH LAWSUIT?

Under Texas law, only the deceased's children, spouse and parents can bring a wrongful death lawsuit. This means you can't sue for wrongful death due to losing a sibling, uncle, aunt, niece, nephew, grandparent or grandchild. It doesn't matter how close you were to one of these relatives when they died. You are still prevented from suing for wrongful death.

WHAT ABOUT A SURVIVAL ACTION LAWSUIT?

Wrongful death allows the parents, child or spouse to sue for the harm *they* **have suffered as a result of the death of their loved one.** In a survival action, the representative of the deceased sues for the harm the *deceased's* **suffered before he or she died.** For example, in a survival action, a family member might sue on the deceased's behalf for the pain and suffering they suffered the final few hours before they passed away.



DO I NEED A HOUSTON WRONGFUL DEATH ATTORNEY TO SUE FOR WRONGFUL DEATH?

Technically, you can bring a wrongful death lawsuit on your own, without an attorney. But this is not recommended for several reasons.

First, wrongful death cases usually involve a lot of money. This means the party responsible may fight very hard to prevent you from recovering anything in a wrongful death court case.

Second, there is a time limit on when you can bring a wrongful death action. The statute of limitations for wrongful death is two years. This means you must file your lawsuit within two years of the death of the deceased. But this is not an absolute deadline, so if you miss it, all may not be lost. However, it's helpful to have an experienced wrongful death lawyer to help you effectively argue that one of the exceptions to the two-year deadline applies to your case.

Third, it helps to have an attorney deal with potential defenses from the responsible party. For example, what do you say when the responsible party argues that you can't sue for wrongful death because the child you lost was adopted? Or maybe the responsible party admits his or her negligence cause the death of your loved one, but your damages should be reduced because your loved one was also partially responsible for causing his or her death. Handling these types of legal arguments is challenging even for a seasoned Houston wrongful death attorney, so it's easy to see how handling these legal battles on your own is not the best idea.

Finally, in many wrongful death cases, it's really the defendant's insurance company who will actually write the check for any damage award that you might receive. And as you might imagine, often these insurance companies use delay tactics or take steps to prevent you from getting what you're legally entitled to. Therefore, it's nice to have a Houston wrongful death lawyer help you deal with these insurance companies.

FREQUENTLY ASKED WRONGFUL DEATH QUESTIONS

Why Should I Hire a Wrongful Death Lawyer?

First, we're going to do a good job prosecuting the claim. That involves gathering the evidence and getting in front of the judge and jury. If necessary; we will be showing the responsible third-party what they did wrong to cause this incredible life-changing event in the family as well as the damage they caused to the deceased loved one and their families. We know that it's important to the family, and it will be important to us too.



Who Can File a Wrongful Death Claim?

If he or she was married, it's going to be the spouse. If they're not married, then surviving children. If they don't have children and they're not married, then the parents. It's important that the family comes to a lawyer together, as one unit, to figure that out and make sure that process is done properly.

How Do I File a Wrongful Death Claim?

When families come to our office after a loved one has died from the negligent act of a third-party, sometimes there's not a surviving spouse who can take charge. Perhaps you have a bunch of children, siblings, and so on. It is important that the family come together as a unit. Identify the one person who's going to be responsible for filing a wrongful death claim and bring the claim on behalf of everybody. That makes the process more efficient in selecting the lawyer and, together in terms of gathering the information necessary, to bring the lawsuit forward.

How Long Does a Wrongful Death Case Take?

Every case is special and unique. Facts and circumstances determine how each case will be prosecuted and the time it will take to get it to either a trial by judge and jury or resolve before then.

How is Wrongful Death Case Evidence Collected?

A lot of clients, after a very terrible event resulting in the loss of a loved one, have a very difficult time going to seek legal advice. I would recommend that they do it as soon as possible because the job of the attorney is to, in helping that family, try to understand and hold that third-party who caused the death responsible. They're also going to be preserving the wrongful death case evidence that can get lost if it's not done immediately. That's important because if you wait a long time, evidence and memories get lost and they disappear, and you don't want that to happen. You want a lawyer to take

charge of doing that and allow the family to then grieve while this evidence is being preserved. Lawsuits can be brought a little bit later, but we can still go preserve that evidence. Go get legal counsel soon after a very tragic event in the family.



What Wrongful Death Case Damages Can I Get?

The first element of damages is called wrongful death damages. Those are for the legal heirs such as the spouse or the children. It matters whether they're adult children or minor children. We also have survival claims, and that's regarding the loved one who passed away. Did he suffer as a

result of the injuries from the negligent acts that caused his death? Those are also damages that are going to be brought. Again, it's important to meet with a lawyer to go over those to make sure that they are all properly brought in the lawsuit.

What is the Wrongful Death Case Process?

The first thing we identify is who's going to act as the administrator of the estate of the loved one to bring the claim for wrongful death. We work with the family to identify that person and make sure they qualify, and then we bring that claim on their behalf. Just like all lawsuits, we're gathering the evidence and going forward as though we're going to try this case before a judge and a jury.

Do I Have a Wrongful Death Claim?

One of the first claims you have is what's called a wrongful death claim, which includes lost wages that they would have provided had that loved one lived. Another claim is the survival claim, which is regarding the deceased's loved one. and the pain and the suffering that they had leading up to their

death. There are multiple components that any family should consider when a loved one dies by the negligent act of a third party, and that's why they need to meet with a lawyer to go over those.

How Much Does a Wrongful Death Claim Cost?

Litigation can be expensive. Each case is special and unique on how it costs or to determine which experts, if any, are going to be hired to bring the claim. It's important to meet with a lawyer to have them go over what those costs may be and why they should be made in the case.

WHY CHOOSE LONGORIA LAW FIRM?

Free Initial Consultation

When you're injured in an accident, you often feel the financial impact immediately. Choosing the right attorney shouldn't add to that distress. We offer free consultations for all clients so you can get the answers you need without worrying about taking on another financial burden.

No Recovery, No Fee

At the Longoria Law Firm, we handle all personal injury cases on a contingency basis. This means that it will not cost you any money up front to retain us and have us represent you. Furthermore, you don't pay any fees unless we recover money for you.

Over \$200 Million Recovered

With over 20 years of experience, Houston injury lawyer Hector Longoria has obtained Court judgments and settlements for his clients in excess of \$200 million. Don't put your future in the hands of an amateur. Contact us today and let our experience work for you.



ABOUT THE AUTHOR:

Attorney Hector Garcia Longoria was born in Galveston Texas, the youngest of five sons, to Matias and Edelmira Longoria. His mother was a school teacher in Cerralvo, Mexico and his father a police officer in Monterrey, Mexico. Shortly after marrying in 1951, his parents made the decision to come to the United States to build a better life for their family. In the United States, Hector's parents worked on farms in California and Florida before moving to Galveston, where Hector's father worked as a longshoreman.

Hector's parents were determined to see their children succeed; taught him the value of hard work; and the importance of family and respect. Hector graduated from Galveston Ball High School in 1987. Hector then attended Texas A&M University on a scholarship. In May 1992, Hector graduated from Texas A&M University with a Bachelor of Arts degree in Economics and minors in History and Finance.

With guidance from his parents, Hector then attended law school at the University of Texas beginning in August 1992. During the summer semester in 1993, Hector attended the University of Houston-Mexican Legal Studies in Mexico City, Mexico. In Mexico City, Hector had an opportunity to work as a law clerk for Rich Heather y Mueller S.C. During law school. Hector was also on the Board of Advocates, a member of the National Latino Moot Court Team, a finalist in the Vial Hamilton Endowed Mock Trial, a quarterfinalist in the Susman Godfrey Endowed Moot Court and operations manager for the Hispanic Law Journal. In May 1995, Hector graduated with a Doctor of Jurisprudence from the University of Texas in. Hector became a member of the Texas Bar in November 1995 and has been a practicing attorney in Houston ever since.

As a lawyer, Hector works hard fighting for his client's rights. Hector devotes his practice to representing clients who have been victims of automobile,

trucking, industrial, and work-related accidents that result in severe injuries to the client and client's family members. Hector understands the importance of being prepared in front the judge and the jury.

In addition to being admitted to practice in Texas state Courts, Hector is also admitted to practice in the Eastern, Southern and Northern United States District Court of Texas and the United States Court of Appeals for the Fifth Circuit. Hector has also worked on cases in California, Louisiana, New Mexico, Illinois, Pennsylvania, and New York. Please call Hector if you have any questions regarding your legal rights.



LONGORIA
LAW FIRM