

Few phone calls are harder than the first one after a fatal accident. Families want straight answers and a path forward, yet they are fielding hospital bills, funeral arrangements, and insurance letters that seem to arrive before the obituary is even written. A seasoned personal injury attorney brings more than legal knowledge to this moment. They steady the process, set priorities, and make sure critical evidence does not disappear. Handling a wrongful death case is part investigation, part advocacy, and part stewardship of a family's trust during a year or more of uncertainty.

## **Who can bring the claim and when**

Wrongful death is a claim for the harm that survivors suffer because of a preventable death. Each state defines who has standing. Spouses and children usually come first, then parents if there is no spouse or child. Some states allow domestic partners or designated beneficiaries. The estate typically has a separate survival claim for the decedent's own losses between injury and death, such as medical bills, conscious pain and suffering, or lost wages.

Deadlines are unforgiving. Most states require filing within two years of death, with a few at one year and some exceptions for government defendants or delayed discovery. Colorado, where a Denver personal injury lawyer often works across county lines, generally sets a two year limit, and it structures the first year after death differently than the second for who may file. An experienced injury attorney will check the exact statute, tolling rules, and any notice provisions. If a potential governmental defendant is involved, notice might be due in a matter of weeks. One of the first tasks in my office is to open a limitations calendar with primary and backup deadlines and to assign responsibility for tracking them.

## **The first conversation and immediate priorities**

Early discussions focus on safety and preservation. If there was a crash, the vehicles may be heading to a salvage yard where onboard data will be erased or parts discarded. If there was a workplace death, the scene may change once production restarts. I explain to families that two things cannot wait: securing the right to inspect and download evidence, and preventing the other side from quietly fixing or discarding critical components.

The intake meeting is not about signing forms for the sake of it, though those matter. It is about learning the story from people who lived it. I ask for details others might overlook: a photo of a child's backpack seatbelt imprint, the size and placement of a ladder on a jobsite, the decedent's daily route and usual departure time. These details shape the theory of the case and spot issues like comparative fault or product misuse before an insurer uses them to set the narrative.

A short, respectful letter of representation goes out to all potential defendants and insurers on day one. It asks them to preserve telematics, surveillance, maintenance records, and training files. Where warranted, I follow with a formal preservation notice and a request to inspect. If a tractor trailer is involved, I will often move for a temporary restraining order to stop it from being altered or sold until we complete a forensic inspection. Quick action here can change the entire case. In one highway collision, the event data recorder on a box truck showed three hard brake events in the five minutes before impact, all tied to speeding through a known construction zone. Without that download, the defense narrative would have been a sudden brake by the lead car.

## **Building the foundation of evidence**

A wrongful death case lives or dies on documentation and credible expert analysis. A personal injury lawyer runs two parallel tracks: liability and damages. Liability proves why the death happened and who is legally responsible. Damages prove what the loss means in economic and human terms.

On liability, the investigation might include site inspections, photographs at comparable times of day and weather, and canvassing for cameras that catch more than you think: doorbell systems across the street, transit authority buses, or a gas station canopy that overlooks an intersection. For commercial defendants, we push for driver qualification files, hours of service logs, dispatch notes, and internal policies. If it is a premises case, maintenance and cleaning schedules, prior incident logs, and vendor contracts become key.

Experts are not just for trial. Accident reconstructionists, human factors specialists, metallurgists, product design engineers, and pathologists help us understand the how and why before we make a demand. A good reconstructionist will marry physical evidence to physics and video timing, then produce a set of digestible visuals. When jurors can see the line of sight blocked by a poorly placed sign, or the stopping distance at a given speed on a wet surface, a dispute about fault becomes concrete.

Cell phone records often matter. It is not enough to show general usage. We work with forensic analysts **Personal Injury Lawyer** to look at handset activity around the time of impact and, when appropriate, app level logs that can show active navigation inputs or messaging. Courts demand a tight request and a foundation for privacy reasons, so we build that foundation with witness timelines and available video.



## Parallel criminal or regulatory proceedings

Many fatal incidents trigger a criminal investigation or agency involvement. Police reports, OSHA citations, NTSB findings in larger events, or even municipal code enforcement can each affect the civil case. The family's lawyer should track these without letting them dictate strategy. A criminal conviction can help on liability, yet a drawn out prosecution can delay civil discovery. Sometimes it is better to move the civil claim forward and use certified records later. Other times we sit tight for a lab result that will either open the door to punitive damages or close off a defense theory.

Care is needed if a family member also faces potential exposure. In a multivehicle crash, for example, the decedent's estate might be named as a comparative fault party. The personal representative should have defense counsel for the estate if that happens. A responsible accident attorney will raise this conflict early and help coordinate independent advice.

## **Economic loss, household value, and the math behind damages**

Damages in wrongful death are not guesswork. We build them with data and experts who can explain their methods in simple language. An economist looks at earnings history, fringe benefits, taxes, expected career trajectory, and life expectancy. If the decedent was self employed, we gather tax returns, 1099s, invoices, customer lists, and bank statements to reconstruct trends and seasonality. For a young worker or a student, we draw on vocational experts, education records, and market outlooks to establish likely paths.

Household services often get overlooked. Cooking, cleaning, mowing, shoveling, child care, elder care, home maintenance, and the countless weekday trips that make a household run all have measurable value. We quantify hours per week using family testimony and time use studies, then apply a replacement cost rate. Jurors understand chores and routines because they live them.

Non economic harm is the heart of many wrongful death cases. States treat it differently, and some impose caps that adjust every year or two. Colorado uses a cap for non economic damages in wrongful death, with higher limits in cases of felonious killing. There is also a solatium option under Colorado law that can simplify proof of grief damages while still allowing full economic recovery, though it trades off the potential for a larger non economic verdict. A Denver personal injury lawyer should explain these trade offs early so the family can make an informed choice about valuation strategy.

To keep damages based on lived reality and not spreadsheets alone, I ask clients for concrete examples. The father who read bedtime stories each night, the partner who managed the medical calendar for a special needs child, the adult son who called his mother during every morning commute. Anecdotes like these give shape to loss and guide the experts' inputs.

## **Insurance coverage and the search for additional recovery**

It is rare for a single policy to carry the full weight of a wrongful death claim. We look first to obvious coverage, then to less obvious layers. In a motor vehicle case, the at fault driver's liability policy might be modest, but an employer's commercial policy or a leased vehicle's coverage can add significant limits. If a third party maintenance company put unsafe equipment back on the road, their policy enters the picture. Uninsured and underinsured motorist coverage can be a lifeline, especially when stacked across multiple vehicles or resident relative policies. An experienced personal injury lawyer reads the policy language carefully and expects the carrier to do the same.

In premises or product cases, we examine indemnity and additional insured provisions in vendor and rental agreements. A general contractor's wrap policy might respond even if a subcontractor created the hazard. If it is a workplace death, workers' compensation benefits apply, yet third party civil claims may still exist against non employer entities. Navigating the interplay between comp benefits, wrongful death recovery, and liens requires planning, not guesswork. I keep a running chart of potential payors and lienholders, along with the statutes and contracts that govern priority.



## **Probate, the personal representative, and who signs what**

Wrongful death belongs to the statutory beneficiaries, while survival claims belong to the estate. That means two sets of decision makers and two signature lines on the final settlement paperwork. Early on, we help the family open a simple probate in the proper county and appoint a personal representative. That person hires separate counsel if conflicts arise, but in many families a single firm can represent both the beneficiaries and the estate after careful conflict screening and written consents.

Why formalize this so quickly? Because hospitals and government payors will pursue the estate for medical bills, and insurers will require a proper release. A clean probate file prevents disputes later over who had authority to act, and it creates a transparent ledger of disbursements. When minors are beneficiaries, court approval and structured settlements often come into play. A personal injury attorney should line up a reputable structured settlement broker and a guardian ad litem when the court requests one.

## **Communication with the family and setting expectations**

Trust lives in updates. I set a predictable cadence: a status call every 30 days during the investigation phase, then every 60 days once litigation starts, with immediate calls for material developments. Families want to know what is next, how long it will take, and what they can do to help. I explain that insurers move faster when they think they can close a file cheaply, and slower when exposure is real. We are going to push, but some steps take the time they take, such as subpoenas to third parties or court calendars for depositions.

It also helps to talk about the emotional cycle. Reviewing medical records, hearing crash audio, or reading deposition transcripts can reopen wounds. We never force participation at every step, and we would rather a client take a week before approving a demand letter than agree to language that does not ring true.

## **A realistic timeline**

Every case is different, but families appreciate benchmarks. Investigation and evidence preservation often take two to four months. Expert retention and initial analysis can run in parallel during that time. A well supported demand might go out around the six to nine month mark if the facts are clear and the coverage sufficient. If liability is disputed or damages are complex, filing suit earlier protects deadlines and gives us subpoena power.

From filing to trial, many jurisdictions take 12 to 24 months. Mediation commonly occurs around month 9 to 15 after suit, once written discovery and key depositions are complete. Appeals add more time. A Denver docket may look different from a rural county's calendar, and a federal case will run on its own schedule.

## **Settlement strategy, mediation, and when to try the case**

Not every wrongful death claim should settle early. If the defense refuses to acknowledge clear liability or undervalues non economic loss because a decedent had a modest income, settlement talks can be a trap. We prepare every case as if it will be tried, not out of drama, but because preparation changes outcomes. Well prepared cases settle better and try cleaner.

Mediation works best when each side has enough information to assess risk. Bringing a human story, photographs that jurors will see, and demonstratives that simplify complex mechanics can move a mediator and a carrier. Ranges matter here. I often give a bracket that reflects both trial risk and likely appellate issues, especially in cap jurisdictions. If we settle, we document structured payments for minors, tax treatment of different categories of damages, and lien resolution terms right away, so there are no surprises after a handshake.

When trial is the right path, the goal is clarity. Jurors want to understand cause and responsibility, then what the loss means. We streamline witnesses, avoid redundant experts, and keep the focus on choices that led to harm. Cross examination is surgical. Sympathy without structure does not carry a verdict. Structure without humanity falls flat.

## **Common pitfalls and how a careful lawyer avoids them**

Comparative fault can cut a claim's value sharply. We face it head on. If the defense will argue a pedestrian wore dark clothing, we test line of sight, lighting, and driver behavior with measurements and photos. If a product misuse defense looms, we shore up the warnings and training history, or we adjust our theory toward design choices that would have reduced harm even with foreseeable misuse.

Social media can undermine a case. Families need gentle but clear guidance. Grief is personal, and public posts invite misinterpretation. I ask clients to refrain from posting about the incident or the legal process, and to make accounts private. Defense lawyers will look.

Medical and funeral bills need triage. We ask providers to hold collection efforts once we are retained and provide letters of protection as needed. Medicare and Medicaid liens require strict compliance with reporting and repayment rules. Private health plans sometimes claim reimbursement rights that do not exist. Sorting these early prevents last minute holdups at settlement.

## **Documents that help in the first month**

- Death certificate and any medical examiner or autopsy report
- Photos or videos of the scene, vehicles, equipment, and injuries
- Insurance policies for the decedent and any vehicles in the household
- Employment records such as pay stubs, W 2s, 1099s, and benefits summaries
- Names and contact information for witnesses, first responders, and treating providers

Families will not always have all of this, and that is fine. A capable accident attorney knows how to gather what is missing through subpoenas and open records requests.

## A brief example from practice

A family called three days after a delivery truck struck their mother in a crosswalk. The police report mentioned poor lighting and her dark coat, and the carrier offered condolences while hinting at shared fault. We sent preservation letters that same **Denver personal injury lawyer** day. Our team canvassed the block and found two security cameras. One captured the crossing signal turning to walk and the truck rolling through a right turn at a slow but unlawful crawl without a full stop. An ECM download showed the turn completed in under three seconds, consistent with a rolling maneuver. The driver's phone records, produced under subpoena, showed an audio streaming app active and a notification at the time of impact. Our human factors expert testified that the driver's eye scanning pattern was inconsistent with hazard detection for pedestrians. On damages, the decedent was retired, but we built a strong household services claim and gathered testimony from a grandchild's school about her daily drop offs.

The carrier doubled its offer at mediation, then increased it again after we disclosed demonstrative exhibits that made the timing of the light sequence clear. We settled within the policy limits and structured part of the proceeds for a minor. None of this required theatrics. It required rapid preservation, careful analysis, and a clear story.

## How fee structures and costs work

Most wrongful death attorneys handle cases on a contingency fee. The firm advances costs for experts, filings, transcripts, and exhibits, then recovers them from the settlement or verdict. Families should ask how the fee shifts at different litigation stages, how large case expenses might become, and whether the firm negotiates medical liens in house or uses a vendor. Transparency avoids frustration later. A reputable injury attorney will put the fee and cost structure in writing and review it line by line.

## Choosing the right lawyer for your family

Experience matters, but so does fit. A personal injury lawyer should explain complex points plainly and tell you when the law limits what can be recovered, not promise a number before the investigation starts. Ask about recent wrongful death results, not just total dollar figures for all cases. In Colorado, familiarity with non economic caps, the solatium option, and the split between wrongful death and survival claims is essential. If the case involves commercial vehicles, look for a track record with federal motor carrier regulations. A Denver personal injury lawyer will also understand local norms for probate approvals and minor settlements in the metro counties.

Two red flags are worth mentioning. First, if a lawyer discourages you from opening probate when an estate claim exists, expect problems with releases and lien resolution. Second, if the lawyer has no plan for preserving electronic evidence within the first week, look elsewhere.

## What a family can expect to recover

Each case is unique, yet most wrongful death recoveries fall into several core categories:

- Economic losses such as lost earnings, benefits, and household services
- Medical expenses related to the fatal injury and funeral or burial costs
- Non economic damages for grief, loss of companionship, and emotional distress
- Survival damages for the decedent's conscious pain and suffering before death
- Punitive damages in cases of fraud, malice, or willful and wanton conduct

Taxes are another common question. The IRS generally treats compensatory damages for physical injury or sickness, including wrongful death, as non taxable. Portions allocated to punitive damages are typically taxable. Interest on judgments can be taxable. A careful allocation in the settlement agreement helps, and many families ask their accountant to review it before they sign.

## **The quiet work that makes a public result**

A family often sees the end points. A demand letter goes out, a mediation day arrives, or a trial starts. The bulk of the work happens between those markers. Coordinating expert inspections so no one contaminates evidence, matching video timestamps across multiple sources, building animations that match physics instead of distorting it, and drafting motions that keep junk opinions out of the jury room are each part of the craft. So is the human side. Taking a break during a deposition when a client is overwhelmed. Reminding a witness that it is acceptable to say, I do not know, rather than to guess. Calling a parent on a birthday that will never feel the same.

At its best, the job of a personal injury attorney in a wrongful death case is to move a family from the chaos of sudden loss to a place where accountability is real and the future is funded. That does not make the loss easier. It does make it recognized, measured, and carried by those who caused it rather than by those who bear its weight.



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## **FAQ About Personal Injury Lawyer**

### **Is it worth suing for personal injury?**

Suing for a personal injury is generally worth it if you have severe injuries, mounting medical bills, and lost wages. However, it is rarely worth the time and effort for minor bumps and bruises where you recover quickly.

### **What not to say to a personal injury lawyer?**

Never hide details, lie, or downplay your symptoms when speaking to a personal injury lawyer. Withholding information or fabricating details destroys your credibility, provides insurance companies an excuse to deny your claim, and makes it impossible for your attorney to properly advocate on your behalf.

### **How much do most personal injury lawyers charge?**

Most personal injury lawyers charge a contingency fee, meaning you pay nothing upfront. They take a percentage of your final settlement or jury verdict—typically ranging from 33% to 40%—and only get paid if you win your case.