Version 4, Issue 2

DAVIS LAW GROUP News

A Newsletter Published by Davis Law Group, P.S., Seattle, WA
Representing Washington Accident Victims & Families Affected By Wrongful Death

February Issue!

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Downtown
2101 Fourth Avenue
Suite 630
Seattle, WA 98121
206.727.4000

Eastside
NE 8th Street
Bellevue, WA 98004
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What Is The Value Of A Wrongful Death Claim?

This is a sensitive subject. But a question we hear a lot at the Davis Law Group regarding wrongful death claims is "What is the case worth?" This may not be an easy question to answer, at least not without investigating the case and sorting through the myriad of legal issues that may be present.

First, there is no amount of money that will ever compensate family members for the loss of a loved one. Most people will agree that money is not adequate "compensation," it does not make the situation "fair" or "right," and it certainly will never make up for such a tragic loss. If someone is responsible for totally destroying your car, the car can be replaced. A person cannot be replaced. There simply is no replacement for losing a child, parent, spouse or sibling.

Second, the value of a wrongful death claim is not necessarily the value of the person who died. You must distinguish the difference between the value of a "claim" and the value of a "person." Several times I have had a surviving child, parent, spouse or sibling say to me after being presented with a settlement offer from a defendant, "Is that all they think my loved one is worth?" Even though I have discussed the value of a "claim" versus the value of a "person" before settlement negotiations, it is still difficult for survivors to understand this concept. This is especially true if the settlement offer is low, but not necessarily unreasonable given the facts involved, the asserted defenses and/or the other difficulties associated with the case.

To help illustrate how the presence or absence of certain facts can affect case value, let's discuss some examples. In each of the follow three scenarios I will use the tragic death of a relatively normal seven (7) year-old boy who I'll call Jimmy as our subject.

Example A: Jimmy is crossing the street in a crosswalk with a green light in his direction of travel with his mother holding his hand. When they are nearly across the street, with their light still green, a heavily intoxicated beer delivery truck driver, while on the job, driving his beer truck, runs the red light striking and killing Jimmy. It is the fourth time the driver has been caught drinking on the job in the last year.

Example B: Jimmy is crossing the street in a crosswalk with a green light in his direction of travel with his mother holding his hand. When they are nearly across the street, with their light still green, an unemployed 65-year-old grandmother, on her way to deliver food baskets to the poor, runs the red light striking and killing Jimmy. The grandmother has an automobile insurance policy with coverage of $25,000 and no assets.

Example C: Jimmy is playing soccer in the park. Jimmy chases the soccer ball out of the park, across a sidewalk, across the parkway, between two cars parked close together and into the street immediately in front of a car traveling at 20 mile per hour. The driver of the car, a 65-year-old grandmother on her way to deliver food baskets to the poor, hits Jimmy and kills him. The grandmother is hysterical at the scene. She tells police that she had no chance to avoid hitting Jimmy because he "came out of nowhere."

In Example A the beer truck driver is obviously at fault. His employer is going to be held responsible for the driver's actions. The employer is a large corporation and

NEW BOOK!

Chris Davis Authors Book on Wrongful Death

No amount of money will ever make up for the loss of a loved one. But our civil justice system recognizes that a wrongful death can impose severe emotional and financial consequences on the surviving family members and that monetary compensation may be the only way to achieve justice. The book, Wrongful Death in Washington State by Seattle attorney & author Chris Davis is the only essential guide for surviving family members to understand their legal rights and options after the tragic loss of a loved one. This comprehensive book sensitively addresses common issues and questions that may arise, such as: an overview of the wrongful death laws and litigation process, the need to start a probate action, dealing with medical and funeral bills, finding the right attorney, making sure that the surviving children and family members are fairly compensated, and the necessary legal steps involved in a wrongful death lawsuit.

How Do I Find The Best Insurance Company?

In last month's issue we had an article about the 10 worst insurance companies in America. As a result we had a lot of our readers writing in asking about the 10 best. We here at the Davis Law Group are commonly asked for the names of the most reputable auto insurance companies. Unfortunately, this question seeks information that is often a moving target. A company that may have a good reputation now may not fare so well in six months.

The National Association of Insurance Commissioners (www.naic.org) gathers consumer complaint information from state insurance regulators. According to the NAIC, more than 50% of the complaints received in 2009 were for (1) the denial of a claim, (2) the unreasonable delay in resolving a claim, and (3) unsatisfactory settlement offers by the insurance company.

When searching for an auto insurance company, most people are focused on the cheapest premium. But many consumers find out after an accident that the coverage they thought they had, really never existed, or if it did exist, the coverage was woefully inadequate. Or the accident victim finds out that their insurance company is incredibly difficult to deal with when it comes to filing and settling a claim, particularly if the value of the claim is very high (i.e., worth more than $25,000).

When shopping for an auto insurer, you should be very concerned if a company you are considering has a lot of complaints in the claims handling area. Go to NAIC and research the number of complaints for your auto carrier. Focus on the complaint ratio, which shows the ratio of the company's U.S. market share of complaints to the company's U.S. market share of premiums for a specific policy type (the ratio puts the complaint figures into perspective based on the size of the insurer's business, so larger insurers aren't penalized for having more complaints).

If the national median complaint ratio is 1.00 and the ratio for the company you're considering is 2.00, for example, that should be a big red flag. Also look at the complaint trend report to see whether the company's complaints have been increasing or decreasing over time. ■

For more information on how to check an insurance company's complaint record, go to the Kiplinger Report:

(http://www.kiplinger.com/columns/ask/archive/2009/q0824.htm)

Wrongful Death Case Worth?

has nearly limitless resources to pay damages in this case. Juries are usually prejudiced against intoxicated drivers, people who run red lights, and against large alcoholic beverage corporations who hire unsafe drivers. One might easily assume that the jury will probably want to "punish" the beer distributor for continuing to employee a driver who drinks on the job. The case may be worth several millions of dollars in many jurisdictions.

In Example B the 65-year-old grandmother is obviously at fault. However, this defendant is much more sympathetic than the corporate alcohol distributor. Plus, the grandmother only has insurance coverage of just $25,000, which is the most that a lawyer may be able to collect from her. Even if you go to trial and get a much higher jury verdict, the grandmother has no money or assets to pay it. Plus the trial and litigation expenses of going to trial against the grandmother will likely easily exceed $25,000, so a recovery will be used to reimburse costs.

In Example C, Jimmy is likely at fault or at least shares a good portion of fault. Plus the grandmother is a sympathetic defendant. A jury might have more compassion and understanding for the grandmother than the parents of the boy that was killed. A jury might determine the boy was 100% at fault. Thus, the value of the wrongful death claim brought by Jimmy's parents might be worth nothing at all.

In each of the examples, we have the same young boy who dies. His parents suffer the same and each has lost the same, regardless of the other factual differences in each example. However, the value of the parents' case in Example A is likely worth millions of dollars. The case in Example B is likely worth only $25,000 (plus any underinsured motorist coverage that may exist). The case in Example C is probably worth nothing at all.

Let's look at Example C again. Now assume that Jimmy's parents promptly hired a lawyer who in turn retained an accident reconstruction expert to analyze the accident. That expert goes to the accident scene within days and based on the length of the vehicle skid marks and other evidence collected, determines that the grandmother was actually traveling 50 mph – twice the legal speed limit. Even if Jimmy popped out of nowhere, the grandmother was speeding too fast and will likely share as much if not more blame than Jimmy for causing his death. This additional new fact now changes how strong of a case Jimmy's parents will have against the grandmother. If the grandmother also has insurance much greater than $25,000, the wrongful death case may be worth much more than this amount.

Keep in mind that the examples above are simplistic so that you can easily see how the existence of certain facts may radically change the value of a case. In any given case there may exist dozens of other important facts or legal issues that may also affect the value of that case. For example, in Example C let's assume that Jimmy's parents promptly hired a lawyer who in turn retained an accident reconstruction expert to analyze the accident. That expert goes to the accident scene within days and based on the length of the vehicle skid marks and other evidence collected, determines that the grandmother was actually traveling 50 mph – twice the legal speed limit. Even if Jimmy popped out of nowhere, the grandmother was speeding too fast and like shares as much if not more blame than Jimmy for causing his death. This additional fact now changes how strong of a case Jimmy's parents will have against the grandmother. If the grandmother also has insurance much greater than $25,000, the wrongful death case may be worth much more than this amount.

Remember, a wrongful death attorney's job is to evaluate how the facts and legal issues will impact case value, and then discuss his or her evaluation with the client. But sometimes the attorney needs to conduct more investigation, like hire experts or take depositions, before an accurate and reliable opinion regarding case value can be made. It usually pays to hire an experienced attorney to investigate the claim, and do whatever is reasonably necessary to maximum the chances of success. ■

This publication is intended to educate the general public about personal injury, car accidents cases, medical malpractice, and insurance issues. It is not intended to be legal advice and does not constitute attorney-client relationship. Every case is different. To discuss your individual case call Davis Law Group at 206-727-4000.

Students That Care

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Miss Greek Pageant 2010 is a philanthropic event associated with the University of Washington and hosted by the brothers of Delta Tau Delta Fraternity. Contestants from each sorority in the UW greek system spend five months raising money for the Fred Hutchinson Cancer Research Center, in addition to preparing for the pagent itself, which is on April 11th, 2010. At the event, contestants are evaluated based on their talent, personality, philanthropic statement and the amount of money they raised.

Hanna Lauth is running as the contestant for Zeta Tau Alpha sorority. She is a sophmore at the University of Washington and is working towards a business degree. A tremendously dedicated woman, Hanna has competed as a varsity athlete on the UW crew team, ran in the Race for the Cure, and has now set her sights on raising money for Fred Hutch and becoming the next Miss Greek. Her goal is to raise a total of $25,000 by April 2010!

To help Hanna, consider sponsoring her by visiting:

www.SponsorHanna.org

UNIVERSITY of WASHINGTON
missgreek

Davis Law Group Scholar Athlete of the Week

Kelly Sun

Washington High School - 1/14/2010

Kelly's values exemplify the commitment of elite athletes, and the same dedication drives her in all areas of her life. Her dedication in academics is seen in her 4.0 GPA while taking college courses through Running Start. Kelly's first year at the University of Washington will have her enrolling as a junior. She has been a member and officer of the Math team and Honor's Society for three years each respectively. For the math team, she has gone to state each year.

Since her freshman year, Kelly has played for Washington High School's girls' tennis team. Kelly made it to state her sophomore year and again last year as a Junior. Says Tennis Coach Michele Coumbs, "Kelly is not a quitter. When she plays a match, she plays until there is nothing left in her to give. She is able to mentally push herself to levels other player's dream about. As her coach, I look forward to another year at state. I know Kelly will go again because she won't accept anything less from herself."

Hunter Colegrove

Bonney Lake High School - 1/7/2010

Hunter is a three sport varsity athlete playing Varsity Football, Varsity Basketball and Varsity Track for Bonney Lake High School. He was captain of the Football team this year and captain of the Track team his junior year. He has received a series of awards including 1st Team All League Special Teams (SPSL), Honorable Mention All League Linebacker, Special Teams Player of the Year and the Coaches Award, and the 'Heart of the Panther' award.

Hunter works a part time job and takes no less than three AP classes each semester. He is a member of National Honor Society and he is also on the Senior Cabinet as President of the group of students in charge of running the school store.

"Hunter is an amazing young man who exhibits poise, leadership, and maturity, through hard work, dedication, and commitment to be the best that he can be," says Andrew Sage, Hunter's science teacher and football coach.

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The Ten Biggest Mistakes That Can Wreck Your Washington Accident Case covers a wide array of accident claims topics such as, who should pay your medical bills and lost wages, how to work with a claims adjustor, and how determine if you really need a lawyer.

Little Kids, Big Accidents: What Every Parent Should Know About Children & Accidents defines the legal and settlement process for child injury claims, gives tips on dealing with insurance companies, and discusses common questions and legal issues that are often present in cases involving children.

When The Dog Bites: The Essential Guide To Dog Bite Claims In Washington explores the legal rights of dog bite victims, answers common questions asked by dog owners and bite victims; and address legal issues that are often found in animal attack cases.

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DAVIS LAW GROUP, P.S.
2101 Fourth Avenue
Suite 630
Seattle, WA 98121

206.727.4000
www.DavisLawGroupSeattle.com

Founder & Principal Attorney
Chris Davis

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Happy Valentine's Day

10 Ways To Keep Your Loved Ones Safe

1. **Buckle up.** Motor vehicle crashes are the leading cause of death for people ages 1 to 33, according to the NSC. About every 12-1/2 minutes, someone in the United States is killed because of an auto accident. Every 14 seconds, someone suffers a disabling injury. Seat belts save the lives of thousands of people every year.

2. **Use child safety seats.** Be sure to install the seat properly—close to 80 percent are not installed correctly. The safest place for a child safety seat is in the middle of the back seat. For more information on how to install car seats, visit www.carseat.org.

3. **Don't drink and drive.** Approximately 40 percent of auto accident deaths involve drinking. About 3 in every 10 Americans will be involved in an alcohol-related traffic accident at some point in their lives, the NSC says.

4. **Wear a helmet.** Always use a helmet when biking or when playing sports, such as skiing, football, hockey or baseball. A head injury often results in irreversible damage to the brain. Wearing a helmet can cut the risk for head injury by 85 percent.

5. **Prevent falls.** More than 50 percent of all falls occur in the home. The CDC reports that almost 14,000 people age 65 and older die each year of falls.

6. **Watch those windows.** Screens are designed to keep insects out, not children in. If you install guards that keep children from opening windows more than a few inches, make sure that the guards can be released easily in case of fire.

7. **Prevent poisoning.** Poisoning is a leading cause of death in the home, the NSC says. The main substances that cause accidental death are medicines, poisonous houseplants, cleaning products, and pesticides. Move your cleaning products to cabinets with safety latches. Keep your local poison control center phone number close to the phone.

8. **Be watchful near water.** More than 4,000 people drown every year, and children up to age 4 are the most susceptible. Never leave your child alone at a pool or beach or in a bathtub.

9. **Keep children from choking.** Suffocation is the leading cause of death in the home for children ages 4 and younger. Always put babies to sleep on their backs on a firm mattress, not on a soft cushion, pillow or blanket. Make sure to keep toys with long cords and window-shade pull cords away from small children.

10. **Be prepared for fire.** Smoke detectors and fire extinguishers can help prevent injury and death if a fire breaks out in your home. Test smoke detectors monthly and change the batteries twice a year.