

..... **WHAT TO DO IN THE EVENT OF WRONGFUL DEATH**

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In the event of a wrongful death, the family of the decedent must take immediate action to preserve and protect the wrongful death claim and the rights of the decedent's surviving dependents. Therefore, the family of the decedent is well advised to do the following:

- ***Open the Decedent's Estate*** — The decedent's family should file a petition to open an Estate in the name of the deceased person and to appoint the appropriate family member to serve as the Personal Representative of the decedent's Estate. Once this is done, the wrongful death claim can be officially pursued by the Personal Representative on behalf of the Estate.
- ***Initiate a Thorough Investigation*** — The victim's family should arrange to have their legal representative investigate the incident as soon thereafter as possible. Such an investigation should include interviewing all witnesses, photographing the scene, photographing any vehicles involved in the incident (both inside and outside), taking measurements at the scene, collecting physical evidence at the scene, interviewing police officers, etc. The victim's family can do this by either hiring a competent private investigator or by retaining a lawyer or law firm who specializes in motor vehicle personal injury work.
- ***Do Not Speak With Any Investigators or Adjusters Representing the Interests of the Party At Fault*** — It is generally true that the insurance company for the party at fault will be conducting an investigation soon after the accident. One of the first things that is typically done in connection with such an investigation is to contact the victim's family and ask family members to give statements, either in writing or by tape recorder. The victim's family should refuse to do this unless they have first consulted with an attorney specializing in personal injury law regarding the advisability of such an interview. In this regard, it is important to remember what the police tell suspects in criminal cases prior to taking statements: *"What you say can and will be used against you!"*
- ***Do Not Sign Any Medical Authorizations, Except Those Requested by Your Own No-Fault Insurance Company*** — Oftentimes, the Personal Representative will be asked by an insurance adjuster for the party at fault to provide a signed medical authorization release form enabling the adjuster to obtain all of the victim's medical records and speak with the victim's physicians. The Personal Representative should refuse to sign such an authorization until the victim has first talked with an attorney specializing in personal injury law to discuss the situation.

- ***Do Not Enter Into Premature Settlement Negotiations Without Proper Legal Advice*** — Many times the insurance company representing the party at fault will approach the Personal Representative and offer to make a settlement of the wrongful death claim in exchange for the Personal Representative agreeing to a full release of liability. It is ***absolutely foolhardy*** to consider entering into such settlement negotiations with an insurance company unless all of the following facts have first been established: (1) the Personal Representative has fully investigated the incident and knows the identities of any and all potential defendants and insurance companies who may have liability; (2) the release is only a release of the liability claim and not a release of any other rights the decedent's family may have; (3) the Personal Representative has completely researched whether such a settlement would jeopardize other claims the Estate or the victim's family may have against other parties or against the decedent's own insurance company for additional benefits, such as underinsured motorist benefits; and (4) the Personal Representative has obtained competent legal advice from a motor vehicle personal injury specialist regarding the wisdom of entering into such a settlement. Remember, once a release is signed, the deal can never "*be undone.*"