

Wrongful Death Claim Roadmap

A Clear Legal Path for Families Seeking Justice

PRIVATE LEGAL GUIDE

JusticeFinder.net

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PHASE 1

Research — Verified Sources

Every legal standard, statistic, and procedural fact in this guide is drawn from official U.S. government publications, peer-reviewed legal sources, and Supreme Court decisions. No law firm marketing content, Wikipedia, or unverified web sources were used.

CORNELL LAW SCHOOL LII (LAW.CORNELL.EDU)

- Wrongful death action: 'A civil lawsuit brought by the family members and dependents of a deceased person against an individual or entity that can be held liable for the death due to their negligent, reckless, or intentional actions.' — law.cornell.edu/wex/wrongful_death_action
- Wrongful death: 'Can be pursued against a person also facing criminal charges — even if not found guilty of a criminal charge, they may still be found liable for wrongful death due to the lower burden of proof in civil court.' — law.cornell.edu/wex/wrongful_death
- Wrongful death statute: Modern statutes allow executor/administrator to bring the lawsuit.
- Survival action vs. wrongful death: Survival action recovers losses the DECEASED suffered before death (to estate). Wrongful death recovers family's losses (to family). Both can be filed simultaneously in most states.
- 28 U.S.C. §2675 — FTCA mandatory admin claim: 'An action shall NOT be instituted upon a claim against the United States...UNLESS the claimant shall have FIRST presented the claim to the appropriate Federal agency.' — law.cornell.edu/uscode/text/28/2675
- 28 U.S.C. §2674: United States liable 'in the same manner and to the same extent as a private individual' but NOT for punitive damages.
- 28 CFR §14.2: Claim presented when agency receives SF-95 with sum certain.
- Loss of consortium: law.cornell.edu/wex/loss_of_consortium — recoverable in virtually all states as wrongful death damages.

NHTSA — NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA.DOT.GOV)

- 2023 Traffic Fatalities (FINAL): 40,901 people killed in motor vehicle traffic crashes in the U.S. in 2023. Source: NHTSA Research Note DOT HS 813705.
- 2022 Final Count: 42,721 (updated from provisional 42,514). Source: NHTSA FARS 2022 Final File.
- Fatality rate 2023: 1.26 per 100 million VMT (down from 1.34 in 2022). 4.3% decrease year-over-year.
- Fatal crashes 2023: 37,654 (down from 39,422 in 2022). FARS = census of ALL fatal motor vehicle crashes in 50 states + D.C. + Puerto Rico.

FMCSA — FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA.DOT.GOV)

- 49 CFR Part 395 — Hours of Service: 11-hr driving limit/14-hr on-duty window; 10 consecutive hrs off-duty minimum. ELDs required since Dec 18, 2017. Motor carrier retains ELD records 6 months.
- 49 CFR Part 391 — Driver Qualification: Complete DQ file required — application, MVR, medical certificate, road test. Retained during employment + 3 years after departure. Annual MVR review required.
- 49 CFR Part 396 — Vehicle Maintenance: Systematic inspection/maintenance program. Annual inspection minimum per §396.17. Records retained 1 year + 6 months after vehicle leaves fleet.
- 49 CFR Part 382 — Drug/Alcohol Testing: Pre-employment, post-accident, random (50% drugs/10% alcohol annually), reasonable suspicion. Annual MIS reports required.

SOCIAL SECURITY ADMINISTRATION (SSA.GOV)

- Eligibility: Surviving spouse age 60+ (50+ if disabled); divorced surviving spouse (married 10+ years, age 60+); surviving spouse any age caring for deceased's child under 16; unmarried children under 18; children with disability that began before age 22; dependent parents age 62+.
- Benefit amounts: Spouse — 71.5% to 100% of deceased's benefit (age-dependent). Children — 75% each. Family maximum: 150%–180% of basic benefit rate.
- One-time lump sum death payment: \$255 to qualifying spouse or child. Must apply within 2 years of death.
- How to apply: CANNOT be done online. Call 1-800-772-1213 (TTY 1-800-325-0778), Mon–Fri 8am–7pm.
- SSA survivors benefits are SEPARATE from and do not affect the wrongful death civil lawsuit.

IRS.GOV — IRC §104(a)(2)

- Wrongful death settlement tax treatment: Under IRC §104(a)(2) (IRS Final Regulations effective Jan 23, 2012), damages received 'on account of personal physical injuries or physical sickness' are excluded from gross income — whether lump sum or periodic. Includes wrongful death damages.
- Exception: Punitive damages are taxable income in most circumstances.
- 26 USC §104: 'Gross income does not include...the amount of any damages (other than punitive damages) received...on account of personal injuries or physical sickness.'
- Settlement agreement should specify payments are 'on account of personal physical injuries' for clear tax-free treatment.

BJS — BUREAU OF JUSTICE STATISTICS / ABA

- BJS NCJ 228129 (2005): Plaintiffs won 60% of automobile accident trials. Only 3-4% of all tort cases went to trial. Median motor vehicle award: \$16,000.
- Wrongful death cases involving fatalities typically produce substantially higher awards than injury-only cases.
- ABA Model Rule 1.5(c): Contingency fee agreement must be in writing, signed by client, and state: fee percentage, how costs are deducted, and whether fee differs if case settles vs. goes to trial.
- FMCSA minimum liability insurance for property carriers: \$750,000 (general freight); \$5,000,000 (hazardous materials). 49 CFR Part 387.

SECTION 1

Understanding Wrongful Death Law

The Legal Foundation — How the System Works for Your Family

■ COMPASSION NOTE: A Note Before We Begin

The pages that follow contain legal information that may feel overwhelming right now. That is completely understandable. You do not need to read this all at once, and you do not need to understand everything immediately. This guide is here whenever you are ready. The most important thing to know right now: your family has legal rights, and those rights have time limits. This guide gives you the information to protect them.

A wrongful death claim is a civil lawsuit that allows the family of someone who died due to another person's negligent, reckless, or intentional conduct to seek financial compensation. It cannot bring your loved one back. But it can provide financial security and hold the responsible party accountable.

■ LEGAL FACT: Cornell LII Definition of Wrongful Death

Wrongful death is 'a civil cause of action brought by family members and dependents against individuals who knowingly or negligently cause the death of another person.' Wrongful death actions can be pursued against a person also facing criminal charges — and even if that person is NOT found guilty of a criminal charge, they may still be found liable for wrongful death due to the lower burden of proof in civil court. Governed by state statutes, these actions specify who can benefit and what damages are available. [Source: Cornell law.cornell.edu/wex/wrongful_death]

THE FOUR ELEMENTS YOUR FAMILY MUST PROVE

1. DUTY OF CARE	The defendant owed a legal duty to the deceased. All drivers owe a duty to operate vehicles safely. Property owners owe a duty to maintain safe premises. Employers owe a duty to provide safe working conditions. Manufacturers owe a duty to produce safe products.
2. BREACH OF DUTY	The defendant breached that duty through their actions — or failure to act. Speeding, drunk driving, running a red light, failing to maintain a vehicle, violating federal trucking safety regulations (FMCSA), or allowing a known dangerous condition to exist.
3. CAUSATION	The defendant's breach was the direct cause ('but-for' cause) of the death. The death must be a foreseeable consequence of the negligent conduct. Causation is proven by a preponderance of evidence — meaning more likely than not.
4. DAMAGES	The death caused measurable losses to the family: lost income, lost companionship, funeral costs, and more. Section 6 provides a complete damages inventory and calculation framework.

WRONGFUL DEATH vs. SURVIVAL ACTION — TWO CLAIMS, ONE TRAGEDY

	WRONGFUL DEATH CLAIM	SURVIVAL ACTION
Purpose	Compensates FAMILY for their losses caused by the death — financial support, companionship, guidance.	Compensates the ESTATE for what the deceased would have recovered had they survived — medical bills, pre-death suffering.
Who benefits	Surviving spouse, children, parents — directly.	Estate, then distributed per will or intestacy law.
Can both be filed?	YES — both can be filed simultaneously in most states.	YES — file both where available. They address different losses.

■ COMPASSION NOTE: You Do Not Need a Criminal Conviction

Many families assume they cannot pursue a civil wrongful death claim unless the responsible party is convicted criminally. This is not correct. Civil and criminal cases operate independently with different burdens of proof. A not-guilty criminal verdict does not bar a wrongful death civil claim. Your family's civil rights exist regardless of any criminal proceedings.

SECTION 2

Who Can File — Legal Standing by State

Which Family Members Qualify + Who Files + Who Benefits

Wrongful death law is state law — and the question of who may file varies by state. In most states, the lawsuit is FILED by the estate's personal representative, but the money BENEFITS specific family members. Understanding this distinction is the foundation of your family's claim.

PRIMARY BENEFICIARIES — RECOGNIZED IN ALL STATES

Surviving Spouse	Has the strongest standing in virtually every state. Most states give the spouse the largest share of recovery, or the entire recovery if no children exist. Divorced spouses generally cannot file unless still legally married at death.
Children (Including Adopted)	Minor and adult children are primary beneficiaries in all 50 states. Adopted children are treated identically to biological children in all states. Stepchildren's rights depend on formal adoption in most states.
Parents of the Deceased	If the deceased had no surviving spouse or children, parents become primary beneficiaries in all states. Some states allow parents to recover even when spouse/children exist, as secondary beneficiaries.

SECONDARY BENEFICIARIES — STATE-DEPENDENT

Relationship	When Eligible	Standing
Siblings	Only if no surviving spouse, children, or parents in most states	Tertiary — rarely primary
Grandchildren	If deceased's child predeceased them, or if grandchildren were financial dependents	Limited; varies by state
Financial Dependents	Any person financially dependent on the deceased — states with broad statutes	State-specific; verify with attorney
Domestic Partners	Recognized in states with registered domestic partnership or common-law marriage laws	Highly variable; verify your state

WHO IN MY FAMILY QUALIFIES — FILLABLE WORKSHEET

Deceased's Full Name _____ Date of Death _____ Surviving Spouse
(Name) _____ Children (Names / Ages) _____ Parents of
Deceased _____ Siblings (if applicable) _____
Other Dependents (if any) _____ Personal Estate Representative? _____

■ ■ TAKE ACTION: Bring a Complete Family List to Your Attorney Consultation

When you consult a wrongful death attorney, bring a written list of all potential beneficiaries — everyone who was financially or emotionally dependent on the deceased. The attorney will identify all eligible parties and ensure the case is filed to protect every family member's rights. [Source: Cornell LII wrongful death statutes. law.cornell.edu/wex/wrongful_death_action]

SECTION 3

The 90-Day Critical Action Checklist

What to Do First — Step-by-Step With Compassion

■ COMPASSION NOTE: On Timelines and Grief

Nothing in this section is meant to rush you through your grief. Grief cannot be put on a schedule. But the law does have deadlines — and some evidence disappears within days. This checklist is organized to give you clarity about what is urgent and what can wait. If you have retained an attorney, they will handle most of this. If not, this list helps you prioritize.

DAYS 1–7 IMMEDIATE ACTIONS

- Obtain 8–12 certified copies of the death certificate — needed for legal, financial, and insurance matters
- Ask the funeral home to notify the Social Security Administration of the death
- Write down everything you know about the accident while memory is fresh: date, time, location, witnesses
- Preserve all vehicles involved — do NOT allow repairs or disposal before documentation
- Photograph the accident scene if safely possible — or ask someone you trust to do so
- Obtain the police/accident report number from the responding agency
- Contact a wrongful death attorney — most offer free consultations with no obligation
- If a commercial truck was involved: contact an attorney TODAY — truck evidence is deleted within days
- Do NOT speak with any insurance adjuster from the other party without attorney guidance
- Do NOT sign any documents from insurance companies or other parties

DAYS 8–30 EVIDENCE PRESERVATION & LEGAL FOUNDATION

- Send formal evidence preservation letters to all potentially liable parties (template in Appendix B)
- Obtain certified copy of the complete police or accident investigation report
- Request all medical records from emergency and hospital treatment
- Request autopsy report from the county medical examiner's office (family has this right)
- Engage a wrongful death attorney to protect all subsequent legal steps
- Begin the probate process if needed to appoint an estate personal representative
- File for SSA survivors benefits — call 1-800-772-1213 (cannot be done online)
- Identify and secure witness contact information and written statements if possible
- Identify all applicable insurance policies: deceased's auto policy, other party's policy, umbrella coverage
- If a government vehicle was involved — identify the agency and begin FTCA administrative claim process (Section 8)

DAYS 31–60 INVESTIGATION & CLAIM BUILDING

- Your attorney issues formal discovery requests, subpoenas, and preservation notices

- Compile the deceased's complete employment history and income records for lost earnings calculation
- Document all household tasks and support the deceased provided — childcare, lawn care, cooking, elder care
- Assemble all household financial obligations the deceased supported: mortgage, utilities, car payments
- Confirm your state's wrongful death statute of limitations (Section 4 and Appendix A)
- If workplace death: file workers' compensation death benefit claim with employer/state WC board
- Research all potentially liable parties beyond the primary at-fault driver or party
- Begin organizing medical bills, funeral receipts, and financial records for damages calculation

DAYS 61–90

DEADLINE MANAGEMENT & STRATEGY

- Verify your specific SOL deadline with your attorney — states with 1-year deadlines (KY, LA, TN) are critical
- If a federal government vehicle was involved: SF-95 administrative claim may need to be filed soon — see Section 8
- If a state/local government vehicle was involved: verify notice of claim deadline (often 60–180 days — may have already passed)
- Complete the Family Damages Inventory worksheet (Section 6) with attorney guidance
- Review the deceased's estate plan and will to understand intended distribution
- Determine whether to file wrongful death claim, survival action, or both
- Ensure SSA survivors benefits application is underway — benefits are not retroactive
- Begin preliminary review of the demand package strategy with your attorney

90-DAY ACTION TRACKER — FILLABLE

Action Required	Deadline	Done?	Responsible Party	Notes
		■		
		■		
		■		
		■		
		■		
		■		
		■		
		■		
		■		
		■		

SECTION 4

Filing Deadlines

Wrongful Death Statute of Limitations— All 50 States + DC + Government Cases

The statute of limitations is the legal deadline to file your wrongful death lawsuit. Missing this deadline — by even one day — permanently bars your family's claim in virtually every state. This is one of the most critical facts in this guide. Please confirm your specific deadline with a licensed attorney.

■ LEGAL FACT: Missing the SOL Is Almost Always Fatal to Your Claim

Courts enforce statute of limitations strictly. Very limited exceptions exist: discovery of fraud, minority tolling (children's claims may be extended in some states), or deliberate concealment of the cause of death. Do NOT rely on exceptions — treat your state's deadline as absolute. [Source: Wrongful death statutes — all 50 states. Cornell LII. law.cornell.edu/wex/wrongful_death_statute]

MY DEADLINE TRACKER — COMPLETE IMMEDIATELY

Date of Death _____

Your State _____

SOL Period (from table below) _____

YOUR FILING DEADLINE DATE _____

Government Vehicle? (Y/N) _____

FTCA Admin Claim Deadline _____

State Notice Deadline _____

Attorney Retained? _____

★ States marked with ★ have 1-year or shorter deadlines. If you are in one of these states, contact an attorney immediately.

State	SOL	Primary Filers	Gov't Notice	Key Notes
Alabama	2 yrs	Spouse, children, parents, siblings	6 months	Contributory negligence — any fault bars claim
Alaska	2 yrs	Spouse, children, parents	120 days	Pure comparative negligence
Arizona	2 yrs	Spouse, children, parents, estate Surviving spouse or next of kin	180 days	Pure comparative negligence
Arkansas	3 yrs	Spouse, children, parents, dependents	6 months	Modified comparative (50% bar)
California	2 yrs	Spouse, children, parents	6 months (gov't)	Government claim must be filed within 6 months of incident
Colorado	2 yrs		180 days	Non-economic cap: \$250K–\$500K (CRS §13-21-102.5)

State	SOL	Primary Filers	Gov't Notice	Key Notes
Connecticut	2 yrs	Spouse, children, parents, next of kin	6 months	Modified comparative (51% bar)
Delaware	2 yrs	Spouse, children, parents, siblings	1 year	Modified comparative (51% bar)
Florida	2 yrs	Spouse, children, parents	3 years (state)	Modified comparative since 2023. Must go through estate — no direct family claim
Georgia	2 yrs	Estate representative for family	12 months	Pure comparative negligence
Hawaii	2 yrs	Spouse, children, parents	6 months	Modified comparative (50% bar)
Idaho	2 yrs	Heirs or personal representative Surviving spouse or next of kin	6 months	No non-economic caps in general PI
Illinois	2 yrs	Spouse, children, parents	1 year	Modified comparative (51% bar)
Indiana	2 yrs	Estate for benefit of spouse/children/parents	180 days	Modified comparative (51% bar)
Iowa	2 yrs	Estate or surviving heirs	6 months	
Kansas	2 yrs	Estate personal representative	120 days	Non-economic cap applies (KSA §60-19a02)
Kentucky ★	1 yr ★	Spouse, children, parents, siblings Personal representative of	1 year	ONE-YEAR DEADLINE — ACT IMMEDIATELY
Louisiana ★	1 yr ★	estate Estate for	1 year	ONE-YEAR — Called 'prescriptive period'
Maine	2 yrs	spouse/children/parents Spouse, children, parents	180 days	Modified comparative (51% bar)
Maryland	3 yrs	Personal representative Trustee for benefit of	1 year	Contributory negligence — any fault bars claim
Massachusetts	3 yrs	survivors Personal representative	3 years	Modified comparative (51% bar)
Michigan	3 yrs	Spouse, children, parents	6 months	Hybrid negligence system
Minnesota	3 yrs	Heirs or personal representative	180 days	Modified comparative (51% bar)
Mississippi	3 yrs	Personal representative	1 year	Pure comparative negligence
Missouri	3 yrs	Heirs or personal representative	90 days	Non-economic cap (RSMo §538.210)
Montana	3 yrs	Spouse, children, parents Administrator of estate	6 months	Pure comparative negligence
Nebraska	2 yrs		1 year	Total damages cap of \$500,000
Nevada	2 yrs		2 years	Pure comparative negligence
New Hampshire	3 yrs		3 years	Modified comparative (51% bar)
New Jersey	2 yrs		90 days (mun.) / 1 yr (state)	Modified comparative (51% bar)

State	SOL	Primary Filers	Gov't Notice	Key Notes
New Mexico	3 yrs	Personal representative	90 days (mun.) / 1 yr 90 days (state)	Pure comparative negligence
New York	2 yrs	Personal representative	1 year	Pure comparative negligence
North Carolina	2 yrs	Personal representative	180 days	Contributory negligence — any fault bars claim
North Dakota	2 yrs	Personal representative	180 days	Modified comparative (50% bar)
Ohio	2 yrs	Personal representative	2 years	Non-economic cap (ORC §2315.18)
Oklahoma	2 yrs	Personal representative	1 year	Modified comparative (51% bar)
Oregon	3 yrs	Personal representative	180 days	Modified comparative (51% bar)
Pennsylvania	2 yrs	Personal representative	6 months	Modified comparative (51% bar)
Rhode Island	3 yrs	Spouse, children, parents	3 years	Pure comparative negligence
South Carolina	3 yrs	Spouse, children, parents, heirs	3 years	Modified comparative (51% bar)
South Dakota	3 yrs	Personal representative	6 months	Slight/gross negligence standard
Tennessee ★	1 yr ★	Surviving spouse or next of kin	1 year	ONE-YEAR DEADLINE — ACT IMMEDIATELY
Texas	2 yrs	Spouse, children, parents, siblings	6 months	Modified comparative (51% bar)
Utah	2 yrs	Heirs or personal representative	1 year	Modified comparative (50% bar)
Vermont	2 yrs	Personal representative	6 months	Modified comparative (51% bar)
Virginia	2 yrs	Personal representative	1 year	Contributory negligence — any fault bars claim
Washington	3 yrs	Personal representative	3 years	Pure comparative negligence
Washington D.C.	2 yrs	Personal representative	6 months	Contributory negligence
West Virginia	2 yrs	Heirs or personal representative	2 years	Modified comparative (51% bar)
Wisconsin	3 yrs	Personal representative	120 days	Modified comparative (51% bar)
Wyoming	4 yrs		2 years	Longest SOL in the USA

■ LEGAL FACT: FTCA Government Cases — Additional Timing Requirements

Under 28 U.S.C. §2675, if a federal government vehicle or employee caused the death, your family CANNOT file a lawsuit until you have FIRST filed Standard Form 95 (SF-95) with the responsible federal agency. The agency has 6 months to respond. The overall 2-year window begins at the date of death — but because of the 6-month agency review period, your actual timeline is tighter. See Section 8 for the complete process. [Source: 28 U.S.C. §2675. law.cornell.edu/uscode/text/28/2675]

SECTION 5

Evidence Preservation Protocol

Act Before It Disappears — Your Family's Legal Foundation

In any wrongful death case, evidence is the foundation of your family's claim. Some of the most important evidence — dashcam footage, trucking company electronic data, surveillance video — is automatically overwritten within hours or days if no formal preservation request is made. This section tells you what exists, where it is, and how to protect it.

Evidence	Location	Destruction Timeline	How to Preserve
Dashcam footage (other driver/nearby)	Vehicles, businesses, police vehicles	24–72 hours — URGENT	Preservation letter same day; attorney subpoena immediately
Commercial truck ECM/ELD data (black box)	Trucking company servers, in-cab ELD device	ELD records: 6 months (49 CFR §395). Some ECM data overwritten in days — URGENT	Preservation letter + attorney subpoena immediately. ECM shows speed, braking, hours driven.
Surveillance video (businesses, traffic cameras)	Private businesses, municipalities, DOT cameras	24–72 hours — URGENT	Attorney sends preservation letters same day; identify all cameras within 0.25 mile of scene
Police accident report	Responding police department	Available 3–10 business days; permanent retention	Request certified copy; review for errors; ask attorney about corrections if needed
Driver's cell phone records	Cell carrier (AT&T, Verizon, T-Mobile, etc.)	Call records 18 months; text content varies by carrier	Attorney subpoenas carrier immediately — establishes whether driver was distracted at impact
Autopsy report & toxicology	County medical examiner / coroner office	Weeks to months to complete; retained permanently	Family has legal right to request; contact county medical examiner's office directly
Truck driver qualification file (49 CFR Part 391)	Trucking company records department	Retained 3 years after driver leaves; may be destroyed sooner	Preservation letter + subpoena; shows driver's training history, medical certification, MVR

■ LEGAL FACT: The Spoliation Letter — Creating Legal Duty to Preserve

Spoliation refers to the destruction or failure to preserve evidence relevant to foreseeable litigation. Once a party receives formal written notice that evidence is relevant to a claim, they have a legal duty to preserve it. If a trucking company or defendant destroys evidence AFTER receiving a preservation letter, courts may impose sanctions — including allowing the jury to draw a negative inference against the destroyer (adverse inference instruction). See Appendix B for the ready-to-send preservation letter template. [Source: Spoliation doctrine — federal common law. Cornell LII principles of evidence law.]

EVIDENCE INVENTORY CHECKLIST — FILLABLE

Evidence Item	Date Requested/Preserved	By Whom	Status / Notes

SECTION 6

What Damages Can Your Family Recover?

Economic + Non-Economic + Tax Treatment — A Complete Framework

■ COMPASSION NOTE: On Financial Compensation

Many families feel uncomfortable thinking about money in the context of losing a loved one. That discomfort is completely human. What we ask you to consider: the financial compensation from a wrongful death claim is not about placing a dollar value on your loved one's life. It is about ensuring that the family who depended on them is not left financially vulnerable because of someone else's negligence. It is about your family's security. It is about honoring the practical love your loved one had for all of you.

PART A — ECONOMIC DAMAGES (Calculable Financial Losses)

Lost Lifetime Earnings

The most significant economic damage in most wrongful death cases. Economic experts calculate: Annual income × Work-life expectancy years × Projected salary growth, then discounted to present value. Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics data and actuarial work-life expectancy tables provide the foundational numbers. For a 40-year-old with 25 working years remaining, this calculation can reach into the millions. [Source: BLS.gov Occupational Employment Statistics (bls.gov/oes/); work-life expectancy actuarial tables]

Lost Employee Benefits

Health insurance provided for the family, employer-matched retirement contributions (401k, pension), life insurance, disability coverage, stock options, and other employment benefits. Calculated separately and added to lost wages. Often 25%–40% of base salary in total value.

Medical Bills (Final Injury/Illness)

All medical expenses from the accident through the date of death: emergency room, surgery, ICU, ambulance, rehabilitation, medications. Recoverable in the survival action and/or wrongful death claim depending on state law.

Funeral and Burial Expenses

Recoverable in virtually all states as a direct economic damage in wrongful death claims. Document all: funeral home services, burial plot, headstone, transportation, officiating services, flowers, death certificates. The average U.S. funeral costs \$7,000–\$12,000 — all of this is recoverable.

Household Services

The monetary value of services the deceased provided at home: lawn care, home maintenance/repairs, cooking, childcare, transportation of children, elder care, financial management. Economic experts use BLS Bureau of Labor Statistics wage rates to calculate replacement service costs.

PART B — NON-ECONOMIC DAMAGES (Qualitative Losses)

Loss of Companionship, Love and Society

The most personal category — the loss of the love, comfort, care, and companionship the deceased provided. A parent's loss of a child. A child's loss of a parent. A spouse's loss of their partner. These are real and compensable in all 50 states. Courts and juries take this seriously.

Loss of Consortium

Specific to the surviving spouse — the loss of the marital relationship including companionship, affection, society, and assistance. Legally distinct from loss of companionship in most states. Recognized in virtually all states. [Source: Cornell LII — loss of consortium. law.cornell.edu/wex/loss_of_consortium]

Loss of Parental Guidance

Recoverable by minor children — the loss of future guidance, education, training, and moral instruction the parent would have provided over the child's lifetime. Courts use life expectancy tables and the children's ages to project this loss over time.

Grief, Mental Anguish, and Emotional Distress

Recognized in most states as separately recoverable non-economic damages. Note: Some states (such as California) do not allow recovery specifically for grief in wrongful death claims — while others allow substantial awards. Verify your state's rules with your attorney.

Punitive Damages

Awarded in cases of especially reckless, malicious, or fraudulent conduct — to punish the defendant and deter future conduct. Under *State Farm v. Campbell*, 538 U.S. 408 (2003), the U.S. Supreme Court held that single-digit multipliers (up to 9x compensatory damages) comport with due process. Note: Punitive damages are NOT available in FTCA cases against the federal government (28 U.S.C. §2674).

■ LEGAL FACT: Your Wrongful Death Settlement Is Tax-Free Under IRS §104(a)(2)

Under IRC §104(a)(2) (IRS Final Regulations effective January 23, 2012), damages received 'on account of personal physical injuries or physical sickness' — including wrongful death — are excluded from gross income whether paid as lump sum or structured settlement. This means: lost earnings compensation, funeral expenses, and loss of companionship awards are generally federal income TAX-FREE. EXCEPTION: Punitive damages are taxable. Interest on delayed payments may also be taxable. Your settlement agreement should specify payments are 'on account of personal physical injuries' to ensure maximum tax-free treatment. [Source: IRC §104(a)(2); IRS Final Regulations Jan 23, 2012; irs.gov]

FAMILY DAMAGES INVENTORY — FILLABLE

Deceased's Annual Income (verified) _____ Y_e_a_r_s_ to Retirement (estimate) _____

Annual Benefits Value (health ins, 401k, et_c_) _____ M_e_d_i_c_a_l Bills — Final

Injury/Illness _____ Funeral & Burial Costs (documented) _____ L_o_s_t_H_ousehold

Services (annual valu_e_) _____ Minor Children (names / ages) _____ T_O_T_A_L_ ESTIMATED

DAMAGES

Describe Non-Economic Impact on Family:

SECTION 7

Special Case — Commercial Truck Wrongful Death

FMCSA Federal Regulations + Evidence + Multiple Liable Parties

If your loved one was killed in an accident involving a commercial truck — a semi-truck, 18-wheeler, tractor-trailer, or any large commercial vehicle — your case is fundamentally different from a standard car accident wrongful death case. Commercial trucking is one of the most heavily regulated industries in the United States, and violations of those regulations create clear, documented pathways to liability.

FMCSA REGULATIONS THAT ESTABLISH LIABILITY — FOUR KEY PARTS

49 CFR PART 395 HOURS OF SERVICE	Limits driving to 11 hours within a 14-hour on-duty window; requires minimum 10 consecutive hours off-duty before driving again. Electronic Logging Devices (ELDs) required since December 18, 2017. Motor carriers must retain ELD records for 6 months. A fatigued driver who violated HOS rules — and whose carrier failed to enforce compliance — creates direct company liability. HOS data is among the first and most critical evidence to preserve in any truck accident case. [Source: fmcsa.dot.gov/regulations/hours-of-service ; 49 CFR Part 395]
49 CFR PART 391 DRIVER QUALIFICATION FILES	Every commercial driver must have a complete qualification file: employment application, motor vehicle record (MVR) check, medical examiner's certificate (DOT physical), road test documentation, and annual driving record review. Files maintained during employment plus 3 years after departure. An unqualified driver, a driver with a history of violations the carrier ignored, or a driver who failed a required medical exam creates significant negligent hiring/entrustment liability. [Source: fmcsa.dot.gov/safety/driver-safety ; 49 CFR Part 391]
49 CFR PART 396 VEHICLE MAINTENANCE	Requires systematic inspection, repair, and maintenance programs for every commercial motor vehicle. Annual inspection minimum required under §396.17. Records retained for 1 year plus 6 months after vehicle leaves the carrier's control. A truck with known brake defects, tire failures, or lighting problems — that the carrier failed to repair — creates direct liability for the motor carrier. [Source: fmcsa.dot.gov/regulations ; 49 CFR Part 396]
49 CFR PART 382 DRUG AND ALCOHOL TESTING	Mandates pre-employment, post-accident (REQUIRED when there is a fatality), random (50% of drivers for drugs, 10% for alcohol annually), and reasonable suspicion testing. Annual MIS reports to FMCSA. Post-accident testing MUST be performed after any fatal crash. A carrier that failed to test properly — or a driver who was impaired — creates liability at both the driver and company levels. [Source: fmcsa.dot.gov/regulations/drug-and-alcohol-testing ; 49 CFR Part 382]

MULTIPLE LIABLE PARTIES IN TRUCK WRONGFUL DEATH CASES

Party	Basis for Liability	Insurance / Resources
Truck Driver	Direct negligence — fatigue, distraction, substance use, HOS violations, speeding	Personal liability; typically limited individual assets
Motor Carrier (Trucking Company)	Vicarious liability for driver's acts; negligent hiring/training/entrustment; HOS, DQ, maintenance, and drug testing violations	FMCSA minimum: \$750,000 (general freight); \$5M (hazmat). Many carriers: \$1M–\$5M policy. (49 CFR Part 387)
Cargo Loader / Shipper	If improper loading caused imbalance, spillage, or contributed to crash	Separate liability policy
Truck Manufacturer	If a defective component — brakes, tires, steering system, or other part — contributed to crash	Product liability; significant corporate resources
Third-Party Maintenance Company	If outsourced maintenance was negligently performed	Professional liability policy

■ ■ TAKE ACTION: If a Commercial Truck Was Involved — Contact an Attorney Within 24 Hours

Trucking companies have legal teams that begin protecting their interests immediately after a fatal crash. Post-accident drug and alcohol testing must occur within strict windows under 49 CFR Part 382. ELD and ECM data begins to cycle. Do not wait. Ask your attorney to send preservation letters demanding: ECM data, ELD records for preceding 180 days, driver qualification file, drug/alcohol testing records, all maintenance records for the vehicle, dashcam footage, and dispatch communications. [Source: 49 CFR Part 395 (ELD records: 6 months); 49 CFR Part 391 (DQ file: 3 years); 49 CFR Part 382]

SECTION 8

Government Vehicle Cases — The FTCA Process

Standard Form 95 + 28 U.S.C. §2675 — Mandatory Administrative Claim

If your loved one was killed in an accident involving a vehicle owned or operated by the federal government — a U.S. Postal Service truck, military vehicle, federal law enforcement vehicle, VA hospital transport, or any federal employee driving a government vehicle on official duty — your case is governed by the Federal Tort Claims Act (FTCA). The FTCA has mandatory procedural requirements that are strictly enforced.

■ LEGAL FACT: 28 U.S.C. §2675 — Mandatory Administrative Claim Before Lawsuit

The law states: 'An action shall NOT be instituted upon a claim against the United States for money damages for...death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, UNLESS the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing.' Filing a lawsuit before completing the administrative process will result in dismissal. [Source: 28 U.S.C. §2675. law.cornell.edu/uscode/text/28/2675]

STEP 1

Identify the Federal Agency

Determine which federal agency owned the vehicle or employed the responsible party. Examples: USPS (postal trucks), Department of Defense (military), VA (hospital transport), federal law enforcement (FBI, DEA, ICE, Border Patrol), national parks. Important: Federal contractors may NOT be covered by FTCA — verify with attorney.

STEP 2

Obtain Standard Form 95 (SF-95)

Download Standard Form 95 — 'Claim for Damage, Injury, or Death' — from the relevant federal agency's website. This is the official administrative claim form. Under 28 CFR §14.2, a claim is 'presented' when the agency receives a completed SF-95 accompanied by a claim for a specific dollar amount ('sum certain'). See Appendix C for a complete guide to completing SF-95.

STEP 3

File SF-95 Within 2 Years of Death

The administrative claim must be filed within 2 years of the date the claim accrued (generally the date of death). Because the agency then has 6 months to respond before you can sue, your effective window to file suit is significantly tighter than 2 years. File early. Submit SF-95 to the federal agency whose employee or vehicle caused the death.

STEP 4***Wait for Agency Response — Up to 6 Months***

The agency has 6 months to respond. If the agency formally denies the claim in writing, you may file a federal district court lawsuit within 6 months of the denial. If the agency does NOT respond within 6 months, under 28 U.S.C. §2675, you may treat the non-response as a final denial and file suit at your option.

STEP 5***File Lawsuit If Necessary***

After the administrative process is complete (denial received or 6 months elapsed), your attorney files a lawsuit in federal district court. Note: The United States is NOT liable for punitive damages under 28 U.S.C. §2674, but IS liable for compensatory wrongful death damages measured by actual pecuniary losses.

STATE AND LOCAL GOVERNMENT CASES — DIFFERENT RULES

If the vehicle was owned by a state or local government — a state police vehicle, city bus, county maintenance truck, or municipal employee's vehicle — the rules are different from FTCA. Each state has its own government tort claims act, and virtually ALL require a formal notice of claim filed within a short window — typically 60–180 days from the date of death or injury. Missing this notice deadline permanently bars the claim against the government in most states. See Appendix A for your state's government notice deadline.

GOVERNMENT CASE CHECKLIST — FILLABLE

- Identify whether the vehicle was federal or state/local government
- Federal: Download SF-95 from the responsible agency's website (see Appendix C for guide)
- Federal: File SF-95 with the responsible agency within 2 years of death date
- Federal: Track your 6-month agency response window
- State/Local: Verify your state's notice of claim deadline (see Appendix A — often 60–180 days)
- State/Local: File formal notice of claim within required window
- Engage a wrongful death attorney with government liability experience
- Confirm: Federal government is NOT liable for punitive damages (28 U.S.C. §2674)

SECTION 9

Wrongful Death vs. Workers' Compensation

Coordinating Multiple Benefit Streams for Your Family

If your loved one was killed while on the job, your family may have access to multiple sources of financial support simultaneously. Understanding how these interact ensures your family maximizes total recovery without inadvertently creating offset or waiver problems.

	Workers' Comp Death Benefits	Wrongful Death Civil Lawsuit
Who pays	Employer's workers' compensation insurance carrier	The at-fault party: employer (if eligible), third-party contractor, equipment manufacturer, or others
What you receive	Weekly/monthly death benefits (typically 2/3 of wages); burial expenses; medical bills	Full lost lifetime earnings, non-economic damages, potentially punitive damages
Can you sue the employer?	Workers' comp is usually the EXCLUSIVE remedy against the employer — you cannot separately sue the employer in most states	YES — against THIRD PARTIES (equipment manufacturers, contractors, property owners) even when WC covers the employer
Can you pursue both?	YES — file WC claim AND civil third-party claim simultaneously where applicable. If you win a civil judgment, the WC carrier may seek reimbursement from that judgment.	YES — the civil lawsuit is independent of the WC claim. Coordinate carefully with your attorney.

SSA SURVIVORS BENEFITS — AVAILABLE IMMEDIATELY AND SEPARATELY

Social Security survivors benefits are available to your family regardless of any civil lawsuit or workers' compensation claim. They are funded by the deceased's Social Security tax contributions and do not affect your right to pursue wrongful death or workers' comp. Apply immediately — benefits do not pay retroactively.

Who Qualifies	Monthly Benefit Amount	How to Apply
Surviving spouse, age 60+ (age 50+ if disabled)	71.5%–100% of deceased's benefit (depends on age at application)	Call 1-800-772-1213 (TTY 1-800-325-0778) Mon–Fri 8am–7pm. Cannot apply online.
Surviving spouse any age caring for deceased's child under 16	75% of deceased's benefit	Same — call SSA
Unmarried children under 18 (or up to 19 if full-time student)	75% per child (subject to family maximum 150%–180%)	Same — call SSA
Children with disability (began before age 22)	75% of benefit (no age limit)	Same — call SSA
Dependent parents, age 62+	82.5% (one parent) / 75% each (two parents)	Same — call SSA
One-time lump sum death payment	\$255 to qualifying spouse or child (apply within 2 years)	Call SSA immediately

[Source: SSA.gov Survivors Benefits: ssa.gov/survivor/eligibility; ssa.gov/survivor/amount]

■ ■ **TAKE ACTION: Apply for SSA Survivors Benefits Now — Benefits Are NOT Retroactive**

SSA survivors benefits begin the month you apply — not the month of the death. Every month you wait is a month of benefits your family does not receive. Call 1-800-772-1213 as soon as possible. You cannot apply online. The funeral home may report the death to SSA, but you still need to call to initiate the survivors benefits application. [Source: SSA.gov. ssa.gov/survivor]

SECTION 10

The Probate & Estate Process

How Settlement Funds Flow to Your Family

Understanding the probate process as it relates to your wrongful death claim helps your family prepare for what comes after a settlement. This section addresses the most common questions families have about how money is distributed and how children's funds are protected.

HOW WRONGFUL DEATH PROCEEDS FLOW TO YOUR FAMILY

Claim Type	How Money Flows	Court Approval Required?
Wrongful Death Claim	In most states: proceeds go DIRECTLY to statutory beneficiaries (spouse, children, parents) — NOT through the estate. Wrongful death proceeds are generally NOT subject to the deceased's debts.	YES — if minor children are beneficiaries, court approval required in all states
Survival Action	Proceeds go INTO the estate and are distributed per the will or state intestacy law. Subject to estate debts and creditors.	Probate court oversight required. Judge supervises distribution.

■ COMPASSION NOTE: Court Approval for Children Is a Protection — Not an Obstacle

Having a judge review the settlement allocation to minor children protects their future. The court ensures that children's funds cannot be improperly spent, accessed without authorization, or lost to adult creditors. The most common structure: a court-supervised blocked bank account or trust that the child can access at age 18. Your attorney manages this process.

HOW WRONGFUL DEATH PROCEEDS ARE DISTRIBUTED

Family Situation	Typical Distribution	State Variation
Spouse + Minor Children	Shared between spouse and children. Exact split varies widely by state (50/50, 1/3 spouse + 2/3 children, etc.)	Highly variable — verify with attorney for your specific state
Spouse Only (no children)	Entire recovery to surviving spouse in most states	Some states also include deceased's parents
Children Only (no spouse)	Divided equally among all children in most states	Equal division regardless of age in most states
No Spouse or Children	Parents of deceased in most states	Some states include siblings if no parents

SECTION 11

Choosing a Wrongful Death Attorney

The Vetting Guide — 12 Questions to Ask + Red Flags

Most wrongful death cases require an attorney. The complexity of these cases — multiple defendants, evidence preservation deadlines, damages calculations, probate proceedings, and possible FMCSA or FTCA complications — makes competent legal representation essential in almost every situation. You have the right to consult multiple attorneys, and most offer free consultations with no obligation to hire.

WHAT TO BRING TO YOUR FREE CONSULTATION

- Death certificate (or copy)
- Police or accident investigation report (or report number)
- Names and contact information of any witnesses you know of
- Insurance information for all parties (your family's policy and other party's if known)
- The deceased's recent pay stubs or tax returns (for lost earnings calculation)
- Any correspondence from insurance companies or other parties
- Your written account of what happened — what you know about the accident
- A list of all family members who might be beneficiaries
- Any photographs of the accident scene or vehicles

12 QUESTIONS TO ASK EVERY WRONGFUL DEATH ATTORNEY

1. How many wrongful death cases specifically have you handled — and what were the outcomes?
2. Do you have experience with cases involving commercial trucks, government vehicles, or workplace deaths (whichever applies to my case)?
3. What is your assessment of liability in my family's specific situation?
4. What is the realistic value range for this case based on what you know so far?
5. What is your contingency fee percentage under ABA Model Rule 1.5(c) — and does it change if the case settles vs. goes to trial?
6. Are litigation costs (experts, depositions, filing fees) deducted BEFORE or AFTER your fee is calculated? (This can mean thousands of dollars difference.)
7. Who will actually handle my file day-to-day — you personally, or an associate or paralegal?
8. What is the realistic timeline for a case like mine — from today to resolution?
9. What evidence needs to be preserved or obtained immediately before I leave this consultation?
10. Do I have any lien exposure (Medicare, Medicaid, workers' comp) and how will you handle those obligations?
11. What are the weaknesses in my family's case and how would you address them?
12. If we cannot reach a fair settlement, are you prepared and resourced to file suit and go to trial?

RED FLAGS — APPROACH WITH CAUTION

- The attorney pressures you to sign a retainer agreement before you are ready or before answering all your questions
- The attorney promises a specific settlement amount before fully reviewing the case
- The attorney refuses to explain the fee structure or is vague about how costs are calculated
- The attorney has no verifiable experience with wrongful death cases specifically
- The attorney minimizes the urgency of evidence preservation when a commercial truck was involved
- The attorney suggests you don't need legal representation and can handle it yourself (for a wrongful death case)
- The attorney cannot explain who will specifically be working on your file

■ LEGAL FACT: Your Rights Under ABA Model Rule 1.5(c)

Under ABA Model Rule 1.5(c), your contingency fee agreement MUST be in writing, signed by you, and must state: (1) the fee percentage for settlement before trial, (2) the fee percentage if trial is necessary, (3) whether litigation costs are deducted before or after the fee is calculated. On a \$500,000 wrongful death settlement with \$30,000 in costs, the difference between 'costs before fee' vs. 'costs after fee' can exceed \$10,000 from your family's share. Read every line before signing. [Source: ABA Model Rules of Professional Conduct, Rule 1.5(c). americanbar.org]

SECTION 12

Financial Planning After Settlement

Protecting Your Family's Future — Tax Treatment + Structure + Children's Trust

■ COMPASSION NOTE: On Receiving a Settlement

Receiving a wrongful death settlement is not a happy event. It is the financial recognition of an irreplaceable loss. Many families find the experience of receiving a large sum — after months or years of legal proceedings — emotionally complex and practically overwhelming. This section gives you the framework to make thoughtful decisions that honor your loved one's wishes for your family's security.

LUMP SUM vs. STRUCTURED SETTLEMENT

	Lump Sum	Structured Settlement
What it is	Single payment of total settlement amount at case resolution	Series of periodic payments over time (monthly, annual, or in scheduled lump sums)
Tax treatment	Tax-free under IRC §104(a)(2) — physical injury settlement	Tax-free under IRC §104(a)(2) — structured settlement annuity payments remain tax-free
Best for	Families with immediate financial needs; families with financial management experience; families with trusted financial advisors	Families with minor children (guarantees future income); families concerned about spending discipline; long-term income security
Caution	'Sudden wealth' phenomenon — families without financial guidance may spend settlement faster than expected	Once structured settlement is established, it is extremely difficult to access funds outside the schedule

PROTECTING MINOR CHILDREN'S SHARE

In any wrongful death settlement involving minor children, the court must approve both the settlement amount and the plan for managing the children's funds. The most common structures:

- Court-supervised blocked bank account — funds held in a blocked federally insured account until child reaches age 18
- Court-supervised trust — an attorney-drafted trust with a designated trustee; can include provisions for education and health care before age 18
- Structured settlement annuity in the child's name — provides guaranteed payments at designated ages (18, 21, 25, etc.)
- All structures require court approval at settlement and may require annual accountings

TAX TREATMENT — YOUR COMPLETE GUIDE UNDER IRS §104

Settlement Component	Tax Treatment	Source
Lost lifetime earnings	TAX-FREE — IRC §104(a)(2)	IRS Final Reg. Jan 23, 2012; irs.gov

Settlement Component	Tax Treatment	Source
Funeral & burial expenses	TAX-FREE — IRC §104(a)(2)	IRS.gov settlements guidance
Loss of companionship / consortium	TAX-FREE — flows from physical injury (wrongful death)	IRC §104(a)(2); irs.gov
Medical bills (final injury)	TAX-FREE — IRC §104(a)(2)	IRS.gov settlements guidance
Punitive damages	TAXABLE — except in states where punitive damages are the only remedy (IRC §104(c)) TAXABLE — interest is not compensation for physical injury	IRC §104(a)(2) exception for punitive; irs.gov IRS.gov
Interest on delayed payments	Partially taxable if total income exceeds thresholds — SSA sends Form SSA-1099	SSA.gov; IRS Publication 915
SSA survivors benefits		

■ ■ TAKE ACTION: Consult a Fee-Only Financial Planner Before You Spend

A fee-only financial planner (one who does NOT earn commissions on products they recommend) can help your family make decisions about the settlement that align with your long-term needs. Look for a CERTIFIED FINANCIAL PLANNER (CFP) with experience in sudden wealth or personal injury settlement management. The NAPFA (National Association of Personal Financial Advisors) at napfa.org maintains a directory of fee-only advisors. [Source: NAPFA fee-only advisor directory: napfa.org; CFP Board: cfp.net]

Appendix A: All 50 States + DC — Wrongful Death SOL Quick Reference

This appendix provides a quick-reference summary. See Section 4 for the full table with detailed notes. States marked ★ have 1-year deadlines — act immediately.

State	SOL	State	SOL
Alabama	2 yrs	Nebraska	2 yrs
Alaska	2 yrs	Nevada	2 yrs
Arizona	2 yrs	New Hampshire	3 yrs
Arkansas	3 yrs	New Jersey	2 yrs
California	2 yrs	New Mexico	3 yrs
Colorado	2 yrs	New York	2 yrs
Connecticut	2 yrs	North Carolina	2 yrs
Delaware	2 yrs	North Dakota	2 yrs
Florida	2 yrs	Ohio	3 yrs
Georgia	2 yrs	Oklahoma	2 yrs
Hawaii	2 yrs	Oregon	3 yrs
Idaho	2 yrs	Pennsylvania	2 yrs
Illinois	2 yrs	Rhode Island	3 yrs
Indiana	2 yrs	South Carolina	3 yrs
Iowa	2 yrs	South Dakota	3 yrs
Kansas	2 yrs	Tennessee ★	3 yrs
Kentucky ★	2 yrs	Texas	1 yr ★
Louisiana ★	1 yr ★	Utah	2 yrs
Maine	1 yr ★	Vermont	2 yrs
Maryland	3 yrs	Virginia	2 yrs
Massachusetts	3 yrs	Washington	2 yrs
Michigan	3 yrs	Washington D.C.	3 yrs
Minnesota	3 yrs	West Virginia	2 yrs
Mississippi	3 yrs	Wisconsin	2 yrs
Missouri	3 yrs	Wyoming	3 yrs
Montana	3 yrs		4 yrs

Appendix B: Evidence Preservation Letter Template

This template should be sent via certified mail, return receipt requested, to all potentially liable parties immediately after a fatal accident. A licensed attorney should review and send this letter — or a more detailed version — on your family's behalf.

[YOUR NAME OR ATTORNEY'S NAME]
[Address / Law Firm]
[Date]

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

[Name of Trucking Company / Insurance Company / Opposing Party]
[Address]

RE: NOTICE OF CLAIM AND DEMAND TO PRESERVE ALL EVIDENCE
FATAL ACCIDENT INVOLVING [VEHICLE/PARTY] ON [DATE OF ACCIDENT] AT [LOCATION]

Dear [Name / Legal Department]:

Please be advised that I represent [or: I am the family representative of] the estate and surviving family of [DECEASED'S NAME], who was fatally injured on [DATE] at [LOCATION]. It is anticipated that litigation will be filed arising from this incident.

You are hereby directed to immediately PRESERVE, PROTECT, AND NOT DESTROY OR ALTER any and all evidence in your possession, custody, or control, including but not limited to:

- All Electronic Control Module (ECM), Engine Control Unit (ECU), and Electronic Logging Device (ELD) data from any commercial vehicle involved (49 CFR Part 395)
- All driver logs, records of duty status, and hours-of-service records for 180 days preceding the accident (49 CFR Part 395)
- The complete Driver Qualification File for any driver involved (49 CFR Part 391)
- All drug and alcohol testing records, pre-employment, post-accident, and random (49 CFR Part 382)
- All vehicle inspection, maintenance, and repair records (49 CFR Part 396)
- All dashcam, forward-facing camera, and interior camera footage from any vehicle involved
- All GPS tracking data, geolocation records, and telematics data
- All dispatch records, communications, and load assignments related to this trip
- All insurance policies, coverage declarations, and claims correspondence
- Any post-accident internal communications, reports, or investigations
- All surveillance footage from any camera that may have captured the accident or surrounding area
- The vehicles themselves – do not repair, alter, or dispose of any vehicle

Failure to preserve this evidence after receipt of this notice may constitute spoliation of evidence, which can result in court sanctions including adverse inference instructions against your company/client at trial.

Please confirm receipt of this notice in writing to the address above.

Sincerely,

[Signature]
[Printed Name / Attorney Name]
[Phone / Email]

Appendix C: Standard Form 95 (SF-95) — FTCA Administrative Claim Guide

■ LEGAL FACT: What Is SF-95?

Standard Form 95 — 'Claim for Damage, Injury, or Death' — is the official FTCA administrative claim form. Under 28 CFR §14.2, presenting a completed SF-95 accompanied by a sum certain to the responsible federal agency is what legally 'presents' your claim for purposes of 28 U.S.C. §2675. Without a properly filed SF-95, no lawsuit against the federal government can proceed. [Source: 28 CFR §14.2. law.cornell.edu/cfr/text/28/14.2; 28 U.S.C. §2675. law.cornell.edu/uscode/text/28/2675]

Box 1 — Name of Claimant	Your name, or if filing on behalf of a deceased person's estate: '[Your Name] as Personal Representative of the Estate of [Deceased's Name].'
Box 2 — Address of Claimant	Your current mailing address.
Box 3 — Type of Employment	Mark 'Civilian' (most families filing wrongful death claims).
Box 4 — Date of Birth	Claimant's date of birth.
Box 6 — Date and Day of Accident Box 7 — Time (A.M. or P.M.)	The exact date of the fatal incident. Time of incident if known.
Box 8 — Basis of Claim	Describe the accident, the federal employee/vehicle involved, and how it caused the death. Be thorough and factual. Include: location, circumstances, injuries sustained, and that death resulted.
Box 10 — Property Damage (if any)	Describe any property damage (vehicles) if applicable.
Box 11 — Personal Injury	Describe the injuries sustained by the deceased from the accident.
Box 12 — Death	State explicitly: 'Wrongful death of [Name], who died on [date] as a direct result of injuries sustained in this incident.'
Box 14 — Amount Claimed (CRITICAL)	You must state a specific dollar amount — the 'sum certain.' This is the amount your family is claiming for all damages. You CANNOT recover more than the amount stated on the SF-95 unless the court allows amendment. Consult an attorney before entering this number.
Signature and Date	Sign and date the form. If you are the personal representative of the estate, include evidence of that authority (letters testamentary or letters of administration).

■ TAKE ACTION: File SF-95 With the Correct Agency — Not Just 'The Government'

The SF-95 must be filed with the SPECIFIC federal agency whose employee or vehicle was involved. For USPS: US Postal Service Claims Office. For military: appropriate branch claims office. For VA: VA Regional Counsel. For federal law enforcement: the specific agency (FBI, DEA, CBP). Under 28 CFR §14.2(b)(1), if filed with the wrong agency, it should be transferred — but do not rely on this. File with the correct agency from the start, via certified mail. [Source: 28 CFR §14.2. law.cornell.edu/cfr/text/28/14.2]

Appendix D: SSA Survivors Benefits Quick Reference

Who Can Receive Benefits	Benefit Amount	Age / Conditions
Surviving Spouse	71.5% to 100% of deceased's full retirement benefit amount (percentage depends on age at application)	Age 60 or older (Age 50 if you have a qualifying disability)
Surviving Spouse (caring for deceased's child)	75% of deceased's benefit	Any age if caring for deceased's child under age 16 or disabled child receiving benefits
Surviving Divorced Spouse	Same as surviving spouse (71.5%–100%)	Age 60+; marriage lasted at least 10 years (Age 50 if disabled)
Unmarried Child of Deceased	75% of deceased's benefit per child (subject to family maximum: 150%–180%)	Under age 18; or under 19 if full-time high school student; or any age with disability that began before age 22
Stepchild / Grandchild / Adopted Child	75% (subject to family maximum)	Same age requirements as unmarried child; under specific circumstances
Dependent Parent (of deceased worker)	82.5% (one surviving parent) / 75% each (two surviving parents)	Age 62 or older; were dependent on deceased for at least half of your support
One-Time Lump Sum Death Payment	\$255	To qualifying spouse or child; must apply within 2 years of death

HOW TO APPLY — CANNOT BE DONE ONLINE

Call: 1-800-772-1213 (TTY: 1-800-325-0778)

Hours: Monday through Friday, 8:00 a.m. to 7:00 p.m. local time

What to Have Ready When You Call:

- Deceased's Social Security number and proof of death (death certificate)
- Your Social Security number and proof of age (birth certificate)
- Proof of marriage or divorce if applicable
- Children's Social Security numbers and birth certificates
- Deceased's most recent W-2 or tax return
- Bank routing and account number for direct deposit

★ **IMPORTANT: SSA benefits are not retroactive from the date of death — they begin from the month you apply. Call as soon as possible. Do not delay. Every month without applying is a month of benefits permanently lost to your family. The funeral home may have already notified SSA of the death, but you must still call to initiate the survivors benefits application yourself. [Source: SSA.gov. ssa.gov/survivor]**

Appendix E: Complete Verified Sources Reference

- Cornell Law School LII — Wrongful death: law.cornell.edu/wex/wrongful_death
- Cornell Law School LII — Wrongful death action: law.cornell.edu/wex/wrongful_death_action
- Cornell Law School LII — Wrongful death statute: law.cornell.edu/wex/wrongful_death_statute
- Cornell Law School LII — Survival action: law.cornell.edu/wex/survival_action
- Cornell Law School LII — Loss of consortium: law.cornell.edu/wex/loss_of_consortium
- Cornell Law School LII — 28 U.S.C. §2675 (FTCA admin claim): law.cornell.edu/uscode/text/28/2675
- Cornell Law School LII — 28 U.S.C. §2674 (FTCA liability, no punitive): law.cornell.edu/uscode/text/28/2674
- Cornell Law School LII — 28 CFR §14.2 (SF-95 claim presentation): law.cornell.edu/cfr/text/28/14.2
- NHTSA — 2023 Traffic Fatalities (40,901): NHTSA Research Note DOT HS 813705. crashstats.nhtsa.dot.gov
- NHTSA — FARS (Fatality Analysis Reporting System): crashstats.nhtsa.dot.gov
- FMCSA — 49 CFR Part 395 (Hours of Service): fmcsa.dot.gov/regulations/hours-of-service
- FMCSA — 49 CFR Part 391 (Driver Qualification): fmcsa.dot.gov
- FMCSA — 49 CFR Part 396 (Vehicle Maintenance): fmcsa.dot.gov/regulations
- FMCSA — 49 CFR Part 382 (Drug and Alcohol Testing): fmcsa.dot.gov
- FMCSA — 49 CFR Part 387 (Minimum liability insurance requirements): fmcsa.dot.gov
- SSA.gov — Survivors Benefits eligibility: ssa.gov/survivor/eligibility
- SSA.gov — Survivors Benefits amounts: ssa.gov/survivor/amount
- SSA.gov — Survivors Benefits publication EN-05-10084: ssa.gov/pubs/EN-05-10084.pdf
- IRS.gov — Tax Implications of Settlements (IRC §104(a)(2)):
irs.gov/government-entities/tax-implications-of-settlements-and-judgments
- IRS — IRC §104(a)(2) Final Regulations (Federal Register 2012-1255, effective Jan 23, 2012)
- 26 USC §104 (uscode.house.gov) — Compensation for injuries or sickness
- State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408 (2003) — Punitive damages ratio:
law.cornell.edu/supremecourt/text/538/408
- BJS — Tort Bench and Jury Trials in State Courts, 2005. NCJ 228129. bjs.ojp.gov
- ABA Model Rules of Professional Conduct, Rule 1.5(c) — Contingency fee requirements: americanbar.org

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