

Suicide: When Others Are To Blame



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Contrary to what many people believe, a claim for wrongful death damages or benefits arising from suicide is possible if certain conditions are present. There are three major categories of compensable claims:

- 1) Outrageous and extreme conduct of an individual or individuals caused your loved one severe emotional distress leading them to suicide.
- 2) A person or organization that owed a special duty of care to protect your loved one from committing suicide failed to do so.
- 3) A work injury or worked related circumstances caused your loved one severe emotional distress leading to suicide.

These major categories have many types of claims within them. This article provides a general overview of common scenarios.

The article is not designed to list or analyze all possible scenarios and categories of wrongful death claims.

If you are a family member of a person who has died by suicide you are encouraged to contact a wrongful death lawyer so that your particular facts can be evaluated in light of current law.

Outrageous and Extreme Conduct

Outrageous and extreme conduct that causes severe emotional distress leading to suicide is a viable claim for wrongful death in many states, including California.

So the large issue is what constitutes extreme and outrageous conduct. In California, the conduct must “go beyond all possible bounds of decency such that the conduct can not be tolerated in a civilized society”. This definition makes the garden variety insults and threats not actionable. There must be horrendous acts to trigger liability.

Sexual assaults, assaults/battery, revenge porn, bullying and discrimination are common types of outrageous and extreme conduct that causes severe emotional distress leading to suicide. This list is not exhaustive but it is the most common.

Sexual Assaults

Today, we are seeing more and more cases being reported of instant extreme humiliation caused by photos and video posted to social media by perpetrators.

There have been cases of young people being drugged, stripped naked, and raped with photos and video posted or shared just moments after the event. New smartphone apps facilitate live broadcasting of these horrendous events. Severe emotional distress makes suicide seem like the victim’s only option.

Persons who knowingly re-publish videos and photos of the sexual assault are complicit in creating severe emotional distress.

The act of publishing and knowingly re-publishing sexual assaults is outrageous conduct that should never be tolerated in a civilized society.

Some reports indicate that 33% of sexual assault victims contemplate suicide and 11% attempt suicide. No specific numbers are available that

reflect the rates for persons whose sexual assault were posted social media, but the numbers are likely much higher.

Sexual assaults leading to suicide should be investigated by a wrongful death lawyer. A detailed review of the facts of the sexual assault may reveal liability on the part of the perpetrator, a premises owner or occupier, or others.

Physical Assaults/Battery

It is becoming very common for school yard fights to be filmed and videoed.

The supposed loser of the fight may become ridiculed and mocked by other students leading the victim to suffer severe emotional distress when comments are published to social media or are circulated via text messaging amongst peer groups.

The smartphone, an extremely useful tool, becomes a weapon in the hands of mental midgets and gossips who wish to belittle a person for an awkward or unsuccessful self defense.

When the embarrassment is too much to bear, the individual may take their own life. The person or person who caused the severe emotional distress, including the physical aggressor, should be held civilly liable for the damages sustained by the decedent’s heirs.

Revenge Porn/Private Sex Tapes

There are many sites on the internet that encourage the posting of photos and videos of ex-girlfriends. Reports of ex-boyfriends and spouses sending highly personal photos and videos to relatives, employers, and friends of the victim are way too common. The victim feels like his or her life has been ruined in an instant.

Thankfully, in California, revenge porn is a crime. In one case a Los Angeles man was convicted of posting nude photos of his ex-girlfriend on her employer's Facebook page.

Revenge porn crimes that lead to suicide should be investigated by a wrongful death lawyer.

Persons who knowingly re-publish highly personal and private videos and/or photos of the deceased person may be complicit in creating the emotional distress. Under certain circumstances they may be named in the wrongful death lawsuit.

Bullying

Bullying has been defined as use of force, threat, coercion to abuse, intimidate, or aggressively dominate others. Bullying has intensified in the last ten years in large part to mass access to social media.

Never has it been easier or faster to put down, shame and publicly humiliate a person. The fact that this can be done immediately with hundreds of friends and family members seeing the conduct only intensifies emotional distress.

Children can feel helpless when they are bullied by classmates or their peers. They have to go to school, so they have difficulty avoiding the aggressor and the aggressive conduct. Extreme depression and emotional distress ensues that may lead to suicide.

Workplace bullying is also common. The workplace can be a breeding ground for bullying and harassment. Often times the victim is being put down and shamed in front of co-workers by a person with more power or authority than the victim. The victim often desperately needs to keep the job and can't just walk from it. The

victim feels helpless and takes his or her own life.

Suicide as a result of bullying should be fully investigated to determine whether a premises owner, business owner, or organization is complicit in causing the severe depression leading to suicide. Persons who cause severe emotional distress or otherwise allow it to happen may be held personally responsible for your loved one's death.

Hate Crimes/Discrimination

Lesbian, gay, bisexual and transgender (LGBT) persons have significantly higher rates of suicide than the heterosexual population. LGBT persons suffer a disproportionately high number of hate crimes.

Outrageous conduct of the haters can lead to significant depression, isolation, and emotional distress.

When an LGBT person commits suicide the family members of the decedent have the right to investigate the death and determine the cause of their loved one's deep depression and suicide. It is not uncommon to find that specific persons caused the severe emotional distress leading to the suicide.

Racism is very much alive in the United States. Many times it starts with simple joking by a few co-workers or friends. Then the jokes become more and more overtly racial. Anger and frustration may give way to severe depression and isolation. For some the depression and isolation are too much to bear.

If your loved one committed suicide you have the right to understand why, and you have the right to determine if racism or hate speech or conduct was the cause of their deep depression.

Are Others Liable?

In addition to holding the aggressor or perpetrator personally accountable for your loved one's death, other persons and/or organizations may be held liable too. Persons whom assist, aid or facilitate the outrageous conduct may be accountable under certain circumstances.

Parental Liability

Parents whom negligently supervise their children have been found liable or held accountable in many of these cases.

When parents are aware of their child's habit or tendency to bully, fight or assault, or commit hate crimes, and they do nothing to prevent them from harming others, then the parents may be liable.

In California, parents are liable for the intentional acts of their minor children up to a certain dollar amount for each willful act.

In extreme cases, parents may be personally liable when they actively encourage or incite bullying, fighting, acts of racism and hate.

Employer Liability

If an employer hires a person with a criminal history or past and that person assaults, bullies, rapes, or discriminates against another person, the employer may be responsible for negligently hiring the worker or the acts may be considered a normal outgrowth incidental to the employment relationship such that the employer is liable for the employee's acts.

Re-publisher Liability

The law is designed to balance holding wrongdoers accountable while disallowing the liability of persons and organization who are mere observers. This is a fine line. Cases must be

reviewed and investigated individually and a full assessment of legal outcomes made before pursuing a wrongful death lawsuit arising from the suicide of an individual.

As a society we ask our courts to balance our First Amendment rights of free speech with the public policy of making wrongdoers accountable for all harm caused by their conduct. These can be difficult legal cases that require significant thought and consideration prior to filing a claim or lawsuit.

Special Relationships

If your loved one died by suicide because a teacher, parent, school administrator, health care provider, or psychiatrist failed to take action when they knew your loved one was suicidal you may have a claim for wrongful death.

The law imposes a special duty of care on teachers, school counselors, and school administrators, psychiatrist, physicians, hospitals, health care workers, convalescent homes, and mental care facilities.

As you can see, the facts of each case really determines whether the case should or should not be pursued.

Often times the grieving family is unable to cope with grief and conduct the investigation needed to determine the viability of the case. The family is therefore encouraged to seek

professional review and investigation of the facts by an experienced wrongful death lawyer.

Jail and In Custody Suicides

There have been many cases where men and women find themselves on the wrong side of the law. They get arrested for drugs, domestic disputes, or other crimes and their world comes crashing in so very fast.

In 2013 there were 967 deaths in local jails with as much as a third of those deaths being suicides. It is a known problem. Approximately 4,000 state and federal prisoners die each year while in custody. Approximately 6% of those deaths are attributed to suicide...so roughly 240 suicides.

A jailer has a duty to protect known suicidal inmates from committing suicide. Jailers cannot prevent all suicides. They, however, are not allowed to exhibit deliberate indifference for the health and safety of an inmate.

The family members of the deceased inmate should consult a wrongful death lawyer to determine if sufficient facts warrant pursuit of a legal claim.

Work Related Injury

If a work related injury causes severe depression that leads to suicide, there may be an actionable claim for death benefits under the workers' compensation system.

Chronic pain coupled with financial setbacks may create an irresistible impulse for an injured worker to take his or her own life. When this happens, persons who were partially and totally dependent on the injured worker for support may have a viable claim for workers' compensation death benefits.

Any and all suicides should be evaluated to determine if there was a prior work related accident or injury that caused the emotional state leading to suicide.

Richard Harris is the principal attorney of Rich Harris, A Law Corporation.

His practice is dedicated to helping individuals and families pursue their wrongful death claims against reckless motorists, greedy insurance companies, and careless government agencies.

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