Grief and Loss: Identifying and Proving Damages in Wrongful Death Cases

By Robert T. Hall and Mila Ruiz Tecala
Portland, Oregon 2009 (340 pages)

Reviewed by Jason W. Konvicka

In their exceptional new book, Robert T. Hall and Mila Ruiz Tecala prove that wrongful death cases involve much more than funeral expenses, medical bills, lost wages, and pain and suffering. Wrongful death cases stem from the loss of a human being, frequently under traumatic circumstance. Such a loss forever changes almost every aspect of the lives of those who are left behind to mourn. Truly understanding the depth of a client’s emotional pain is one of the toughest challenges for trial attorneys. Communicating that loss to a jury is an even greater challenge. Hall and Tecala show us how.

The authors first met in the mid-1980s when Hall represented a family in a wrongful death claim and Tecala was the family’s grief counselor. Over time, a relationship of trust formed and they have worked together on numerous wrongful death cases since. Relying on their vast experience, Hall and Tecala collaborated to write this book.

Robert Hall is one of Virginia’s most experienced trial lawyers. His prodigious litigation skills, which span both civil and criminal matters and have resulted in numerous landmark verdicts and decisions, and he has received almost every professional award and distinction. In the civil realm, Hall is well known for his groundbreaking work on wrongful death cases. For more than forty years, he has represented the families of those killed as a result of medical negligence, defective products, and motor vehicle accidents. Representing families during their darkest hours has become one of Hall’s true passions, and he has obtained a wealth of knowledge on the grief process as a result.

Mila Tecala, a nationally and internationally known grief counselor, has vast experience with the grieving process and has worked in many academic and clinical settings, including Georgetown University and the St. Francis Institute, now the Wendt Loss Counseling Center, in Washington, D.C., where she served as clinical director. As a clinician, she has developed an exceptional reputation helping people rebuild their lives after they experience the death of a loved one.

The book was written for trial attorneys. However, anyone interested in the grieving process or in how wrongful death cases are litigated will find the book both insightful and highly informative. The book is written in a style that is easy to read and understand. In addition, it is well organized and can serve as a quick reference.

In the preface, the authors state that “a death in a family is a death of that family as it was then constituted.” This fundamental concept is reflected throughout the book as the authors delve deeply into the impact of losing a loved one as a result of less-than-natural causes. The myth that all people grieve in a similar manner is quickly dispelled.

We learn that different family members grieve in different ways and on different timetables. Hall and Tecala also explain how a death changes the interrelationships between the surviving members of a family. For example, the death of one person can represent the loss of a spouse, parent, grandparent, and sibling. Each of the surviving family members — spouse, child, grandchild, and sibling — has suffered a unique loss. Each family member must be allowed to grieve on his or her own terms. In addition, the roles played by the surviving family members will necessarily change to accommodate the loss of the former role player. A stay-at-home spouse may be forced to return to employment outside the home. A child may become the leader of a family even if he is not fully prepared for the responsibility. An older sibling may be tasked with raising a younger sibling.

Throughout the book, Hall and Tecala explore how death has different and sometimes far-reaching ramifications for every member of a surviving family. A large portion of the book is broken into chapters dedicated to specific types of loss. For instance, the death of

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a spouse, the death of a parent, the death of a child, and the death of a sibling are all addressed in depth. Each of these chapters contains sections devoted to special circumstances that can further affect the grieving process. The chapter on death of a spouse, for example, includes a segment on troubled marriages. The chapter on the death of a parent discusses the grieving process in children of ages ranging from childhood to adulthood. The chapter on the death of a sibling contains information on the death of a twin. And the chapter on the death of a child discusses the death of an only child, as well as the death of an adopted child. Stigmatized deaths, including those from suicide and AIDS, are also addressed. It is hard to imagine a scenario involving death that is not touched on by the authors in some fashion.

The book extends beyond a thorough explanation of the grieving process. It was, after all, co-written by one of Virginia’s foremost trial lawyers. The book explains how trial lawyers and mental health care professionals can work together to help their clients as they traverse the litigation process. It also provides strategies for overcoming juror bias and misperceptions, and it outlines defense arguments often presented in wrongful death cases.

The book is punctuated with Hall’s recollections of past wrongful death cases. These are much more than “war stories.” Instead, Hall’s memories teach important lessons about the grieving process, how grief impacts a lawyer’s relationship with his client, and how to best serve as an advocate for clients during extremely difficult times. Many of the accounts are touching, and the authors’ sensitivity and compassion is evident.

Personally, it was impossible to read the book without considering how death has affected members of my own family, and how it, unfortunately, will touch each of us in the future. In that sense, and in that sense only, the book can be difficult to read at times.

The book is accompanied by a CD-ROM that contains the wrongful death laws in all fifty states, sample closing arguments by Hall and other notable trial lawyers, sample direct examinations of wrongful death beneficiaries and a grief counselor, several checklists, legal briefs, and other information on wrongful death related topics. The CD-ROM alone is worth much more than the relatively modest cost of the book ($125.00).

_Grief and Loss_ is an invaluable educational resource and deserves a spot on the bookshelf of any lawyer who represents families in wrongful death cases. The book will help lawyers of all experience levels better understand their client’s grief and emotional suffering and, in turn, enable them to better communicate that pain to a jury.

Members of the Virginia State Bar who have recently published books may request a review by contacting Dawn Chase at chase@vsb.org.

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