

RECOVERY FOR WRONGFUL DEATH

2025 EDITION

VALERIE M. NANNERY

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ABOUT THE AUTHOR

Valerie M. Nannery is an attorney with more than two decades of experience. She has spent most of her career thus far litigating cases involving claims under both the U.S. and state constitutions, with a focus on securing access to justice for injured people. She has worked at Public Citizen, Quinn Emanuel Urquhart & Sullivan, LLP, the Center for Constitutional Litigation, P.C., and most recently at the American Constitution Society. She served as a 2016-2017 Supreme Court Fellow. She also previously served as an Assistant Attorney General in the Office of the Attorney General for the District of Columbia.

Ms. Nannery is a member of the bars of the District of Columbia and California. She earned her undergraduate degree from Cornell University and her J.D. from the University of Virginia School of Law. In 2022, she was elected as a member of The American Law Institute.

PREFACE

The commands of the law are these:

**Live honestly;
Hurt no one;
To all, give their due.¹**

Recovery for Wrongful Death was first published by Stuart M. Speiser (1923-2010) in 1966 after six years of labor. “Wrongful death cases have long been the stepchildren of tort litigation,” he wrote in the initial Preface. He saw a need to account for the many changes that had occurred in wrongful death litigation since the 1913 publication of Francis B. Tiffany’s *Death by Wrongful Act*. But Stu was not content simply to predict courtroom outcomes, in the way Justice Holmes once described²—he wanted to improve litigation outcomes, making them more rational and more humane. He noted positive developments in the liberalization of some states’ strict “pecuniary loss” rules, more enlightened approaches to choice-of-law questions, and a growing recognition by courts of human and individual rights. It was his clear objective to provide lawyers and judges with resources not only to modernize the system of compensation for untoward death, but also to *humanize* it. His arguments in favor of compensation for loss of society and mental anguish when a family member is killed gained an audience early on.

The first court cited *Recovery for Wrongful Death* almost immediately after its publication in 1966,³ and the Treatise was quoted in a dissent by Justice Harlan of the United States Supreme Court in 1968.⁴ Since that time, it has been cited in more than 300 court decisions, including four more by the U.S. Supreme Court; in decisions of 10 of the 12 U.S. Circuit Courts of Appeals; in decisions of U.S. District Courts in 32 states and territories; and by the courts of 48 states, the District of Columbia, and the U.S. Virgin Islands (including most of the highest state

¹ JUSTINIAN, INSTITUTES, Book I, Title I, Section 3 (533 C.E.).

² “The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law.” Oliver Wendell Holmes, Jr., *The Path of the Law*, 10 HARV. L. REV. 457 (1897).

³ *Wendelin v. Russell*, 259 Iowa 1152, 147 N.W.2d 188 (Iowa 1966).

⁴ *Levy v. Louisiana*, 391 U.S. 73, 82, 88 S.Ct. 1512, 1515 n.2 (1968) (Harlan, J., dissenting and arguing that the term “child” in the state wrongful death family did not include “illegitimate” children).

courts).

As the new author of this Treatise, I hope to carry forward the important work started by Stu and continued by my friend and former colleague James E. Rooks, Jr. from 2006 through 2023. I build on the work that they started, and I hope to contribute as much to the field as they did.

Valerie M. Nannery
Washington, District of Columbia
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Author's Introduction to *Recovery for Wrongful Death*, 2025 edition

Recovery for Wrongful Death is the preeminent U.S. work on wrongful death litigation, covering all U.S. jurisdictions. This title includes citations to, and analysis of, thousands of court decisions, from the 1600s through early 2024. It also provides details of more than 2,000 wrongful death jury verdicts, bench verdicts, arbitration awards, and settlements since the year 2000.

Recovery for Wrongful Death also provides comprehensive Research References to the West Key Number System, Westlaw databases, the A.L.R. library, legal encyclopedias, other treatises and trial aids, forms, law review articles, and more.

Highlights of the 2025 edition include:

- 23 new case summaries,
- 25 new wrongful death awards (Appendix C),
- 9 new research references,
- substantial updates to relevant federal and state statutes in Appendices A and B, and to statutory references throughout the Treatise, and
- a revision of sections 13:23 through 13:29 of Chapter 13 pertaining to wrongful death caused by prenatal injuries.



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