THE NEW YORK STATE TRIAL LAWYERS INSTITUTE

Bill Of Particulars

VOL. I, 2016

New Feature:
War Stories

A Review Of Developments In New York State Trial Law

NYSTLI

In This Issue

Justice for the Living and the Dead: Inheritance, Disqualification, Deadbeats, Gallivanters, Killers, and Wrongful Death Actions

By Eric Buckvar, Esq.

You represent the estate of a decedent in a wrongful death action, and after a long, hard slog fighting in the trenches, you recovered, by verdict or settlement, a fair award. The only thing left to do is compromise the action, by following the two-step process first in the Supreme Court and then the Surrogate's Court, or by proceeding in the Surrogate's Court alone. While you grumble that you will be performing estate work, usually *gratis*, you are reassured that the work is perfunctory and will not involve litigation. And then you remember the estranged distributee who comes to you with his or her hand out, even though he or she did not assist your case, or, sometimes, even know of the family member's death until other family members contacted you to retain you. Of course, that person now wants money from the estate. You will have to litigate against that person – for free, usually. The following is a short guide for this situation.

There are, of course, two parts to the case brought on behalf of an estate against a person or entity who causes death to the estate's decedent: a "survivor action" and a "wrongful death action." The proceeds from the survivor's action and the wrongful death action are distributed by very different methods, and so determining the allocation of the damages between each cause of action may make a significant difference as to the relative shares of each distributee's recovery.

The survivor action seeks damages for the personal injuries to the decedent for the decedent's conscious pain and suffering. The survivor action, appropriately enough, survives the decedent under the Estates, Powers and Trusts Law (EPTL) 11-3.2 and 11-3.3. The damages are distributed like any other assets of the estate, according to either a will or the laws of intestacy.

Where, as it seems most often, the decedent has no will, the proceeds of the survivor's action will be distributed in equal shares to each distributee, if the distributees are of the same class (i.e., if the distributees are only the parents or only the children of the decedent). Where the decedent is survived by a spouse and a child, or children, EPTL §4-1.1 provides that the spouse will receive $50,000 and one half of the residue of the estate, with the other half going to the children equally (or their issue, by representation). Even if there is a will, and the surviving spouse is not left anything, the surviving spouse has a right of election under EPTL §5-1.1(A), and can choose to take the greater of $50,000 or one-third of the estate. Therefore, there are many situations where a distributee might receive a large portion of the proceeds of a survivor's action regardless of whether they were close to the decedent.

On the other hand, the wrongful death action proceeds will be distributed to each distributee based upon their pecuniary loss. The wrongful death action seeks damages for pecuniary loss which, under EPTL §5-4.3(a), are calculated as follows:

(a) The damages awarded to the plaintiff may be such sum as the jury or, where issues of fact are tried without a jury, the court or referee deems to be fair and just compensation for the pecuniary injuries resulting from the decedent's death to the persons for whose benefit the action is brought. In every such action, in addition to any other lawful element of recoverable damages, the reasonable expenses of medical aid, nursing and attention incident to the injury causing death and the reasonable funeral expenses of the decedent paid by the distributees, or for the payment of which any distributee is responsible, shall also be proper elements of damage. Interest upon the principal sum recovered by the plaintiff from the date of the decedent's death shall be added to and be a part of the total sum awarded.

Under EPTL §5-4.4(1), the wrongful death proceeds are distributed as follows:

> (a) The damages, as prescribed by 5-4.3, whether recovered in an action or by settlement without an action, are exclusively for the benefit of the decedent's distributees and, when collected, shall be distributed to the persons entitled thereto under 4-1.1 and 5-4.5, except that where the decedent is survived by a parent or parents and a spouse and no issue, the parent or parents will be deemed to be distributees for purposes of this section. The damages shall be distributed subject to the following:

(1) Such damages shall be distributed by the personal representative to the persons entitled thereto in proportion to the pecuniary injuries suffered by them, such proportions to be determined after a hearing, on application of the personal representative or any distributee, at such time and on notice to all interested persons in such manner as the court may direct. If no action is brought, such determination shall be made by the surrogate of the county in which letters were issued to the plaintiff; if an action is brought, by the court having jurisdiction of the action or by the surrogate of the county in which letters were issued.

The proportion of a parent's recovery of proceeds from a wrongful death action might be small, based upon the relatively small amount of pecuniary injuries suffered. There is no strict mathematical formula to determine this proportion, and divorced parents who are distributees will not necessarily receive equal shares. The numerous factors to be considered by a court in the exercise of its equitable powers and discretion in allocating the settlement proceeds include "the relationship between decedent and those claiming to suffer pecuniary loss." *In the Matter of the Estate of Russell Ellers*, 309 A.D.2d 1055 (3rd Dept. 2003) (citations omitted). In *Ellers*, the Appellate Division affirmed the Surrogate Court's decision that the custodial parent, the mother of a 14 year old decedent, should, under EPTL §5-4.4(a)(1), receive 90% of the wrongful death proceeds and the decedent's father should received 10%.

Likewise, in *Hanson v. County of Erie*, 120 A.D.2d 135 (3rd Dept. 1986), the Appellate Division held that a custodial mother should receive 80% of wrongful death proceeds, despite the fact that the father had not abandoned the 16 year old child (a parent who has abandoned a child is disqualified from receiving wrongful death proceeds. *See* EPTL §4-1.4). The lack of disqualification, though, did not require the proceeds to be divided evenly between the parents. Although the father had maintained a "loving and communicative relationship with decedent" after his divorce, the Court determined that the mother suffered the greater proportion of the pecuniary loss.

Other factors, such as the relative amount of years of pecuniary loss between distributees, may be considered under *Matter of Kaiser*, 198 Misc. 582 (Surrogate Court Kings Cty. 1950).

Notably, where there is an award or settlement for conscious pain and suffering, the parent will receive an equal share of that recovery regardless of the relative share of pecuniary loss, unless he or she was disqualified. Therefore, determining what proportion of a settlement should be allocated towards the wrongful death action or the survivor's action may be very important to the distributees of an estate; while the attorney representing the estate is focused simply on maximizing the total recovery in prosecuting the action, that same attorney may need a very different focus when compromising the action in Surrogate's Court. For instance, while the plaintiff's attorney may have hired an expert pathologist to show decedent's conscious pain and suffering for an action in Supreme Court, that same attorney, in representing the estate in Surrogate's Court, may need to point to defendant's experts to show that the issue of the amount of pain and suffering was in dispute. The attorney may need to emphasize to the defense the few instances of contact between the decedent and the distributee in order to increase damages, but might, in Surrogate's Court, need to point out the long gaps between those contacts.

Of course, completely disqualifying a distributee will eliminate the issue of whether the recovery should be allocated to the survivor's action or to the wrongful death action. The categories of disqualification are discussed, *ad seriatum*, below.

Disqualifying a Parent

It is often said that victory has a thousand fathers, while defeat is an orphan. Attorneys who have handled wrongful death actions involving the tragic deaths of children often come across a similar phenomenon – the sudden appearance of a parent, usually a father, who, having once abandoned his child, now tries to collect on that child's death. Fortunately, the Estates Powers and Trusts Law prohibits such a parent from doing so.

EPTL §4-1.4 provides that "No distributive share in the estate of a deceased child shall be allowed to a parent who has failed or refused to provide for, or has abandoned such child while such child is under the age of twenty-one years, unless the parental relationship and duties are subsequently resumed and continue until the death of the child."

The first possible ground for disinheriting a parent, failure to provide, is strictly construed. For example, the failure to pay child support for 2 1/2 years disqualifies a parent under EPTL §4-1.4 from receiving a share of wrongful death settlement proceeds. *Estate of Arroyo*, 273 A.D.2d 820 (4th Dept. 2000).

Abandonment of a child is a second ground, so that, even if a parent supports his or her child, but does not otherwise act as a parent, he or she may be disqualified. *Estate of Pessoni*, 11 Misc.3d 245 (Cortland Cty. Surrogate, 2005). "A parent's long-distance love and occasional visits do not constitute the 'natural and legal obligations of training, care, and guidance owed by a parent to a child,'" as would preclude a finding of abandonment under the EPTL. *Estate of Pessoni, Id.* at 247, quoting *Estate of Gonzalez*, 196 Misc.2d 984 (NY Surr. 2003). "Justice is not fostered by rewarding in any fashion a parent who purposefully fails to provide any

emotional or nurturing support to a child."

In addition, as mentioned in *Estate of Pessoni*, 11 Misc. 3d at 250, n.3, even if an estranged parent should not be disqualified, he might receive nothing, as "a wrongful death award is divided between the eligible distributees in proportion to their pecuniary loss." EPTL. §5-4.4(1) provides that "damages shall be distributed by the personal representative to the persons entitled thereto **in proportion to the pecuniary injuries suffered by them.**" A parent estranged from his or her child suffers no pecuniary loss when the child with whom he or she had no relationship dies as the parent would not have expected financial support from the child as the child became older. *See also Estate of Ricardo Ramos*, Surrogate's Court, Kings Cty., NYLJ March 25, 2013, where Judge Balter found that the movant failed to prove that the decedent's father failed to support the child (as no evidence was given as to the father's income), but that the father had suffered no pecuniary loss.

Furthermore, as set forth above, even if the child was not abandoned, and the parent had some involvement with the child, the proportion of a parent's recovery might be small, based upon the relatively small amount of pecuniary injuries suffered. *See In the Matter of the Estate of Russell Ellers*, *supra*, and *Hanson v. The County of Erie*, *supra*.

Disqualifying a Spouse

In contrast to disinheriting a deadbeat parent, the claims of an estranged spouse are much more difficult to dismiss. EPTL §5-1.2(a) sets forth the limited circumstances where a spouse may be disinherited. It provides that: A husband or wife is a surviving spouse ... unless it is established satisfactorily to the court having jurisdiction of the action... that:

(1) A final decree or judgment of divorce, of annulment or declaring the nullity of a marriage or dissolving such marriage on the ground of absence, recognized as valid under the law of this state, was in effect when the deceased spouse died.

(2) The marriage was void as incestuous under section five of the domestic relations law, bigamous under section six thereof, or a prohibited remarriage under section eight thereof.

(3) The spouse had procured outside of this state a final decree or judgment of divorce from the deceased spouse, of annulment or declaring the nullity of the marriage with the deceased spouse or dissolving such marriage on the ground of absence, not recognized as valid under the law of this state.

(4) A final decree or judgment of separation, recognized as valid under the law of this state, was rendered against the spouse, and such decree or judgment was in effect when the deceased spouse died.

(5) The spouse abandoned the deceased spouse, and such abandonment continued until the time of death.

(6) A spouse who, having the duty to support the other spouse, failed or refused to provide for such spouse though he or she had the means or ability to do so, unless such marital duty was resumed and continued until the death of the spouse having the need of support.

With all of these categories, it might seem that an estranged spouse can be easily disqualified. However, if there is no final decree or judgment of separation, annulment or divorce in effect, a court can disqualify a spouse on the ground of abandonment only if he/she left without justification, without consent, and without intending to return.

In *Matter of Arrathoon*, N.Y.L.J., October 22, 2007, at 31, col. 3 (Surr. Ct., N.Y.Cty.), affirmed, 49 A.D.3d 325, 853 N.Y.S.2d 72 (1st Dep't 2008), the couple had lived together for fifty years when the husband had a stroke. The decedent and his wife ultimately ended up at a hospital and an assisted-living facility on opposite sides of the country (the decedent father was hospitalized near his daughter in New York; the mother, who was estranged from the daughter, moved near her son in California).

The decedent's will gave most of the estate to his daughter, and the widow made an election under EPTL 5-1.1-A for her spousal share. The daughter objected and claimed that her mother, the widow, had abandoned the decedent. The court rejected the abandonment claim. The mother and daughter did not get along, so each spouse was forced, by virtue of their age and health, to live near the child who gave them "emotional and practical support." That was not abandonment.

The *Arrathoon* case demonstrates a situation where the statute was construed so as to produce a fair result, since circumstances forced the separation of the parties. There are many unfair examples, though. Unless a party can prove that the estranged spouse abandoned the decedent without the decedent's consent, or failed to support the decedent spouse when requested, a spouse who has not spoken to his or her late husband or wife for years may still make a claim against the estate. So, a gallivanting decedent who married a woman in Italy, spent a couple of days together with her, and then returned to the United States, never to see the wife again in the remaining 8 years of his life, deserved to have his estate distributed to the abandoned wife. *In Re Volpe's Will*, 44 Misc. 166 (Surr. Ct. Staten Island 1964).

However, in *Matter of Morris*, 69 A.D.3d 635 (2nd Dept. 2010), the decedent and her husband were together for a mere 3 years but were separated for 32 years. Incredibly, because it could not be proven that the husband left without consent 32 years ago, or that he had the means and duty to support the decedent but failed to do so, the court found that the husband was a distributee and granted him letters of administration.

A claim of abandonment has been rejected even where the decedent, who had not lived with her husband for 15 years, wrote in her will that her husband had abandoned her. *In Re Ward's Will*, 98 N.Y.S.2d 641 (Surr. Ct. Queens Cty. 1949). Nor is adultery, cruelty or inhumanity a ground for disqualification. *In Re Archibald's Estate*, 19 Misc.2d 705 (Surr. Ct. N.Y.Cty. 1959).

Bronx Surrogate Lee Holzman, in *Matter of Carmona*, NYLJ, May 12, 2000, commented on this unfairness when he reluctantly granted an estranged spouse the entire estate of a decedent, leaving nothing for the decedent's mother. He cited this case as one of the "numerous instances where the provisions of EPTL 5-1.2 are insufficient to protect estates from unworthy surviving spouses."

Disqualifying a Killer

Finally, there is the rare possibility that one may need to disqualify the most undeserving distributee of them all - one who brought about the death of the decedent. While this would happen more often where the assets were obtained other than in an action for wrongful death, it might occur, for instance, where there is an action based upon failure of a governmental entity or child services organization to protect a child, or a lack of security or medical malpractice action brought by the estate (or an action that was brought prior to the decdent's death).

The issue of whether a convicted murderer is disqualified from sharing in the estate of his or her victim was long ago resolved under the doctrine enunciated in *Riggs v. Palmer*, 115 NY 506 (1889). The *Riggs* case involved an impatient 16 year old grandson who killed the decedent because he wanted to speed up his inheritance (apparently, kids were impatient in the nineteenth century, too). The Court of Appeals held that the common-law general principle that one should not be permitted to profit by taking the life of another should disqualify a murderer from taking a share of his victim's estate. *Id.*, at p. 511. *See also Matter of Covert*, 97 N.Y.2d 68 (2001); *Petrie v. Chase Manhattan Bank*, 38 A.D.2d 206 (1st Dept. 1972), modified 33 N.Y.2d 846 (1973); *Matter of Jacobs*, 2 A.D.2d 774 (2d Dept. 1956), affd. 3 N.Y.2d 723 (1957); *Bierbrauer v. Moran*, 244 A.D. 87 (4th Dept. 1935); *Matter of Kirkman*, 120 Misc.2d 278 (Surr. Ct. Broome Cty. 1983); *Matter of Bach*, 81 Misc.2d 479 (Surr. Ct. Dutch. Cty. 1975), affd. 53 A.D. 612 (2nd Dept. 1976); *Matter of Grey v. Levitt*, 76 Misc.2d 720 (Supreme Court Albany Cty. 1975); *Matter of Loud*, 70 Misc.2d 1026 (Surr. Ct. Kings Cty. 1972); and *Matter of Miller*, 17 Misc.2d 508 (Surr. Ct. Nass. Cty. 1959). While the *Riggs* court acknowledged that the inheritance statute, if literally read, would require that the decedent's bequest to his grandson be enforced, it was also true that "no one should be permitted to profit by their own fraud, or to take advantage of his own wrong, or to found any claim upon his own iniquity, or to acquire property by his own crime," regardless of the literal language of a statute. Besides, the court colorfully added, one cannot follow statutes too literally - there was a statute in Bologna that severely punished anyone who drew blood in the street, but it was held not to apply to a barber who opened a vein, apparently for some bloodletting. *Riggs v. Palmer*, 115 N.Y. at 511. "(*Riggs* and its progeny) essentially hold that there is no vesting of the estate in the wrongdoer because the crime precludes the wrongdoer from becoming a distributee." *Matter of Demesyeux*, 42 Misc. 3d 730 (Surr. Ct. Nass. Cty. 2013), citing *Matter of Sparks*, 172 Misc. 642 (Surr. Ct. N.Y.Cty. 1939) and *Matter of Wolf*, 88 Misc. 433 (Surr. Ct. N.Y.Cty. 1914).

However, *Riggs* does not apply to all situations where a distributee brings about the decedent's death. First, a person who has negligently caused the death of

a child is not disqualified. In *Guilmette v. Ritayik*, 39 A.D.2nd 339 (2nd Dept. 1972), a father was permitted to file an action on behalf of his deceased son, who was killed in a car being driven by his mother. The court held that, even though the mother would be a distributee, and would profit from her negligence, the action could continue. Even where a father was grossly negligent in causing the death of his 6 year old child by falling asleep while driving and failing to secure the child with a seatbelt, let alone a car seat, he would not be disqualified from taking a distributive share. *See In the Matter of Wigfall*, 20 Misc.3d 648 (2008).

Secondly, the *Riggs* decision did not determine the issue of whether a killer found not guilty by reason of insanity would be disqualified. Subsequent to *Riggs*, a number of courts have found that a person found not guilty by reason of insanity for killing a decedent should not be punished by being disinherited, based upon the enlightened concept that the mentally ill should not be punished. These cases, as listed by Surrogate Edward McCarty III in the recent case of *Matter of Demesyeux*, 42 Misc. 3d at 612 (Nassau Surrogate's Court, 2013), include the following: *Matter of Wirth*, 59 Misc.2d 300 (Surrogates Court, Erie Cty. 1969), where a husband was held to be entitled to his intestate distributive share, despite having killed his wife, as he was found to be not guilty by reason of insanity; *Matter of Fitzsimmons*, 64 Misc.2d 622 (Surr. Ct. Erie Cty. 1970), where a son was held to be entitled to take as a distributee, after being found not guilty by reason of insanity for killing his parents; *Matter of Lupka*, 56 Misc.2d 677 (Surrogate Court Broome Cty. 1968), where a husband was allowed to inherit under his wife's will despite the fact that the decedent died from an assault committed by her husband; and *Matter of Eckard*, 184 Misc. 748 (Surrogate Court Orange Cty. 1945), where a wife killed her husband while in a state of "somnambulism" was allowed to take her inheritance as a distributee.

In *Demasyeux*, Surrogate McCarty was confronted with a wrongful death compromise arising out of a horrific case where a mother, Leatrice Brewer, murdered her three children, believing that she was protecting them from voodoo. A wrongful death action on behalf of the estate of a child was brought against the County of Nassau based upon the County's failure to remove the child from the abusive mother. The mother was subsequently found to be not guilty of murder by reason of insanity. *Matter of Demesyeux, supra* at 730, 736.

In his lengthy decision, which extensively recounts 127 years of jurisprudence on the issue, Surrogate McCarty recognized the extensive authority permitting killers found to be insane to inherit. However, he noted, unlike the cases cited, the sole asset in this compromise was the cause of action for wrongful death.

Surrogate McCarty noted that no court in New York had ever decided whether a person who pleads not guilty by reason of mental disease or defect in a criminal proceeding is disqualified from sharing in the proceeds of a wrongful death compromise arising out of the killing of her own child at her own hands.

Surrogate McCarty discussed first the wrongful death statute, EPTL 5-4.4, which allows for recovery based upon pecuniary loss to a parent who may have had an expectation of the child providing financial assistance, and EPTL 5-4.4(a)(2), which provides that a parent shall be disqualified if the parent abandons the child. Even assuming that the mother had a pecuniary loss, she may have abandoned the child. Abandonment, he noted, was used as the ground for disqualifying a parent from recovering the proceeds of a wrongful death action. For example, in *Matter of Sobol*, 180 Misc.2d 855 (Supreme Court, N.Y.Cty. 1999), where the mother had pled guilty to only assaulting her decedent child (whereas the father pled guilty to manslaughter), the mother was held to have abandoned the child by her actions, and was thus disqualified from sharing in proceeds of a wrongful death action against the City of New York for failing to prevent abuse of the child. Second, in *Matter of Pesante*, 37 A.D.3d 1173 (4th Dept. 2007), a mother was found to have no reasonable expectation of future assistance where her child was removed from her home and placed in foster care. As the mother had no pecuniary loss, she was not allowed to share in wrongful death proceeds from an action arising out of the child's death in foster care.

Ultimately, though, Surrogate McCarty held that it was not an exception in the statute, but morality and equity that dictated that Ms. Brewer be disqualified. While she was found not guilty by reason of mental disease or defect, she was not necessarily free of all responsibility for her brutal crime. The court noted that Ms. Brewer was no "somnambulist." She was consciously aware of her actions; in fact, there was evidence that, realizing that her efforts to cause the death of one of the three children had not been successful, she tried an alternate method to bring about the child's death (a *New York Times* article, dated March 2, 2008, indicated that, while all 3 children were drowned in a bathtub, one of the children's throats had been cut, as well).

Therefore, while it was one thing to say that the state should not imprison one who was insane when she committed the murder, it is quite another to say that the insane murderer can profit from her crime. But for her killing of the children, there would have been no wrongful death action. A court of equity could not, in good conscience, hand the money paid to compensate for the loss of children to their killer. Therefore, Surrogate McCarty ruled, in the spirit of the 1889 *Riggs* case, the mother was disqualified.

Kings County Surrogate Lopez Torres, however, could not disagree more with the *Demesyeux* decision. In *Estate of Ledson*, *New York Law Journal*, July 9, 2014 at page 26, column 5, Surrogate Lopez Torres held that the *Demesyeux* decision "illustrates the old adage, 'hard cases make bad law.'" She claimed that existing law recognizes that insanity is a defense against punishment for a crime, regardless of the heinous nature of the offense. Therefore, she held, one exculpated from criminal liability is exculpated from legal liability, and can inherit.

In a recent law journal article, "Inheritance by Wrongdoers of Victim's Estates," by Bruce DiCicco, *New York Law Journal*, August 26, 2014, Mr. DiCicco expresses the opinion that an appellate court will need to decide whether the Suffolk Surrogate or Kings Surrogate is correct. The facts of the *Ledson* case, though, are significantly different than the *Demesyeux* case. The estate in *Ledson* apparently consisted of the proceeds of a personal injury action for injuries caused by asbestos exposure. Mr. Ledson's son caused his death, and was subsequently found guilty by reason of insanity. Therefore, unlike the estate in the *Demesyeux* case, the proceeds that the proposed distributee was seeking did not come about by the act of killing the decedent. If a case similar to the *Ledson* or *Demesyeux* ever reaches an appellate court, we may see a holding siding with the Kings Surrogate, the Suffolk Surrogate, or holding that both decisions were correct.

A recent decision indicates that the Second Department might extend the *Riggs* doctrine, rather than limit it. In *In*

Re Edwards, 121 A.D.3d 336 (2nd Dept. 2014), Brandon Palladino was to inherit from his wife, who had died of an accidental drug overdose. Other family members objected on the ground that the source of the wife's money was Palladino's mother-in-law – who Palladino was convicted of killing in the course of stealing her jewelry. Palladino claimed that extension of *Riggs* to one who indirectly inherits from their victim would be an impossible rule to enforce; after all, if the funds were commingled with other moneys, invested, etc..., how could a court determine which funds could be traced to the victim? Justice Priscilla Hall, writing for the court, dismissed these objections as inapplicable to the case at bar. "In determining whether the *Riggs* doctrine applies to a particular case, the court must examine the facts and circumstances before it, and determine whether the causal link between the wrongdoing and the benefits sought is sufficiently clear that application of the *Riggs* doctrine will prevent an injustice from occurring." The death of the second decedent was only a short time after the homicide, the source of the wife's money was clearly Palladino's poor mother-in-law, and there was "a clear link between the wrongful conduct and the benefits sought."

To avoid the issue, an estate can always bring an action for wrongful death against the potential distributee, since insanity is generally not a defense to tort liability. *Albicocco v. Nicoletto*, 11 A.D.2nd 690 (2nd Dept. 1960), *order aff'd* 9 N.Y.2d 920 (1961), and *Van Vooren v. Cook*, 273 A.D. 88 (4th Dept. 1947). The potential distributee could be named in an action against the other tortfeasor, since that defendant would be able to apportion liability against the distributee pursuant to Article 16 anyway (as permitted by *Chianese v. Meier*, 98 N.Y.2d 270 (2002)). Therefore, naming the distributee would not adversely affect the wrongful death action against the target tortfeasor. The distributee, locked away in a facility, and with no defense of insanity to the tort action, would probably default anyway.

And that would be justice for both the living and the dead.

Biography

Eric Buckvar is a partner in the firm of Buckvar and Buckvar, a personal injury and criminal defense firm founded by his father in 1961 and located in lower Manhattan. He has handled, and tried, a variety of wrongful death actions, including prison abuse and highway construction/design cases.