

Commencing a Wrongful Death Suit against a Governmental Entity

Sometimes a wrongful death claim may exist against a governmental entity, like a town or city, municipality, county or the state. It is not always easily apparent that the defendant is a governmental entity (e.g., a transit or utility company). It is very important to understand that there may be immunity issues when suing a governmental entity. Sovereign immunity is a very complex area of law. Basically the government is immune from suit unless they say otherwise. In Kentucky an action can be brought against the state only in The Board of Claims. This is an administrative proceeding as opposed to a trial in front of a jury. The amount allowed for recovery is also limited to out of pocket expenses, such as medical bills, funeral expenses and loss of power to labor and earn money. There is no recovery allowed for pain and suffering. The amount recovered can be no more than \$250,000.00.

In some instances the law may require the plaintiff to first file and/or serve notice upon the defendant before a lawsuit can be filed. This letter will be mailed certified and may be required to be sent within 60 days. These “pre-filing” laws are very strict so that if the claim is not timely or properly served on the defendant the result is that a subsequent lawsuit may be dismissed.

The filing and presenting of claims against a governmental entity can be very complex and confusing. The failure to strictly comply with this type of law could be a costly mistake. Thus, this is another reason why it is extremely important to consult with an experienced wrongful death attorney.