

Commencing a Wrongful Death Lawsuit

To commence a wrongful death lawsuit, you must file documents called *pleadings* with the court along with a fee paid to the court clerk. These pleadings are called the *summons* and *complaint*. The summons informs the person being sued that a lawsuit is being filed and that a response, called the *answer*, to the lawsuit is due within 20 days. The complaint describes the particular cause of action or legal theory that is being alleged against the person or company being sued, along with a description of the facts that support the claim. The wrongful death complaint will usually identify the parties, the facts or circumstances surrounding the decedent's death, and the specific laws which support or authorize the wrongful death cause of action.

The person who files a wrongful death lawsuit is called the *plaintiff*. The person or party that is being sued is called the *defendant*. The plaintiff must serve by certified mail, sheriff or special bailiff a copy of the summons and complaint on each defendant.

The lawsuit is usually divided up into different stages: (1) information gathering or discovery phase, (2) pre-trial preparation stage, (3) pre-trial settlement or alternative dispute resolution stage, and (4) trial. The length of each of these stages or phases will depend on the complexity of the case as well as the county where the lawsuit is filed. More details on each of these stages will follow.