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# Virginia and West Virginia Wrongful Death Actions

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**Virginia  
and  
West Virginia**

**WRONGFUL  
DEATH  
ACTIONS**

**By  
PETER N. SWISHER**

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## INTRODUCTION

A wrongful death action, in monetary terms, may well be the biggest case that many attorneys will ever experience during the course of their legal careers. The outcome of wrongful death litigation will largely determine the future financial security of the deceased's survivors; and today the potential recovery in wrongful death cases has risen to staggering proportions.

Few lawyers will have the opportunity to handle a sufficient number of wrongful death cases to become expert in all aspects of this particular field; and as an attorney of record in the wrongful death case of *Hewitt v. Firestone Tire & Rubber Co.*, 490 F. Supp. 1358 (E. D. Va. 1980), your author was made aware of this sobering reality. Additionally, if a wrongful death action is not handled properly, it may mean disaster for the deceased's survivors, and the unwelcome possibility of a legal malpractice suit.

The purpose of this monograph is to provide the practitioner with a practical survey of the law of wrongful death in Virginia and West Virginia. While a work of this length is not intended to be an exhaustive treatise of law, it does identify and discuss the applicable state and federal statutory law, illustrative judicial decisions, and sample pleading and practice forms in order to alert the practicing attorney to those particular problems likely to be encountered in trying or defending a wrongful death action. It also furnishes counsel with a sound basis for further in-depth research.

The following work has therefore been prepared with the hope that it will inform and forewarn both the general practitioner and the experienced trial lawyer of the issues and problems inherent in trying this complex and demanding type of litigation — wrongful death actions in Virginia and West Virginia.

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