



CONNECTICUT
TRIAL
LAWYERS
ASSOCIATION

150 Trumbull Street, 2nd Floor
Hartford, CT 06103
p) 860.522.4345 f) 860.522.1027
www.cttriallawyers.org

Testimony in Support of Senate Bill No. 247, An Act Concerning a Cause of Action for Loss of Parental Consortium by a Minor Child with respect to the Death of a Parent

By: Michael A. D'Amico, President-elect of the Connecticut Trial Lawyers Association

When a parent is killed as a result of the wrongful conduct of another, the minor children suffer an obvious, devastating and significant loss. For those of us who have experienced such loss as a minor and have muddled our way growing up without the love, care, companionship and guidance of our Mom or Dad such a grievous loss is easily felt and understood. For the rest of us, our hearts and minds tell us that this loss is tragic, deep and lasting.

Recently the Connecticut Supreme Court in *Campos v. Coleman*, 319 Conn. 36(2015), recognized this special relationship and allowed for a minor child to bring a cause of action for loss of parental consortium under circumstances where the parent suffered a non-fatal injury. Loss of parental consortium is summarily defined as the loss of the love, care, companionship and guidance of a parent. The claim as recognized is limited to the period of minority of the child. This ruling overturned prior Connecticut Supreme Court precedent in *Mendillo v. Board of Education*, 246 Conn. 456 (1998) precluding such claims in recognition of the weight of authority in other jurisdictions across the country allowing claims for loss of parental consortium.

The Connecticut Supreme Court stated:

“...we agree that the unique emotional attachment between parents and children, the importance of ensuring the continuity of the critically important services that parents provide to their children, society's interest in the continued development of children as contributing members of society, and the public policies in favor of compensating innocent parties and deterring wrongdoing

provide compelling reasons to recognize such a cause of action.”

Campos v. Coleman, 319 Conn. 36, 43 (Conn. 2015)

The Connecticut Supreme Court also recognized:

“Only five jurisdictions, including this state, have declined to recognize loss of parental consortium claims arising from either an injury to or the death of a parent...”

Campos v. Coleman, 319 Conn. 36, 56 (Conn. 2015)

In *Campos*, the decedent was struck while riding a bicycle, suffered serious injuries and died three days later. The decedent had minor children who brought a claim for loss of consortium. The trial court struck these claims in light of *Mendillo* mentioned previous. Then, on appeal, the Connecticut Supreme Court reversed the decision of the trial court and recognized for the first time claims for loss of parental consortium in Connecticut. Inconsistently, the Supreme Court was unable to extend such an important cause of action to a minor child when their parent is killed because of limitations at common law. It is odd and bad that a minor child can now bring a claim for loss of parental consortium if their parent is injured but not if their parent is killed. The reason is that at common law there was no right of recovery for wrongful death by the estate of the decedent or members of the decedent’s family. Thus the courts are powerless to allow claims revolving around wrongful death and this important issue is left to the legislature. The legislature acted and has allowed wrongful death claims in Connecticut since 1949. See C.G.S. 52-555. Further, since 1989, C.G.S. 52-555a has allowed claims for loss of spousal consortium when the other spouse is killed because of another’s wrongful conduct.

The present proposed bill will allow a minor child to bring a claim for loss of parental consortium when her parent is killed and eliminates the inconsistency that a child in Connecticut can only bring a claim if her parent is injured but not if her parent is killed.

The Connecticut Trial Lawyers Association supports and urges passage of this important bill.