

# Sorting Out the Personal Representative's Duties in Wrongful Death and Personal Injury Survivorship Actions

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## Sorting It Out to Protect the PR

1. Determine **potential causes of action** belonging to the Estate **or** to your client individually.
2. Determine the **nominal plaintiff** of each cause of action, to avoid or account for conflicts of interest for your client.
3. Determine the **beneficiaries under each cause of action**, so you know to whom your client's fiduciary duties run and whether any beneficial interest of the client creates a conflict of interest.
4. Determine **potential subrogation claims** relating to each cause of action, which will also require determining the **measure of damages for each cause of action**.
5. Think ahead to **estimate special damages and general damages** as to each cause of action and how those relate to estate debts.
6. Think ahead to applicable **settlement procedures**: intervention estates versus nonintervention powers; minor settlements and need for probate or settlement Guardian ad Litem.
7. Think ahead to **allocation of settlement proceeds** between competing causes of action, and among multiple beneficiaries of each cause of action.
8. But **DON'T PANIC** – a lot of the above analysis usually ends up collapsing into a fairly small and overlapping pool of beneficiaries whose interests align, rather than conflict. The point is to go through the exercise before probate is commenced, to make sure you have identified ahead of time what conflicting interests might be involved and so can advise the PR how to navigate them.

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## Causes of Action After a Death

- **Decedent's personal injury claim (PI)** survives, even if the personal injury was not the cause of death. RCW 4.20.046.
- **If the personal injury caused the death (PICD)**, the claim still survives but an additional statute applies. RCW 4.20.060.
- Certain other persons may have a claim resulting from the Decedent's death:
  - **Wrongful death (WD)** (of another). RCW 4.20.010 - .030.
  - **Parent's claim for injury or death of a child:** a minor child, or an adult child when parent was "significantly involved" in adult child's life. RCW 4.24.010.
  - **Spouse's loss of consortium** claim can be pursued separately OR by joining the injured party's claim. Lund v. Caple, 100 Wn.2d 739, 744, 675 P.2d 226 (1984).

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### **RCW 4.20.046**

#### **Survival of actions.**

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this section.

(2) In addition to recovering economic losses on behalf of the decedent's estate, the personal representative is only entitled to recover noneconomic damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by the deceased on behalf of those beneficiaries enumerated in RCW 4.20.020 in such amounts as determined by a trier of fact to be just under all the circumstances of the case. Damages under this section are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action.

(3) The liability of property of spouses or domestic partners held by them as community property and subject to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses or either or both domestic partners; and a cause of action shall remain an asset as though both claiming spouses or both claiming domestic partners continued to live despite the death of either or both claiming spouses or both claiming domestic partners.

(4) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his or her death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

[ [2019 c 159 § 3](#); [2008 c 6 § 409](#); [1993 c 44 § 1](#); [1961 c 137 § 1](#).]

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**RCW 4.20.060****Action for personal injury survives.**

(1) No action for a personal injury to any person occasioning death shall abate, nor shall such right of action terminate, by reason of such death, if such person has a surviving spouse, state registered domestic partner, or child living, including stepchildren, or if leaving no surviving spouse, state registered domestic partner, or children, the person has surviving parents or siblings.

(2) An action under this section shall be brought by the personal representative of the deceased, in favor of the surviving spouse or state registered domestic partner, or in favor of the surviving spouse or state registered domestic partner and children, or if no surviving spouse or state registered domestic partner, in favor of the child or children, or if no surviving spouse, state registered domestic partner, or a child or children, then in favor of the decedent's parents or siblings.

(3) In addition to recovering the decedent's economic losses under this section, the persons listed in subsection (1) of this section are entitled to recover damages for the decedent's pain and suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a trier of fact to be just under all the circumstances of the case.

[ [2019 c 159 § 4](#); [2007 c 156 § 30](#); [1985 c 139 § 2](#); [1973 1st ex.s. c 154 § 3](#); [1927 c 156 § 1](#); [1909 c 144 § 1](#); Code 1881 § 18; [1854 p 220 § 495](#); RRS § 194.]

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**RCW 4.20.010****Wrongful death—Right of action.**

(1) When the death of a person is caused by the wrongful act, neglect, or default of another person, his or her personal representative may maintain an action against the person causing the death for the economic and noneconomic damages sustained by the beneficiaries listed in RCW 4.20.020 as a result of the decedent's death, in such amounts as determined by a trier of fact to be just under all the circumstances of the case.

(2) This section applies regardless of whether or not the death was caused under such circumstances as amount, in law, to a felony.

[ [2019 c 159 § 1](#); [2011 c 336 § 89](#); [1917 c 123 § 1](#); RRS § 183. FORMER PARTS OF SECTION: 1917 c 123 § 3 now codified as RCW 4.20.005. Prior: [1909 c 129 § 1](#); Code 1881 § 8; [1875 p 4 § 4](#); [1854 p 220 § 496](#).]

**RCW 4.20.020****Wrongful death—Beneficiaries of action.**

Every action under RCW 4.20.010 shall be for the benefit of the spouse, state registered domestic partner, child or children, including stepchildren, of the person whose death shall have been so caused. If there is no spouse, state registered domestic partner, or such child or children, such action may be maintained for the benefit of the parents or siblings of the deceased.

In every such action the trier of fact may give such damages as, under all circumstances of the case, may to them seem just.

[ [2019 c 159 § 2](#); [2011 c 336 § 90](#); [2007 c 156 § 29](#); [1985 c 139 § 1](#); [1973 1st ex.s. c 154 § 2](#); [1917 c 123 § 2](#); RRS § 183-1.]

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**RCW 4.24.010****Action for injury or death of child.**

(1) A parent or legal guardian who has regularly contributed to the support of his or her minor child, and a parent or legal guardian who has had significant involvement in the life of an adult child, may maintain or join as a party an action as plaintiff for the injury or death of the child. For purposes of this section, "significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the parent-child relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death, including either giving or receiving emotional, psychological, or financial support to or from the child.

(2) In addition to recovering damages for the child's health care expenses, loss of the child's services, loss of the child's financial support, and other economic losses, damages may be also recovered under this section for the loss of love and companionship of the child, loss of the child's emotional support, and for injury to or destruction of the parent-child relationship, in such amounts as determined by a trier of fact to be just under all the circumstances of the case.

(3) An action may be maintained by a parent or legal guardian under this section, regardless of whether or not the child has attained the age of majority, only if the child has no spouse, state registered domestic partner, or children.

(4) Each parent is entitled to recover for his or her own loss separately from the other parent regardless of marital status, even though this section creates only one cause of action.

(5) If one parent brings an action under this section and the other parent is not named as a plaintiff, notice of the institution of the suit, together with a copy of the complaint, shall be served upon the other parent: PROVIDED, That notice shall be required only if parentage has been duly established.

Such notice shall be in compliance with the statutory requirements for a summons. Such notice shall state that the other parent must join as a party to the suit within twenty days or the right to recover damages under this section shall be barred. Failure of the other parent to timely appear shall bar such parent's action to recover any part of an award made to the party instituting the suit.

[ [2019 c 159 § 5](#); [1998 c 237 § 2](#); [1973 1st ex.s. c 154 § 4](#); [1967 ex.s. c 81 § 1](#); [1927 c 191 § 1](#); Code 1881 § 9; [1877 p 5 § 9](#); [1873 p 5 § 10](#); [1869 p 4 § 9](#); RRS § 184.]

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## Who is Plaintiff?

### Personal Representative

- Decedent's PI claim under RCW 4.20.046
- Decedent's PICD claim under RCW 4.20.060
- Wrongful death under RCW 4.20.010 et seq.

### Surviving Spouse OR Personal Rep

- Loss of consortium

### Decedent's Parents

- Parent's claim for injury or death of a child under RCW 4.24.010
- NOTE: I will mostly ignore this claim in this presentation. But be aware of the important potential conflict of interest for a PR who is also a parent of the decedent.

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## Case Law v. Statutory Amendments

- Old case law is still useful on most issues, but watch out for later statutory changes that can make some cases misleading.
- Laws **2019 c 159**:
  - Changed class of WD beneficiaries under RCW 4.20.020 (which also effectively changes class of beneficiaries for PI claim under RCW 4.20.046) to include (if no surviving spouse or children) “parents or siblings” regardless of whether they were financially dependent on decedent
  - Clarified what damages are recoverable under PI and PICD claims, RCW 4.20.046 and RCW 4.20.060
  - Completely rewrote action for death of a child, RCW 4.24.010
- Laws **1993 c 44**:
  - Changed recovery of damages for PI claim under RCW 4.20.046 to allow recovery of general (noneconomic) damages and bring PI damages into alignment with damages in a PICD claim under RCW 4.20.060 (even though *recipient* of recovery still differs)
- Prior to **1917**, a WD claim could be pursued directly by heirs, rather than exclusively by the PR. Huntington v. Samaritan Hosp., 101 Wn.2d 466, 469, 680 P.2d 58 (1984).

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## Compare PI and PICD claims: Two claims but only one recovery

Wilson v. Grant, 162 Wn.App. 731, 258 P.3d 689 (2011) has a helpful discussion, but keep in mind 2019 statutory changes; and Wilson does not address how recovery can be split between PI and PICD.

### PI under RCW 4.20.046

- Plaintiff is PR
- Beneficiaries are:
  - The Estate, but only for special (economic) damages
  - General (noneconomic) damages go to WD beneficiaries under RCW 4.20.020:
    - Spouse, and children, *and stepchildren*
    - “Parents or siblings” if no spouse, no “such child or children” (what about stepchildren?)

### PICD under RCW 4.20.060

- Plaintiff is PR
- Beneficiaries are:
  - Spouse if no children
  - Spouse and children if there are children
  - Children if no spouse
  - “Parents or siblings” if no spouse and no children
- Note that recovery is the *same measure of damages* as PI claim: includes decedent’s economic losses, and decedent’s general damages (pain and suffering etc.)

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## Wilson v. Grant, 162 Wn.App. 731, 258 P.3d 689 (2011)

- Decedent died of medical malpractice. No spouse, no children, no one dependent on her for support. Survived by parents and two brothers.
- As of 2011, for WD (and PI general damages) and PICD, parents and “sisters or brothers” could not recover unless resident in the United States and dependent on the decedent for support. So in Wilson, PR had no claim under WD, PI general damages, or PICD.
- Held, Estate could recover for special (economic) damages for PI under RCW 4.20.046.
- Note: 2019 statutory claim eliminated residency and dependency requirements, so “parents or siblings” may now recover under WD, PI, and PICD, if decedent has no surviving spouse and no surviving children. So, Wilson discussion of this issue is moot.
- Even though PI and PICD are basically the same cause of action for the same damages, the beneficiaries **are different**. Wilson did not have to address this problem.
- PR is the plaintiff in both these actions, and the PR will have to determine how much goes to the Estate for PI economic damages, how much goes to WD beneficiaries, and how much goes to PICD beneficiaries.
- Wilson did not have to determine who receives recovery for decedent’s economic losses: RCW 4.20.046 says it goes to the Estate, but RCW 4.20.060 says it goes to PICD beneficiaries. So far as I know, this is an unresolved statutory conflict.
  - Seems nonsensical for PICD beneficiaries to receive compensation for decedent’s medical bills unless they actually paid the bills. Also this complicates subrogation issues: If the PICD beneficiary receives a recovery measured by decedent’s medical bills, is that recovery subject to subrogation? The beneficiary had no contractual relationship with decedent’s insurer.
  - Decedent’s loss of earnings: should the Estate or the PICD beneficiaries receive those funds? The difference is, are the LOE proceeds subject to Estate debts?

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## Compare PI and WD claims

WD statutes govern post-death damages, and survival statutes (PI and PICD) govern pre-death damages.  
Otani v. Broudy, 151 Wn.2d 750, 755, 92 P.3d 192 (2004).

### **PI under RCW 4.20.046**

- Plaintiff is PR
- Beneficiaries are:
  - The Estate, but only for special (economic) damages
  - General (noneconomic) damages go to WD beneficiaries
- Measure of damages is *decedent’s* special (economic) damages plus general damages (noneconomic) for pain and suffering

### **WD under RCW 4.20.010**

- Plaintiff is PR
- Beneficiaries per RCW 4.20.020:
  - Spouse, and children, *and stepchildren*
  - “Parents or siblings” if no spouse, no “such child or children” (what about stepchildren?)
- Measure of damages is *each beneficiary’s* loss of love, care, affection, and pecuniary loss due to financial dependence on the decedent. Note this means that each beneficiary’s damages claim is different (e.g., spouse v. children v. estranged children). Parrish v. Jones, 44 Wn.App. 449, 454, 722 P.2d 878 (1986).

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## Who Benefits? What part of recovery is subject to Estate debts?

- Estate receives recovery for economic damages under PI, and at the moment, it appears that is all. RCW 4.20.046(2). But see dilemma with PICD recovery, below.
- All recovery for WD beneficiaries is direct recovery, not Estate assets. PR is “merely a statutory agent or trustee” for the beneficiaries. Gray v. Goodson, 61 Wn.2d 319, 327, 378 P.2d 413 (1963) (also has long discussion of historical origins of and reasons for WD statute).
  - Noneconomic damages under PI. RCW 4.20.046(2).
  - Each beneficiary’s individual damages for loss of love, care, affection, loss of economic support provided by decedent.
- All recovery for PICD beneficiaries is direct recovery, not Estate assets. Tait v. Wahl, 97 Wn.App. 765, 771, 987 P.2d 127 (1999), citing Parrish v. Jones, 44 Wn.App. 449, 454-455, 722 P.2d 878 (1986).
  - Economic damages measured as by PI (duplicating Estate recovery?) Some commentary supports the idea that PICD does in fact allow recovery of medical expenses and lost earnings for the PICD beneficiary and free of estate creditors and debts. See, Michael M. Martin, Measuring Damages in Survival Actions for Tortious Death, 47 Wash.L.Rev. 609, 616 and fn 37 (1972), cited in Parrish, 44 Wn.App. at 455.
  - Noneconomic damages measured as by PI (duplicating WD beneficiary recovery under RCW 4.20.046(2)?)

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## Subrogation

- Still the same as with any PI claim, which is complicated enough.
- **Basic concept of subrogation:** Plaintiff’s insurance pays a medical bill; plaintiff recovers funds reimbursing for that expense; therefore plaintiff owes reimbursement to the insurer. The insurer has a “right of subrogation” to the funds recovered by the plaintiff. (Subject to caveats like Mahler fees, reduced amount due to limited total recovery by plaintiff, etc.) The basis of the subrogation right is contractual (insurance contract) plus equitable (case law).
- **Medicare and Medicaid subrogation.**
  - Medicare has a federally mandated superpriority to repayment if any Medicare funds were used to pay for medical care relating to injuries caused by a third party. Basis is federal law which has priority over state laws governing probates, so PR can’t rely on probate creditor claim process or any state law or state procedural requirements to avoid repayment.
  - Medicaid is a state program partly funded by feds. As a condition of receiving the federal funding, the state is required to make efforts to recover Medicaid payments via subrogation. But the state’s right to recover is governed by state law and is subject to probate creditor claim processes and nonclaim deadline. See In re Guardianship of Mayou, 6 Wn.App. 345, 348, 492 P.2d 1047 (1972) (state’s claim for expenses of caring for incompetent individual during life is subject to the probate nonclaim statute).
- **Interaction of creditor claim process and subrogation.** For a medical bill to be paid by the Estate, the provider must file a creditor claim. If the bill is paid by insurance, provider is owed nothing so no claim is filed. But then Estate recovers funds and insurer’s subrogated right arises. Is insurer obligated to file a creditor claim? I don’t know, but probably not. As a practical matter, repayment or waiver of subrogated rights are negotiated directly with the insurer as part of the PI settlement process. I haven’t had to deal with this yet in a case where the PI case didn’t settle and went to trial.

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## Apportionment of Recovery Between Beneficiaries of the Same Claim

- **WD.** Each WD beneficiary's measure of damages relates to their individual relationship with the decedent, and are not necessarily equal. Parrish v. Jones, 44 Wn.App. 449, 454-455, 722 P.2d 878 (1986).
- **PI and PICD.** Note: Parrish says "under [PI] RCW 4.20.046, the action which survives is for the benefit of the estate." 44 Wn.App. at 455. But this was decided when the statute only allowed recovery of economic damages. Now the PI recovery allows noneconomic damages, and specifies that recovery for noneconomic damages goes to the WD beneficiaries.
- General damages under PICD are apportioned among PICD beneficiaries under state law of descent and distribution, *even if the decedent left a will*. Parrish at 455-456. Parrish cites a Michigan case construing a federal statute for this proposition, and literally says only, "This method seems as reasonable as any to apportion proceeds amongst statutory beneficiaries." Remember, this was pre-1993, when PI statute did not allow recovery of general damages.
- Post-1993, Parrish apportionment can't be also applied to PI general damages because that recovery flows to WD beneficiaries, which includes *stepchildren*, who are *not* PICD beneficiaries. Laws of descent and distribution provide that stepchildren only inherit if (1) the decedent is the second spouse to die and (2) has no heirs such that the estate would escheat to the State. In that case, the children of the first spouse (stepchildren of the second spouse) inherit. RCW 11.04.095. This *cannot* be the proper disposition of PI general damages to stepchildren. So we are left with no guidance. Treat stepchildren same as children? Give them half as much? More? Less?
- See also Cornejo v. State of Washington, 57 Wn.App. 314, 330-331, 788 P.2d 554 (1990), which does not resolve the question but merely suggests that for a jury trial, it would be best to have a special verdict form that allows the jury to directly apportion the award among the beneficiaries, rather than trying to determine apportionment from a lump sum award as happened in Parrish. Cornejo is also pre-1993 so it does not address the current problem with the Parrish rule.

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## Apportionment of Recovery Between WD, PI, PICD claims

- "[W]hen a trial court must apportion funds from a single settlement fund resolving claims under the three statutory causes of action presented here, the fund must first be apportioned between the three actions. After this initial separation of the settlement fund, the proceeds are then apportioned according to the appropriate method for each cause of action." Parrish, 44 Wn.App. at 456. That's nice, but how?
- The most logical basis would be to determine the value of each claim, WD, PI, and PICD, then calculate their proportional size relative to the total of all three claims together, and then divide the proceeds by those proportions. But so many practical dilemmas:
  - How to determine an amount of general damages, or loss of love, care and affection, without having a jury trial? Who can predict or even estimate how much would be awarded?
  - Measure of damages for PI and PICD are the same, but it should be axiomatic that the decedent can only recover once. So once special and general damages of the decedent are determined, how much should go to PI and how much to PICD?
  - Decedent's economic damages expressly go by statute *both* to the Estate and to PICD beneficiaries. How does PR determine who should receive that part of the recovery?
  - Who is going to take on the fraught determination of how WD proceeds should be divided between a surviving spouse on the one hand, and surviving children on the other, and possibly surviving stepchildren as well?
- PR's fiduciary duties: Who has priority between heirs, WD beneficiaries, creditors, subrogated interests?
- PR's fiduciary duties: If settlement is for less than total value of all claims, is there a duty to apportion any of the settlement toward economic damages relating to pending creditor claims or subrogated interests? Cf. Arkansas Dept. of Health and Human Svcs. v. Ahlborn, 547 U.S. 268 (2006), where parties stipulated that the claim was worth about \$3 million, the settlement was for about one-sixth that amount (about \$500K), and of that, only \$35,581.47 was in reimbursement of medical payments. The Medicaid lien was held to attach only to the \$35,581.47 and not to the entire settlement.

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## “Easy” Family Example

- Harry is married to William
- Harry and William have three children, Carmen, Cal, and Chris; all adults.
- William is severely injured in a car accident and dies after several days in the hospital. Medical expenses were paid by his auto insurance PIP and health insurance.
- WD – beneficiaries Harry, Carmen, Cal, Chris.
- PI – estate recovers medical expenses subject to subrogation (but conflict with PICD?); general damages go to Harry, Carmen, Cal, Chris.
- PICD – beneficiaries Harry, Carmen, Cal, Chris.
- Still an allocation issue: how much to spouse, versus children? Remember also that WD damages is based on relationship, while PI and PICD recovery is allocated “according to laws of descent and distribution.” Generally assume minimum of 75% to spouse, and almost never less than 50%.
- Loss of consortium—Harry has independent right to pursue, so better to not settle, or determine allocation, without his approval.

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## The Law School Exam Family - I

- Harry is married to William
- Harry has a child Sam from a previous relationship
- Harry and William have three children, Carmen, Cal, and Chris. Carmen is deceased leaving a minor daughter Greta, whom Harry and William have raised. Cal is estranged from the family. Chris is a minor.
- First scenario: William is severely injured in a car accident and dies after several days in the hospital, never regaining consciousness after the accident. William’s Will disinherits Cal. Medical expenses were paid in part by his auto insurance PIP, in part by his regular health insurance, and some remain unpaid and outstanding and the providers have filed creditor claims.
  - WD – beneficiaries Harry, Chris, Cal, Sam. Greta receives nothing.
  - PI – beneficiaries special damages to Estate, general damages to Harry, Chris, Cal, Sam despite the Will disinheriting Cal. Greta receives nothing.
  - PICD – beneficiaries Harry, Chris, Cal despite the Will disinheriting Cal. Greta receives nothing.
- How to apportion between WD, PI, and PICD?
- How to apportion between Harry, Chris, estranged Cal, and stepchild Sam for WD?
- How to apportion between Harry, Chris, and Cal for PICD?
- Can the PR take into account the Will disinheriting Cal?
- Can the PR avoid allocating settlement money to the Estate?

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## The Law School Exam Family - II

- Harry is married to William
- Harry has a child Sam from a previous relationship
- Harry and William have three children, Carmen, Cal, and Chris. Carmen is deceased leaving a minor daughter Greta, whom Harry and William have raised. Cal is estranged from the family. Chris is a minor.
- Second scenario: William is severely injured in a car accident, recovers after several days in the hospital, but then dies of other causes. William's Will disinherits Cal. Medical expenses were paid in part by his auto insurance PIP, in part by his regular health insurance, and some remain unpaid and outstanding and the providers have filed creditor claims.
  - WD – no claim—injury didn't cause death.
  - PI – beneficiaries special damages to Estate, general damages to Harry, Chris, Cal, Sam despite the Will disinheriting Cal.
  - PICD – no claim—injury didn't cause death.
- How to apportion between Harry, Chris, estranged Cal, stepchild Sam?

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## The Law School Exam Family - III

- Harry is married to William
- Harry has a child Sam from a previous relationship
- Harry and William have three children, Carmen, Cal, and Chris. Carmen is deceased leaving a minor daughter Greta, whom Harry and William have raised. Cal is estranged from the family. Chris is a minor.
- Third scenario: Chris is severely injured in a car accident and dies after several days in the hospital, never regaining consciousness after the accident.
  - WD – beneficiaries Harry, William, Cal. (Or is the "or" of the statute disjunctive?)
  - PI – special damages to Estate, general damages to Harry, William, Cal.
  - PICD – beneficiaries Harry, William, Cal.
  - Parent's death of a child claims – double recovery with WD for Harry and William?

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## PR's Fiduciary Path Through the Minefield

- Handle your Estate process the way you usually would. Nothing about these claims changes ordinary probate administration. Note that decedent's PI claim, to the extent of recovery of economic damages, is an estate asset that should be listed on the inventory.
- The Court is the PR's friend and liability shield. Get court approval even if it technically might not be required.
  - Intervention Estate – PR needs approval of any settlement. RCW 11.48.130.
  - Nonintervention – PR can settle without court approval (if no minor beneficiaries are involved, see below), but must assess the risk of a disgruntled beneficiary. If PR is not getting court approval, then get all beneficiaries' approval of an allocation scheme, in writing, with an express provision stating that each beneficiary has had opportunity to consult independent legal and tax counsel and is fully informed before consenting.
  - Any minors involved? Even if PR has NPs, settlement will need approval of a settlement Guardian ad Litem (SGAL). RCW 11.76.080 and/or SPR 98.16W; Wood v. Dunlop, 83 Wn.2d 719, 521 P.2d 1177 (1974). If you need a probate GAL (PGAL) anyway, make sure it's someone who is qualified to act as SGAL as well. If you anticipate the possibility of a long-term structured settlement or other complicated scenario for a very young beneficiary, consider telling the court that and asking for appointment of someone who is sufficiently experienced and trained to thoroughly investigate.
  - Consider giving notice of motion to approve settlement to any affected creditors. No clear statutory requirement but due process is good protection for the PR.
  - Can TEDRA bind a subrogated insurer? – Definition of "matter" includes all interests "passing at death." But WD does not "pass at death" as it's never an estate asset. Same with PICD apparently, even though the measure of damages is based on decedent's injury and losses.