

TEXAS DROWNING ACCIDENT GUIDE

*What To Do If You Or Your Child Was
Seriously Hurt In A Near Drowning Accident*



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If you or your child was seriously hurt in a near-drowning accident, you may be eligible for compensation. These cases are very complicated and difficult which is why you should consider hiring an attorney right away. While there may be a person who you think is responsible for the injuries, it is not enough to have a suspicion

to bring a claim. You must have evidence that backs up your claim. An attorney can greatly increase your success.

Possible liable parties include rec centers, hotels, private swimming pool owners, town pools, or swim schools. While it may seem difficult to prove the fault of the parties involved, our Texas drowning accident lawyer can help you through that process.

BRINGING A CLAIM AGAINST THE NEGLIGENT PARTY

There are various reasons why a drowning accident might take place. There could be negligence of a person or negligence of a facility involved. Lifeguards may not have the proper training or have been distracted, leading to someone nearly-drowning or indeed drowning. The facility could have something on the property that is fault that lead to the accident. They also could have overcrowded and by doing that, overwhelmed the lifeguards they had on duty. Again, there are many different factors that go into someone drowning in a body of water. It is not always a pool. It can be any body of water where there is swimming involved such as a beach or a lake. Determining the liable party is something your lawyer can help you with. If, for instance, a lifeguard blatantly misses someone drowning in their eyesight, they would be the negligent party. If there was something wrong with the structural integrity of a pool in a hotel, then the hotel would be liable for the injuries. The fine details can be discussed with your attorney so that you should who you should be pursuing a case against.



TYPES OF DROWNING VICTIMS AND COMMON CAUSES OF DROWNING ACCIDENTS

There are three primary categories that drowning victims fall into and many times, there is a good chance at recovering them on time if they are seen and rescued in a timely manner.

The first type of drowning victim is a swimmer in distress. The most visible signs of a distressed swimmer is the fear on their face, trying but often failing to keep their mouth out of the water and being unable to make it to the edge of the pool.

Active drowning is often the second step of a distressed swimmer. If they are not reached in time, they will be actively drowning. They will not be able to get their heads above the surface and will be flailing their arms trying to get air.

If an active victim passes out, that is what we call a passive drowning victim. They are victims who have mere seconds to be pulled from the water to rescue them from serious injury or fatality.

The most common causes of drowning accidents include:

- » Lack of adequate training for lifeguards
- » Overcrowding the pool
- » Lack of or misplaced emergency equipment
- » Poor visibility in the water
- » Unsecure facility, allowing anyone to easily enter when unsupervised
- » Substandard safety procedures
- » Faulty equipment

COLLECTING EVIDENCE AND DOCUMENTING THE INCIDENT

When building a strong case, there are several things that you should do and have. Following the incident, you should take photos of where your drowning happened. You should have police come on the scene and get the records from them and EMS later on if there are any. You may also talk to the witnesses and get statements from them about what they saw. More so, there can be an investigation of the facility done about the safety of the area as well as any information about drowning accidents in the past. You should also be prudent about getting testimony from any medical professional that had anything to do with the incident including the lifeguards on duty.

FREQUENTLY ASKED DROWNING ACCIDENT QUESTIONS

What Should I Do After a Drowning Accident?

After a drowning accident, it's very important that the following steps are taken quickly. First, you need to make sure that the drowning was reported to the local government agency. This typically will be the police department or local sheriff's office. It's also important that the accident is reported at the facility where it happened. If it was at an apartment complex or hotel, notify the manager. If it was at a camp, notify whoever is in charge.

It's also important that you hire an experienced lawyer that's involved in swimming pool accident cases. What they can do is make sure that the evidence is



preserved. One of the things to look at is what the level of water was. Was the pool properly marked? Were there lifeguards involved? Is there any video that shows the accident? An experienced lawyer who's handled swimming accidents can make sure this gets done and the proper experts are hired to do additional investigation.

How Do We Find the Right Attorney?

When choosing a lawyer to handle your injury claim involving a drowning accident, there are four questions that need to be asked.

You should first ask whether or not that lawyer is a personal injury lawyer. That means the lawyer handles only personal injury work. If they handle wills, bankruptcies, and family law, then this isn't the right lawyer for you. The lawyer should be devoted to personal injury work. The other thing is if the lawyer is a trial lawyer that has experience and knowledge in going to court and fighting these cases before a judge and jury.

Next, does the lawyer have success and knowledge pertaining to this area of law? Have they gone to court, been successful, and can show you their results? The other thing you would want to know from that lawyer is whether or not they are board-certified. A board-certified lawyer is one of the top 3% in the state who are recognized as having specialized knowledge in their area of law.

How Much is My Case Worth?

One of the things that we're going to look at when determining the value of a drowning accident case is how and why this drowning occurred. For example, what time of day did it happen? Were there some sort of signs to show what the level of the water was where the accident took place? Was there a lifeguard on duty? Were there parents there who observed how the drowning occurred?

There are also specific regulations that are going to apply to swimming pools, and it becomes even more specific depending on if it's a private pool or a commercial pool. For example, did it happen at an apartment complex? Did it happen at somebody's home?

Did it happen at a school facility? All of these are factors that go into determining what the value of the case is. One of the other things that we're going to look at is the amount of insurance that the involved facility has — for example, a school or summer camp.

One of the things that we're also going to look at is the relationship. We're going to look at the type of relationship that child had with their parents and siblings. All of this is going to determine the emotional damages of the case, so it's important to get a lawyer who is experienced in handling drowning cases.



Who is Liable for the Accident?

The other day we had a client come in whose child had been involved in a drowning accident. They wanted to know who can be held liable for their damages and suffering. The answer is that several people can be held accountable. It can be the establishment or the owner of the pool, the people who constructed the pool, or the people who were in charge of maintenance of the pool. It all depends on how the drowning occurred and what happened.

How Long Will This Case Take?

A drowning accident in the state of Texas typically will take a fair amount of time because of the factors involved. Was it a commercial pool? Was it a residential pool? Who built the pool? How old is the pool? Did the pool have safety equipment? Who designed it? Who maintains the pool? Those things all have to be looked into because you're going to want to bring in all the parties that may have had a part in this. This takes time.

I had a family come in last week that lost a loved one as the result of a drowning. One of the questions they asked was how long it would take to resolve their case. That is a complicated question to answer because every single case is different. Some of the factors that we're going to look at are the parties that were involved. Are they willing to try to settle the case quickly, or are they going to want to draw it out further?

It's also going to depend on how and why the accident happened. Were there lifeguards present? Was there any type of surveillance in that area? Was the pool properly monitored? Did it have different safety measures in place?

Another thing that we're going to have to look at is where the drowning occurred and if they've had a similar type of accident before. For instance, if they've had prior drownings, then obviously this case is going to settle a lot quicker than if they hadn't had any drownings. There are various factors that go into it, but a lawyer who's experienced in handling drowning cases will be able to assist you. If you have any questions, we are here to help you.

CONTACT OUR TEXAS DROWNING ACCIDENT LAWYER TODAY

If you or someone you love was seriously injured in a drowning accident, we want to help you pursue full and fair compensation. We keep your best interests in mind when going up against the insurance company who only concerns themselves with their bottom line. Call our office today to set up a free consultation to go over your case and see what the next best legal step is for you. We will guide you through your case.

ABOUT THE AUTHORS:

Garcia & Ochoa, LLP is a dynamic law firm with an ever-evolving quest for excellence, yet our focus is not myopic in any way. We passionately share our knowledge in a proactive, thorough and open manner. We always make time to help our clients & colleagues and never too busy for your questions, comments or concerns.

Over the course of the past three decades, we have successfully handled a wide variety of cases against companies and individuals in Texas and across the nation.



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