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CHAPTER 11

SPECIAL PROBLEMS IN WRONGFUL DEATH DUE TO CRIMINAL ACTIVITY

If a loved one is hurt or killed due to criminal activity, just as in all wrongful death situations, the family can bring a wrongful death suit. Unfortunately, most criminals have limited financial resources, if any.

Good wrongful death attorneys search for third parties that may have some responsibility to keep the victim safe. As per the examples at the beginning of the book, if the crime occurred at a hotel, apartment complex, retailer, gas station, restaurant or bar, these businesses have an obligation to protect their customers and potential customers from harm.

Just what are a business's obligations to protect their customers, and just how many steps or actions must a business owner take? These are questions currently being explored in the Georgia Court of Appeal and the Georgia Supreme Court. What is very clear is that businesses must actively protect their customers,

particularly if the business knew or should have known about prior criminal activity.

For example, if an apartment complex or hotel has been around for ten years, and there has not been any criminal activity, the apartment complex or hotel may not be obligated to take any additional action to protect their customers or guests who stay at the hotel. However, if residents or guests of residents at a certain apartment complex or hotel have been robbed at gunpoint every month for three months, then the apartment complex or hotel may have to take additional steps to protect the residents, travelers and customers in the complex, or at the hotel. (In the event that the wrongdoer and the victim knew each other, in almost all such circumstances, there will not be any recovery from any business.)

A recent case was decided in favor of the victim, after he was beaten up at Six Flags, by Six Flags' employees. There, the plaintiff showed that the company had been hiring employees who were also active gang members, and that the reason for the assault was because of the gang's culture.

An example of quasi-criminal contact can be when landlords are held responsible when something is wrong with the property. For example, if there is faulty wiring that causes a fire, and if the landlord knew about it or should have known about the problem, then the family can recover against the landlord, and sometimes even the landlord's agents.

While the police are generally reluctant to get involved in some wrongful death matters, they take an active role with respect to traffic-related fatalities. If a defendant killed another while driving, the defendant is often charged with a misdemeanor, driving recklessly, or even involuntary manslaughter.

In all circumstances where there is a crime that leads to death of a loved one, there is the Georgia Crime Victims Compensation Fund. Contact information can be found later in this book.