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CLIFFORD'S NOTES

A mother sitting beside her young daughter witnesses her being killed in a car crash. A wife watches the news of her husband who fell to his death in a horrific scaffolding accident.

Recovering from horrors like these involve much emotional pain and sorrow. Some have described this as complicated grief — when one grieves for longer periods of time given what the individual or family has suffered.

A recent case in Illinois recognized this concept of complicated grief in a wrongful-death case involving a father of four adult children who died following a plate glass window falling on him and amputating one of his legs. He bled to death. Although the children were estranged from him for awhile following a divorce, the two sons had recently initiated contact with their father and the two daughters said they had intended to do so.

The trial court allowed the testimony of a licensed clinical professional counselor who had treated one of the daughters. She diagnosed her with “complicated grief” and after reviewing the depositions of the other children, testified at the bench trial that all of the children were experiencing complicated grief symptoms.

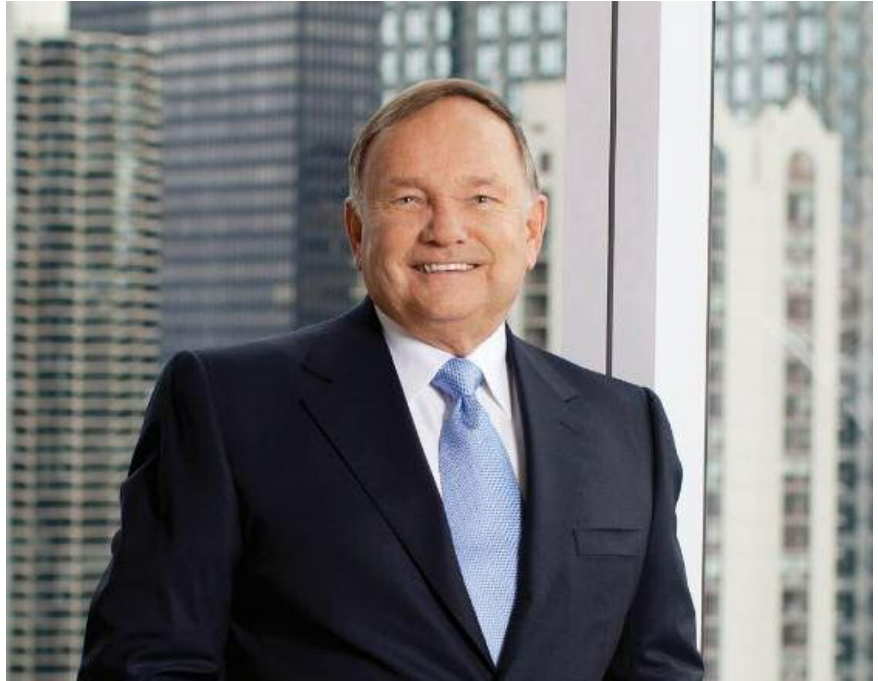
It was helpful to the trial court for a grief expert to testify so as to understand complicated grief and the mourning process and its distinction from other psychiatric disorders as well as each individual family member’s response and recovery from acute and disabling stages of grief and the prognosis.

The trial court found for the plaintiff and awarded \$1.5 million for the survival action and \$1 million for the wrongful-death action. In a 56-page memorandum opinion issued at trial, Circuit Judge Thomas M. McGing wrote of the complicated grief that he believed that the children suffered. The Illinois Appellate Court agreed in a lengthy opinion written by Justice Jesse G. Reyes. *Racky v. Belfor USA Group Inc.*, 2017 IL App. (1st) 153446 (decided June 16, 2017).

There, the court held that the children had testified as to happy childhoods with their father. “Each of the Racky children expressed anger and guilt over their father’s death. Sean testified his anger over his father’s death has increased over time. Meghan testified regarding the deep guilt she felt that she did not reconcile with her father when her brothers did,” the court wrote.

The grief expert “explained that a sudden death increases the likelihood of having complicated grief because there is no opportunity to say good-bye and that complicated grief cannot be ‘cured’ and is likely to ‘flare up throughout the person’s life,” the court recognized.

It is reported that each of the 2.5 million unexpected deaths annually in the United States affects an average of four people. Those whose extreme grief becomes insufferable and is disabling has been labeled complicated grief. Health professionals need to treat this type of condition differently than depression or post traumatic



COMPLICATIONS OF GRIEF

Courts recognize when grief goes beyond sadness

By **BOB CLIFFORD**

stress disorder.

Under the guidelines of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM-V), a diagnosis of complicated grief is appropriate if the depressive symptoms are unrelenting or if the patient has severe impairment of functioning or delusional or suicidal thinking.

The condition was first recognized in the 1990s by Dr. M. Katherine Shear, a professor of psychiatry at Columbia University and program director for its Center for Complicated Grief. She told the *New York Times* that “It takes a person away from humanity and has no redemptive value.” “After a Death, the Pain that Doesn’t Go Away,” *The New York Times*, Fran Schumer, Sept. 28, 2009.

This acute form of grief’s “chief symptom is a yearning for the loved one so intense that it strips a person of other desires. Life has no meaning; joy is out of bounds,” the reporter writes. “Other symptoms include intrusive thoughts about death; uncontrollable bouts of sadness, guilt and other negative emotions; and a preoccupation with, or avoidance of, anything associated with the loss. Complicated grief has been linked to higher incidence of drinking, cancer and suicide attempts.”

The medical director of the American Founda-

tion for Suicide Prevention, Dr. Paula J. Clayton, was quoted as saying “You can safely say that complicated grief is a disorder, a collection of symptoms that causes distress, which is the beginning of the definition of a disease.”

Shear made her findings on complicated grief known in a 2005 study that was published in *The Journal of the American Medical Association*. She also pointed out that specialized treatment for this condition is twice as effective as the traditional interpersonal therapy used to treat depression or bereavement.

The court in *Racky* recognized these unique and severe symptoms of the adult children who suffered the sudden loss of their father under catastrophic circumstances. Ultimately, the importance of the distinctions in a person’s state of mind following a catastrophic event is to properly diagnose the condition so that it can be treated and that a fair and just amount of damages are determined. CL

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