



## **ADOPTION AND WRONGFUL DEATH LAWSUIT**

The Arizona Court of Appeals just held in *Edonna v. Heckman*, 1CA-CV 10-0402 that an adopted child cannot bring a wrongful death action for loss of its biological parent. Nome Edonna filed a wrongful death lawsuit for the death of his biological father Edward Hintz. The trial court ruled that Edonna was Edward's child, and therefore was a proper person to bring a wrongful death claim under A.R.S. § 12-612. Edonna's parents, Donna and Edward Hintz, divorced when he was four. He had different parenting time with his father throughout the years when Edward relocated from Arizona. At age thirteen Edonna's step-father adopted him to insure that he would be taken care of financially and medically. Edward agreed and Edonna maintained a hyphenated last name including his adopted father's name. Once Edonna became an adult his contact with his dad increased over the next twelve years, they became very close. In October, 2005 Edward was killed in a collision with the Defendant William Heckman.

Edonna filed a negligence and wrongful death action against the Heckman's as the sole surviving beneficiary of his father. The Heckman's moved to dismiss claiming Edonna was not a proper wrongful death beneficiary as a consequence of the adoption. The trial court denied the Heckman's motion.

The Court of Appeals reversed. The Court admitted that the statute expressly allows a claim for wrongful death by any surviving "child" that the word "child" is not defined by statute. Indeed, the Court states "there is no statutory definition of the term "child" for purposes of the wrongful death act, and the absence of other authority, we would conclude that Edonna was entitled to bring his claim."

The Court of Appeals relied upon other statutes to deprive Edonna the biological child of any claim, specifically, A.R.S. §8-117, an adoption statute to "reveal a contrary legislative intent." A.R.S. §8-117 states that, upon adoption, "the relationship" of prior parents "is completely severed and all the legal rights, privileges, duties, obligations and other legal consequences cease to exist including the right of inheritance . . ." After reviewing the various statutes the Court of Appeals concluded that the adoption of Edonna deprived him of any right to bring a claim against the defendants.