

The Consortium Interest of Children

The right of children to recover for the consortium interest of their deceased parent was first recognized in *Giuliani v. Guiler*, 951 S.W.2d 318 (Ky. 1997). It was a 4-3 opinion, Justice Wintersheimer authoring it. [Thomas Conway sat as a special justice.] Cooper dissented, joined by Lambert and Stephens, writing that the court had illegitimately usurped the legislative province by judicial fiat. Thirteen years later, 40 child plaintiffs have taken awards in this context.

The first plaintiff to do so occurred nearly a year later in Crittenden County – the plaintiff, age 17, lost his father in a car wreck – that first consortium award was for \$40,000. The Guiliani plaintiffs came back to trial in June of 1998 in a medical death case – ironically, a defense verdict was returned and the plaintiffs who carried the water for this tort came up empty-handed.

The results below are sorted from smallest to largest award. As this tort is exhausted at the age of majority, the chart makes it clear that generally, the lowest consortium awards were for the oldest children and the highest awards to the youngest.

In looking at the averages by age, the intuitive notion that younger children will take larger awards is obvious.

There were no child consortium awards in 2011 and a single one in 2012. There were three results in 2013.

Age	Cases	Aggregate Consortium Award	Average Consortium Award
All	40	\$38,991,000	\$974,775
Under 10	19	\$25,263,500	\$1,329,657
11-16	12	\$11,637,500	\$969,791
17 and over	3	\$115,000	\$38,333
Age Unknown	5	\$1,175,000	\$235,000
Over 18	1	\$800,000	\$800,000

***In a unique case in 2013 (No. 4977), an adult child (age 32) with severe disabilities presented a consortium claim secondary to the claim of her father who was injured in a fall – the father had been a key caretaker of the adult child, his injuries limiting his ability to assist her.