

## Checklist For -Wrongful Death and Survival Claims

(Note: The Court reserves the right to modify any of these procedures on a case-by-case basis)

**If there has not been an Estate opened yet**, and the sole purpose for opening an Estate is to pursue a wrongful death action; then a Full Administration must be filed prior to filing an Application to Approve Wrongful Death. See Checklist for Full Administration.

MANDATORY DEPOSIT DUE AT TIME OF FILING: \$45.00

*Note: All paperwork should be typed, single sided, and please do not staple originals.  
All documents being filed must have original signature.*

### INITIAL FILING:

- Contact Information Form
- Application to Approve Settlement and Distribution of Wrongful Death and Survival Claims (Form 14.0)
- Waiver and Consent Wrongful Death and Survival Claims (Form 14.1)
  - o All parties listed on page 2 of the Application to Approve Settlement (Form 14.0) must either sign this Waiver and Consent or be served notice of hearing by certified mail.
- Narrative Statement describing the action which gave rise to the wrongful death/ survival claim
- Proposed Entry Approving Settlement and Distribution of Wrongful Death and Survival Claims (Form 14.2)

### TO BE FILED AFTER HEARING OR AFTER ENTRY APPROVING SETTLEMENT:

- Report of Distribution of Wrongful Death and Survival Claims (Form 14.3).  
*This is due 30 days after Entry is approved, (all monies must add up and be the same as application and entry).*
- Receipts signed by all beneficiaries or copies of (front and back) canceled checks verifying distribution of the proceeds.
- Certificate of Closing LCPC Form 6.16 (*If closing case*)

### OTHER FILINGS:

- Verification of Receipt and Deposit (Form 22.3)  
*(If any proceeds are for the benefit of a minor and being deposited into a bank account. Due 30 days after Report of Distribution is Filed)*
- If proceeds are going to survival claim:
  - o Account Due 30 days from filing of the Entry Approving Settlement and Distribution of Wrongful Death and Survival Claims (Form 14.2)

### IF THE CASE IS STAYING OPEN FOR FURTHER LITIGATION OR CLOSING WRONGFUL DEATH CASE AND SURVIVAL CLAIMS CASE:

- Status Report LCPC Form 6.16
  - o Due **1 year following** the Entry Approving Settlement and Distribution of Wrongful death and Survival Claims, and then every year thereafter or when closing the case.

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Lake County Court of Common Pleas  
Division of Probate  
*Judge Mark J. Bartolotta*



Lake County Courthouse, West Annex  
25 North Park Place,  
Painesville, Ohio 44077  
**Mailing Address:** P.O Box 490  
Painesville, Ohio 44077  
#440-350-2626  
[www.lakecountyohio.gov/probatelco](http://www.lakecountyohio.gov/probatelco)

**PROBATE COURT OF LAKE COUNTY, OHIO  
JUDGE MARK J. BARTOLOTTA**

**ESTATE OF \_\_\_\_\_, DECEASED**

**CASE NO. \_\_\_\_\_**

**CONTACT INFORMATION FORM**

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Attorney for Applicant(s) \_\_\_\_\_

Attorney's Street Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Attorney's Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

Attorney's Email Address \_\_\_\_\_

Attorney's Registration Number \_\_\_\_\_

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Applicant's Name \_\_\_\_\_

Applicant's Street Address \_\_\_\_\_

City State and Zip Code \_\_\_\_\_

Applicant's Telephone Number \_\_\_\_\_

Applicant's Email Address \_\_\_\_\_

**PROBATE COURT OF LAKE COUNTY, OHIO  
JUDGE MARK J. BARTOLOTTA**

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

**APPLICATION TO APPROVE SETTLEMENT AND DISTRIBUTION OF  
WRONGFUL DEATH AND SURVIVAL CLAIMS**

[R.C.2117.05, 2125.02, 2125.03, Civ. R. 19.1 and Sup. R. 70]

**The fiduciary states: [Check whichever of the following are applicable, strike inapplicable words, and incorporate all attachments into a single statement.]**

- There is an offer of (full) (partial) settlement without suit being filed.
- There is an offer of (full) (partial) settlement after suit was filed. The style of the case, the court and the case number being \_\_\_\_\_.
- A judgment has been recovered for damages for decedent's wrongful death (and personal injury and property damage arising out of the same act and which survive the decedent).
- The amount of the settlement or judgment is \$\_\_\_\_\_.
- This is a partial settlement and therefore the estate must remain open pending final disposition of the claims.
- The offer includes, or the judgment sets forth separately, reasonable funeral and burial expenses in the amount of \$\_\_\_\_\_.
- Reasonable compensation for the fiduciary's services rendered is \$\_\_\_\_\_ and an itemization of such services is attached.
- Outstanding hospital and medical bills in the amount of \$\_\_\_\_\_ and an itemization of such bills is attached.
- Outstanding claims to a right of subrogation for the payment of hospital and medical bills in the amount of \$\_\_\_\_\_ and an itemization of such is attached.
- A reasonable attorney fees for the attorney's services is \$\_\_\_\_\_ and reimbursement to the attorney for case expenses is \$\_\_\_\_\_. A copy of the attorney's fee contract that (has) (has not) received prior approval of this Court, subject to modification, and an itemization of case expenses are attached.
- Other: \_\_\_\_\_  
\_\_\_\_\_
- The net proceeds of \$\_\_\_\_\_ should be allocated \$\_\_\_\_\_ to the wrongful death action and \$\_\_\_\_\_ to the survival action. A statement in support thereof is attached.

- A statement in support of the proffered settlement is attached.
- Supplemental forms required by local rule of court are attached.
- All of the beneficiaries of the wrongful death action are on an equal degree of consanguinity, are adults, and have agreed how the net proceeds allocated to the wrongful death claim are to be distributed.
- The beneficiaries of the wrongful death action are not all on an equal degree of consanguinity, or one or more of the beneficiaries is a minor, or the beneficiaries have not agreed how the net proceeds are to be distributed.
- The surviving spouse, children and parents of the decedent and other next of kin who have suffered damages by reason of the wrongful death are as follows and the distribution should be as follows:

Name	Residence Address	Relationship to Decedent	Birthdate of Minor	Amount

- The survival claim beneficiaries are as follows:

Name	Residence Address	Relationship to Decedent	Birthdate of Minor	Amount

The fiduciary requests that the Court approve the application and authorize the fiduciary to execute a (complete) (partial) release which upon payment of the settlement shall be a (complete) (partial) discharge of the claim.

\_\_\_\_\_  
Attorney for Fiduciary

\_\_\_\_\_  
Fiduciary

\_\_\_\_\_  
Attorney Registration No.

**CASE NO.** \_\_\_\_\_

**ENTRY SETTING HEARING AND ORDERING NOTICE**

The Court sets \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_.m. as the date and time for hearing the above application and orders notice to be given by the fiduciary, as provided in the Rules of Civil Procedure, to the wrongful death and survival claim beneficiaries who have not waived notice.

\_\_\_\_\_  
Probate Judge

**PROBATE COURT OF LAKE COUNTY, OHIO  
JUDGE MARK J. BARTOLOTTA**

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

**WAIVER AND CONSENT  
WRONGFUL DEATH AND SURVIVAL CLAIMS**

The undersigned waive notice of the hearing and consent to and approve the settlement and distribution as set forth in Form 14.0, Application to Approve Settlement and Distribution of Wrongful Death and Survival Claims, a copy of which I have received. [print and sign below]


**PROBATE COURT OF LAKE COUNTY, OHIO  
JUDGE MARK J. BARTOLOTTA**

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

**ENTRY APPROVING SETTLEMENT AND DISTRIBUTION OF  
WRONGFUL DEATH AND SURVIVAL CLAIMS**

Upon hearing the application to approve settlement and distribution of the wrongful death and survival claims, the Court:

- Approves the proffered settlement of \$ \_\_\_\_\_.
- Orders payment of \$ \_\_\_\_\_ to be applied to decedent's funeral and burial expenses.
- Orders payment of \$ \_\_\_\_\_ to the fiduciary for services rendered with respect to the wrongful death and survival claims.
- Orders payment of \$ \_\_\_\_\_ to the attorney for reimbursement of case expenses and \$ \_\_\_\_\_ for attorney fees for services rendered with respect to the wrongful death and survival claims.
- Orders that the net proceeds of \$ \_\_\_\_\_ be allocated \$ \_\_\_\_\_ to the wrongful death claim and \$ \_\_\_\_\_ to the survival claim. The amount allocated to the survival claim shall be considered an asset of the estate and shall be reflected in the fiduciary's account of the administration of the estate.
- Finds all of the beneficiaries of the wrongful death claim are on an equal degree of consanguinity, are adults, and have agreed how the net proceeds allocated to the wrongful death claim are to be distributed.
- Orders distribution of the net proceeds allocated to the wrongful death claim to the surviving spouse, children, parents and other next of kin, in the equitable shares shown below, fixed by the Court having due regard for the injury and loss to each beneficiary resulting from the death and for the age and condition of the beneficiaries.

Name	Residence Address	Relationship to Decedent	Birthdate of Minor	Amount

Orders that the share of:

- \_\_\_\_\_ a minor(s) be deposited pursuant to R.C. 2111.05.
- \_\_\_\_\_ a minor(s) be paid to the guardian of the estate of such minor.
- \_\_\_\_\_ a child(ren) be deposited in a trust for the benefit of the child(ren) until twenty-five years of age.

Authorizes the fiduciary to execute a release which, upon payment, shall be a discharge of the claim.

Orders the fiduciary and the attorney to report the distribution of the proceeds within 30 days of the date of this Entry.

Further orders \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Approved:

\_\_\_\_\_  
Attorney for Fiduciary

\_\_\_\_\_  
**MARK J. BARTOLOTTA, PROBATE JUDGE**

\_\_\_\_\_  
Attorney Registration No.

\_\_\_\_\_  
Date



**PROBATE COURT OF LAKE COUNTY, OHIO  
JUDGE MARK J. BARTOLOTTA**

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

**REPORT OF DISTRIBUTION OF WRONGFUL DEATH  
AND SURVIVAL CLAIMS**

Pursuant to Entry filed \_\_\_\_\_, the proceeds have been paid as shown below and on the accompanying vouchers.

<b>Gross Proceeds</b>		\$ _____
Funeral and burial expenses	\$ _____	
Fiduciary fees to _____	\$ _____	
Reimbursement of case expenses to _____	\$ _____	
Attorney fees to _____	\$ _____	
Survival claim to the estate	\$ _____	
Total Deductions	\$ _____	

**Net Proceeds** \$ \_\_\_\_\_

Net Proceeds to beneficiaries:

To: _____	\$ _____
To: _____	\$ _____
To: _____	\$ _____
To: _____	\$ _____
To: _____	\$ _____
To: _____	\$ _____
To: _____	\$ _____

**Total payments to beneficiaries** \$ \_\_\_\_\_

**Balance** -0-

The fiduciary states that there are no other assets remaining in the estate.

The fiduciary states that there are assets remaining in the estate.

\_\_\_\_\_  
Attorney for Fiduciary

\_\_\_\_\_  
Fiduciary

\_\_\_\_\_  
Attorney Registration No.

**ENTRY**

The above report of the distribution of the proceeds is hereby approved.

There being no further assets to administer, the fiduciary and surety, if any, are discharged.

\_\_\_\_\_  
Date

\_\_\_\_\_  
**JUDGE MARK J. BARTOLOTTA**