

TRUMBULL COUNTY PROBATE COURT  
WRONGFUL DEATH SETTLEMENT CHECKLIST  
(Effective 6/1/00)

- \_\_\_ 1. Application to approve settlement and distribution of wrongful death and survival claims (SPF 14.0) (effective date of 10/1/98)
- \_\_\_ 2. Waiver and Consent - Wrongful Death and Survival Claims (SPF 14.1) (effective date of 4/97). Be sure to include waivers from all beneficiaries - including parents, children and siblings of the decedent. (R.C. 2125.02)
- \_\_\_ 3. Statement of facts, including the following:
- \_\_\_ brief statement/narrative regarding death, including all insurance coverage and limits of each of the parties
  - \_\_\_ the amount to be received in settlement of the claim and the amount, if any, to be received in the settlement of the right of action for conscious pain and suffering.
  - \_\_\_ the proposed allocation of compensation to be received in settlement of the action for wrongful death
  - \_\_\_ other proposed or actual settlements resulting from the same occurrence being paid to persons other than the decedent
- \_\_\_ 4. Itemized statement of litigation expenses
- \_\_\_ 5. Attorney contingent fee agreement (and journal entry if agreement has been approved)
- \_\_\_ 6. Proposed entry approving settlement or distributing wrongful death assets (SPF 14.2) (effective date 4/97)
- \_\_\_ 7. If wrongful death beneficiaries include persons not listed on SPF 1.0 Surviving Spouse, Next of Kin, Legatees and Devisees form filed earlier in the estate, a "Wrongful Death Beneficiaries" list must be provided that gives address and relationship to decedent. Note that R.C. 2125.02 includes parents and siblings of decedent as beneficiaries as well as children and spouse. These persons must receive notice of the hearing.
- \_\_\_ 8. Filing fee of \$71.00

NOTE - Report of distribution of wrongful death proceeds (SPF 14.3) is to be filed after settlement is approved.

**PROBATE COURT OF TRUMBULL COUNTY, OHIO  
THOMAS A. SWIFT, JUDGE**

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

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

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

[R.C. 2117.05, 2125.02, 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 to 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 is \$ \_\_\_\_\_ and an itemization of such services is attached.

A reasonable attorney fee 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.

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 are to be distributed.

The beneficiaries of the wrongful death action are not on all 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.

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

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	Birth date of Minor	Amount

The survival claim beneficiaries are as follows:

Name	Residence Address	Relationship to Decedent	Birth date of Minor

The fiduciary requests that the Court approved 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. \_\_\_\_\_

### 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.

\_\_\_\_\_  
**THOMAS A. SWIFT**  
**JUDGE**

**PROBATE COURT OF TRUMBULL COUNTY, OHIO  
THOMAS A. SWIFT, JUDGE**

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.

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**IN THE COURT OF COMMON PLEAS  
DIVISION OF PROBATE  
TRUMBULL COUNTY, OHIO**

**IN THE MATTER OF** \_\_\_\_\_ ) **CASE NO.** \_\_\_\_\_  
 )  
 )

**APPLICATION TO ENTER INTO CONTINGENT FEE CONTRACT**

The undersigned applies to the Court for authority to enter into the contingent fee contract attached as Exhibit A with:

Attorney: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_ ( \_\_\_\_\_ ) \_\_\_\_\_

The undersigned represents that legal services are necessary as a result of the following described matter:

\_\_\_\_\_  
\_\_\_\_\_

The undersigned further represents that no fees will be paid until reviewed by the Court and allowed by judgment entry.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Fiduciary Title

\_\_\_\_\_  
Type or Print Name

**PROBATE COURT OF TRUMBULL COUNTY, OHIO  
THOMAS A. SWIFT, JUDGE**

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	Birth date of Minor	Amount

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

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 thirty days of the date of this  
Entry.

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

Approved:

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

\_\_\_\_\_  
**THOMAS A. SWIFT**  
**JUDGE**

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

\_\_\_\_\_  
Date

**PROBATE COURT OF TRUMBULL COUNTY, OHIO  
THOMAS A. SWIFT, JUDGE**

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.

Gross Proceeds		\$ _____
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 state that there are not other assets remaining in the estate.

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

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

\_\_\_\_\_  
Fiduciary

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

CASE 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

\_\_\_\_\_  
**THOMAS A. SWIFT**  
**JUDGE**