

**GEAUGA COUNTY PROBATE COURT
JUDGE TIMOTHY J. GRENDALL**

CHECKLIST - SURVIVAL AND WRONGFUL DEATH CLAIM

These instructions are provided as a public service of the Geauga County Probate Court, are intended as a guideline only, and are not legal advice. Depending on the circumstances of each case, additional steps may be required that are not listed below. The clerks are not attorneys and therefore cannot answer legal questions or assist you in completing the forms or deciding which forms apply to your situation. The documents that you file must be typewritten or legibly handwritten, and completed in their entirety. The clerks may refuse for filing illegible or incomplete documents. The Court recommends that you obtain legal advice from your attorney or obtain assistance from the Court's Help Center before preparing and filing any forms. You may make an appointment with the Help Center by calling 440-226-7339.

Filing Requirements

1. **Form 14.0 - Application to Approve Settlement and Distribution of Wrongful Death and Survival Claims**
2. **Statement of Facts** - a written statement of facts setting forth the circumstances of the wrongful death, sufficient in detail to allow the Court to determine the reasonableness of the proposed settlement.
3. **Attorney Fee Explanation** - a detailed fee statement - see Geauga Probate Local Rule 71.2.
4. **Form 14.1 - Waiver and Consent Wrongful Death and Survival Claims** - to the extent obtainable.
5. **Form 14.2 - Judgment Entry/Magistrate's Decision Approving Settlement and Distribution of Wrongful Death and Survival Claims**
6. **Court Cost Deposit** - Arrange for payment of the court cost deposit. See the "Probate Court Costs" on the Court's website.

Additional Notes

- Notice of Hearing. To the extent that all Interested Persons do not sign Form 14.1 "Waiver and Consent Wrongful Death and Survival Claims," the applicant shall serve written notice of filing the Application to Approve Settlement and Distribution of Wrongful Death and Survival Claims upon all Interested Persons using GC Form "GC PF 4.18 - Notice of Hearing" no less than 10 Calendar Days before the hearing and provide the Court with Proof of Service (see Geauga Probate Local Rule 78.13). If a beneficiary is a minor, then notice to the minor must comply with Civ.R. 4.2(B). If necessary, provide notice by publication - see Geauga Probate Local Rule 78.14.
 - Definition of Interested Person – Decedent died after April 4, 2023. If the Decedent died after April 4, 2023, then there are new rules regarding the definition of an

“interested person” who is entitled to a notice of hearing for a wrongful death claim as required by Rule 70 of the Ohio Rules of Superintendence.

- Regardless of when Form 14.0 - Application to Approve Settlement and Distribution of Wrongful Death and Survival Claims (“Wrongful Death Application”) is filed with the Court, an “interested person” includes a surviving spouse, child, and parent.
 - Additionally, if the Wrongful Death Application is filed before two years after the Decedent’s date of death, then an “interested person” includes other persons who are next-of-kin.
 - Finally, if the Wrongful Death Application is filed on or after two years after the Decedent’s date of death, then an “interested person” does not include other persons who are next-of-kin, except to the extent that such other person filed with the Court a notice of claim before two years after the Decedent’s date of death, as explained in R.C. 2125.02(B)(3)(b).
- Annual Status Report. In decedent’s estates in which the Fiduciary was appointed for the sole purpose of pursuing wrongful death or survival claims with no other probate property, the Fiduciary shall file a status report with the Court each year on or before the anniversary date of the Fiduciary’s appointment, using GC Form “GC PF 14.5 - Status Report-Wrongful Death.”
 - Report of Distribution. The applicant shall file a report of distribution with the Court no later than 30 Calendar Days after the court order approving the wrongful death and survival claims settlement, using Form 14.3 - Report of Distribution of Wrongful Death and Survival Claims. Failure to timely file that report will subject the applicant and the attorney to citation under Geauga Probate Local Rule 77.
 - Final and Distributive Account or Certificate of Termination. If any portion of the settlement is allocated to a survival claim, then the Fiduciary shall file a final and distributive account no later than 60 Calendar Days after the date of filing the entry approving the settlement. If no portion of the settlement is allocated to a survival claim, then the Fiduciary shall file Form 13.6 “Certificate of Termination” no later than 30 Calendar Days after the date of filing the entry approving the settlement. [see Geauga Probate Local Rule 64.2(E)]
 - Wrongful Death Trusts. Upon the filing of the required application (see Geauga Probate Local Rule 78.20), or upon the Court’s own motion, the Court may consider a court-ordered trust pursuant to R.C. §2125.03(A)(2) as a recipient of the settlement proceeds.
 - Attorneys’ Fees. The calculation of attorneys’ fees resulting from a structured settlement must comply with Geauga Probate Local Rule 71.2.
 - Abandoned Child.¹ If the deceased person is a minor (under age 18) and the Estate Representative or other interested person has knowledge that the deceased minor’s parent abandon that child, then the Estate Representative or other interested person may file a motion with the Court to have the Court determine whether, in fact, the deceased child was abandon by the parent. If that is the case, the parent may not share in the distribution of proceeds from the Survival or Wrongful Death claims.

¹ R.C. 2125.02(E)

- Manner of Distribution for a Minor Beneficiary.
 - Guardian. If a guardian has been appointed for the minor beneficiary, then the Court may order that distribution to be paid to the guardian, and thereafter administered as any other asset of that minor (i.e., the Ward).
 - Distribution of \$25,000 (or less). If the amount of the distribution for a minor beneficiary is \$25,000 or less, then the Court may deposit the distribution with a financial institution for the benefit of that minor, as permitted by R.C. 2111.05, without the appointment of a guardian. See probate information sheet titled "Guardianship of a Minor" and Geauga Probate Local Rule 67.1.
- Trust. If a beneficiary is under age 25, then the Court may create a trust for that beneficiary and distribute the beneficiary's proceeds to the trustee, as permitted by R.C. 2125.03(A)(2), to be held in trust until the beneficiary attains age 25 - see Geauga Probate Local Rules 68.4 and 78.20.