

RULE 2206:            PETITIONS FOR APPROVAL OF WRONGFUL DEATH AND SURVIVAL SETTLEMENTS

(a)    RESERVED

(b)    (1)    Petitions for Approval of Wrongful Death and Survival Settlements shall be filed in the Orphans' Court Division where the estate is being administered if no suit has been previously filed or in the Prothonotary's Office under the docket number of the previously filed suit.

(2)    The petition shall set forth:

(a)    A heading briefly identifying the purpose of the petition;

(b)    The factual background of the claim;

(c)    Whether the decedent died intestate; if the decedent died testate, a copy of the will shall be attached to the petition;

(d)    Identification of the wrongful death beneficiaries;

(e)    Whether any wrongful death beneficiaries are minors or incapacitated persons and whether a guardian has been appointed for the person or estate;

(f)    Counsel's analysis of the liability and damages issues relevant to the determination of the reasonableness of the proposed settlement;

(g)    The types and amounts of insurance coverage applicable to the claim and representation as to the efforts made to identify other collateral sources;

(h)    The proposed apportionment between wrongful death and survival recoveries including the factual basis for said apportionment;

(i)    Whether there are any unpaid liens, claims or debts.

(j)    A statement of the proposed distribution of settlement funds, which includes the percentage of requested counsel fees and an itemization of costs. The petitioner shall attach appropriate documentation in support of the itemized costs;

(k)    Certification of joinder of the beneficiaries in the terms of the proposed settlement and petition.

(3)    The petition shall contain the following exhibits:

- (a) Copies of accident, medical or expert reports related to the alleged cause of death of decedent;
  - (b) The counsel fee agreement between any counsel seeking recovery of counsel fees and the administrator, executor or beneficiaries on whose behalf approval of settlement is sought;
  - (c) A copy of correspondence from the Pennsylvania Department of Revenue approving the proposed allocation of settlement funds between the wrongful death and the survival actions.
- (4) Any amendments or supplements to the petition required by the court shall be filed of record.
- (5) The Court may approve a petition without a hearing. If the Court schedules a hearing, the court may require the personal attendance and testimony of the administrator or executor of the estate on whose behalf the settlement is sought, the representative of the financial institution responsible for the investment of settlement funds received by a minor or incapacitated person, or any other evidence which the court deems necessary to determine whether the proposed settlement adequately protects the interests of the decedent's estate or the distribution to minors or incapacitated persons.
- (6) The Court may require a hearing on the issue of counsel fees. If a hearing on counsel fees is required, the court shall require the testimony of counsel primarily responsible for the preparation of the case.
- (7) The Petitioner shall attach a proposed order which includes the caption to the face of the petition substantially in the form found in local rule 2206A which sets forth:
- (a) The court's authorization for the petitioner to enter into a settlement and release;
  - (b) Reference to the total amount of the settlement;
  - (c) A complete statement of the distribution of the settlement amount as set forth in the petition;