

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
Trial Division - Civil¹**

: TERM, 20
:
:
:
:
: NO.

**PETITION TO SETTLE WRONGFUL
DEATH AND SURVIVAL ACTIONS**

To The Honorable, the Judges of the Said Court:

The Petition of _____, Administrator/Executor of the Estate of _____, Deceased, by his/her attorney, _____, Esquire, respectfully requests:

1. Petitioner is _____ who was appointed Administrator/Executor of the Estate of _____, Deceased, on _____, _____, by the Register of Wills of _____ County. A copy of the Decree of the Register is attached.

2. The plaintiff decedent died on _____ as a result of (set forth relevant information describing the underlying negligence or cause of action as required by Phila. Civ. R. ★2206(D)):

(If additional space is needed, please continue on separate sheet).

3. Notice of the institution of the action as required by Pa. R.C.P. 2205 and Philadelphia Civ. R. ★2206 (E) was given on _____ to the following individuals:

NAME	ADDRESS:
_____	_____
_____	_____
_____	_____

4. Pursuant to Phila. Civ. R. ★2206 (E) Petitioner has served a copy of this Petition on the _____

¹ In the event the Petition is filed in the Orphans' Court Division, the caption must comply with Pa.O.C. 3.2.

intestate heirs² of plaintiff decedent (as provided in 20 Pa. C.S. §2101 et seq.) who are as follows:

NAME	RELATIONSHIP	ADDRESS
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. Pursuant to Phila. Civ. R. ★2206(E) Petitioner has served a copy of this Petition on the following parties who may have a possible interest:

NAME	RELATIONSHIP	ADDRESS
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Decedent (did) (did not) have a Will. A copy is attached.

7. The following unpaid claims³ have been raised and/or are outstanding in the decedent's estate:

CREDITOR	AMOUNT DUE
_____	_____
_____	_____
_____	_____

8. A Complaint was filed against defendant(s) as follows:

9. The following settlement has been proposed⁴:

² In the event any court has appointed a guardian for a minor heir or incapacitated person, set forth the name of the guardian, the Court date and manner of appointment.

³ Petitioner must indicate whether the Department of Human Services has a claim or a lien against Petitioners, the Estate or any wrongful death beneficiaries.

⁴ In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments sought

(If additional space is needed, please continue on a separate page).

10. Counsel is of the professional opinion that the proposed settlement is reasonable due to the following (state the reasons why in the professional opinion of counsel the settlement is proper):

(If additional space is needed, please continue on separate page).

11. Petitioner is of the opinion that the proposed settlement is reasonable.

12. Counsel has incurred the following expenses for which reimbursement is sought (Please set forth in detail):

(If additional space is needed, please continue on separate page).

13. Counsel requests counsel fees in the amount of \$_____ which represents _____% of the net proceeds of the settlement.

14. Petitioner requests allocation of the net proceeds of the settlement (after deduction of costs and attorneys fees) as follows:

- a. Wrongful Death Claim \$_____
- b. Survival Claim \$_____

15. The reason for the requested allocation are as follows:

(If additional space is needed, please continue on a separate page).

16. Pursuant to the Wrongful Death Statute (42 Pa. C.S. §8301), the beneficiaries of the Wrongful Death Claim, and the proportion of their interest, are as follows:

NAME	AMOUNT DUE
_____	_____
_____	_____

17. The pecuniary loss suffered by the beneficiaries listed in Paragraph 16 is as follows:

(If additional space is needed, please continue on a separate page).

WHEREFORE, Petitioner requests that he/she be permitted to enter into the settlement recited above, and that the Court enter an Order of Distribution⁵ as follows:

- a. To: _____ \$
Reimbursement of Costs
- b. To: _____ \$
Costs
- c. To: _____ \$
Counsel Fees
- d. Wrongful Death Claim
 - i. To: Spouse; and/or \$
 - ii. To: Adult Child(ren); and/or \$
 - iii. To: Minor Child(ren) and/or \$
incapacitated persons; and/or \$
(a) in restricted accounts; or \$
(b) to the guardian of the minor(s) \$
estate; and/or
 - iv. To: Parent(s) \$
- e. Survival Claim
To: _____, Administrator/Executor \$
of the Estate of _____, Deceased

Respectfully submitted,

NAME OF ATTORNEY
ATTORNEY FOR PETITIONER

⁵ Counsel is cautioned to specifically provide the requested distribution. Requests that distribution be "as per attached Order" are not acceptable.

VERIFICATION

I, _____, am the Petitioner in this action and hereby verify that the statements made in the foregoing Petition to Settle or Compromise Minor's Action are true and correct to the best of my knowledge, information and belief.

I understand that the statement in said Petition are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATE: _____

PETITIONER

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
Trial Division - Civil**

PLAINTIFF : TERM, 20
v. :
: :
DEFENDANT : NO:

**NOTICE
PURSUANT TO PHILA. CIV. R. ★2206**

TO: _____
(Name of Beneficiary)

DATE: _____

YOU ARE HEREBY NOTIFIED THAT, _____,
Administrator/Executor of the Estate of _____, Deceased has filed (or will
file) on _____, A Petition to Approve a Settlement of a Wrongful
Death and Survival Action. A copy of that Petition is enclosed.

If you object to the proposed settlement and/or proposed distribution, you must
electronically file your written objections or Response to the Petition on or before⁶
_____, 20____, through the Civil Electronic Filing System as provided in
Phila. Civ. R. *205.4 or Phila. O.C.R. 3.7.A.

I hereby certify that the within Notice has been mailed to the above named individual(s) on
the date set forth above.

NAME OF ATTORNEY
ATTORNEY FOR PETITIONER

⁶Unless waived by all beneficiaries or interested parties, the response period shall be thirty (30) days.

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
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ORDER

AND NOW, this day of , 20 , upon consideration of the Petition to Compromise Wrongful Death and Survival Action filed on _____, 20____, it is hereby ORDERED and DECREED that Petitioner is authorized to enter into a settlement with Defendant(s) _____, in the gross sum of _____ (\$_____) Dollars. Defendant(s) shall forward all settlement drafts or checks to Petitioner's counsel for proper distribution.

IT IS FURTHER ORDERED and DECREED that the settlement proceeds are allocated as follows:

- | | | |
|----|----------------|----------|
| 1. | Wrongful Death | \$ _____ |
| 2. | Survival Claim | \$ _____ |

IT IS FURTHER ORDERED and DECREED that the settlement proceeds be distributed as follows:

- | | | |
|----|--|----------|
| 1. | To: _____, Esquire | \$ _____ |
| | For Costs | |
| 2. | To: _____, Esquire | \$ _____ |
| | For Counsel Fees | |
| 3. | The Wrongful Death Claim in the sum of | \$ _____ |
| | shall be paid as follows: | |
| | a. To: Spouse; and/or | \$ _____ |

- b. To: Adult Child(ren);⁷ and/or \$ _____
- c. To: Minor Child(ren)⁸ as provided hereunder \$ _____

OPTION 1

To: _____, Guardian of the Estate of _____, a minor; provided, however, that no payment shall be made to the guardian until the guardian has posted additional security as may be required by the Orphans' Court Division of _____ County pursuant to 20 Pa. C.S. §5121, et seq. An appropriate Petition shall be filed with the Orphans' Court within thirty (30) days.

OPTION 2

Counsel is hereby authorized to execute all documentation necessary to purchase saving certificate(s), from federally insured banks or savings institutions having an office in Philadelphia County, in the sum of \$ _____, each not to exceed the insured amount, with the funds payable to the minor upon majority. The certificate shall be titled in the name of the minor and shall be restricted as follows:

Not to be redeemed except for renewal in its entirety, not to be withdrawn, assigned, negotiated, or, otherwise alienated before the minor attains majority, except upon prior Order of Court. Counsel shall open a savings account in the sum of \$ _____ in the name of the minor.

The savings account shall be restricted as follows:

Not to be withdrawn before the minor attains majority, except for the payment of city, state, and federal income taxes on the interest earned by the savings certificate and savings account, or upon prior Order of Court.

- c. To: Parent(s) \$ _____

⁷ In the event the beneficiary is an incapacitated person, appropriate changes are to be made.

⁸ In the event part of the settlement proceeds are payable through the purchase of an annuity, the terms of the annuity shall be set forth in the Order.

4. The Survival Claim in the sum of \$ _____ shall be paid to _____, Administrator/Executor, of the Estate of _____, Deceased; provided, however, that counsel shall not distribute any funds to the said Administrator/Executor until the additional security as may be required by the Register of Wills of _____ County pursuant to 20 Pa. C.S. §3323(b)(3) is posted.

Within sixty (60) days of the entry of this final Order, counsel shall file with the office of Civil Administration an Affidavit from counsel certifying compliance with this Order. Counsel shall attach to the Affidavit a copy of the Certificate of Deposit and/or bank account containing the required restrictions.

BY THE COURT:

J.
ORPHANS' COURT DIVISION

cc: Register of Wills of _____ County.

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Trial Division - Civil**

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v.

AFFIDAVIT

I, _____, Esquire, hereby state and affirm that I have complied with the Order issued on _____ by the Honorable _____ as follows:

Copies of bank accounts are attached hereto.

I verify that the statements in this Affidavit are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

DATE: _____

, Esquire
Attorney for Petitioner