

## LOC.R. 70.1 SETTLEMENT OF CLAIMS

The application to settle a claim for wrongful death and the apportionment of the proceeds are two distinct matters for which the Court may require separate hearings. Interested parties to be notified are those set forth in R.C. 2125.02 and identified in the case of *In Re Estate of Payne*, Ohio 10<sup>th</sup> Dist. Ct. App No. 04-AP-1176, 2005-Ohio-2391. Subject to the exceptions under RC 2105.19 and RC 2125.02, those persons rebuttably presumed to have suffered damages are the parents of the decedent, the surviving spouse and the children. Other next of kin who must prove their loss are the grandparents, grandchildren and siblings of the decedent. Subrogated providers and insurers for which the Applicant does not have settlement amounts already established in writing are interested parties and are entitled to notice. When applicable, the State of Ohio Medicaid Recovery Administrator may also be an interested party. Waivers and consents to the proposed distribution must be filed from all interested parties, or a hearing and service of notice upon them will be required.

Attorney fees for the completion of the probate proceedings in connection with the settlement of wrongful death claim shall be paid from the allowed contingent attorney fee unless there is no attorney involved in the representation of the injured parties. In that event, the recipients of the benefits, unless otherwise mutually agreed, shall proportionately pay the probate attorney fees and costs.