

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.3924 Survival and wrongful death actions; court approval of settlement and distribution.

Sec. 3924. (1) For the purpose of settling a claim as to which an action is not pending in another court for damages for wrongful death or for a claim existing under this state's laws relating to the survival of actions, if a personal representative petitions the court in writing asking leave to settle the claim and after notice to all persons who may be entitled to damages as provided in section 2922 of the revised judicature act of 1961, being section 600.2922 of the Michigan Compiled Laws, the court may conduct a hearing and approve or reject the settlement.

(2) The proceeds of a court settlement of a cause of action for wrongful death shall be distributed in accordance with all of the following:

(a) The personal representative shall file with the court a petition for authority to distribute the proceeds. Upon the filing of the petition, the court shall order a hearing.

(b) Unless waived, notice of hearing must be given to all persons who may be entitled to damages as provided in section 2922 of the revised judicature act of 1961. A notice under this subdivision must contain both of the following:

(i) The name and address of the personal representative and of the personal representative's attorney.

(ii) A statement that, to recover damages under this section, the person who may be entitled to damages must present a claim for damages to the personal representative on or before the date set for hearing on the petition for distribution of the proceeds, and that failure to present a claim for damages within the time provided bars the person from making a claim to any of the proceeds.

(c) If an interested person is a minor, disappeared person, or incapacitated individual for whom a fiduciary is not appointed, the court shall first appoint a fiduciary or guardian ad litem, and the notice as provided in subdivision (b) shall be given to the fiduciary or guardian ad litem.

(d) After a hearing on the personal representative's petition, the court shall order payment from the proceeds of the decedent's reasonable medical, hospital, funeral, and burial expenses for which the estate is liable. The proceeds shall not be applied to the payment of any other charges against the decedent's estate. The court shall then enter an order distributing the proceeds to those persons designated in section 2922 of the revised judicature act of 1961 who suffered damages and to the decedent's estate for compensation for conscious pain and suffering, if any, in the amount the court considers fair and equitable considering the relative damages sustained by each of the persons and the decedent's estate.

(e) If none of the persons entitled to the proceeds is a minor, disappeared person, or legally incapacitated individual and all of the persons entitled to the proceeds execute a sworn stipulation or agreement in writing in which each person's portion of the proceeds is specified, the court order shall be entered in accordance with the stipulation or agreement.

(f) A person who may be entitled to damages under this section must present a claim for damages to the personal representative on or before the date set for hearing on the petition for distribution of the proceeds. Failure to present a claim for damages within the time provided by this section bars the person from making a claim to any of the proceeds.

(g) If a claim for wrongful death is pending in another court, the procedures prescribed in section 2922 of the revised judicature act of 1961 are applicable to the distribution of proceeds of a settlement or judgment.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000.

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