

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT
ESTATE NUMBER: _____

IN THE MATTER OF THE ESTATE OF)
_____))
_____)

**ATTORNEY’S AGREEMENT
REGARDING CIVIL LITIGATION**

I, _____, the undersigned attorney for _____, as Personal Representative, understand and agree to the following:

- I am the attorney of record for the Personal Representative and I understand that as such, it is my responsibility to ensure that the Personal Representative administers the Estate pursuant to the requirements of the South Carolina Probate Code.
- I remain the attorney for the Personal Representative until the Estate is closed, even after the civil litigation has been resolved, unless a proper Motion to be relieved is filed and an Order issued.
- Survival actions are for the benefit of the Decedent’s Estate and therefore any survival proceeds must be made payable to the Estate and deposited into an estate account.
- Wrongful death actions are for the benefit of the surviving “statutory beneficiaries” and therefore wrongful death proceeds must be made payable directly to the wrongful death beneficiaries.
- I understand and acknowledge that estate beneficiaries and wrongful death beneficiaries may not be the same people and it is my job to know.
- I understand that it is my responsibility to know who the statutory beneficiaries are and to have their personal contact information for distribution.
- Any settlement of a wrongful death or survival action must be approved by a Probate Court, Circuit Court, or United States District Court, and only the Personal Representative has the authority to file the Summons and Petition to have the settlement approved.
- If the Personal Representative files a wrongful death or survival action, I am by statute required to notify the Probate Court of this action within ten (10) days after the filing and provide copies of the filed Summons and Petition with the Probate Court.
- I must provide the Probate Court with regular updates as to the status of such civil litigation;
- When a settlement is reached, I must file a Summons and Petition for Approval of Settlement and sign an attached certificate attesting to the fact that I am of the opinion that the settlement is fair and reasonable and in the best interests of the statutory beneficiaries and, in a survival action, the Estate of the Decedent.

- If a wrongful death or survival action has been filed in any court and a settlement is reached, the Personal Representative must petition that court for approval of the settlement.
- If an order approving settlement is signed by another court, I must immediately file a copy of that Order with the Probate Court.
- Once a settlement agreement has been approved by a court, the Personal Representative and I will be responsible for ensuring that the settlement proceeds are disbursed properly.
- I acknowledge that there are certain wrongful death or survival actions in which the parties are allowed to agree between themselves as to how settlement proceeds will be apportioned between each type of action, and that the allocation of settlement proceeds ultimately stated in the settlement order will be based upon that agreement. In such situations, as the attorney for the Personal Representative I understand that it is my responsibility to ensure that the Personal Representative is fully aware of his or her fiduciary responsibility to the Estate for payment of expenses of administration, additional filing fees to the Court, priority claims such as funeral expenses, reimbursements due to individuals who have paid legitimate estate expenses, and possibly other types of creditor claims.
- Proceeds from the settlement of a wrongful death action must be distributed by me to the statutory beneficiaries.
- I cannot distribute wrongful death proceeds to the Personal Representative.
- If I distribute wrongful death proceeds to the Personal Representative and they improperly distribute the proceeds, I can be held responsible.
- Proceeds from the settlement of a survival action must be distributed to the Personal Representative with the requirement and my oversight that they are deposited into the Estate account, with the proper taxpayer identification number from the IRS, and held there until the Probate Court allows for the distribution to the beneficiaries of the Estate.

Attorney Signature

Print Name

SC Bar # _____

SWORN to before me this _____
day of _____, _____

Notary Public for South Carolina
My Commission Expires: _____