

INSTRUCTIONS FOR MINOR SETTLEMENT

All forms must be typewritten (forms on our web site can be filled in before printing)

These forms are being provided as a public service of the Butler County Probate Court, and are intended as a guideline only. Depending on the circumstances of each case, additional steps may be required that are not listed below. If you choose to represent yourself and use these forms, please be advised that state law prohibits the staff of Butler County Probate Court from providing legal advice, assisting you in completing the forms, or deciding which forms apply to your situation.

The documents that you file *must be typewritten, legible AND completed in their entirety.* Illegible or incomplete documents may be refused for filing or if filed, could result in your application being denied, delayed or dismissed.

When a minor receives a settlement from a personal injury, regardless of the amount received, the Probate Court must approve the settlement.

If there are multiple children, an Application to Settle a Minors Claim must be filed for each child.

If the **gross settlement is \$10,000 or more**, you must file to have a guardian of the estate appointed prior to the settlement being approved (see instructions for minor guardianship)

If the **gross settlement is less than \$10,000**, the parents of the child, the custodial parent or other individual having custody of the child must complete the Minor Settlement packet, an Application to Receive and Receipt Estate of Minor without Appointment of Guardian (Form 536), and attach any required documentation.

The following ***must*** be attached to the Application to Settle a Minors Claim (Form 22.0):

- A copy of the child's birth certificate
- A narrative statement in support of the proffered settlement. The narrative statement must include a description of the occurrence and the extent of the injury or damage.
- A current statement from the treating physician regarding the injuries sustained the extent of recovery, and the permanency of any injuries.
- Attach documentation of any other proposed or actual settlements resulting from the same incident that caused the injury to the minor that are being paid to persons other than this minor.

Prior to a fiduciary entering into a contingent fee contract with an attorney for services, a motion to approve the contingent fee contract shall be filed with the court, pursuant to the Ohio Rule of Superintendence 71(I). This must be filed at the time of the filing of the Application to Settle a Minor's Claim (Form 22.0). A copy of the attorney's fee contract and an itemization of suit expenses must be attached to the Application to Settle Minors Claim.

The attorney or applicant is required to give at least seven days notice of the hearing to the non-custodial parent who has not waived notice of the hearing and he/she must provide proof of service at the hearing.

If there is residual injury to the child or soft tissue damage, the court may appoint a guardian ad litem to represent the child's interest.

If the gross settlement is under \$10,000, a deposit of \$95.00 is required at the time of filing, if the gross settlement is over \$10,000 and a guardianship is required, a deposit of \$180.00 is required at the time of filing. Please confirm the amount with the cost clerk (513/887-3293). This fee must be paid in cash, check or money order.

If the settlement is structured, a guardian of the estate must be appointed regardless of the amount of the settlement. An affidavit from an independent certified public accountant or an equivalent professional must be attached to the Application specifying the present value and the method by which it was calculated.

If the settlement is funded by an annuity, you must be in compliance with Local Rule 68.2 prior to beginning this process.

All applications to settle a minor's claim will be scheduled for hearing in front of the Judge or Magistrate. No hearings are scheduled until all required forms and attachments are received.

Pursuant to Ohio Rule of Superintendence 67(C), after the settlement is approved **the attorney** shall be responsible for depositing the funds and for providing the financial institution with a copy of the entry.

The attorney shall obtain a Verification of Receipt and Deposit (Form 22.3) from the financial institution and file the form with the court **within seven days** from the issuance of the entry. If there is no attorney of record, the attorney for the insurance company will be responsible for depositing the funds and obtaining the Verification of Receipt and Deposit.

The Court will direct that the funds be deposited in an interest bearing account in the name of the minor with a bank, savings bank, savings and loan association, or credit union located in Butler County. No funds shall be released until the minor reaches the age of majority.

Complete the following forms in their entirety and check any applicable boxes for the initial filing:

- Application to Settle a Minor's Claim (Form 22.0)
 - Attach all appropriate documentation
- Motion to Approve Contingent Fee Agreement with a copy of the attorney fee agreement and an itemization of suit expenses attached.
- Waiver and Consent to Settle Minor's Claim (Form 22.1)
 - Both biological parents must sign the waiver and consent whether or not they are listed on the birth certificate, if unable to obtain their signature, the attorney or applicant must serve notice of hearing by certified mail.
- Application to Receive and Receipt Estate of Minor without Appointment of Guardian (Form 536), if the **gross** settlement is under \$10,000.
- A check, cash or money order for court costs.

A HEARING WILL NOT BE SCHEDULED UNTIL ALL REQUIRED DOCUMENTATION IS RECEIVED, REVIEWED AND COURT COSTS ARE PAID.

The attorney, applicant and child **must** appear at the hearing. If a guardian is required to be appointed, the Magistrate or Judge will address that at the hearing prior to the minor settlement being heard. See the instructions for appointment of guardian of minor to determine what forms will need to be prepared for the hearing.

Please have the following forms completed and bring them to the hearing with you:

- Proof of Service to non-custodial parent (if required)
- Entry Approving Settlement of Minor's Claim (Form 22.2)
- Entry Approving Contingent Fee Agreement
- Entry Dispensing with Guardian; Ordering Deposit (BC Form 510)

Within seven (7) days of the Entry Approving Minor's Claim being filed, the attorney shall obtain and file a Verification of Receipt and Deposit (Form 22.3) with the Court for *under* \$10,000 or a Receipt for Personal Property over \$10,000 (Form BCPC538) where the Court has waived bond.

Within thirty (30) days after the Entry Approving Settlement is signed, you will need to file the Report of Distribution of Minor's Claim and the signed annuity contract, if applicable.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, PLEASE BE ADVISED THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE AND EMPLOYEES OF BUTLER COUNTY PROBATE COURT FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE SELECTION OR PREPARATION OF LEGAL FORMS. IF YOU NEED ADDITIONAL ASSISTANCE YOU WILL NEED TO CONTACT AN ATTORNEY OF YOUR CHOOSING.