

**GEAUGA COUNTY PROBATE COURT
JUDGE TIMOTHY J. GRENDALL**

CHECKLIST - SETTLEMENT OF MINOR'S INJURY CLAIM

These instructions are provided as a public service of the Geauga County Probate Court, are intended as a guideline only, and are not legal advice. Depending on the circumstances of each case, additional steps may be required that are not listed below. The clerks are not attorneys and therefore cannot answer legal questions or assist you in completing the forms or deciding which forms apply to your situation. The documents that you file must be typewritten or legibly handwritten, and completed in their entirety. The clerks may refuse for filing illegible or incomplete documents. The Court recommends that you obtain legal advice from your attorney or obtain assistance from the Court's Help Center before preparing and filing any forms. You may make an appointment with the Help Center by calling 440-226-7339.

General Instructions.

- Residency. The minor must be a Geauga County, Ohio resident.
- Court Approval Required. When a minor receives a settlement from a personal injury, regardless of the amount received, the Probate Court must approve the settlement.
- Multiple Minors. If there are multiple minors who have suffered a personal injury or property loss, then Form 22.0 "Application to Settle a Minor's Claim" must be filed for each minor. In effect, there will be a separate legal proceeding for each minor.
- Guardianship Requirement.
 - If a guardian of the estate of the minor has been appointed, then that guardian shall seek the Court's authorization to settle the minor's claim for personal injury or property damage by filing Form 22.0 - Application to Settle Minor's Claim. .
 - If a guardian of the estate of the minor has not been appointed, then BEFORE filing that application, a custodial parent or other individual having custody of the child may either:
 - apply to be appointed guardian of the estate so that, as the duly appointed guardian of the estate, the guardian may file that application and related documents; OR
 - file a motion asking the Court for a court order dispensing with the appointment of a guardian of the estate and permitting that custodial parent or other person having legal custody to file that application and related documents. Note that if the net settlement amount is \$25,000 or less, then the Court may not require the appointment of a guardian (See. R.C. 2111.18).
- Notice of Hearing. The noncustodial parent or parents are entitled a to seven-day notice of the Application to Settle the Minor's Claim unless the noncustodial parent(s) signed Form 22.1 – Waiver and Consent to Settle Minor's Claim. To notify those parent(s), the applicant shall (i) use GF PF 4.18A – Notice of Hearing-Settlement of Minor's Claim, (ii) deliver that notice in accordance with Civ. R. 73(E), and (iii) provide the Court with proof of service using GC PF

41.6 - Affidavit Evidencing Service of Notice (see Geauga Probate Local Rule 78.13). If the noncustodial parent(s) address is unknown or if the noncustodial parent(s) are unknown, then the applicant shall provide service of notice by publication in accordance with Geauga Probate Local Rule 78.14 and Civ. R. 73(E).

- Identification. Regarding the applicant (if not a court-appointed guardian of the estate or not represented by an attorney) present to the Clerk (1) a government-issued photographic identification (e.g. a current driver's license or passport), and (2) evidence of current mailing address (e.g. recent utility bill, bank statement account, property tax bill, voter registration card).
- Attendance at Hearing. Unless the Court orders otherwise, the injured minor, the parent or parents with whom the minor resides or the Person who has legal custody of the minor and the Guardian of the minor's estate, if any, their respective attorneys, guardian ad litem for the minor, if any, shall attend the hearing on the settlement of the minor's claim.

Filing Requirements

1. Copy of minor's birth certificate.
2. Identification (if required as stated above)
3. Form 22.0 - Application to Settle a Minor's Claim.
 - a. A narrative statement in support of the proffered settlement prepared by the applicant or applicant's attorney. The narrative statement must include a description of the occurrence and the extent of the injury or damage.
 - b. A **current** statement from the treating physician regarding the injuries sustained, the extent of recovery, and the permanency of any injuries. This requirement **is not** satisfied by the attachment of the attorney's narrative, nurses' notes, or emergency room reports.
 - c. 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.
 - d. A list of any unreimbursed medical or other expenses and the proposed payees.
 - e. Additionally, the attorney will prepare a detailed fee statement, which must be attached to the Application.
4. Form 22.1 – Waiver and Consent to Settle Minor's Claim (to the extent applicable).
5. Form GCPF 4.30 – Background Certification and Records Check (if the applicant is not a court-appointed guardian of the estate or is not represented by an attorney)
6. Form 22.2 - Order Approving Settlement of Minor's Claim.
7. Arrange for payment of the court cost deposit. See the "Probate Court Costs" on the Court's website.

Additional Notes

- Dispense with Hearing. The Court may dispense with a Hearing if (1) the applicant is represented by an attorney and (2) the gross amount of the proposed settlement does not exceed \$10,000, (3) there are no disputed claims on any portion of the settlement proceeds, (4) a guardianship of the estate of the minor is not required by Applicable Law, and (5) the applicant is one or more of the minor's parents and all parents have consented to the settlement.
- Net Settlement Proceeds of \$1,000 or Less. If the net settlement proceeds are \$1,000 or less and the applicant is a parent of the minor, then the applicant may apply for the net proceeds to be paid to either or both of the minor's parents for the benefit of the minor in place of a minor guardianship. The parent receiving the settlement proceeds shall file GC Form "GC PF 14.4 - Acknowledgment of Responsibility for Minor Settlement" before the Court will approve the settlement.
- Impounded Account. If the net settlement proceeds do not exceed \$25,000, then, in place of a minor guardianship, the Court may order that the funds be deposited into an impounded account in the name of the minor at a financial institution in Geauga County until the minor attains the age of 18.
- Report of Distribution. The applicant shall file Form 22.4 - Report of Distribution and Entry Minor's Claim, or Form 22.3 - Verification of Receipt and Deposit if applicable, with the Court no later than 30 Calendar Days after the entry approving the minor settlement. Failure to file the report or verification in that time, or any approved extension, will subject the applicant and the attorney to citation under Geauga Probate Local Rule 77.
- Structured Settlement. If the proposed settlement is a structured settlement, then review Geauga Probate Local Rule 68.2.
- Trust under R.C. §2111.182. Consider proposing a trust as authorized under R.C. 2111.182 - see Geauga Probate Local Rule 78.20.

PROBATE COURT OF GEAUGA COUNTY, OHIO

IN THE MATTER OF _____

CASE NO. _____

APPLICATION TO SETTLE A MINOR'S CLAIM

[R.C. 2111.05, R.C. 2111.182, Sup. R. 67 AND 68]

[Check applicable boxes, complete applicable blanks, strike inapplicable language, and attach supporting documentation.]

The applicant states that:

_____, is an unemancipated minor, born _____, _____, residing at _____ in this county who on or about _____, _____, suffered personal injury (and damage to this minor's property) by wrongful act, neglect, or default that entitles this minor to maintain an action to recover damages. A copy of the birth certificate is attached.

Attached is a narrative statement in support of the proffered settlement setting forth a description of the occurrence, the injury or damage, the treatment progress and current prognosis by the treating physicians, and other proposed or actual settlements resulting from the same occurrence being paid to persons other than this minor. Counsel will advise at the hearing as to liability and collectability.

- There is no legal guardian of the estate, and the Court may authorize the settlement without the appointment of a guardian.
- _____ is the legal guardian of the estate. Case No. _____
- _____ is (are) the parent__ and natural guardian__.
- _____ is the person by whom the minor is maintained.
- There is a (full) (partial) settlement offer of \$ _____ without suit being filed.
- There is a (full) (partial) settlement offer of \$ _____ after suit was filed; the style of the case, court, and case number being _____.
- The proffered settlement should be approved.
- Unreimbursed medical and other expenses of \$ _____ have been incurred. Attached is a list of such expenses and proposed payees.
- A reasonable attorney fee for the attorney's services is \$ _____ and reimbursement to the attorney for suit expenses is \$ _____. A copy of the attorney's fee contract that has (has not) received prior approval of this Court, subject to modification, and an itemization of suit expenses are attached.
- The parent_ , _____, claim \$ _____ for damages on account of loss of service of this minor and that claim is included in this settlement offer.
- This is a structured settlement. All necessary documents, including a statement of the present value of the settlement, are filed herewith.

The applicant requests that:

- The Court authorize the applicant to execute a release which shall be effective upon payment of the settlement.
- The Court order payment of the above expenses and order that the net amount of \$ _____ for the benefit of the minor be:
 - Deposited in the name of the minor with _____, a financial institution, and not to be released until the minor attains the age of majority or upon further order of this Court.
 - Delivered to the legal guardian.
 - Delivered to _____, parent and natural guardian.
 - Delivered to _____, the person by whom the minor is maintained.
 - Structured as set forth in the attached documents.
 - Deposited into a trust, proposed trust attached, for the benefit of the beneficiary until the beneficiary reaches 25 years of age (R.C. 2111.82).
- Supplemental forms required by local rule of Court are attached.

Attorney for Applicant

Applicant

Typed or Printed Name

Typed or Printed Name

Address

Address

Phone Number (include area code)

Phone Number (include area code)

Email Address

Email Address

Attorney Registration No. _____

ENTRY SETTING HEARING AND ORDERING NOTICE

The Court sets _____, at _____ o'clock __.m. as the date and time for hearing the above application and orders notice to be given by the applicant, as provided in the Rules of Civil Procedure, to the parents who have not waived notice and (further orders that the minor and parent_ attend the hearing.)

Probate Judge, Magistrate

**PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL**

ESTATE OF _____, DECEASED

CASE NO. _____

WAIVER AND CONSENT TO SETTLE MINOR'S CLAIM

The undersigned, waive all claims for damages on account of loss of services of said minor, waive notice of the hearing, and consent to and approve the Form 22.0 - Application To Settle Minor's Claim, a copy of which is attached hereto.

Type Name

Type Name

Type Name

Type Name

Type Name

Type Name

Type Name

Type Name

Type Name

Type Name

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

IN THE MATTER OF _____

CASE NO. _____

ORDER APPROVING SETTLEMENT OF A MINOR'S CLAIM

Upon hearing the application to approve and distribute the settlement of the claim of the minor, the Court: [check whichever of the following are applicable]

- Approves the proffered settlement of \$ _____:

- Orders payment of \$ _____ for medical and other expenses, as follows:

- Orders payment of \$ _____ to the attorney for reimbursement of suit expenses and \$ _____ for attorney fees for service rendered with respect to this matter;

- Orders payment of \$ _____ to the parent(s), _____, for damages on account of loss of service of this minor;

- Authorizes the applicant to execute a release which shall be effective upon payment of the settlement;

- Orders that the net amount of \$ _____, for the benefit of the minor be:
 - Deposited in the name of the minor and not to be released until the minor attains the age of majority or upon further order of this Court with Form 22.3 Verification of Receipt and Deposit filed with the Court;

 - Delivered to the legal guardian of the estate of this minor;

 - Delivered to _____, parent(s) and natural guardian(s);

 - Delivered to _____, the person by whom the minor is maintained;

 - Structured as set forth in the documents attached to the application;

- Orders the applicant and the attorney to report on their distribution of the proceeds within thirty days of the date of this entry;

- Further orders _____

Date

Judge / Magistrate