GEAUGA COUNTY PROBATE COURT
JUDGE TIMOTHY J. GRENDELL

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.