INSTRUCTIONS FOR SETTLING AN ADULT WARD'S CLAIM FOR PERSONAL INJURY

These instructions are intended as a guideline only and should not be relied upon as a comprehensive list of duties in an adult ward's settlement.

Whenever an adult ward is receiving a settlement from a personal injury, regardless of the amount of the award, the Application must be filed in Probate Court by the guardian of the estate, unless the settlement is less than $25,000. In those cases, the guardian of the person may file the application.

The Application will be assigned to a magistrate and set for hearing. Notice of the hearing must be given to all interested parties as determined by the Court.

A narrative statement must accompany the application. The application must contain a current statement of the examining physician describing the injuries sustained and the extend of recovery from those injuries and the permanency of any injuries.

A fee is required at the time of filing. Current Court Costs are posted at: https://www.probatect.org/about/general-resources.

We accept cash, cashier's checks or all major credit/debit cards as payment for the fee. No personal checks or money orders will be accepted.

The forms may be obtained from the Information Desk on the 9th floor of the Probate Court, 230 E. 9th Street, Cincinnati, Ohio or by downloading the forms from the web site.

PROCEDURAL STEPS

STEP 1: COMPLETE THE FOLLOWING FORMS
Self-Representation Form (270.01) - Sign and Complete information if you **do not** have legal representation
Application to Settle an Adult Ward's Claim (Form 22.5) - Complete information, and if an attorney is obtained, have attorney complete applicable information. - **Attach the following:** o **Attorney fee contract for personal injury representation.** o **A narrative statement.** o **A statement from the examining physician regarding the injuries sustained.** o **Required affidavits if the settlement is structured.**
Entry Setting Hearing and Ordering Notice (H.C. Form 22.51) - Fill in the name of the adult ward only, the magistrate will fill in the hearing date & time and sign & date the form.
Waiver and Consent to Settle an Adult Ward's Claim (Form 22.52) - Complete form. - Next of kin must waive notice or be served notice by certified mail of the hearing date and time.
Entry Approving Settlement of an Adult Ward's Claim (Form 22.6) - Complete form.

- Present to Magistrate at the hearing.
STEP 2: ASSIGNING OF MAGISTRATE & REVIEWING OF FORMS
When all forms have been completed, present them to the magistrate's assistant on the 9th Floor of Probate Court for a magistrate to be assigned.
STEP 3: FILING OF PAPERS WITH CASHIER
All forms are then taken to the cashier and a case number will be assigned. The cashier will require the payment of the filing fee. The cashier will stamp the case number on all forms.
STEP 4: DAY OF HEARING
At the date and time of the hearing, the applicant and the attorney (if one is obtained) should report to the 9th floor of the Probate Court to the assigned magistrate (The magistrate will already have the case file). Upon conclusion of the hearing, the final papers will be filed with the cashier. The cashier will determine if any additional filing fees are due.
STEP 5: DEPOSITING OF FUNDS AND FILING OF VERIFICATION OF DEPOSIT
Without appointment of a guardian of the estate:
Once the settlement has been approved, the net settlement proceeds must be deposited into a bank located in Hamilton County. The funds must be held in the sole name of the ward. After the money has been deposited, a **Verification of Receipt and Deposit (H.C. Form 22.3)** and the **Report of Distribution and Entry (Form 22.7)** must to be presented to the assigned magistrate to be approved, and then filed with the cashier to complete the case.
With appointment of a guardian of the estate and funds deposited in a Custodial Depository:
Packet for Custodial Accounts needs to be completed. Once the settlement has been approved, the check needs to be deposited into a deposit in lieu of account in the name of the adult ward. After the money has been deposited, a **Verification of Receipt and Deposit (H.C. Form 204.07)** and a **Report of Distribution and Entry (Form 22.7)** must be presented to the assigned magistrate to be approved, and then filed with the cashier to complete the case.
With the appointment of a guardian of the estate and the funds maintained in a guardian's account:
Once the net settlement proceeds have been deposited into a bank located in Hamilton County, present the **Report of Distribution and Entry (Form 22.7)** to the assigned magistrate for approval. File the approved forms with the cashier.

Ralph Winkler
JUDGE, PROBATE COURT
HAMILTON COUNTY, OH

A CITIZEN'S GUIDE TO COMMUNICATING WITH THE JUDGE AND MAGISTRATES

Why can't I communicate directly with the judge or magistrate on my case?

If the matters are contested, judges and magistrates are not allowed to communicate with individual parties. This is what the law calls an *ex-parte* communication (this is when a judge or magistrate only communicates with an individual party, on their own, without the knowledge of all parties to a case). In order to keep the court process as fair, equal and as transparent as possible, *ex-parte* communication is strictly forbidden. It is unfair for the court to share information without all of the parties present.

You cannot email the judge or magistrate, as the email is considered an *ex-parte* communication. In addition, emails are not pleadings (motions.) You cannot write a personal letter to the judge or magistrate as this may be considered an *ex-parte* communication.

How can I speak to the judge or magistrate on my case?

Typically, to speak to the judge or magistrate on your case, you must file a written motion with the court explaining what you want the court to do and all motions become part of the public record. You also have to send a copy of whatever you file to the other parties, or their attorney if they are represented by an attorney (this is called "service"). A motion is not considered an *ex-parte* communication because all parties are officially notified. You may be required to pay a filing fee when you file your written motion. Please note, there is no fee if you wish to speak to the magistrate in an uncontested matter, on their assigned walk-in days.

I've heard there's always a magistrate on duty to hear arguments immediately – what does that mean?

There is a magistrate on duty every business day. The on-duty magistrate may answer generic procedural questions. The on-duty magistrate may also discuss matters in an uncontested case. For all other matters, the on-duty magistrate is prohibited from speaking with you. To address the court for these matters, you must file a written motion. The on-duty magistrate will set the matter for hearing before the magistrate assigned on your case or the judge.

What if I need to tell the judge or magistrate something I don't want the other party to know about?

Unfortunately, you cannot withhold information from another party to your case. In order to keep the case fair to everyone involved, as soon as you tell the judge or magistrate something, you must also tell the other parties. All sides must have an opportunity to respond to the information that you have shared with the court.

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF: _____

CASE NO. _____

SELF-REPRESENTATION ACKNOWLEDGMENT

I acknowledge that I have read, understand and agree with all of the following statements:

1. The Court has recommended that I hire an attorney to represent me in this case. However, I have chosen to proceed with this case without the assistance of an attorney.

2. The Court and its Deputy Clerks are prohibited by law from providing legal advice. I will follow the instructions provided in the form packets and on the Court's website, www.probatect.org.

3. I am responsible for understanding and correctly applying any statutes, case law, rules, regulations, policies, and procedures that relate to this case, including, but not limited to, the Ohio Revised Code, Rules of Superintendence for the Courts of Ohio, Hamilton County Probate Court Local Rules of Practice, and the Ohio Rules of Civil Procedure.

4. The same standards that apply to attorneys and persons represented by attorneys in similar probate hearings will apply to myself.

5. If I do not fulfill my responsibilities in this case as required by law, I may be subject to sanctions or penalties as provided by law, which may include removal as fiduciary or being required to be represented by an attorney.

6. I may be personally liable to any person or entity that suffers damages as a result of anything I do or fail to do in this case that does not comply with the legal requirements.

_____
Fiduciary/Applicant/Guardian

_____
Typed Printed Name

_____
Address

_____
City/State/Zip

_____
Telephone Number (include area code)

_____
Email

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF: _____

CASE NO.: _____

APPLICATION TO SETTLE A CLAIM OF AN ADULT WARD

[R.C. 2111.18, Sup.R. 69]

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

The applicant states that: _____, is an adult ward residing at _____in this county who on or about _____, suffered personal injury and/or damage to property by wrongful act, neglect, or default that entitles this person to maintain an action to recover damages.

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 the persons other than this ward. Counsel will advise at the hearing as to liability and collectability.

☐ 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.

☐ This is a structured settlement. All necessary documents, including a statement of the present value of the settlement, are filed herewith.

[Reverse of Form 22.5]

CASE NO.:_____

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 ward be:

- ☐ Deposited in the name of the ward with _____ _____, a financial institution, in a restricted account and not be released without written order of this Court.
- ☐ Delivered to guardian of the estate.
- ☐ Structured as set forth in the attached documents.
- ☐ Other:_____.

☐ Supplemental forms required by local rule of the Court are attached.

_____	_____
Attorney for the Applicant	Applicant
_____	_____
Typed or Printed Name	Typed or Printed Name
_____	_____
_____	_____
Address	Address
_____	_____
Phone Number (including Area Code)	Phone Number (including Area Code)

Attorney Registration No._____

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF: _____

CASE NO.: _____

ENTRY SETTING HEARING AND ORDERING NOTICE FOR APPLICATION TO SETTLE A CLAIM OF AN ADULT WARD

The Court sets _____, at _____ o'clock ___.M. in Room _____ 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 all interested parties.

_____
Ralph Winkler, Probate Judge

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF_____

CASE NO._____

WAIVER AND CONSENT TO SETTLE AN ADULT WARD'S CLAIM

The undersigned, waive notice of the hearing and consent to and approve the Application to Settle an Adult Ward's Claim.

_____	_____
_____	_____
Typed or Printed Name	Typed or Printed Name
_____	_____
_____	_____
_____	_____
_____	_____

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF_____

CASE NO._____

VERIFICATION OF RECEIPT AND DEPOSIT

[Not for use in Custodial Account]

Pursuant to Court order, the sum of $_____ was deposited with _____ on the _____ day of _____, _____, as evidenced by Savings / Certificate of Deposit Account Number _____. This account is held solely in the name of _____, a minor / incompetent.

By accepting said deposit for said ____ minor ____incompetent, this institution agrees that said deposit, together with accumulated interest, shall be held and no part thereof released until:

(a) Minor attains age of majority.
(b) Guardian of adult incompetent has obtained a Court Order.
(c) Other Court Order.

_____
Financial Institution

By: _____
Authorized Officer

_____
Typed or Printed Name

_____
Phone Number

_____
Date

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF:_____

CASE NO.:_____

ENTRY APPROVING SETTLEMENT OF A CLAIM OF AN ADULT WARD

Upon hearing the application to approve and distribute the settlement of the claim of the adult ward, 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 $_____ for attorney fees for services rendered and $_____ to the attorney for reimbursement of suit expenses with respect to this matter;

☐ 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 ward be:

- ☐ Deposited in the name of the ward with _____, a financial institution, in a restrictive account and not be released without written order of this Court with Form _____ Verification of Receipt and Deposit filed with the Court;
- ☐ Delivered to the guardian of the estate;
- ☐ Structured as set forth in the documents attached to the application;
- ☐ Other:_____.

☐ 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 **PROBATE JUDGE**

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF:_____

CASE NO.:_____

REPORT OF DISTRIBUTION

Pursuant to the Entry filed on _____, _____, the proceeds have been paid as shown below and on the accompanying vouchers.

Gross Proceeds	$_____
Less:	
Medical expenses	$_____
Reimbursement of suit expenses to _____	
_____	$_____
Attorney fees to _____	$_____
Other: _____	$_____
Total	$_____

Net Proceeds

☐ Deposited pursuant to R.C. 2109.13
Form ____ attached $_____

☐ Delivered to _____
legal guardian of the estate $_____

☐ Structured – see documents previously filed $_____

☐ Other:_____.

Balance $_____

_____ _____
Attorney for Applicant Applicant

Attorney Registration No._____

ENTRY

The above report of distribution is hereby approved.

_____ _____
Date Probate Judge