INSTRUCTIONS FOR SETTLING A MINOR'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 a minor's settlement.

Whenever a minor is receiving a settlement from a personal injury, regardless of the amount of the award, the Application must be filed in Probate Court.

If the net settlement is over $25,000.00, then a guardian of the estate must be appointed to file the application.

If the amount is less than $25,000 a parent or custodian may file the Application for Approval of the Settlement.

The Application will be assigned to a magistrate and set for hearing.

A copy of the birth certificate and a narrative statement must accompany the application.

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

Please confirm the amount with the Cashier since filing fees may have changed subsequent to the publication of the instruction sheet. **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 Minor's Claim and Entry Setting Hearing and Ordering Notice (Form 22.0) - Complete information, and if an attorney is obtained, have attorney complete applicable information. - **Attach the following:** o **A copy of birth certificate.** o **A narrative statement.** o **A statement from the examining physician regarding the injuries sustained.** o **Required affidavits if the settlement is structured.**
Next of Kin of Proposed Ward (15.0) - List all *next of kin* (those people who are closest blood relatives) of the minor. - Be sure to specify *complete* addresses of all those listed.
Waiver and Consent to Settle Minor's Claim (Form 22.1) - Complete form. - Both parents must waive notice or be served notice by certified mail of the hearing date and time. - If a guardianship is necessary and the address of a parent is unknown, publication is required.
Entry Approving Settlement of a Minor's Claim (Form 22.2) - 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 Information Desk on the 9th Floor of Probate Court for a magistrate to be assigned. All forms are then taken to an available magistrate who will set the matter for hearing.

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 parent(s), minor child, and the attorney (if one is obtained) should report to the 9th floor of the Probate Court to the Information Desk (The magistrate will already have the case file). If a guardian is needed, then the hearing on the appointment of a guardian will be held first and the minor settlement will be held thereafter. 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:

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 minor until the minor reaches the age of 18. After the money has been deposited, a **Verification of Receipt and Deposit (H.C. Form 22.3)** and the **Report of Distribution and Entry Minor's Claim (Form 22.4)** 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 and funds are deposited in a Custodial Depository:

Once the settlement has been approved, the check needs to be deposited into a deposit in lieu of account in the name of the guardian and minor. Funds must be deposited with Fifth **Third Bank** (Downtown Branch 900 Main Street, Cincinnati OH, 45202) or **US Bank** (Downtown Branch 1116 Main Street, Cincinnati OH, 45202). After the money has been deposited, a **Verification of Receipt and Deposit (H.C. Form 204.07)** and a **Report of Distribution and Entry Minor's Claim (Form 22.4)** 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 and the funds are 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 Minor's Claim (Form 22.4)** to the assigned magistrate for approval. File the approved forms with the cashier.

The Attorney must file an account one year after the date of appointment of guardian and every year after. Bond must be maintained every year.

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

CASE NO. _____

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF _____

CASE NO. _____

APPLICATION TO SETTLE A MINOR'S CLAIM

[R.C. 211.05, R.C. 2111.18, Sup. R. 67 AND 68]

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

The applicant state 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 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 _____

_____, 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 of attached.

_____
Attorney for Applicant

_____
Typed or Printed Name

_____

_____
Address

_____
Email

_____
Phone Number

Attorney Registration No. _____

_____
Applicant

_____
Type or Printed Name

_____

_____
Address

_____
Email

_____
Phone Number

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF _____

CASE NO. _____

ENTRY SETTING HEARING AND ORDERING NOTICE

The Court sets _____, at _____ o'clock ___.M. in Room _____ as the date and time for hearing the 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.)

_____
Ralph Winkler, Probate Judge

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

GUARDIANSHIP OF _____

CASE NO. _____

NEXT OF KIN OF PROPOSED WARD

(R.C. 2111.04)

(NOTE : Specify age and birthdate of each minor under 16 on the line containing the minor's name. List the name and address of the minor's parent, guardian or custodian on the name and address lines following the minor's address.)

	Service Waived		Relationship	Birthdate Of Minor
1.	☐	Name _____	_____	_____
		Address _____		Zip _____
2.	☐	Name _____	_____	_____
		Address _____		Zip _____
3.	☐	Name _____	_____	_____
		Address _____		Zip _____
4.	☐	Name _____	_____	_____
		Address _____		Zip _____
5.	☐	Name _____	_____	_____
		Address _____		Zip _____
6.	☐	Name _____	_____	_____
		Address _____		Zip _____
7.	☐	Name _____	_____	_____
		Address _____		Zip _____
8.	☐	Name _____	_____	_____
		Address _____		Zip _____
9.	☐	Name _____	_____	_____
		Address _____		Zip _____
10.	☐	Name _____	_____	_____
		Address _____		Zip _____

_____ _____

Date Applicant

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF _____

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.

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

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF _____

CASE NO. _____

ENTRY 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 ☐, _____ for damages on account of loss of service of the 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 this Court;
- ☐ Delivered to the legal guardian of the estate of this minor;
- ☐ Delivered to _____, parent ☐ and ☐ natural guardian;
- ☐ Delivered to _____, the person by whom the minor is maintained;
- ☐ Structured as set for the in the documents attached to the application;
- ☐ Deposited into a trust, for the benefit of the beneficiary until the beneficiary reaches 25 years of age. (R.C. 2111.182).

☐ Orders the applicant and the attorney to report on their distribution of the proceeds within 30 days of the date of this entry.

☐ _____ may be listed as custodian on the account, no funds shall be released from the bank without a court order or until said minor attains the age of majority.

☐ Further orders _____

_____

_____ _____

Date Probate Judge

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF_____, MINOR

CASE NO._____

AFFIDAVIT FOR UNKNOWN ADDRESS OF A PARENT

STATE OF OHIO, COUNTY OF HAMILTON, SS.

The undersigned, being first duly cautioned and sworn, deposes and says that the address of _____ is unknown and cannot be ascertained with reasonable diligence and that _____ is free from disability other than minority.

Affiant has attempted to locate_____ **[check whichever applies]:**

☐ Mailed correspondence to the last known address that was returned undeliverable.

☐ Personally went to the last known address and verified that he/she no longer lived at said address.

☐ Contacted relative(s).

☐ Contacted friend(s).

☐ Contacted current employer or last employer.

☐ Contacted his/her doctor's or dentist's office.

☐ Contacted CSEA (Child Support Enforcement Agency)

☐ Other_____

_____
Affiant

Sworn to before me and in my presence this ____ day of _____.

_____
Notary Public

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._____

REPORT OF DISTRIBUTION MINOR'S CLAIM

Pursuant to Entry filed _____, 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 _____ $_____

Loss of service to _____ $_____

Others: _____ $_____

Total $_____

Net Proceeds

☐ Deposited pursuant to R.C. 2111.05
Form 22.3 attached $_____

☐ Delivered to _____,
legal guardian of the estate $_____

☐ Delivered to _____, $_____
parent___ and natural guardian___

☐ Delivered to _____, $_____
the person by whom the minor is maintained.

☐ Structured – see documents previously filed $_____

☐ Deposited into a trust, for the benefit of the beneficiary
until the beneficiary reaches 25 years of age
(R.C. 2111.182) $_____

Balance $_____0_____

_____ _____
Attorney for Applicant Applicant

Attorney Registration No. _____

ENTRY

The above report of distribution is hereby approved, and the applicant is discharged from further responsibility.

_____ _____
Date Ralph Winkler, Probate Judge