

# 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. **This fee must be paid in cash, certified check, MasterCard, Discover, or American Express. No personal checks or money orders will be accepted.**

The forms may be obtained from the Information Desk on the 9<sup>th</sup> floor of the Probate Court, 230 E. 9<sup>th</sup> 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.
<b>STEP 2: ASSIGNING OF MAGISTRATE &amp; REVIEWING OF FORMS</b>
When all forms have been completed, present them to the Information Desk on the 9 <sup>th</sup> 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.
<b>STEP 3: FILING OF PAPERS WITH CASHIER</b>
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.
<b>STEP 4: DAY OF HEARING</b>
At the date and time of the hearing, the parent(s), minor child, and the attorney (if one is obtained) should report to the 9 <sup>th</sup> 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.
<b>STEP 5: DEPOSITING OF FUNDS AND FILING OF VERIFICATION OF DEPOSIT</b>
<b>Without appointment of a guardian:</b>
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 <b>Verification of Receipt and Deposit (H.C. Form 22.3)</b> and the <b>Report of Distribution and Entry Minor's Claim (Form 22.4)</b> must to be presented to the assigned magistrate to be approved, and then filed with the cashier to complete the case.
<b>With appointment of a guardian and funds are deposited in a Custodial Depository:</b>
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 <b>Third Bank</b> (Downtown Branch 900 Main Street, Cincinnati OH, 45202) or <b>US Bank</b> (Downtown Branch 1116 Main Street, Cincinnati OH, 45202). After the money has been deposited, a <b>Verification of Receipt and Deposit (H.C. Form 204.07)</b> and a <b>Report of Distribution and Entry Minor's Claim (Form 22.4)</b> must be presented to the assigned magistrate to be approved, and then filed with the cashier to complete the case.
<b>With the appointment of a guardian and the funds are maintained in a guardian's account:</b>
Once the net settlement proceeds have been deposited into a bank located in Hamilton County, present the <b>Report of Distribution and Entry Minor's Claim (Form 22.4)</b> 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.

## **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](http://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 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

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Type or Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Attorney Registration No. \_\_\_\_\_

**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. <input type="checkbox"/>	Name _____ Address _____	Zip _____
2. <input type="checkbox"/>	Name _____ Address _____	Zip _____
3. <input type="checkbox"/>	Name _____ Address _____	Zip _____
4. <input type="checkbox"/>	Name _____ Address _____	Zip _____
5. <input type="checkbox"/>	Name _____ Address _____	Zip _____
6. <input type="checkbox"/>	Name _____ Address _____	Zip _____
7. <input type="checkbox"/>	Name _____ Address _____	Zip _____
8. <input type="checkbox"/>	Name _____ Address _____	Zip _____
9. <input type="checkbox"/>	Name _____ Address _____	Zip _____
10. <input type="checkbox"/>	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