

Petition to Compromise Doubtful Claim of Minor/Ward

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when petitioning the Probate Court for authorization to compromise a doubtful personal injury claim of a minor pursuant to O.C.G.A. §29-3-3 or adult ward pursuant to O.C.G.A. §29-5-23(c)(5). The terms "gross settlement", "net settlement", and "present value" are defined in O.C.G.A. §29-3-3. This form must be modified when a covenant not to sue, as opposed to a release, will be executed by the natural guardian or conservator.
2. This form may also be used when compromising other than personal injury claims pursuant to O.C.G.A. §29-3-3, provided appropriate changes are made in the form.
3. Even if there is a legally qualified conservator, it is not necessary to file a separate petition to encroach on corpus concerning the expenses listed in paragraph 11 of the form, unless the court so directs, in which case the prayers listed on page 6 and the provisions of the Order should be modified.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms appear in Volume 255 of the Georgia Reports and are available in each probate court.

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:)	ESTATE NO. _____
)	
_____,)	PETITION TO COMPROMISE
MINOR/WARD)	DOUBTFUL CLAIM OF MINOR OR
)	ADULT WARD

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____, shows to the Court:

1.

(Initial either a. or b. below):

_____ a. Petitioner(s) has/have been appointed the conservator(s) of said minor/ward by Order of this Court, and brings this petition in such capacity.

or

_____ b. Petitioner(s) is/are the natural guardian(s) of the above minor, the gross settlement amount is over \$15,000.00 but the net settlement amount is less than \$15,000.00, legal action has not been initiated (or, if initiated, has been dismissed with the approval of the trial judge).

(Initial if applicable:)

_____ The minor/ward currently has cash/personal property in the amount of \$ _____ and will receive additional funds of \$ _____. As a result of this settlement, the petitioner(s) will file an additional bond in the amount of \$ _____ to secure the minor/ward's estate.

2.

Petitioner(s) as natural guardian(s)/conservator(s) has/have claims against _____
_____ by virtue of an incident occurring on or about
_____, 20____. Said minor/ward, whose birth date is _____
and who is _____ years old, received personal injuries as a result of the following occurrence:

and the minor/ward has potential claim(s) against the following adverse party(ies) not settled in
this action: _____
_____.

3.

_____ A copy of the accident report is attached as Exhibit "A".
_____ There was no accident report because _____.

4.

The minor/ward sustained the following injuries:

5.

The minor/ward has been treated by:

6.

The minor's/ward's physical, mental and emotional condition, as evidenced by the statement of the treating doctor attached as Exhibit " _____", has returned to the condition of said minor/ward prior to such incident, except for:

7.

The following is a list of all medical expenses and other special damages incurred to date as a result of the injury to said minor/ward:

8.

The following is a list of all medical expenses and other special damages expected to be incurred in the future as a result of the injury to said minor/ward as evidenced by the statement of the treating doctor or doctors attached as Exhibit " _____":

9.

Medical expenses have been paid as follows:

- a. \$ _____ by _____'s medical payment reimbursement insurance coverage. \$ _____ of such coverage remains and will not be released by this settlement.
- b. \$ _____ from any group or private insurance sources.
- c. \$ _____ as a result of workers' compensation coverage.
- d. \$ _____ from any other source (identify).

10.

Petitioner(s) believe(s) this a fair, reasonable and just compromise because petitioner(s) has/have fully investigated the facts and circumstances surrounding the incident, and it is uncertain and doubtful that an amount could be recovered in excess of the settlement amount offered by _____, since the opposing party or parties contend that they are not responsible or liable in any way for whatever injuries might have been sustained by said minor/ward on the following grounds:

11.

Petitioner(s) and _____ have agreed upon a compromise settlement of all claims, which petitioner(s) believe(s) to be fair, reasonable, and just under the circumstances, upon the terms and conditions set forth below:

- a. Expenses, if any, to be paid from settlement proceeds:
 - (i) Attorney's fees \$ _____
 - (ii) Expenses of litigation \$ _____
 - (iii) Medical expenses now due \$ _____
 - (iv) Other (explain below, if necessary) \$ _____
 - (v) Total of such expenses \$ _____
- b. Cash to conservatorship (not including above expenses, if any) \$ _____
- c. (Value) (Cost) of annuity \$ _____
- d. Gross settlement (total of a., b., and c.) \$ _____
- e. Net settlement (total of b. and c.) \$ _____
- f. Further explanation, if necessary:

12.

The following is a description and explanation of any amounts being paid to persons other than for the benefit of the minor/ward as a result of the injuries to said minor/ward:

13.

- _____ a. The adverse party's(ies') policy limits of insurance are _____.
- _____ b. Uninsured motorists coverage held by _____ is contributing \$_____ to the settlement.
- _____ c. There is no policy of insurance involved in this matter.

14.

[To be completed if the claim appears to be worth more than the insurance policy limits:]

Petitioner(s) has/have investigated the assets of the party or parties being released as part of this settlement, and has/have determined that it would not be worthwhile to decline this settlement offer because:

15.

Petitioner(s) has/have employed _____ to represent Petitioner(s) in the prosecution of said minor's/ward's claim, and has/have agreed to pay the attorney's fees and expenses of litigation in paragraph 11 (a)(i) and (ii) above, which represents _____% of the total settlement.

16.

Petitioner(s) seek(s) to direct settlement proceeds into a structured settlement, and the Disclosures Regarding Structured Settlement is attached hereto as Exhibit _____.

17.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission.

WHEREFORE, Petitioner(s) pray(s) for an Order approving, and allowing Petitioner(s) to accept, said offer to compromise and settle upon the terms set forth above; that Petitioner(s) be authorized to consummate the settlement and execute any and all agreements, receipts, releases and other documents necessary or proper to effect said settlement; and that Petitioner(s) be authorized to pay from the gross settlement amount all fees and expenses described in paragraph 11 above.

Signature of first petitioner

Signature of second petitioner, if any

Printed Name

Printed Name

Address

Address

Telephone Number

Telephone Number

Signature of Attorney: _____

Typed/printed name of Attorney: _____

Address: _____

Telephone: _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

Disclosures Regarding Structured Settlement

MINOR/WARD _____

ESTATE NO. _____

- 1. Total Cost of Structured Settlement: _____
- 2. Annuity
 - a. Total payout over life of annuity: _____
 - b. Amount GUARANTEED: _____ Rate of return: _____ %
 - c. Do payments terminate at death? _____
 - d. Amount of payments: \$ _____
 - i. If periodic,
 - (1) state period (i.e. monthly) _____
 - (2) Beginning date: _____ Ending date: _____
 - ii. If lump sum distribution at date certain, list,
 - (1) \$ _____ date _____
 - (2) \$ _____ date _____
 - (3) \$ _____ date _____

NOTE: THE ESTATE OF THE MINOR/WARD MUST BE THE NAMED BENEFICIARY TO RECEIVE ANY GUARANTEED PAYMENTS THAT WILL BE PAID AFTER THE DEATH OF THE MINOR/WARD. The Petitioner(s) may NOT name themselves as the beneficiary of any assets paid after a minor/ward's death, except with Court approval.

- 3. List any amounts attorneys will receive AFTER INITIAL SETTLEMENT, IF ANY:
 - a. _____ date _____
 - b. _____ date _____
- 4. Name, address, and telephone number of company underwriting the annuity:

Name: _____

Address: _____

Telephone _____

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: _____) ESTATE NO. _____
)
)
_____,) PETITION TO COMPROMISE CLAIM
MINOR/WARD)

ORDER APPOINTING GUARDIAN AD LITEM
(to be used if the Petitioner(s) is/are Conservator(s))

A Petition to Compromise Claim being filed by the conservator(s) of the above named minor/ward, it is hereby

ORDERED that _____ is appointed guardian ad litem for the above minor/ward. The deputy clerk shall serve said guardian ad litem with a copy of this Order and the above Petition/Motion. Upon said guardian ad litem’s acceptance of same, said guardian ad litem shall make answer hereto.

SO ORDERED this _____ day of _____, 20_____.

Probate Judge

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: _____) ESTATE NO. _____
)
)
_____,) PETITION TO COMPROMISE CLAIM
MINOR/WARD)

ANSWER OF GUARDIAN AD LITEM

I hereby accept the foregoing appointment, acknowledge service and notice of the proceedings as provided by law, and for answer say:

DATE

GUARDIAN AD LITEM

ADDRESS

TELEPHONE

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: _____) ESTATE NO. _____
)
)
_____,) PETITION TO COMPROMISE CLAIM
MINOR/WARD)

ORDER

The foregoing petition having been read and considered, and it appearing upon the hearing that the facts set out in the petition are true and that said settlement is fair, reasonable and just, that the same is made in good faith, and will be in the best interest of the said minor/ward and will advance the interests of said minor/ward;

(initial if applicable)

_____ And no objection to the proposed compromise being raised by the guardian ad litem;

IT IS HEREBY ORDERED AND ADJUDGED that Petitioner(s) be and is/are hereby authorized to consummate said settlement as prayed in said petition, and to execute any and all agreements, receipts, releases or other documents necessary or proper to effect such settlement, and that such agreements, receipts, releases or other documents shall constitute the full, final and complete settlement of any and all actions, causes of action, claims or demands which the above-named minor/ward may have against those parties to the settlement named in the petition, as fully and completely as if said ward had executed said agreements, receipts, releases or other documents individually.

IT IS FURTHER ORDERED that Petitioner(s) be and is/are hereby authorized to pay all fees and expenses shown in paragraph 11 of the petition from the gross settlement amount.

SO ORDERED this _____ day of _____, 20_____.

Probate Judge