

Re: Petition to Compromise Doubtful Claim of Minor

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. §29-2-16 (d), (e) or (h). The terms "gross settlement", "net settlement", and "present value" are defined in O.C.G.A. §29-2-16(k). This form must be modified when a covenant not to sue, as opposed to a release, will be executed by the guardian.

2. This form may also be used when compromising other than personal injury claims pursuant to O.C.G.A. §29-2-16, provided appropriate changes are made in the form.

3. The minor should be present at the hearing unless the minor's absence is approved in advance by the court.

4. It is not necessary to attach copies of the releases and other documents which will be signed as a part of the settlement process.

5. Even if there is a legally qualified guardian of the property, 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.

6. This form consists of 7 pages.

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.

PETITION TO COMPROMISE DOUBTFUL CLAIM OF MINOR

GEORGIA, _____ COUNTY

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

NAME OF MINOR: _____

The petition of _____, shows to the Court:

1.

(Check either a. or b. below):

_____ a. Petitioner has been appointed the legal guardian of the property of said minor by Order of this Court, and brings this petition in such capacity.

OR

_____ b. Petitioner is the natural guardian of said minor, the gross settlement amount is over \$5,000.00 but the net settlement amount is less than \$10,000.00, legal action has not been initiated (or has been dismissed with the approval of the trial judge), and petitioner has previously been excused from becoming the legally qualified guardian of the property of said minor by Order of this Court.

2.

Petitioner and said minor are residents of this State and County and are subject to the jurisdiction of this Court.

3.

Petitioner as such guardian has claims against _____ by virtue of an incident occurring on or about _____, _____. Said minor received personal injuries as a result of the following occurrence: _____

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

11.

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

- 1. Expenses, if any, to be paid from settlement proceeds:
 - a. Attorney's fees \$ _____
 - b. Expenses of litigation \$ _____
 - c. Medical expenses now due \$ _____
 - d. Other (explain below, if necessary) \$ _____
 - e. Total of such expenses \$ _____
- 2. Cash to guardianship (not including above expenses, if any) \$ _____
- 3. (Value) (Cost) of annuity \$ _____
- 4. Gross settlement (total of 1, 2 and 3) \$ _____
- 5. Net settlement (total of 2 and 3) \$ _____
- 6. 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 as a result of the injuries to said minor.

13.

- _____ The policy limits of insurance are _____.
- _____ 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 has investigated the assets of the party or parties being released as part of this settlement, and has determined that it would not be worthwhile to decline this settlement offer because:

Petitioner has employed _____ to represent Petitioner in the prosecution of said minor's claim, and has agreed to pay the attorney's fees and expenses of litigation in paragraph 11 (1)(a) and (b) above, which Petitioner believes to be reasonable under the circumstances.

WHEREFORE, Petitioner prays for an Order approving, and allowing Petitioner to accept, said offer to compromise and settle upon the terms set forth above; that Petitioner 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 be authorized to pay from the gross settlement amount all fees and expenses described in paragraph 11 above.

Attorney's Address: _____

Telephone: _____
Signature of Attorney (or petitioner if pro se)

VERIFICATION

GEORGIA, _____ COUNTY

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

Petitioner's Address: _____

Telephone: _____
Petitioner

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

Clerk, Probate Court/Notary Public

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

In Re: Estate of _____, Minor
Petition to Compromise Claim

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 and will advance the interests of said minor;

IT IS HEREBY ORDERED AND ADJUDGED that Petitioner be and is 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 may have against those parties to the settlement named in the petition, as fully and completely as if said minor was of age and had executed said agreements, receipts, releases or other documents individually.

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

DATE

JUDGE OF THE PROBATE COURT

**CERTIFICATE IN ACCORDANCE WITH
UNIFORM PROBATE COURT RULE 21(F)**

I certify that the content of the foregoing is identical in all material respects with Georgia probate court standard form entitled **Petition to Compromise Doubtful Claim of Minor**, except for additions or deletions indicated as required by the Uniform Probate Court Rules.

Date

Signature of Attorney
Address:

Telephone Number:
State Bar#: