

PETITION TO APPROVE SETTLEMENT OF MINOR'S CLAIM (no guardian)

IN RE: INTEREST OF \_\_\_\_\_  
CASE NO.: \_\_\_\_\_  
ATTORNEY: \_\_\_\_\_  
DATE: \_\_\_\_\_

See, FS 744.387 (settlement of claims), FPR 5.636 (settlement of minors claims), FS 744.301 (natural guardians), FS768.23 (Protection of minors and incompetents), FS 768.25 (court approval of settlements.), FS 744.391 (actions by and against guardian or ward), FS 744.441 (powers of guardian upon court approval), FS 744.446 (Conflicts of interest; prohibited activities; court approval), FS 744.447 (Petition for authorization to act), FPR 5.610 (Execution by guardian), FPR 5.630 (Petition for approval of acts), *Maugeri v. Plourde*, 396 So.2d 1215 (3d DCA 1981), only court having jurisdiction to approve settlement of a minor's claim in a pending action is the court in which the action is pending. FS 744.301 (4)(a) appointment of guardian ad litem

Nature of claim: \_\_\_\_\_  
Type of injuries: \_\_\_\_\_  
Liens/Unpaid Medical: \$ \_\_\_\_\_  
Policy limits: \$ \_\_\_\_\_  
Proposed Settlement: \$ \_\_\_\_\_  
Attorneys fees and costs: \$ \_\_\_\_\_  
Payment to parents/others: \$ \_\_\_\_\_  
Net to Minor: \$ \_\_\_\_\_

Petition:

- \_\_\_\_ Name, address and DOB of minor, 5.636(b)(1), and Guardian, 5.636(b)(2)
- \_\_\_\_ Name & address of natural guardians or legal custodians 5.636(b)(3)
- \_\_\_\_ Traffic Report, dec sheet, doctor's reports filed
- \_\_\_\_ Statement disclosing conflicts of interest of guardian 5.636(b)(4)
- \_\_\_\_ Description of cause of action of minor's claim 5.636(b)(5)
- \_\_\_\_ Summary of terms of proposed settlement 5.636(b)(6)
- \_\_\_\_ Copy of agreement, release to be executed for minor 5.636(b)(7)
- \_\_\_\_ Copy of attorney fee contract (to substantiate fee)
- \_\_\_\_ Break down of attorney's costs (to establish reasonable costs)
- \_\_\_\_ Order provides specific distributions (Admin Order)
- \_\_\_\_ Notice to guardians, parents, custodians & minor (if 14) or kin.  
See, 5.636(c) \_\_\_\_\_

Gross value of settlement \$ \_\_\_\_\_

\_\_\_\_ If settlement exceeds \$25,000, appoint Guardian Ad Litem 5.636(d)

- \_\_\_\_ Report filed by GAL 5.636(f)
- Statement of facts, terms of settlement, incl. benefits to others
- List of persons interviewed, documents reviewed
- Analysis of whether the settlement is in best interest of minor

\_\_\_\_ If investment in an annuity is proposed (1) a copy of the proposed annuity is provided (2) the beneficiary of the annuity is the estate of the ward and (3) the annuity is protected from being cashed in at a discount. (4) The rate of return should be addressed.<sup>1</sup>

\_\_\_\_ ORDER STATES: (1) name of bene on annuity; (2) purpose of the structure - to protect the minor and that a transfer would be detrimental; (3) Court retains jurisdiction to enforce settlement; and (4) copy of annuity must be filed within 30 days of order's date.

<sup>1</sup> 626.99296, the statute governing transfers of structured settlement payment rights, requires that the proposed transfer does not contravene the terms of the structured settlement, . . . the court may grant, deny, or impose conditions upon the proposed transfer which the court deems just and proper given the facts and circumstances.

**COMMENTS :**

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