

Minors as Parties

Local Rule 2039 Compromise, Settlement, Discontinuance and Distribution.

(1) Contents of Petition.

A petition under Pa.R.C.P. 2039 shall be verified by the guardian of the minor, and shall contain a statement of the nature of the evidence relied upon to show liability, the elements of damage, the injuries sustained, and the list of expenses incurred or to be incurred. The petition shall be accompanied by the following exhibits:

- (a) A statement of counsel's professional opinion regarding the desirability of the settlement and reasons therefor, including a discussion with specific references to the factual circumstances as to both the liability and damages aspects of the case; a description of the services rendered; a description and the amount of reimbursable expenses requested; and the amount of fees requested, which, except in extraordinary circumstances, shall not exceed 33-1/3% of the present value of a structured settlement or 33-1/3% of the gross recovery of any other settlement.

Note: If settlement proceeds are to be split between a minor and another party(ies) to the litigation, the injuries to this other party(ies) must also be described.

- (b) A statement by the attending physician as to the injuries sustained by the minor, treatment administered and the prognosis.
- (c) In property damage claims, a statement by the party who made the repairs or appraised the loss.

(2) Deposit of Funds by Order of Court.

- (a) All petitions under Pa.R.C.P. 2039, where the proceeds of settlement are to be deposited in a savings account or in a certificate of deposit, shall have attached to the petition an order including the following:

It is hereby ordered and decreed that the amount of \$_____ shall be deposited only in the name of _____, a minor, by attorney _____, counsel of record, in a savings account or certificate of deposit in a federally insured bank, savings and loan association or credit

union. The savings account or certificate of deposit shall be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF MAJORITY OR BY FURTHER ORDER OF COURT."

- (b) Proof of deposit is to be filed with the Clerk of the Orphans' Court within thirty (30) days by attorney _____, counsel of record.

(3) **Presentation of Petition.**

All petitions under Pa.R.C.P. 2039 shall be first delivered for signature to the Administrative Judge of the Orphans' Court Division who will then deliver the petition to the Calendar Control Judge for signature.

(4) **Annuity Contracts.**

- (a) Where the terms of settlement of a minor's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this Court.
- (b) A copy of this local rule shall be served upon the company issuing the annuity contract and proof of service thereof shall be filed with the Clerk of the Orphans' Court Division of this Court.
- (c) Proof of purchase of any annuity contract is to be filed with the Clerk of the Orphans' Court within thirty (30) days by attorney _____, counsel of record.

Note: For approval of a settlement of a minor's claim where no action has been instituted, see Orphans' Court Local Rule 12.16G.

Editor's Note: Effective December 4, 2006.