

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

Case Type: Personal Injury
File No.: _____
Judge: _____

Plaintiff,

v.

**UNIFORM FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER TO APPROVE MINOR
SETTLEMENT**

Defendant.

The above-entitled matter came before the Honorable _____ of District Court, on _____, 20__ on a Petition to Approve a Minor Settlement. _____, Esq., appeared on behalf of the petitioning plaintiff. There were no other appearances. Based upon all of the files, records, submissions, testimony, and arguments herein, the court makes the following:

FINDINGS OF FACT

1. As required by Rule 145.05 of the Minnesota Rules of General Practice for the District Courts, the petitioner and the minor or incompetent person personally appeared before the court at the hearing on the petition.

OR

If the petitioner and the minor or incompetent person did not personally appear, their appearance is waived by the court because the action has been fully or partially tried or for the following reasons that constitute good cause: _____

2. A petition and proposed order have been filed with the court.

3. As required by Rules 145.01, 145.02, and 145.05 of the Minnesota Rules of General Practice for the District Courts, the petition has been verified by the petitioner and contains the following information:

- (a) The name and birth date of the minor or other incompetent person.
- (b) A brief description of the nature of the claim if a complaint has not been filed.
- (c) An attached affidavit, letter or records of a health care provider describing the nature of the injuries, the extent of recovery, and the prognosis if the court has not heard testimony covering those matters.
- (d) Whether the parent, or the minor or incompetent person, has collateral sources covering any part of the principal and derivative claims, including expenses and attorney fees, and whether subrogation rights have been asserted by any collateral source.
- (e) The reason or reasons why the proposed settlement and distribution of settlement proceeds should be approved and, if the court is being asked to approve a settlement for an amount that is less than what the injuries and expenses might appear to require, the reason or reasons why such a settlement is in the best interests of the minor or other incompetent person, e.g., limited insurance coverage, dubious liability, comparative fault, or other similar considerations.
- (f) In cases involving proposed structured settlements, a statement from the parties disclosing the cost of the annuity or structured settlement to the person or entity paying the settlement.
- (g) The amount of attorney fees, costs, and disbursements to be awarded to petitioner's attorney. The proposed amount does not exceed one-third of the present-day value of the settlement, unless there has been a showing that: (1) an appeal to an appellate court has been perfected and a brief by the plaintiff's lawyer has been printed therein; and (2) there has been an expenditure of time and effort throughout the proceeding that is substantially disproportionate to a one-third fee. The proposed amount does not include costs for an investigator.
- (h) The proposed disposition of the balance of the proceeds of any recovery after payment of the court-authorized expenses. If some or all of those proceeds are to be deposited in a financial institution, the petitioner has identified the name and address of the financial institution and verified that the financial institution is FDIC insured and will open the account under the name of the minor or incompetent person.

4. **If the petition is filed by an attorney who does not represent petitioner.** As required by Rule 145.01 of the Minnesota Rules of General Practice for the District Courts, if the petition was filed by an attorney who does not represent petitioner, the attorney has provided an affidavit to the court and petitioner stating the following:

- (a) The nature of the lawyer’s representation; how the lawyer is being paid; the frequency with which the lawyer has been retained by the tortfeasor or insurer; and whether the lawyer has given legal advice to the petitioner.
- (b) The lawyer accepting the referral will not represent the petitioner or the minor or accept a referral fee in the event that the petition is denied by the court.

OR

If the petition is filed by an insurance company or tortfeasor. As required by Rule 145.03 of the Minnesota Rules of General Practice for the District Courts, if the petition was filed by or on behalf of an insurance company or tortfeasor, then the court has determined, at its discretion, whether to refer the petitioner to a lawyer selected by the petitioner, or by the court if petitioner requests or declines to select a lawyer, to evaluate the proposed settlement and advise the court whether the settlement is reasonable considering all relevant facts. If such a referral has been made, the opinion has been submitted in writing, and the court has provided a copy to petitioner and all tortfeasors or their representatives, regardless of whether a filing fee has been paid by the tortfeasors. This appointment was made pursuant to Minn. R. Evid. 706.

5. [Other additional information considered by the court.]

Based on the foregoing Findings of Fact, the court reaches the following:

CONCLUSIONS OF LAW

- 1. The proposed settlement is reasonable and the terms are consistent with all applicable statutes and rules.
- 2. The proposed distribution of the settlement proceeds is reasonable and consistent with all applicable statutes and rules.
- 3. The attorney’s fees and costs sought by petitioner’s attorney are reasonable.

Based upon the court's Findings of Fact and Conclusions of Law, the court issues the following:

ORDER

1. The petition for approval of the settlement in this matter is granted.
2. The minor or incompetent person is awarded the sum of \$ _____, subject to the further terms and conditions of this order.
3. Petitioner and petitioner's attorney are authorized to sign any releases, dismissals, or other documents necessary to effectuate the terms and conditions of the settlement.
4. Petitioner's attorney, if petitioner is represented, shall, within fourteen days of the date of this order or the receipt of the settlement proceeds, whichever date is later, deposit the sum of \$ _____ in an account under the name of the minor or incompetent person with the following FDIC insured financial institution at the following address: _____, per Rule 145.05(d), subd. 1, of the Minnesota Rules of General Practice for the District Courts.

OR

If petitioner is not represented by an attorney, the tortfeasor's insurer, or the tortfeasor if uninsured, shall, within fourteen days of the date of this order, deposit the sum of \$ _____ in an account under the name of the minor or incompetent person with the following FDIC insured financial institution at the following address: _____, per Rule 145.05(d), subd. 1, of the Minnesota Rules of General Practice for the District Courts.

5. The FDIC insured financial institution and the type of investment therein shall be as specified in Minnesota Statutes, section 540.08, as amended. Two or more institutions shall be used if necessary to have full federal deposit insurance coverage of the proceeds plus future interest; and time deposits shall be established with a maturity date on or before the minor's age of majority. If automatically renewing instruments of deposit are used, the final renewal period shall be limited to the date of the age of majority.

6. The person or entity responsible for the deposit of the money on behalf of the minor or incompetent under paragraphs 4 and 5 of this order shall do the following at the time of deposit:

- (a) Open an account in the name of the minor or incompetent person and verify that any deposit document to be issued is in the name of the minor or incompetent person;
- (b) Supply the financial institution with a tax identification number or a social security number for the minor and a copy of this order.

7. In accordance with Minnesota Statutes, section 540.08, as amended, upon acceptance of the money for deposit, the financial institution with which the money has been deposited shall:

- (a) Within seven days of opening of the account acknowledge to the court receipt of this order and the sum deposited and that no disbursement of the funds will occur unless the court so orders, using a form substantially equivalent to Form 145.1 of the Minnesota General Rules of Practice, a copy of which is attached to this order;
- (b) Comply with any request for information by the court as to the status of the account¹; and
- (c) Not make any disbursement from the deposit except upon order of the court.
- (d) Applications for the release of funds, either before or upon the age of majority, may be made using a form substantially similar to Form 145.2 of the Minnesota General Rules of Practice.

8. Petitioner shall file or cause to be filed timely state and federal income tax returns on behalf of the minor.

9. Petitioner's attorney is awarded attorney fees, costs and disbursements in the total amount of \$_____.

10. _____

Dated: _____, 20__

BY THE COURT:

Judge of District Court

RECOMMENDED BY:

Dated: _____, 20__

Referee

¹ Pursuant to Minn. Stat. §§ 13A.04, subs. 1 and subd. 4(d), the court is a government authority exempt from the financial institution disclosure limitations created by Minn. Stat. § 13A.02, subd. 1.