

**MINNESOTA GENERAL RULE OF PRACTICE 145  
MINOR SETTLEMENT - CHECKLIST**

- Petition filed.
- Proposed Order Filed.

**The Petition must (§ 145.02):**

- Be verified by parent/guardian.
- Include the name and birth date of minor.
- Describe the nature of the claim *or* file a complaint.
- Include a affidavit, letter or records of a health care provider showing nature of injuries, extent of recovery, and prognosis if court has not already heard testimony.
- State whether the parent or minor has collateral sources for covering any part of the claims, including expenses and attorney fees.
- State whether subrogation rights have been asserted by any collateral source.

**Structured Settlement Petitions must also include:**

- Statement from the parties disclosing the cost of the annuity or structured settlement to the tortfeasor.

**At the Settlement Hearing:**

- The minor and petitioner **must** appear *unless* waived by the court in its descretion (Rule 145.04).

**The Order must (Rule 145.05):**

- Approve, modify, or disapprove settlement.
- Specify the persons that are to be paid.
- State reasons why approving settlement *if* approving an amount that is less than what the injuries/expenses call for.
- Determine what expenses may be paid from proceeds, including attorney's fees.  
Note: attorney not allowed any amount in excess of 1/3 except on a showing that an appeal has been made and expenditure of time/effort is substantially disproportionate to a one-third fee.  
Note: generally no reimbursement of investigators allowed – see rule 145.05(c).
- Specify what happens to balance of proceeds after payment of expenses is made – see rule 145.05 (d) for various things court can authorize.
  - (1) investment of all or part of such balance of the proceeds in U.S. securities, in an annuity or other form of structured settlement, including a medical assurance agreement.
  - (2) provide for the filing of a surety bond approved by the court conditioned for payment to the ward in a manner therein to be specified of such moneys as the ward is entitled to receive, including interest which would be earned if the proceeds were invested.
- If proceeds are ordered to be deposited in financial institutions the court shall direct that:
  - Defendant to pay sum to be deposited directly to the institution.

- The account be opened in the name of the minor and any deposit issued in the name of the minor.
  - Petitioner shall provide the institution with a tax identification number or social security number for minor and a copy of the order approving the settlement.
  - The institution forthwith acknowledge to the court receipt of the order.
  - The institution shall not make any disbursement from the deposit except upon court order.
  - Petitioner must file timely state and federal income tax returns on behalf of minor.
- Authorize or direct the investment of proceeds in securities of the U.S. to insure funds invested will be preserved for the benefit of minor and original security instrument be deposited with the court administrator.
  - Applications for release of funds before or on the age of majority may be made using a form similar to Form 145.2.

**If Structured settlement, Court shall:** (annuity or other form of structured settlement) (R. 145.06).

- Determine cost of annuity or structured settlement to tortfeasor by examining the proposal of the annuity company or other generating entity.
- Require the company issuing annuity or settlement be licensed in MN, have a financial rating equivalent to A.M. Best Co. A+, Class VIII or better, and has complied with Minn. Stat. §§ 549.30 to 549.34.
- Order original annuity policy to be deposited with the court admin and the policy be returned to the minor when minor reaches majority, terms of policy have been fully performed, or the minor dies.
- If the company issuing annuity or settlement is related to either the settling party or its insure, that the proposed annuity or structured settlement is at least as favorable to the minor or incompetent person as at least one other competitively-offered annuity obtained from an issuer qualified under this rule and not related to the party or its insurer. This additional proposal should be for an annuity with the same terms as to cost and due dates of payments. See R. 145.06(b)(4).
- In its discretion, order the tortfeasor or its insurer, or both of them, to guarantee the payments contracted for in the annuity or other form of structured settlement.
- Provide that the person receiving the payments is entitled to each periodic payment only when the payment comes due; that the person shall have no rights to the funding source, and that the person cannot designate the owner of the annuity, nor have any right to control or designate the method of investment of the funding medium.
- Direct that the appropriate party or parties will be entitled to receive appropriate receipts, releases or a satisfaction of judgment, pursuant to the agreement of the parties.