Checklist for:

Guardianship – Petition to Approve Settlement of Minor’s Claim

**Legal Standard: \*\*\*See 8th Judicial Circuit Admin. Order 6.100.\*\*\*** See also 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 (Fla. 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 744.3025 claims of minors

Nature of claim: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Type of injuries: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Liens/Unpaid Medical: $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Policy limits: $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Proposed Settlement: $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney fees and costs: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Guardian Ad Litem fees, if any $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Payment to parents/others: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Net to Minor: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

| Guardianship of: |
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| File #: |  | Date: |  |
| --- | --- | --- | --- |
| Attorney: |  |  |  |

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| Docket# | Item# | Date |  |
| --- | --- | --- | --- |
|  |  |  | Name, address and DOB of minor [5.636(b)(1)] |
|  |  |  | Name & address of 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) [Admin order] |
|  |  |  | Break down of attorney costs (to establish reasonable costs) [Admin order] |
|  |  |  | Order provides specific distributions [Admin Order] |
|  |  |  | Notice to guardians, parents, custodians & minor (if <=14) or kin. [5.636(c)] |
|  |  |  | If gross settlement exceeds $50,000, appoint Guardian Ad Litem [744.3025(1)(b)] |
|  |  |  | Report filed by GAL [5.636(f)] |
|  |  |  | 1. Statement of facts, terms of settlement, incl. benefits to others [5.636(f)(1)]
 |
|  |  |  | 1. List of persons interviewed, documents reviewed [5.636(f)(2)]
 |
|  |  |  | 1. Analysis of whether the settlement is in best interest of minor [5.636(f)(3)]
 |
|  |  |  | Copy of GAL Report to same persons noticed of petition [5.636(f) flush] |
|  |  |  | 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 |
|  |  |  | (3) the annuity is protected from being cashed in at a discount. |
|  |  |  | (4) the rate of return should be addressed. |
|  |  |  | ORDER STATES: (1) name of beneficiary 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 w/in 60 days of order's date. (admin order 6.100) |

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| Comments: |
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