

PETITION TO COMPROMISE DOUBTFUL CLAIM OF MINOR/ADULT WARD

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when petitioning the Probate Court for authorization to compromise a doubtful personal injury claim of a minor pursuant to O.C.G.A. § 29-3-3.
2. The term “gross settlement” is defined in O.C.G.A. § 29-3-3.
3. This form can also be used to compromise a doubtful personal injury claim of an adult ward pursuant to O.C.G.A. § 29-5-23 (c) (5); however, some modifications may be necessary.
4. This form must be modified when a covenant not to sue, as opposed to a release from liability, will be executed by the natural guardian or conservator.
5. This form may also be used when compromising claims other than personal injury claims pursuant to O.C.G.A. § 29-3-3, provided appropriate changes are made in the form.
6. If there is a legally qualified Conservator, it may not be necessary to file a separate Petition to Encroach on Corpus concerning the expenses listed in Paragraph 17 of this form. However, the Court may direct that a separate encroachment petition be filed, in which case the prayers listed on Page 8 and the provisions of the Order should be modified.
7. The full particulars as to the facts that give rise to the cause of action should be listed in the Petition.
8. The amount of assets the Minor/Adult Ward has prior to the settlement or action addressed in this Petition must be listed.
9. If an annuity or structured settlement is being purchased for the Minor/Adult Ward, the terms of the annuity must be specified on the form titled “Disclosure of Structured Settlement” and signed by the parties and the insurance company that is funding the annuity.
10. When a structured settlement is to be purchased for the Minor/Adult Ward, the terms of who is responsible for funding the annuity, including terms and time limits for the purchase and/or funding, should be included in the Final Order.
11. O.C.G.A. § 53-11-2 provides that a party to a probate proceeding who is not sui juris must be represented by a guardian provided that the Court may appoint a guardian ad litem or determine that the natural guardian, guardian, conservator or testamentary

guardian has no conflict and may serve. Should a guardian ad litem be necessary because a party is not sui juris, use Supplement 1. [Also see O.C.G.A. § 29-3-22 (c) (5).]

12. Use Supplement 2 if the Court determines it is appropriate to appoint a special process server.
13. Use Supplement 3 when an additional certificate of service is necessary.
14. Exhibits should be labeled at the bottom of each exhibit as Exhibit “A,” Exhibit “B,” etc. in consecutive order. The corresponding letter of each exhibit should be inserted into the appropriate place in the form.

II. General Instructions

General instructions applicable to all Georgia Probate Court Standard Forms are available in each Probate Court, labeled GPCSF 1.

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
) **ESTATE NO.** _____
)
_____,)
MINOR/ADULT WARD)

**PETITION TO COMPROMISE DOUBTFUL CLAIM
OF MINOR OR ADULT WARD**

The Petition of _____,
[Full name of Petitioner(s)] First Middle Last
whose physical address(es) is/are _____,
Street City County State Zip Code
and mailing address(es) is/are _____,
Street City County State Zip Code
shows the Court the following:

1.

The Minor/Adult Ward: *[list full name and address of Minor/Adult Ward]*

[Full name and address of Minor/Adult Ward] First Middle Last

[Full physical address] Street City County State Zip Code

whose birth date is _____ and is _____ years old, received personal injuries as a result of the following occurrence:

2.

The Minor/Adult Ward currently has cash and/or personal property in the amount of \$ _____ and will receive funds of \$ _____ as a result of this settlement. Petitioner(s) currently has/have a bond on file, to cover the cash/personal property of this Minor/Adult Ward in the amount of \$ _____. Petitioner(s) is/are prepared to file a bond or rider for a total of \$ _____ to secure the amount of the personal property currently in the Minor's/Adult Ward's estate plus the proceeds of this compromised claim.

[Complete either Paragraph 3 or Paragraph 4]

3.

There is no conservator for the Minor/Adult Ward, and:

[Initial one]

_____ The Petitioner(s) herein has/have filed a Petition to be appointed conservator(s) along with the filing of this Petition.

_____ The Petitioner(s) do(es) not seek to be appointed as conservator(s), but another person, _____, will file a Petition for appointment as conservator at the same time or shortly after this Petition is filed.

_____ The Petitioner(s) allege(s) that the establishment of a conservatorship is not necessary because:

4.

[Initial if applicable]

_____ The Petitioner(s) is/are the Conservator for the Minor/Adult Ward. Copies of the Order of Appointment and Letters of Conservatorship are attached hereto as Exhibit “_____.”

_____ _____ is/are the Conservator(s) for the Minor/Adult Ward. Copies of the Order of Appointment and Letters of Conservatorship are attached hereto as Exhibit “_____.”

5.

The claim being settled by this Petition is against _____ by virtue of an incident occurring on or about _____, 20_____.

List the full particulars giving rise to the cause of action by the Minor/Adult Ward:

6.

The entities against whom the Minor/Adult Ward has a claim that are not part of this settlement are: *[List such adverse part(y)(ies) below]*

[Full name] First Middle Last

[Full physical address] Street City County State Zip Code

[Full name] First Middle Last

[Full physical address] Street City County State Zip Code

7.

[Initial one]

A lawsuit has not been filed.

A lawsuit has been filed. A copy of the Complaint is attached as Exhibit “_____.”

A lawsuit was filed and settled. A copy of the Settlement Agreement and Order of the trial court approving the same are attached hereto as Exhibit “_____.”

8.

[Initial one]

An accident report was not made.

An accident report was made and is attached hereto as Exhibit _____.”

If none, state why an accident report was not made.

9.

[Initial all applicable]

a. The action did not arise from an alleged wrongful death of a parent.

b. The action arose from an alleged wrongful death of a parent, and a personal representative has not been appointed for such parent.

c. The action arose from an alleged wrongful death of a parent and a Personal Representative has been appointed for the parent, a copy of the (Letters Testamentary) (Letters of Administration) (Letters of Administration with Will Annexed) is attached as Exhibit “_____,” and his/her/their name(s) and address(es) is/are as follows:

[Full name(s) of Personal Representative(s)] *First* *Middle* *Last*

[Full physical address] *Street* *City* *County* *State* *Zip Code*

10.

The Minor/Adult Ward sustained the following injuries:

11.

The Minor/Adult Ward has been treated by:

12.

The Minor's/Adult Ward's physical, mental, and emotional condition, as evidenced by the statement of the treating doctor attached as Exhibit "____," has returned to the condition of said Minor/Adult Ward prior to such incident, except for:

13.

The following is a list of all medical expenses and other special damages incurred to date as a result of the injur(y)(ies) to said Minor/Adult Ward. (Documentation of which is attached as Exhibit "____."):

14.

The following is a list of all medical expenses and other special damages expected to be incurred in the future as a result of the injury to said Minor/Adult Ward as evidenced by the statement of the treating doctor or doctors attached as Exhibit “_____.”

15.

Medical expenses have been paid as follows:

- a. \$ _____ by _____’s medical payment reimbursement insurance coverage. \$ _____ of such coverage remains and will not be released by this settlement.
- b. \$ _____ from any group or private insurance sources.
- c. \$ _____ as a result of workers’ compensation coverage.
- d. \$ _____ from any other source. *[List the name(s) of such source(s):]*

16.

[Initial as many as are applicable]

- _____ a. The Petitioner(s) has/have made a full investigation into the facts and circumstances surrounding the incident.
- _____ b. It is uncertain or doubtful that more than the amount offered in the settlement could be recovered.
- _____ c. The opposing part(y)(ies) contend(s) that he/she/they is/are not responsible or liable in any way for the injuries that might have been sustained by said Minor/Adult Ward.

18.

The following is a description and explanation of any amounts being paid to persons other than for the benefit of the Minor/Adult Ward as a result of the injuries to said Minor/Adult Ward [Note: any amounts listed should have documentation of those claims attached as Exhibit "____.":

19.

[Initial and complete all that apply]

_____ a. The adverse part(y)(ies) is/are covered by the following insurance company(ies) [provide full name(s) and address(es) for all insurance companies involved in the settlement]:

[Full name of insurance company]

[Full name of agent, if known] First Middle Last

[Full physical address] Street City County State Zip Code

[Full mailing address] Street City County State Zip Code

_____ b. The adverse part(y's)(ies') policy limits of insurance are \$ _____.

_____ c. Uninsured motorist coverage held by _____ is contributing \$ _____ to the settlement.

20.

[Initial if applicable]

_____ a. It appears that the claim is worth more than the insurance policy limits, but the Petitioner(s) investigated the assets of the part(y)(ies) being released as part of this settlement and offers the following explanation of why this settlement is appropriate and why any party should be released:

21.

[Initial and complete if applicable]

The Petitioner(s) employed an attorney to represent the Petitioner(s) in the prosecution of the Minor's/Adult Ward's claim, as follows:

<i>[Full name]</i>	<i>First</i>	<i>Middle</i>	<i>Last</i>
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<i>[Full physical address]</i>	<i>Street</i>	<i>City</i>	<i>County</i>	<i>State</i>	<i>Zip Code</i>
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<i>[Full physical address]</i>	<i>Street</i>	<i>City</i>	<i>County</i>	<i>State</i>	<i>Zip Code</i>
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22.

[Initial and complete if applicable]

_____ a. The Petitioner(s) has/have agreed to pay the attorney's fees and expenses of litigation as follows:

Detail the percentage rate for calculating fees or flat rate as well as total expenses to be paid to attorneys.

_____ b. The amount agreed to is listed in Paragraph 17(b)(i) and (ii) above and represents _____ % of the total settlement.

23.

[Initial and complete if applicable]

_____ Petitioner(s) seek(s) to direct settlement proceeds into a structured settlement and the Disclosures Regarding Structured Settlement are attached hereto as Exhibit "_____."

24.

Additional Data: *[Where full particulars are lacking, state here the reasons for any such omission.]*

WHEREFORE, Petitioner(s) pray(s) for an order approving and allowing Petitioner(s) to accept said offer to compromise and settle upon the terms set forth above; that Petitioner(s) be authorized to consummate the settlement and execute any and all agreements, receipts, releases, and other documents necessary or proper to effect said settlement; and that Petitioner(s) be authorized to pay from the gross settlement amount all fees and expenses described in Paragraph 17 above.

_____ Signature of First Petitioner	_____ Signature of Second Petitioner, if any
_____ Printed Name	_____ Printed Name
_____ Address	_____ Address
_____ Telephone Number	_____ Telephone Number
Signature of Attorney	_____
Printed Name of Attorney	_____
Address	_____
Telephone Number	_____
	_____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned Petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing Petition and the attached Exhibit(s) are true and correct.

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature of First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of First Petitioner

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature of Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of Second Petitioner, if any

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
)
) **ESTATE NO.** _____
)
_____,)
MINOR/ADULT WARD)

DISCLOSURES REGARDING STRUCTURED SETTLEMENT

1. Total Cost of Structured Settlement: _____
2. This Structured Settlement is being funded by: _____

3. This Structured Settlement is purchased through the following:

[Full name of insurance company providing annuity]

[List full address of company] Street City County State Zip

4. Annuity Terms:
 - a. Total payout over life of annuity: _____
 - b. Amount GUARANTEED: _____
 - c. Do payments terminate at death: _____
 - d. Amount of payment: _____
 - i. If periodic
 1. State period *[e.g., monthly]* _____
 2. Beginning date: _____ Ending date: _____
 - ii. If lump sum distributions at date certain, please list:
 1. \$ _____ date _____
 2. \$ _____ date _____
 3. \$ _____ date _____

NOTE: THE ESTATE OF THE MINOR/ADULT WARD MUST BE THE NAMED BENEFICIARY TO RECEIVE ANY GUARANTEED PAYMENTS THAT WILL BE PAID AFTER THE DEATH OF THE MINOR/ADULT WARD. The Petitioner(s) may NOT name himself/herself/themselves as the beneficiary(ies) of any assets paid after the death of the Minor/Adult Ward without Court approval.

5. List any amounts attorneys will receive AFTER INITIAL SETTLEMENT, if any:
 - a. _____ date _____
 - b. _____ date _____

6. Name, address, and telephone number of company underwriting the annuity:

Name: _____

Address: _____

Telephone Number: _____

7. The company is rated through _____ and has a rating of _____.

8. The Petitioner(s) has/have made an investigation into the facts of this case and the circumstances of the Minor/Adult Ward and determined that the structured settlement is in the best interest of the adult Minor/Adult Ward.

Signature of First Petitioner

Signature of Second Petitioner, if any

Printed Name

Printed Name

Address

Address

Telephone Number

Telephone Number

Signature of agent of annuity provider

Typed/printed name of agent

Address

Telephone number

Exhibit “ _____ ”

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

IN RE: ESTATE OF _____)
) **ESTATE NO.** _____
)
 _____,)
MINOR/ADULT WARD)

ORDER AUTHORIZING SETTLEMENT

The foregoing Petition was read and considered, and it appears upon hearing based on the record and facts set out in the Petition and introduced at trial that said settlement is fair, reasonable, and just, that the same is made in good faith and will be in the best interest of the said Minor/Adult Ward.

[Strike the portions of this Order that are not applicable to this case]

(No objection to the proposed compromised claim being raised by the guardian ad litem.)
 (Objections were filed by the guardian ad litem or an interested party, but have now been resolved.)

[Insert any other relevant procedural history here]

IT IS HEREBY ORDERED AND ADJUDGED that Petitioner(s) be, and is/are, hereby authorized to consummate said settlement as prayed in said Petition and to execute any and all agreements, receipts, releases, or other documents necessary or proper to effect such settlement and that such agreements, receipts, releases, or other documents shall constitute the full, final, and complete settlement of any and all actions, causes of action, claims, or demands which the above-named Minor/Adult Ward may have against those parties to the settlement named in the Petition as fully and completely as if said Minor/Adult Ward had executed said agreements, receipts, releases, or other documents individually.

IT IS FURTHER ORDERED that the Petitioner(s) is/are hereby authorized to pay all fees and expenses as shown below:

- a. Gross Settlement *[Total amount of the settlement proceeds to be received by the Minor/Adult Ward]:* \$ _____
- b. Expenses:
 - i. Attorney's fees: \$ _____
 - ii. Expenses of litigation: \$ _____
 - iii. Medical expenses now due: \$ _____
 - iv. Other: \$ _____
 Total Expenses \$ _____
- c. Cost of Annuity, if any: \$ _____
- d. Net Amount to Conservatorship *[Gross Settlement less Expenses and Cost of Annuity, if any]:* \$ _____

[Initial those which are applicable]

_____ IT IS FURTHER ORDERED that the Minor's/Adult Ward's award is hereby paid to the court appointed Conservator(s).

and/or

_____ IT IS FURTHER ORDERED that a conservator is not necessary because the "net" award is under \$15,000.00 and therefore will be paid to the Natural Guardian(s) of the above-named Minor/Adult Ward.

and/or

_____ IT IS FURTHER ORDERED that an annuity (has been) (will be) purchased. Attorney _____, representing _____, has stated in open court that all funds owed to the Minor/Adult Ward will be held in the escrow account of _____, until the purchase of the annuity and that the money will be disbursed from the escrow account to purchase the annuity and will not be given over to the Petitioner(s). The attorney will confirm disbursement once the annuity is funded and file notice with this Court and the guardian ad litem. The appointed guardian ad litem will report to the Court once he/she has confirmed the annuity was purchased.

and/or

_____ IT IS FURTHER ORDERED that an annuity (has been) (will be) purchased by the insurance company liable for the Minor's/Adult Ward's claim(s). The insurance company will also pay the other claims above directly including the attorney's fees, expenses of litigation and/or medical expenses.

and

_____ IT IS FURTHER ORDERED that all terms of this Order shall be completed within _____ days of this Order.

SO ORDERED this _____ day of _____, 20_____.

Judge of the Probate Court