

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

**ORDER AMENDING RULE 133  
OF THE  
SUPERIOR COURT RULES OF CIVIL PROCEDURE**

This 4<sup>th</sup> day of September, 2014, **IT IS SO ORDERED** that:

(1) Superior Court Civil Rule 133 is amended by deleting the rule in its entirety and by substituting in lieu thereof the following new Rule 133:

**Rule 133. Single-transaction guardianship;  
settlement of tort claims for disabled person.**

(a) In a settlement of a single-transaction matter arising out of a tort claim for a person with a disability, including persons under the age of 18, the Court may, in its discretion, enter an order:

(1) approving the settlement;

(2) approving the disbursement of funds for the payment of the expenses of prosecuting the tort claim, subrogation claims and unpaid obligations of the person with a disability associated with the tort claim;

(3) in matters involving settlement of tort claim(s) for persons under the age of 18 involving property or funds the gross amount of which is \$25,000 or less, inclusive of costs and attorney's fees, approving the deposit of the net settlement funds in a Uniform Transfer to Minor Act ("UTMA") account for the benefit of the minor without the need to appoint a guardian for the minor's property;

(4) in matters involving settlement of tort claim(s) for persons under the age of 18 involving property or funds the gross amount of which is in excess of \$25,000, inclusive of costs and attorney's fees:

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(i) approving the placement of the net settlement funds in a court-approved annuity or structured financial instrument for the benefit of the minor without the need to appoint a guardian for the minor's property; or

(ii) approving the placement of no greater than \$25,000 of the net settlement funds in a UTMA account, with the balance of the net settlement funds to be placed in a court-approved annuity or structured financial instrument for the benefit of the minor without the need to appoint a guardian for the minor's property; or

(5) appointing a guardian of the property of the person with a disability to be derived from the settlement, subject to the following:

(i) if the person with a disability is less than 18 years of age, settlement funds which are placed in a UTMA account of no greater than \$25,000, a court-approved annuity, or a structured financial instrument for the benefit of the person, may be excluded from guardianship property; and

(ii) if the petition to authorize the tort settlement proposes that all net settlement funds be placed in a manner qualifying for approval under (a)(3) or (a)(4) of this rule, a guardian for the property will be appointed only upon good cause shown, in the best interests of the minor, for the purpose of protecting the estate and maximizing benefits available to the minor, including public benefits.

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(b) Upon entry of an order pursuant to subsection (a)(5), jurisdiction shall be transferred to the Court of Chancery for administration of the guardianship property pursuant to Chapter 39, Title 12 of the Delaware Code.

(c) Any annuity or structured financial instrument approved under this rule shall provide for payment of funds to the minor no earlier than the date the minor reaches majority, and shall prohibit the encumbrance, liquidation, sale, or other transfer of the policy before such time. Unless otherwise ordered, proof of the annuity or structured financial instrument shall be filed within 60 days of the entry of the order approving the settlement.

(d) A petition to authorize settlement of a tort claim for a person with a disability shall be accompanied by medical reports, affidavits or other evidence satisfactory to the Court and, in the absence of such evidence, the Court may require oral testimony. For settlements meeting the criteria of (a)(3) of this rule, the Court will decide petitions to authorize the settlement on the papers submitted unless otherwise ordered by the Court. All other petitions to authorize settlement shall be heard in open court, with the person with a disability present, unless otherwise ordered.

(2) These amendments shall take effect September 4, 2014.