

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

\_\_\_\_\_, )  
Petitioner. ) C.A. NO.: \_\_\_\_\_ -

**PETITION FOR APPROVAL OF SETTLEMENT OF PERSONAL INJURY CLAIM OF MINOR**

Petitioner, \_\_\_\_\_, respectfully represents as follows:

1. He/she is the natural parent (or guardian) of (insert name of minor) (hereinafter “the minor”).

2. The minor is \_\_\_\_\_ years of age, having been born on (insert birth date).  
The birth certificate of the minor is attached hereto as Exhibit A.

3. By reason of his/her age, the minor is “disabled” as that term is defined under 12 Del. C. § 3901(a)(1).

4. The minor resides with Petitioner at (insert home address).

5. Set forth the facts of the automobile accident, incident or alleged malpractice giving rise to the claim.

6. Describe the nature and extent of the personal injuries and damages the minor sustained and the medical treatment he or she received. Pertinent medical records of the minor are attached hereto as Exhibit B.

7. If a lawsuit was filed, state the date suit was filed, whether discovery was conducted, and if the case was set for trial, the trial date. If a mediation conference was held, state the date of the conference and the name of the mediator. If suit was not filed, state that following the automobile accident, incident or alleged malpractice, the Petitioner pursued a claim on the minor’s behalf against (name of tortfeasor) and his/her liability insurance carrier, (insert

name of carrier).

8. On or about (insert date of settlement offer), (insert name of liability carrier) offered \$ \_\_\_\_\_ in full and final settlement of the minor's claim.

9. Petitioner believes that the settlement offer is fair and reasonable and that it is in the best interests of the minor to accept it.

10. Upon the Court's approval of the settlement, Petitioner will execute a general release of the minor's claim in the form attached hereto as Exhibit C (if suit has been filed add: "and will execute a stipulation of dismissal with prejudice of the claims asserted against (insert name of settling defendant) in the Complaint.").

11. Petitioner engaged the law firm of (insert name of law firm) to represent the minor in the prosecution of the claim against (insert name of tortfeasor). The law firm of (insert name of law firm) hereby makes an application for an attorney fee of \_\_\_% of the minor's recovery or \$ (insert amount of fee).

12. The law firm of \_\_\_\_\_ incurred costs in the amount of \$ \_\_\_\_\_ in prosecuting the minor's claim (if there are liens to reimburse add the following language "and is obligated to reimburse medical (or other) liens in the amount of \$ \_\_\_\_\_, resulting in total expenses of \$ \_\_\_\_\_ to be deducted from the settlement proceeds.").

13. After deducting attorney's fees and expenses, the minor's net recovery will be \$ \_\_\_\_\_ as is reflected in the settlement sheet attached as Exhibit D.

14. If all of the net settlement proceeds are to be placed in a UTMA account state as follows: "The net settlement proceeds of the minor will be placed in a Uniform Transfer to Minor Act ("UTMA") account for the benefit of the minor with the Petitioner acting as custodian of the account, and the account to be maintained at (insert name of bank/financial

institution). Proof of the opening of the account will be filed with the Court within 60 days of the Court's entry of the Order approving the settlement."

If the settlement proceeds are being placed into a Court approved annuity or structured financial instrument, state as follows "The net settlement proceeds will be used to purchase an annuity or other structured financial instrument for the benefit of the minor with payments to be made no earlier than the date the minor reaches the age of maturity and in accordance with the schedule of payments attached hereto as Exhibit E. The encumbrance, sale or other transfer of the annuity or other structured financial instrument will be prohibited. Proof of the funding of the annuity will be filed with the Court within 60 days of entry of the Court's Order approving the settlement."

If a portion of the settlement proceeds are to be placed in a UTMA account with the remainder used to fund an annuity or other structured financial instrument, set forth how the proceeds will be divided (no more than \$25,000 can be placed in the UTMA account), note the above-mentioned restrictions/conditions of the annuity/structured financial instrument and attach a copy of the payment schedule, and add the following "Proof of the opening of the UTMA account and funding of the annuity or other structured financial instrument will be filed with the Court within 60 days of entry of the Court's Order approving the settlement."

WHEREFORE, Petitioner respectfully requests that this Court:

- (a) Authorize Petitioner to accept the lump sum payment of \$ \_\_\_\_\_ in full and final settlement of the minor's claim against (insert name of tortfeasor and liability carrier);
- (b) Authorize Petitioner to execute the general release attached hereto as Exhibit C which extinguishes any further liability of (insert name of

tortfeasor and insurance carrier) for any claims arising out of \_\_\_\_\_ (if suit has been filed add “and execute a Stipulation of Dismissal of the claims asserted against (insert name of settling defendant) with prejudice.”);

- (c) Authorize Petitioner to pay \$ \_\_\_\_\_ in legal fees and expenses from the minor’s settlement;
- (d) Authorize Petitioner to deposit the sum of \$ (insert amount of net settlement proceeds) into a UTMA account maintained at (insert name of financial institution) with Petitioner acting as custodian of the account;

If all of the net settlement proceeds will be used to purchase an annuity or other structured financial instrument insert the following language instead: “Authorize Petitioner to place the net settlement proceeds in an annuity or other structured financial instrument for the benefit of the minor with payments to be made no earlier than the date the minor reaches the age of maturity and according to the schedule of payments set forth in Exhibit E.

If a portion of the net settlement proceeds are to be placed in a UTMA account (not to exceed \$25,000) with the remainder placed in an annuity or other structured financial instrument, state instead: “Authorize Petitioner to deposit the sum of \$ \_\_\_\_\_ into a UTMA account maintained at (insert name of financial institution) with Petitioner acting as custodian of the account and place the balance of the net settlement proceeds, \$ \_\_\_\_\_, into an annuity or other structured financial instrument for the benefit of the minor, with payments to be made no

earlier than the date the minor reaches the age of maturity and according to the schedule of payments set forth in Exhibit E.

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Petitioner

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Law Firm Signature Block

Dated: