

**PETITIONS TO APPROVE MINORS' COMPROMISE
AND WRONGFUL DEATH AND SURVIVAL ACTION SETTLEMENTS**

Petitions to Settle Actions Involving Minors or Incapacitated Persons

Petitions to settle actions involving minors or incapacitated persons may be filed in two procedural contexts: (1) as an initial petition where there has been no civil action filed and (2) as a petition where an action has been formally filed and given a court term and number. Since the procedures differ somewhat in these two cases, each will be described separately.

No Civil Action Was Previously Filed

Where no civil litigation was previously filed in the Trial Division–Civil, a Petition to Approve a Settlement involving minors or incapacitated persons may be filed with the Orphans' Court Division in Room 415, City Hall for a fee of \$35.00. Alternatively, the petition may be filed with the Prothonotary of the Court of Common Pleas, Civil Division, Civil Commencement Unit, in Room 280, City Hall, for a fee of \$214.50 in cases involving a single defendant with a charge of \$11.00 for each additional defendant in the case.

If the petitioner decides to file the petition with the Orphans' Court Division, Room 415 City Hall, it is assigned to a judge in the Orphans' Court Division. The petition is then held until the expiration of the twenty (20) day response period. Once the response period has elapsed, the judge will enter a final, dispositive order. Copies of the order are sent to all interested parties. The order and petition are then returned to the Orphans' Court Division where the order is docketed.

If the petitioner files his petition with the Trial Division–Civil, Prothonotary's Office, Room 280, City Hall, the petition must also be filed with the Civil Motions Program, Room 296, City Hall where it is held for the expiration of the twenty (20) day response period. The motion will be assigned a control number and appropriate response date. There is no additional filing fee for the motion when the action is commenced by petition. Thereafter, the motion will be assigned to an Orphans' Court Judge, who will review the motion and enter a final dispositive order. Copies of the order are sent to all interested parties. The order and motion/petition are returned to the Office of Civil Administration where the order is docketed accordingly.

Where a Civil Action is Pending

If the parties to a civil action that was formally filed in the Trial Division wish to file a Petition for Approval and Distribution of a Minor's or Incapacitated Person's Compromise, the Motion/Petition should be filed with the Civil Motions Clerk, Room 296, City Hall. There is a \$30 filing fee, which should be made payable to the Prothonotary. The petition will then be held until the expiration of the twenty (20) day response period. At the end of the response period, the petition will be assigned to an Orphans' Court Judge for review and disposition. Copies of the order will be sent to all interested parties. The order and petition are then returned to the Office of Civil Administration, where the order will docketed accordingly.

Petitions for Approval and Distribution of Wrongful Death/Survival Actions

Petitions for Approval and Distribution of Wrongful Death and Survival Actions may also be filed where no civil action has been previously filed or where there is a civil action pending.

No Civil Action Was Previously Filed

Petitions for Approval and Distribution of Wrongful Death and Survival Actions where no civil action has been initiated should be filed with the Prothonotary, Room 280, City Hall, and the Civil Motions Clerk, Room 296, City Hall, if the petition does not involve the interests of a minor or incapacitated person. These petitions are then held by the Office of Civil Administration, Civil Motions Program, for a twenty (20) day response period. The motion/petition is then assigned to the Administrative Judge of the Orphans' Court Division for a final, dispositive order. The order and motion are returned to the Office of Civil Administration where the order is docketed and a copy mailed to all interested parties.

If the wrongful death or survival action involves the interest of a minor or incapacitated person, the petition may be filed either with the Prothonotary, Room 280, City Hall, or with the Orphans' Court Division, Room 415, City Hall. It will then be held for the twenty (20) day response period. Thereafter, the motion/petition will be assigned to the Administrative Judge of the Orphans' Court for a final dispositive order. Copies of the order are sent to all interested parties. The order and petition are returned to the appropriate department for processing of the order.

Where a Civil Action is Pending

A Petition for Approval of Settlement and Distribution of Wrongful Death/Survival Action in a pending civil action should be filed with the Civil Motions Clerk, Room 296, City Hall where it will be held until the expiration of the 20-day response period. There is a \$30 filing fee payable to the Prothonotary. Thereafter, the motion/petition will be assigned to the Administrative Judge of the Orphans' Court Division for a final, dispositive order. The order and motion are then returned to Room 296 for docketing and service of the order to all interested parties.

Rules Governing Court Approval of Above-Mentioned Motions/Petitions

Court approval is necessary whenever a lawsuit involving the interest of a minor or incapacitated person is settled or discontinued. See Pa. R.C.P. 2039; Pa. R.C.P. 2064; Phila. R.Civ.P. 2039.1. The purpose of this rule is to protect the interests of the minor or incapacitated person by requiring court scrutiny of the manner in which settlement funds are allocated. Court approval is also necessary for the settlement of any wrongful death action involving the interests of a minor or incapacitated person. See Pa. R.C.P. 2206; Phila. R.Civ.P. 2206. Finally, court approval is always required for the settlement of survival actions to protect the interests of an estate, its beneficiaries and creditors. Moore v. Gates, 398 Pa. Super. 211, 580 A.2d 1138, 1141 (1990), alloc. Denied, 527 Pa. 617, 590 A.2d 758 (1991); Schuster v. Reeves, 403 Pa. Super. 518, 589 A.2d 731 (1991), alloc. Denied, 528 Pa. 644, 600 A.2d 195 (1991).

To facilitate the approval of these petitions, the court has published forms and checklists as a Joint General Court Regulation of the Trial Division and Orphans' Court Division No. 97-1. These forms are readily available in the appendix of the published local Orphans' Court rules and should be consulted whenever a petition to settle is filed. The procedure for the disposition of these motions has been set forth in the Joint General Court Regulation, Trial Division and Orphans' Court Division, No. 97-1.