

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT**

**JOINT GENERAL COURT REGULATION
TRIAL DIVISION AND ORPHANS' COURT DIVISION
No. 97-1**

**Procedure for Approval of Compromises Involving Minors,
Incapacitated Persons, Wrongful Death and Survival Actions**

In order to fully implement a comprehensive procedure dealing with the settlement of cases involving Minors, Incapacitated Persons, Wrongful Death and Survival Actions in light of the experience gathered through the implementation of Joint General Court Regulation No. 93-2 issued by the Administrative Judges of the Trial and Orphans' Court Divisions, IT IS HEREBY ORDERED and DECREED that the said Joint General Court Regulation is rescinded and consistent with Pa. R.C.P. No. 2039, 2064 and 2206 and Phila. Civ. R. No. 2039.1 and 2206, the following procedure shall be utilized in approving Petitions for settlements involving minors, incapacitated persons, wrongful death and survival actions:

I. MINOR OR INCAPACITATED PERSON'S COMPROMISES

(a) *Situs of the Filing of the Petition.* Petitions for Approval of Settlements in cases where minors or incapacitated persons have an interest shall be filed with the Prothonotary. The Prothonotary shall forward the Petition to the office of Civil Administration where it will be held until after the expiration of the Response period whereupon, by designation of the Administrative Judge of the Trial Division, and by agreement of the Administrative Judge of the Orphans' Court Division, the Petition will be assigned to a Judge of the Orphans' Court Division, as directed by the Administrative Judge of the Orphans' Court Division, for the entry of an appropriate final appealable Order. The Order will be returned to the office of Civil Administration for docketing and mailing to all interested parties.

(b) *Contents of Petition.* The Petition shall be substantially in the form set forth hereunder, and shall:

(1) set forth the date of birth and social security number of the minor plaintiff or incapacitated person, the names and addresses of the minor's parents, the name of the plaintiff's guardian and the appointing court, the address of the plaintiff, and a factual recitation of the salient facts which form the bases of the cause of action;

(2) state the terms of the settlement, including the specific provisions of any annuity, if applicable, including the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, periodic and lump sum payments, and otherwise comply with Pa. R.C.P. No. 2039 and 2064;

(3) state whether a lien or claim has been raised on behalf of any medical supplier, including the Department of Public Welfare;

(4) contain or be accompanied by the following:

(a) a written report of a physician setting forth the present condition of the minor or incapacitated person;

(b) a statement under oath by the guardian and, if appropriate, the parent(s), certifying (i) the present physical or mental condition of the minor or incapacitated person, and (ii) approval of the proposed settlement and distribution thereof;

(c) a statement of the professional opinion of counsel as to the reasonableness of the proposed settlement and the basis for such opinion; and

(d) if there is to be an allocation between parents and children or incapacitated persons, or among children or other parties, the amounts allocated to each party and specific reasons for such allocation must be set forth. In the event more than one plaintiff is involved, whether minor, adult or incapacitated, Petitioner must set forth the amount each plaintiff is to receive and shall provide justification for the requested allocation;

(e) in the event that a minor is sixteen (16) years of age or older, his or her written approval of the proposed settlement and distribution thereof.

(f) a proposed Order.

(c) ***Appointment of a Guardian.*** Pennsylvania Rules of Civil Procedure No. 2028 and 2053 require that the minor or incapacitated person be represented in the action by a guardian, when the minor or incapacitated person is a party to the action, who is to be duly appointed by the appropriate Orphans' Court Division or Court. In the event the circumstances of an individual case require the appointment of a guardian ad litem, the guardian ad litem shall submit a statement concerning his/her opinion as to the reasonableness of the proposed settlement and requested allocation of the gross settlement proceeds.

(d) ***Proof of Deposit and Compliance with Court Order.*** Within sixty (60) days of the entry of a final order, counsel shall file an Affidavit with Civil Administration certifying compliance with the Court Order, and shall submit proof of deposit in the form of a photocopy of the restricted certificate of deposit or bankbook. The Affidavit shall be substantially in the form set forth hereunder.

II. PETITIONS FOR APPROVAL OF SETTLEMENTS IN WRONGFUL DEATH/SURVIVAL ACTIONS.

(a) ***When Required.***

(1) ***Survival Action.*** Court approval of settlements in survival actions is always required.

(2) ***Wrongful Death.*** If the Complaint only raised a Wrongful Death claim, court approval of settlements shall be required only where a minor or incapacitated person has an interest.

(3) ***Combined Wrongful Death and Survival Actions.*** If the Complaint raised Wrongful Death and Survival claims Court approval is required as to allocation between the categories notwithstanding the absence of minors or incapacitated persons, even if plaintiff requests that the entire proceeds be allocated entirely to the Wrongful Death claim.

(b) ***Situs of the Filing of the Petition.*** Petitions for Approval of Settlements in Wrongful Death or Survival Actions shall be filed with the Prothonotary. The Prothonotary shall forward the Petition to Civil Administration where it will be held until after the expiration of the Response period whereupon, by designation of the Administrative Judge of the Trial Division and by agreement of the Administrative Judge of the Orphans' Court Division, it will be assigned to a Judge of the Orphans' Court Division, as directed by the Administrative Judge of the Orphans' Court Division, for the entry of an appropriate final appealable Order. The Order will be returned to the office of Civil Administration for docketing and mailing to all interested parties.

(c) ***Contents of Petition.*** The Petition shall be substantially in the form set forth hereunder, and shall:

(1) set forth the date of death of plaintiff-decedent, the name of the personal representative of the estate and the county of appointment. A copy of the Decree of the Register must be attached;

(2) state the terms of the settlement, including the specific allocation as between Wrongful Death and Survival, name the Wrongful Death beneficiaries and the amount each is to receive, name the intestate heirs of Plaintiff-decedent as of the date the cause of action arose, state reasons why the settlement and allocation are reasonable, and otherwise comply with Pa. R.C.P. No. 2206. In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments.

(3) show compliance with Pa. R.C.P. No. 2205 and Phila. Civ. R. No. 2205, and set forth the name, relationship and address of plaintiff-decedent's intestate heirs who must be served with a copy of the Petition (as required by 20 Pa. C.S. §2101, et seq.);

(4) identify any other parties who may have a possible interest in plaintiff-decedent's estate, and list unpaid claims raised, or which are outstanding, in the decedent's estate;

(5) state whether a lien or claim has been raised on behalf of any medical supplier, including the Department of Public Welfare; and

(6) attach a proposed Order.

(d) ***Proof of Deposit and Compliance with Court Order.*** Within sixty (60) days of the entry of a final order, counsel shall file an Affidavit with Civil Administration, substantially in the form set forth hereunder, certifying compliance with the Court Order and shall submit proof of deposit in the form of a photocopy of the restricted certificate of deposit or bankbook. The Affidavit shall be substantially in the form set forth hereunder.

III. PETITIONS FOR ALLOWANCE.

(a) Petitions for Allowance in those cases where a guardian has been appointed by the Orphans' Court Division of Philadelphia County shall be filed directly with such Division. A copy of the Order approving the settlement shall be attached to the Petition.

(b) Petitions for Allowance in those cases where a guardian has been appointed by the Orphans' Court Division of a county other than Philadelphia, or by a different state, shall be filed directly with such appointing Court. A copy of the Order approving the settlement shall be attached to the Petition.

(c) Petitions for Allowance in those cases where a guardian has not been appointed shall be filed with the Orphans' Court Division of the appropriate county or other state. A copy of the Order approving the settlement shall be attached to the Petition.

IV. INCONSISTENCY WITH PHILA. CIV. R. NO. 2039.1, 2039.2 AND 2206.

To the extent the terms of Phila. R. Civ. P. No. 2039.1, 2039.2 and 2206 differ from the terms provided in the within Joint General Court Regulation, the terms of the said rules are rescinded.

This Joint General Court Regulation is promulgated in accordance with the April 11, 1986, Order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1, Phila. Civ. R. 51 and Pa. R.C.P. 239, and shall become effective thirty (30) days after publication in *The Pennsylvania Bulletin*. As required by Pa. R.C.P. 239, the original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the Administrative Judge of the Trial Division, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Regulation shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

JOHN W. HERRON
ADMINISTRATIVE JUDGE,
TRIAL DIVISION

DATE: 6/27/97

PETRESE B. TUCKER
ADMINISTRATIVE JUDGE,
ORPHANS' COURT DIVISION

DATE: 6/27/97

**THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT**

PLAINTIFF : CIVIL TRIAL DIVISION

:

v. : TERM, 19

:

DEFENDANT : NO:

**PETITION FOR LEAVE TO SETTLE OR
COMPROMISE MINOR'S ACTION⁽¹⁾**

To The Honorable, the Judges of the Said Court:

The Petition of _____, a minor, by his Guardian (see Pa. R.C.P. 2028), by his attorney,
_____, Esquire respectfully requests:

1. Petitioner is (see Pa. R.C.P. 2026):_____.

2. The minor was born on _____, and his/her social security number is
_____.

3. The minor resides with _____ at the following address:
_____.

4. A guardian (was) (was not) appointed for the minor as follows:
_____.

A copy of the Order is attached.

5. The minor's mother is _____ who resides at the following address:
_____.

6. The minor's father is _____ who resides at the
following address:_____.

7. The defendant is _____ who resides or whose principal place of business at all relevant
times was _____
_____.

8. On _____ the minor sustained the following injuries at the following location
(set forth in detail):_____

(If additional space is needed, please continue on separate page).

9. A Complaint was filed against defendant(s) as follows: _____

_____.

10. Attached hereto is a report by Dr. _____ dated _____ which sets forth the present condition of the minor.

11. Attached hereto is a statement, under oath, of the minor's parents and/or guardian and/or guardian ad litem certifying the physical and/or mental condition of the minor, as well as the parents' and/or guardian's and/or guardian ad litem's approval of the proposed settlement and distribution.

12. Attached hereto is the written approval of the proposed settlement and distribution by the minor, who is sixteen (16) years of age or older.

13. The following settlement has been proposed:⁽²⁾ _____

(If additional space is needed, please continue on separate page).

14. Counsel is of the professional opinion that the proposed settlement is

reasonable due to the following: _____

_____ (If additional space is needed, please continue on separate page).

15. Counsel has incurred the following expenses for which reimbursement is sought (please set forth in detail) _____

(If additional space is needed, please continue on separate page).

16. The following costs have been incurred by or on behalf of the minor and

must be paid from the proceeds of the settlement: _____

(If additional space is needed, please continue on separate page.)

17. The Department of Public Welfare, or any other entity, does (not) have a claim or lien against the plaintiff(s) as follows _____

(If additional space is needed, please continue on separate page.)

18. Counsel requests a fee in the sum of \$ _____ which is _____ % per cent of the net settlement payable to the minor. A copy of the retainer agreement is attached.

19. Counsel (has) (has not) and (will) (will not) receive collateral payments as counsel fees for representation involving the same matter from third parties (i.e. subrogation).

20. The net settlement payable to the minor (after deduction of costs and

attorneys fees) is \$ _____.

WHEREFORE, Petitioner requests that he/she be permitted to enter into the

settlement recited above and that the Court enter an Order of Distribution⁽³⁾ as follows:

a. To _____ \$ _____

Reimbursement for Costs

b. To _____ \$ _____

c. To _____ \$ _____

Counsel Fee

d. To: Adult Plaintiff(s) \$ _____

(if applicable)

e. To _____, a \$ _____

minor,⁽⁴⁾ in restricted accounts

not to be withdrawn before

majority or upon prior leave

of Court.

OR

e. To _____, the Guardian \$ _____

of the Estate of _____,

A Minor, appointed or to be

appointed by the Orphans' Court

of _____ County,

after posting appropriate security

Name of Attorney
Attorney for Petitioner

¹In the event the Petition involves an Incapacitated Person, appropriate changes are to be made. See Pa. R.C.P. 2051, et seq.

²Phila. Civ. R. 2039.1(D)(3)(e) provides that if there is to be an allocation between parents and children or incapacitated persons or among children or other parties, the amounts allocated to each party and specific reasons for such allocation must be set forth. Additionally, if more than one plaintiff is involved, whether minor, adult or incapacitated, Petitioner must set forth the amount each is to receive and shall provide justification for the requested allocation. In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments.

³ Counsel is cautioned to specifically provide the requested distribution. Requests that distribution be "as per the attached Order" are not acceptable.

⁴ Counsel is cautioned that the restricted account must be set up in the name of the minor only (not in the name of the parent as guardian for the minor). See Pa. R.C.P. 2039(b)(2).

V E R I F I C A T I O N

I, _____, am the Petitioner in this action and hereby verify that the statements made in the foregoing Petition to Settle or Compromise Minor's Action are true and correct to the best of my knowledge, information and belief.

I understand that the statement in said Petition are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATE: _____

PETITIONER

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT**

: **CIVIL TRIAL DIVISION**

:

: **TERM, 19**

:

: **NO:**

**ORDER APPROVING SETTLEMENT
AND
ORDER FOR DISTRIBUTION**

AND NOW, this _____ day of _____, 19____, upon consideration of the Petition For Leave to Compromise A Minor's Action, filed _____ it is hereby ORDERED and DECREED that Petitioner is authorized to enter into a settlement with Defendant(s) _____ in the gross sum of _____ (\$) Dollars. Defendant(s) shall forward all settlement drafts or checks to Petitioners' counsel for proper distribution.

IT IS FURTHER ORDERED and DECREED that the settlement proceeds be allocated as follows:

1. To: Minor Plaintiff(s)

<u>NAME</u>	<u>DATE OF BIRTH</u>	<u>SOC. SEC. #</u>	
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

2. To: Adult Plaintiff(s)

_____ \$ _____

_____ \$ _____

IT IS FURTHER ORDERED and DECREED that the settlement proceeds be distributed as follows:

1. Minor Plaintiff*

<u>NAME</u>	<u>DATE OF BIRTH</u>	<u>SOC. SEC. #</u>	
_____	_____	_____	\$ _____

- a. To: _____, Esquire \$ _____
Reimbursement of Costs
- b. To: _____ \$ _____
Costs
- c. To: _____, Esquire \$ _____
Counsel Fees
- d. The balance, the sum of \$ _____ payable to
_____, a minor, shall be distributed as follows⁺:

OPTION 1

To: _____, Guardian of \$ _____
the Estate of _____, A minor;
provided, however, that no payment shall be made
to the guardian until the guardian has posted
additional security as required by the Orphans'
Court Division of _____
County pursuant to 20 Pa. C.S. §5121, et seq. An
appropriate Petition shall be filed with the
Orphans' Court within thirty (30) days.

OPTION 2

Counsel is hereby authorized to execute all documentation necessary to
purchase saving certificate(s), from federally insured banks or savings
institutions having an office in

*The share of each minor Plaintiff shall be separately distributed.

†In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit
rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as
well as the periodic and lump sum payments.

Philadelphia County, in the sum of \$ _____,
each not to exceed the insured amount, with the funds payable to the
minor upon majority. The certificate shall be titled and restricted as
follows:

_____, a minor, not to be redeemed except for
renewal in its entirety, not to be withdrawn, assigned, negotiated, or,
otherwise alienated before the minor attains majority, except upon prior
Order of Court.

Counsel shall open a savings account in the sum of
\$ _____ in the name of the minor. The savings account
shall be titled and restricted as follows:

_____, a minor, not to be withdrawn before the
minor attains majority, except for the payment of city, state, and federal
income taxes on the interest earned by the savings certificate and
savings account, or upon prior Order of Court.

2. Adult Plaintiff*

The portion of the settlement payable to _____, an Adult Plaintiff named in the
Complaint, shall be distributed as follows:

To: _____, Esquire \$ _____
Reimbursement of Costs
To: _____ \$ _____
Costs

*The share of each adult plaintiff shall be separately distributed.

To: _____, Esquire \$ _____
Counsel Fees

To: _____ \$ _____
Plaintiff

Pursuant to Phila. Civ. R. 2039.1(I), counsel shall file with the office of Civil Administration within sixty (60) days from the date of this final Order, proof of the establishment of the accounts as required herein, by Affidavit from counsel certifying compliance with this Order. Counsel shall attach to the Affidavit a copy of the Certificate of Deposit and/or bank account containing the required restrictions.

BY THE COURT:

J.
ORPHANS' COURT DIVISION

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

CIVIL TRIAL DIVISION

: CIVIL TRIAL DIVISION
:
v. : TERM, 19
:
: NO:
AFFIDAVIT

I, _____, Esquire, hereby state and affirm that I have complied with the
Order issued on _____ by the Honorable _____ as follows:

Copies of bank accounts are attached hereto.

I verify that the statements in this Affidavit are made subject to the penalties of 18 Pa. C.S. 4904 relating to
unsworn falsification to authorities.

DATE: _____

_____, Esquire
Attorney for Petitioner

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT
CIVIL TRIAL DIVISION**

: TERM, 19

:

:

: NO:

**PETITION TO SETTLE WRONGFUL
DEATH AND SURVIVAL ACTIONS**

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

The Petition of _____, Administrator/Executor of the Estate of _____,
Deceased, by his attorney, _____, Esquire, respectfully requests:

1. Petitioner is _____ who was appointed Administrator/Executor of the Estate of
_____, Deceased, on _____, 19____, by the Register of Wills of
_____ County. A copy of the Decree of the Register is attached.

2. The plaintiff decedent died on _____ as a result of:
[set forth relevant information describing the underlying negligence or cause of action as required by Phila. Civ. R.
2206(D)]

(If additional space is needed, please continue on separate sheet).

3. Notice of the institution of the action as required by Pa. R.C.P. 2205 and Philadelphia Civ. R. 2205 was given
on _____ to the following individuals:

NAME

ADDRESS:

_____	_____
_____	_____
_____	_____

4. Pursuant to Phila. Civ. R. 2206(B) Petitioner has served a copy of this Petition on the intestate heirs* of
plaintiff decedent (as provided in 20 Pa. C.S. §2101 et seq.) who are as follows:

NAME

RELATIONSHIP

ADDRESS:

_____	_____	_____
_____	_____	_____
_____	_____	_____

5. Pursuant to Phila. Civ. R. 2206(B) Petitioner has served a copy of this Petition on the following parties who may have a possible interest:

NAME	RELATIONSHIP	ADDRESS:
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Decedent (did) (did not) have a Will. A copy is attached. _____

*In the event any court has appointed a guardian for a minor heir or incapacitated person, set forth the name of the guardian, the Court date and manner of appointment.

7. The following unpaid claims* have been raised and/or are outstanding in the decedent's estate:

CREDITOR	AMOUNT DUE
_____	_____
_____	_____
_____	_____

8. A Complaint was filed against defendant(s) as follows:

_____.

9. The following settlement has been proposed⁺:

(If additional space is needed, please continue on a separate page).

10. Counsel is of the professional opinion that the proposed settlement is reasonable due to the following (state the reasons why in the professional opinion of counsel the settlement is proper):

(If additional space is needed, please continue on separate page).

11. Petitioner is of the opinion that the proposed settlement is reasonable.

12. Counsel has incurred the following expenses for which reimbursement is _____

*Petitioner must indicate whether the Department of Public Welfare has a claim or a lien against Petitioners, the Estate or any wrongful death beneficiaries.

⁺In the event a portion of the settlement is payable through the purchase of an annuity, set forth the credit rating of the entity which assumes responsibility for future payments, the present cost of the annuity, as well as the periodic and lump sum payments.

sought (Please set forth in detail):

(If additional space is needed, please continue on separate page).

13. Counsel requests counsel fees in the amount of \$_____ which represents _____% of the net proceeds of the settlement.

14. Petitioner requests allocation of the net proceeds of the settlement (after deduction of costs and attorneys fees) as follows:

a. Wrongful Death Claim \$_____

b. Survival Claim \$_____

15. The reason for the requested allocation are as follows:

(If additional space is needed, please continue on a separate page).

16. Pursuant to the Wrongful Death Statute (42 Pa. C.S. §8301), the beneficiaries of the Wrongful Death Claim, and the proportion of their interest, are as follows:

NAME

AMOUNT DUE

17. The pecuniary loss suffered by the beneficiaries listed in Paragraph 15 is as follows:

(If additional space is needed, please continue on a separate page).

WHEREFORE, Petitioner requests that he/she be permitted to enter into the settlement recited above, and that the Court enter an Order of Distribution* as follows:

- a. To: _____ \$
Reimbursement of Costs
- b. To: _____ \$
Costs
- c. To: _____ \$
For Counsel Fees
- d. Wrongful Death Claim
 - i. To: Spouse; and/or \$
 - ii. To: Adult Child(ren); and/or \$
 - iii. To: Minor Child(ren) and/or \$
incapacitated persons; and/or
 - (a) in restricted accounts; or \$
 - (b) to the guardian of the minor(s) \$
estate; and/or
 - iv. To: Parent(s) \$

*Counsel is cautioned to specifically provide the requested distribution. Requests that distribution be "as per attached Order" are not acceptable.

- e. Survival Claim \$
To: _____, Administrator/Executor
of the Estate of _____, Deceased

Respectfully submitted,

NAME OF ATTORNEY
ATTORNEY FOR PETITIONER

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT
CIVIL TRIAL DIVISION**

PLAINTIFF : **TERM, 19**
:
v. :
:
DEFENDANT : **NO:**

**NOTICE
PURSUANT TO PHILA. CIV. R. 2206**

TO: _____
(Name of Beneficiary)

DATE: _____

YOU ARE HEREBY NOTIFIED THAT, _____, Administrator/Executor of the Estate of _____, Deceased has filed (or will file) on _____, A Petition to Approve a Settlement of a Wrongful Death and Survival Action. A copy of that Petition is enclosed.

If you object to the proposed settlement and/or proposed distribution, you must submit your written objections or Response to the Petition on or before* _____, 19____, to the following address:

Civil Administration, Room 296 City Hall,
Philadelphia, Pennsylvania 19107.

I hereby certify that the within Notice has been mailed to the above named individual(s) on the date set forth above.

Name of Attorney
Attorney for Petitioner

*Unless waived by all beneficiaries or interested parties, the response period shall be thirty (30) days.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT
CIVIL TRIAL DIVISION**

: **TERM, 19**

:

:

:

: **NO:**

ORDER

AND NOW, this day of , 19 , upon consideration of the Petition to Compromise Wrongful Death and Survival Action filed on _____, 19____, it is hereby ORDERED and DECREED that Petitioner is authorized to enter into a settlement with Defendant(s) _____, in the gross sum of _____ (\$_____) Dollars. Defendant(s) shall forward all settlement drafts or checks to Petitioner's counsel for proper distribution.

IT IS FURTHER ORDERED and DECREED that the settlement proceeds are allocated as follows:

1. Wrongful Death \$ _____
2. Survival Claim \$ _____

IT IS FURTHER ORDERED and DECREED that the settlement proceeds be distributed as follows:

1. To: _____, Esquire \$ _____
For Costs
2. To: _____, Esquire \$ _____
For Counsel Fees
3. The Wrongful Death Claim in the sum of \$ _____
shall be paid as follows:
 - a. To: Spouse; and/or \$ _____
 - b. To: Adult Child(ren);* and/or \$ _____

 - c. To: Minor Child(ren)+ \$ _____
as provided hereunder

OPTION 1

To: _____, Guardian \$ _____
of the Estate of _____, a
minor; provided, however, that no payment
shall be made to the guardian until the guardian
has posted additional security as may be
required by the Orphans' Court Division of
_____ County pursuant to
20 Pa. C.S. §5121, et seq. An appropriate
Petition shall be filed with the Orphans' Court
within thirty (30) days.

OPTION 2

Counsel is hereby authorized to execute all documentation necessary to purchase saving certificate(s), from federally insured banks or savings institutions having an office in Philadelphia County, in the sum of \$_____, each not to exceed the insured amount, with the funds payable to the minor upon majority. The certificate shall be titled in the name of the minor and shall be restricted as follows:

Not to be redeemed except for renewal in its entirety, not to be withdrawn, assigned, negotiated, or, otherwise alienated before the minor attains majority, except upon prior Order of Court. Counsel shall open a savings account in the sum of \$_____ in the name of the minor. The savings account shall be restricted as follows:

Not to be withdrawn before the minor attains majority, except for the payment of city, state, and federal income taxes on the interest earned by the savings certificate and savings account, or upon prior Order of Court.

*In the event the beneficiary is an incapacitated person, appropriate changes are to be made.

[†]In the event part of the settlement proceeds are payable through the purchase of an annuity, the terms of the annuity shall be set forth in the Order.

d. To: Parent(s) \$_____

4. The Survival Claim in the sum of \$_____ shall be paid to _____, Administrator/Executor, of the Estate of _____, Deceased; provided, however, that counsel shall not distribute any funds to the said Administrator/Executor until the additional security as may be required by the Register of Wills of _____ County pursuant to 20 Pa. C.S. §3323(b)(3) is posted.

Within sixty (60) days from the date of this final Order, counsel shall file with the office of Civil Administration an Affidavit from counsel certifying compliance with this Order. Counsel shall attach to the Affidavit a copy of the Certificate of Deposit and/or bank account containing the required restrictions.

BY THE COURT:

J.
ORPHANS' COURT DIVISION

cc: Register of Wills of _____ County.

**Joint General Court Regulation
Trial Division and Orphans' Court Division No. 97-1
Minors and Incapacitated Person Checklist**

Settlement/Trial Division Judge:_____ Court Term:_____

Caption:_____ Number:_____

Companion Cases (Indicate Court Term and Number):_____

Any Pleadings filed in Orphans' Court: Yes No

Are the following items included in the Petition/Order: **Yes No**

1. Minor's/Incapacitated Person's:

- a. Date of Birth
- b. SS#
- c. Address
- d. Written approval of settlement if minor is 16 years of age or older

2. Parent(s)/guardian verification attached

3. If guardian of estate was appointed, is Order attached

4. Information concerning mother and father

5. Details concerning the injury

6. Doctor's report of present condition of minor/incapacitated person

7. Statement from parents and/or guardian certifying the condition of minor/incapacitated person and approval of proposed settlement

8. Counsel's reasons for approval of proposed settlement

9. Petition signed by counsel

10. Department of Welfare or any other entity lien or claim

11. Does the Order Contain the following:

- a. Itemization of costs for reimbursement
- b. Counsel fee computed on net settlement
- c. Affidavit will be filed certifying compliance with the Order
- d. Amount to minor/incapacitated person *(in restricted accounts, typically if under \$350,000)*
- e. Amount to Guardian of minor/incapacitated person *(typically if over \$350,000)*

*I verify the answers above to be true and correct and understand
that sanctions may be imposed for inaccurate or incomplete answers.*

Joint General Court Regulation
Trial Division and Orphans' Court Division No. 97-1
Wrongful Death and Survival Actions Checklist

Settlement/Trial Division Judge:_____ Court Term:_____

Caption:_____ Number:_____

Companion Cases (Indicate Court Term and Number):_____

Any Pleadings filed in Orphans' Court: Yes No

Are the following items included in the Petition:

Yes No

1. Verification from Administrator/Executor:
2. If guardian of estate was appointed, is Order attached
3. Notice letter to all parties in interest is attached
4. Counsel's reasons for approval of proposed settlement
5. Reasons for the allocation between wrongful death and survival action
6. Reason and amount of pecuniary loss suffered by each beneficiary of Wrongful Death Claim
7. Petition signed by counsel
8. Department of Welfare or any other entity claim or lien
9. Does the Order of Distribution set forth the following:
 - a. Itemization of costs for reimbursement
 - b. Counsel fee computed on net settlement
 - c. Wrongful Death Claim
 - i. Amount to spouse and adult children
 - ii. Amount to minor/incapacitated person *(in restricted accounts, typically if under \$350,000)*
 - iii. Amount to Guardian of minor/incapacitated person *(typically if over \$350,000)*
 - iv. Parent
 - d. Survival Claim: To Administrator/Executor of the Estate of the Deceased
 - e. Affidavit will be filed certifying compliance with the Order

*I verify the answers above to be true and correct and understand
that sanctions may be imposed for inaccurate or incomplete answers.*