

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

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RICHARD J. HUGHES
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P.O. Box 037
TRENTON, NEW JERSEY 08625-0037

**To: Assignment Judges
Civil Presiding Judges
Surrogates**

Directive # 9-08

[Questions or comments may
be directed to 609-292-8470.]

From: Philip S. Carchman, P.J.A.D.

**Subj: Civil – Revised Model “Friendly Settlement” Judgment – Settlements
on Behalf of Minors**

Date: May 19, 2008

This promulgates a revised model minor’s “friendly” settlement judgment. This revised model judgment was approved by the Judicial Council and supersedes the model judgment originally promulgated in 1989. This form judgment provides guidance in drafting an acceptable “friendly settlement” judgment when the court approves a settlement on behalf of a minor. While use of the model friendly settlement judgment form is encouraged but not mandatory; any variations from the model must nonetheless conform to the requirements of the Rules of Court and any applicable Administrative Directives.

When approving a settlement on behalf of a minor, the court enters an appropriate judgment in accordance with *R. 4:48A*. Although the majority of settlements on behalf of minors are paid into the custody of the court, *i.e.*, into the Surrogate’s Intermingled Trust Fund (SITF), the court under *R. 4:48A* has the discretion for good cause to allow a guardian, rather than the Surrogate, to control the investment and use of settlement funds. The revised model friendly judgment promulgated here includes language covering both deposits of net settlement funds into SITF and the alternative of guardians holding and independently investing such funds, including both the guardianship process and the bond requirement.

Attachment

cc: Chief Justice Stuart Rabner
Hon. Glenn A. Grant, Acting Admin. Director Designate
Christina P. Higgins, Acting Deputy Administrative Director
AOC Directors and Assistant Directors
Trial Court Administrators
Civil Division Managers
Kevin M. Wolfe, Chief
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

<p>_____, a minor by his/her Guardian <i>ad Litem</i>, _____ and _____, individually,</p> <p style="text-align: right;">Plaintiff(s),</p> <p style="text-align: center;">vs.</p> <p>_____</p> <p style="text-align: right;">Defendant(s).</p>		<p style="text-align: center;">SUPERIOR COURT OF NEW JERSEY LAW DIVISION - _____ COUNTY</p> <p>Docket No. _____</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">JUDGMENT APPROVING MINOR'S SETTLEMENT AND DIRECTING THE [DEPOSIT] [INVESTMENT] OF FUNDS</p>
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This matter having come before the Court in accordance with R.4:44-3 on _____ [insert hearing date], and _____, attorney for the plaintiff, and _____, attorney for the defendant, appearing, and the attorneys for the parties having reported to the court that they have arrived at a settlement of the minor plaintiff's claim between the plaintiff and the defendant(s), and the Court having reviewed the physician reports and taken proofs on the record concerning the minor's injuries, disabilities and medical expenses and being satisfied that the settlement amount(s) is/are fair and reasonable and in the minor's best interest.

IT IS on this _____ day of _____, 20____, ORDERED and ADJUDGED that:

1. Judgment is entered on behalf of _____, a minor by his/her Guardian *ad Litem*, in the gross amount of \$_____ against the defendant(s) _____ without costs and/or interest.

2. The following deductions shall be made from the gross settlement and paid by the defendant(s) in separate drafts as follows:

- a. \$_____ to be paid to the plaintiff's attorney(s) which reimburses \$_____ for actual disbursements, costs and expenses and satisfies the attorneys' contingent fees of \$_____; and
- b. \$_____ for medical bills from the minor's recovery to be paid as follows:

Payee

Amount

_____	\$ _____
_____	\$ _____
_____	\$ _____

3. [Insert the Guardian ad Litem's name] shall immediately apply to the Surrogate of _____ County [EN1] pursuant to R. 4:81 for the appointment of a guardian of the estate of the minor. [EN2] It shall be the responsibility of the attorney for the plaintiff to see that this appointment is completed.

*ALTERNATIVE 1 -- DEPOSIT NET FUNDS WITH SURROGATE
-STRIKE OUT IF NOT APPLICABLE*

4. Pursuant to R. 4:48A the net recovery of \$_____, payable for the benefit of the minor plaintiff, shall be paid by or on behalf of the defendant(s) by check payable to the "Surrogate of _____ County Intermingled Trust Fund F/B/O of [*insert minor's name*], a minor," within ____ days of this Judgment. It is and shall be the responsibility of the attorney for the plaintiff to see that this deposit is completed.

5. Upon payment of the minor's net recovery into the Surrogates' Intermingled Trust Fund, the posting of a bond by the person applying to be guardian of the minor's estate is dispensed with pursuant to *N.J.S.A. 3B:15-16*.

6. Monies may be withdrawn from said account only upon further order of the Superior Court of New Jersey, Chancery Division, Probate Part, pursuant to *N.J.S.A. 3B:15-17*, or upon the minor attaining majority pursuant to *N.J.S.A. 3B:15-17.1*.

7. The Guardian *ad Litem* shall provide the Surrogate with the minor's Social Security Number and a copy of the minor's birth certificate. Personal identifying information shall be redacted from said documents and the same shall not be released to or made available for public scrutiny unless ordered to do so by the Superior Court.

*ALTERNATIVE 2 -- GUARDIAN CONTROLS AND INVESTS NET FUNDS
- STRIKE OUT IF NOT APPLICABLE*

4. The guardian of the minor's estate, shall qualify according to law, and shall, as a condition of qualifying, enter into a surety bond unto the Superior Court of New Jersey in the amount of \$_____, which bond shall contain the conditions set forth *N.J.S.A. 3B:15-7* and *R. 1:13-3*. The bond shall be approved by the court as to form and sufficiency.

5. Pursuant to *R. 4:44* the minor's net recovery of \$_____ shall be paid by or on behalf of the defendant(s) by check payable to the duly qualified guardian of the estate of _____, a minor.

6. The defendant(s) shall immediately make payment to the guardian of the minor's estate upon receiving proof that the Letters of Guardianship have been issued by the Surrogate.

7. Upon qualifying, the guardian of the minor's estate be and hereby is authorized to invest and reinvest the minor's settlement estate in such investments as the guardian of the estate deems advisable and prudent, subject, however, to all limitations or restrictions concerning the investment, use or expenditure of funds held by fiduciaries that are now in force or that may be hereafter established, and subject further to the duty of the guardian of the minor's estate to deliver the estate to the minor upon his/her attaining majority, or to his/her estate should the minor die before reaching his/her majority.

*INCLUDED IN ALL ORDERS, REGARDLESS OF WHETHER
ALTERNATIVE 1 OR 2 IS CHOSEN*

8. The guardian of the minor's estate is not authorized to receive any additional funds or property on behalf of the minor, except upon application to the Superior Court, Chancery Division, Probate Part, where the terms or conditions for the receipt of additional funds or property may be fixed. Pursuant to *N.J.S.A. 3B:12-37*, said limitation shall be stated in the Letter of Guardianship certificates hereinafter issued by the Surrogate.

9. Upon qualifying, the Surrogate of _____ County shall issue Letters of Guardianship for the Estate of _____, a minor, and thereupon said person appointed guardian be and hereby is authorized to perform all the duties and responsibilities of a guardian as allowed by law, except as limited herein.

10. The attorney for the plaintiff shall deliver a copy of this Judgment to all parties and the Surrogate of _____ County within ____ days of the date hereof.

INSERT IF PARENT'S CLAIM IS SIMULTANEOUSLY SETTLED
-STRIKE OUT IF NOT APPLICABLE

11. Judgment is hereby entered in favor of _____, individually in the sum of _____, from which fees and costs of \$ _____ are to be deducted and paid.

J.S.C.

END NOTES

[EN1] Insert and use the county where the minor resides, if different from the county in which the litigation is being pursued.

[EN2] This order does not pre-determine the guardian of the minor's estate. The guardian *ad litem* is directed to initiate the guardianship process. However, someone other than the guardian *ad litem* could be the guardian nominee.

NOTE: Alternative 1, Paragraph 7 provision concerning redacting the social security number and birth certificate personal information conflicts with *Rule* 1:38 as currently promulgated. Administrative Directive 8-07, Public Access to Surrogates' Judiciary Records, authorizes Surrogates to redact social security numbers and bank account information from Surrogate Intermingled Trust Funds records before giving public access to a minor's SITF file.

[Revised Form of Judgment Promulgated by Directive # 9-08 (May 19, 2008).]