



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No. 20-190

For business meeting on September 25, 2020

Title

Rules and Forms: Approval of Compromise of Claim for Minor or Person With a Disability

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 3.1384, 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955; revise forms MC-350, MC-350EX, MC-351, MC-355, MC-356, MC-357, and MC-358; revise and renumber form MC-350(A-13b(5))

Recommended by

Probate and Mental Health Advisory Committee
Hon. Jayne C. Lee, Chair

Agenda Item Type

Action Required

Effective Date

January 1, 2021

Date of Report

August 12, 2020

Contact

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Executive Summary

The Probate and Mental Health Advisory Committee recommends revising eight forms used in proceedings to approve the compromise of a claim or action or the disposition of the proceeds of a judgment for a minor or person with a disability. The proposed revisions are needed to (1) clarify that the petitioner must disclose the full effect of the compromise on the legal and financial rights of others, including all insurers and medical service providers; (2) clarify that the petitioner is acting on behalf of the minor or person with a disability, especially when depositing the proceeds of the compromise or judgment in a blocked account; (3) clarify that an adult claimant who has the capacity to consent to an order approving a compromise, settlement, or disposition and does not have a conservator of the estate must give express consent to such an order; and (4) make clarifying revisions and technical corrections to the forms' titles, language, and format, as well as technical amendments to seven California Rules of Court that apply to

these proceedings. The revisions and amendments will improve access to the courts for minors and persons with disabilities, protect the interests of those persons, and allow prompt and secure distribution of the proceeds of settlements and judgments entered in their favor.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2021:

1. Amend rules 3.1384, 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955 of the California Rules of Court to update references to statutes, rules, and forms, clarify language, and make technical corrections;
2. Revise form MC-350 to change the title to *Petition for Approval of Compromise of Claim or Action or Disposition of Proceeds of Judgment for Minor or Person With a Disability*, clarify the instructions for using the form, provide for the possibility that the court has approved the petitioner's use of a pseudonym, clarify that the petitioner is acting in a representative capacity on behalf of the claimant, clarify that an adult claimant with capacity and without a conservator must give express consent to the requested orders and provide an opportunity for such a claimant to give consent, emphasize that petitioners must give the courts complete information about outstanding expenses and liens; and simplify language, update statutory references, and make technical corrections throughout;
3. Revise form MC-350(A-13b(5)) to change the title to *Additional Medical Service Providers Attachment to Petition for Approval of Compromise of Claim or Action or Disposition of Proceeds of Judgment*, renumber the form as MC-350(A-12b(5)) to reflect the renumbering of item 13 on form MC-350, clarify the instructions for using the form, and make technical corrections;
4. Revise form MC-350EX to change the title to *Petition for Expedited Approval of Compromise of Claim or Action or Disposition of Proceeds of Judgment for Minor or Person With a Disability*, clarify the instructions for using the form and the circumstances in which a petitioner must use form MC-350, provide for the possibility that the court has approved the petitioner's use of a pseudonym, clarify that the petitioner is acting in a representative capacity on behalf of the claimant, clarify that an adult claimant with capacity and without a conservator must give express consent to the requested orders and provide an opportunity for such a claimant to give consent, update statutory references, simplify language, and make technical corrections throughout;
5. Revise form MC-351 to change the title to *Order Approving Compromise of Claim or Action or Disposition of Proceeds of Judgment for Minor or Person With a Disability*, add a finding that an adult claimant with capacity has consented to the order, clarify the terms of the order to deposit funds from the proceeds in a blocked account, update statutory references, simplify language, and make technical corrections throughout;

6. Revise form MC-355 to change the title to *Order to Deposit Funds in Blocked Account* to be consistent with forms MC-356, MC-357, and MC-358; specify that the blocked account must be opened in the legal name of the petitioner acting in the petitioner's representative capacity on behalf of the minor or person with a disability; and update statutory references, simplify language, and make technical corrections throughout;
7. Revise form MC-356 to change the title to *Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account* to reflect the dual purpose of the acknowledgment of receipt under rule 7.953(a), update statutory references, simplify language, and make technical corrections throughout;
8. Revise form MC-357 to change the title to *Petition to Withdraw Funds From Blocked Account*, modify the references to parents to make them gender-neutral, update statutory references, simplify language, and make technical corrections throughout; and
9. Revise form MC-358 to change the title to *Order Authorizing Withdrawal of Funds From Blocked Account*, modify the language to be consistent with the other forms in this form set, update statutory references, simplify language, and make technical corrections throughout.

The text of the amended rules and the revised forms are attached at pages 10–40.¹

Relevant Previous Council Action

Effective January 1, 2002, the Judicial Council adopted rules 7.950–7.954 of the California Rules of Court² and forms MC-350, MC-351, MC-355, MC-356, MC-357, and MC-358 for mandatory use in proceedings to approve requests to compromise claims of minors and persons with disabilities and order funds from the proceeds of the compromise or a judgment deposited in blocked accounts. The rules provide detailed guidance for persons seeking approval of so-called minors' compromises and handling funds in blocked accounts. The forms implement a uniform, statewide process to petition for the settlement of claims of minors and persons with disabilities and for dealing with blocked accounts.³

Effective January 1, 2005, the Judicial Council revised forms MC-350 and MC-351 to reflect the amendment of sections 3600–3604 and 3610–3612 of the Probate Code⁴ and the addition of section 3613 to the code by Assembly Bill 1851 (Stats. 2004, ch. 67). The statutory amendments replaced the term “incompetent person” with “person with a disability,” defined that term to include persons with severe physical disabilities specified by federal law, and required that an

¹ The amendment to rule 3.1384 was not circulated for comment. The committee recommends the adoption of the amendment without circulation for comment as a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy. Cal. Rules of Court, rule 10.22(d)(2).

² All subsequent references to rules are to the California Rules of Court unless otherwise specified.

³ Judicial Council of Cal., Advisory Com. Rep., *Minors' Compromises and Blocked Accounts: New Rules and Mandatory Forms* (Oct. 10, 2001), p. 2.

⁴ All subsequent statutory references are to the Probate Code unless otherwise specified.

adult claimant with a disability who nevertheless had capacity to consent to orders issued under sections 3600–3602, 3610, and 3611 and did not have a conservator of the estate give express consent to orders issued under those sections.⁵

Effective January 1, 2010, the Judicial Council adopted rule 7.950.5 and form MC-350EX to provide an expedited process for judicial approval of uncontroversial, low-value compromises or settlements for minors or persons with disabilities.⁶ At the same time, the council completely revised form MC-350 and approved form MC-350(A-13b(5)) for optional use.

Analysis/Rationale

Since the last substantial revision of the forms addressed in this proposal, trial courts, judicial officers, attorneys, other stakeholders, and staff have identified three areas requiring significant revision. In addition, review of the forms by committee members and staff has identified additional necessary updates and other revisions, including simplifying the titles of the forms, updating statutory references, replacing misleading terms and phrases with simpler language, and using terms consistently across the form set. The committee also recommends minor amendments to the rules of court to conform to the revisions to the forms, update references to rules, clarify language, and make technical corrections.

Full disclosure of information required to approve compromise

The recommended revisions focus on three substantive areas. The first set of revisions responds to concerns raised by the trial courts that petitioners routinely fail to disclose all the information needed by the court to determine the adequacy of the proposed settlement or disposition to cover the claimant’s medical expenses, especially outstanding expenses and liens against the proceeds of the settlement or judgment held by medical service providers or government insurance programs such as Medi-Cal. When presented with incomplete petitions, the courts must continue hearings until the petitioner provides all of the required information.

To address these concerns, the committee recommends revising form MC-350 to add language to renumbered item 12 (current item 13), which addresses medical expenses, to notify the petitioner more explicitly that the petitioner must completely disclose the effect of the compromise or settlement on the statutory and contractual lien rights of all parties, public and private insurers, and medical service providers. The revisions also allow the court and the petitioner to ensure that the terms of the proposed compromise, settlement, or disposition of proceeds address all the financial interests at stake, thereby reducing delays, and protecting claimants from unexpected demands by Medi-Cal or medical service providers. In addition, to avoid confusion, the

⁵ Judicial Council of Cal., Advisory Com. Rep., *Proposal to Revise Petition to Approve Compromise of Claim and Order Approving Compromise of Claim* (Aug. 9, 2004), pp. 1–2.

⁶ Judicial Council of Cal., Advisory Com. Rep., *Civil and Probate Practice and Procedure: Compromise of Minors’ Claims, Settlement of Actions Involving Minors and Persons With Disabilities, and Disposition of Judgments in Favor of Minors and Persons With Disabilities* (Aug. 31, 2009), p. 8.

committee recommends revising forms MC-350(A-13b(5)) and MC-350EX to use language consistent with the revisions to form MC-350.

Clarification of petitioner's representative status

Second, courts, attorneys, and financial institutions have indicated that the use of technical and inconsistent terminology in the forms sometimes leads to confusion about whether the petitioner is acting in a representative capacity and in precisely which capacity. Item 1 on forms MC-350, MC-350EX, and MC-351 simply identifies the petitioner by name. The petitioner's legal relationship to the minor or person with a disability is identified separately, in item 3 on forms MC-350 and MC 351 and item 4 on form MC-350EX. To clarify from the outset the representative capacity in which the petitioner is acting and promote consistency among the forms, the committee recommends combining the petitioner's name and representative capacity into a single item—item 1 on forms MC-350 and MC-350EX, and item 2 on form MC-351—and using the same set of relationships on each form.

Courts and stakeholders also advised the committee that petitioners face frequent challenges when they try to open an account and deposit funds with financial institutions as ordered by the court. The petitioner or attorney must then seek one or more clarifying orders from the court. This process reduces the balance of the settlement or judgment available to the claimant and delays the availability of that balance.

The challenges arise from two main sources. First, the petitioner may be acting in one of several different representative capacities. Consistent with this possibility, item 19 on form MC-350 and item 20 on form MC-350EX (the petition forms) allow the petitioner to request an order authorizing the petitioner, without naming the petitioner's specific representative capacity, to deposit funds in a bank account subject to withdrawal only on further order of the court (a "blocked account"). But items 7c(2)(a) and 8a on the order granting the petition, form MC-351, order the funds paid and the blocked account opened in the name of the petitioner *as trustee* for the beneficiary.

Banks and other institutions often interpret this language narrowly to preclude petitioners acting in other authorized representative capacities, such as guardian of a minor's estate, from opening the required accounts. The committee therefore recommends replacing the narrow, technical term "as trustee" on form MC-351 with the broader expression "in the petitioner's representative capacity." The committee also recommends indicating wherever appropriate that the petitioner is acting in a representative capacity.

Another challenge arises because, while the order on form MC-351 requires the blocked account opened in the name of the petitioner in a representative capacity, current item 3 on form MC-355 requires the blocked account to be in the name of the claimant or beneficiary. Banks routinely decline to open these accounts in the name of the petitioner, as intended, because of the tension between these orders. The committee therefore proposes revising item 3 on form MC-355 to direct the account to be opened in the name of the petitioner in the petitioner's representative capacity and adding check boxes to indicate the specific representative capacity.

Provision for consent of adult claimant with capacity and without conservator

In the process of revising the petitions, forms MC-350 and MC-350EX, the committee determined that the notice of the required consent to the requested order by an adult claimant who had capacity to consent to the order and who did not have a conservator of the estate, should be moved from its current location, in the description of the petitioner, to the description of the claimant and clarifying the significance of the claimant's capacity to consent and lack of a conservator.⁷ The committee also recommends adding a new item 21 to each petition form, to give a qualifying claimant the opportunity to consent to the requested order, and a new item 6 to the order for the court to find that the claimant has consented if that consent is required.

Finally, the committee recommends deleting from the petition forms the implicit invitation for the minor or person with a disability to act as the petitioner. This item, 3e on form MC-350 and 4e on form MC-350EX, was added, effective January 1, 2005, as a further response to AB 1851's consent requirement.⁸ The addition, however, assumed a capacity exceeds that required to consent to an order.⁹ Furthermore, the committee is not aware of circumstances in which a claimant would also be a petitioner in the approval process governed by these forms. A claimant with capacity to act as a petitioner could opt out of that process. If a claimant with a disability and the requisite capacity should nevertheless petition for court approval of a compromise or settlement, the petitioner/claimant could indicate that by checking "Other" in item 1 on either petition form and specifying "self" in the adjacent field.

Policy implications

The recommended form revisions and rule amendments promote at least three Judicial Council policy objectives—modernizing Judicial Council forms, improving the quality of justice and service to the public, and promoting access to the courts—by ensuring that the rules and forms reflect accurate legal information as clearly as possible to allow for more efficient judicial review and approval of the out-of-court resolution of disputes involving minors and persons with disabilities. The increased accuracy and efficiency will both protect the rights and interests of minors and persons with disabilities and allow the prompt and secure distribution of the proceeds of settlements and judgments in their favor.

⁷ See Prob. Code, § 3613 (added by Assem. Bill 1851 (Stats. 2004, ch. 67)).

⁸ Judicial Council of Cal., Advisory Com. Rep., *supra* note 5, at p. 2. It is telling that no corresponding item was added to form MC-351, the order for granting the revised petitions.

⁹ Legal capacity to make decisions is not an all-or-nothing proposition. Under Probate Code section 812, the governing statute, a person's capacity to make a decision depends on the person's ability to understand and appreciate the risks, benefits, and other consequences of the specific decision. A person may, therefore, have capacity to make relatively simple decisions but lack capacity to make more complex ones. See, e.g., *Marriage of Greenway* (2013) 217 Cal.App.4th 628, 639 ("the determination of a person's mental capacity is fact specific, and the level of required mental capacity changes depending on the issue at hand"). In the matter at hand, whether to consent to a proposed order can be framed as a simple decision; acting as the petitioner in a judicial proceeding is far more complex, requiring multiple strategic decisions. A person may, therefore, have the capacity to make the former decision, but lack the capacity to make the latter decision.

Comments

This proposal circulated for comment as part of the spring 2020 invitation-to-comment cycle, from April 10 through June 9, 2020, to the standard mailing list for rules and forms proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, self-help center staff, legal services attorneys, and other legal professionals. Of the six commenters who responded, three agreed with the proposal, one agreed if modified, and two did not indicate a position but expressed general agreement.¹⁰ The committee also received informal internal comments from the Civil and Small Claims Advisory Committee (CSCAC), as well as ongoing feedback from the committee's expert, Judge David Belz of the Superior Court of Orange County. The following comments prompted discussion by the committee.

The CSCAC suggested that the committee revise forms MC-350, MC-305EX, and MC-351 to provide for the possible confidentiality of the name of the petitioner. Section 372.5 to the Code of Civil Procedure authorizes the trial court to appoint a person as a guardian ad litem under a pseudonym if certain requirements are met.¹¹ The committee recognizes the importance of protecting personal privacy when circumstances warrant and recommends revising item 1 on forms MC-350 and MC-350EX to indicate that the petitioner may, if previously authorized to proceed under a pseudonym, enter the pseudonym on the form.¹² The committee also considered whether more revisions were needed to keep sensitive information about a minor or other person confidential to the extent required by law. The committee determined, however, that existing mechanisms—for example, *Request to Keep Minor's Information Confidential* (form CH-165) and the associated forms adopted under section 527.6(v) of the Code of Civil Procedure—sufficiently protect the privacy of vulnerable litigants.

The CSCAC also suggested that the petitions, forms MC-350 and MC-350EX, be revised to provide an opportunity for the petitioner to indicate affirmatively that there are no governmental liens on the proceeds of the settlement or judgment. The committee agrees and recommends adding item 12b(5)(a)(i) to form MC-350 and item 13f(1) to form MC-350EX with a check box to indicate that there are no remaining statutory or contractual liens on the proceeds.

The Orange County Bar Association also made several suggestions. The first was to clarify that items 2e and 2f on forms MC-350 and MC-350EX, addressing whether the claimant has the capacity to consent to the requested order or has a conservator, apply only to adult claimants. The committee agrees and, as discussed above, recommends moving these items and clarifying the instructions to address this issue.

¹⁰ A chart with the full text of the comments received and the committee's responses is attached at pages 41–48.

¹¹ Section 372.5 was added by Assembly Bill 2185 (Stats. 2018, ch. 817, § 1).

¹² Before filing a petition as a guardian ad litem under a pseudonym, a person must apply for appointment as guardian ad litem on *Application and Order for Appointment of Guardian ad Litem—Civil* (form CIV-010) and, at the same time, file an ex parte request for leave to appear under a pseudonym. (Code Civ. Proc., § 372.5(b).)

The bar association also suggested clarifying whether item 12a(1) on form MC-350 requested the petitioner to list total medical expenses before or after any reductions. The committee recommends revising item 12a(1) to mirror item 13a on form MC-350EX. The latter item requires the petitioner to provide more comprehensive information about medical expenses, including the total expenses before reduction, the amount of any reduction, and the expenses after reduction that will be paid or reimbursed by the proceeds of the settlement. The additional information should make clear to the court whether the proposed settlement would be sufficient to cover all medical expenses paid or owed.

The bar association also recommended specifying more clearly on form MC-351 that a settlement check or draft be made payable to the petitioner *in the petitioner's representative capacity*. The committee recommends adding that phrase to form MC-351 where appropriate.

Alternatives considered

The committee considered not revising the forms in this proposal, but determined that the costs and delays caused by the current forms' lack of clarity required revisions to improve access to the courts, protect the interests of minors and persons with disabilities, and allow prompt and secure distribution of the proceeds of settlements and judgments in favor of minors and persons with disabilities.

The committee also considered changing the letter and number designation of these forms from MC-350, etc., to reduce the number of forms in the "MC" (miscellaneous) category. Four commenters responded to the committee's request for comment on this question. Three commenters—the Superior Court of Orange County, the Superior Court of San Diego County, and the Orange County Bar Association—indicated that the current numbering should be retained. The fourth commenter—commenting on behalf of both the Superior Court of Los Angeles County and the Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee—while agreeing with the proposal, did suggest that the forms be renumbered and placed in a separate category without indicating a reason to do so.

The committee does not recommend changing the letter and number designation of these forms. A change seems more likely to cause than resolve any confusion. The correspondence of the forms' letter designation, MC, to the initials of the colloquial expression for the proceedings in which they are used, "minor's compromise"; the applicability of these proceedings to a miscellany of underlying proceedings; and the use of the forms by self-represented litigants all weigh in favor of retaining their current designation. At the suggestion of the Superior Court of Orange County, the committee has directed staff to explore the possibility of listing the forms in a separate group on the public website without changing their designation.

In response to the committee's further request, one commenter, again commenting on behalf of both the Superior Court of Los Angeles County and the JRS, indicated that the forms needed further revision to account for the requirements for establishing a special needs trust but did not suggest any specific revisions. Three commenters—the Superior Court of Orange County, the

Superior Court of San Diego County, and the Orange County Bar Association—indicated that no further revisions were needed to address those requirements. Because no necessary revisions have been identified, the committee does not recommend any revisions now to address special needs trusts. If resources permit, the committee will explore the issue further and, if it identifies any needed revisions, will propose them in a future rules and forms cycle.

Fiscal and Operational Impacts

Although the revisions may require courts to input the new form titles into their case management systems, they should not require entry of any new data elements. As the three courts and the JRS noted in their comments, the revisions will require staff training. None of these commenters objected to the need for training, however, and two courts, the Superior Court of Orange County and the Superior Court of San Diego County, agreed that the recommended revisions would lead to overall cost savings. The substantive revisions to forms MC-350 and MC-350EX are intended to promote complete and accurate disclosure of all the information needed for approval in the original petition. This disclosure will reduce continuances and protect the interests of the minor or person with a disability. The substantive revisions to forms MC-351 and MC-355 will reduce the need for multiple court orders by clarifying to a financial institution that a parent or other person named on the orders may open a blocked account in their representative capacity and deposit funds belonging to a minor or person with a disability without a further court order.

Attachments and Links

1. Cal. Rules of Court, rules 3.1384, 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955, at pages 10–13
2. Forms MC-350, MC-350(A-12b(5)), MC-350EX, MC-351, MC-355, MC-356, MC-357, and MC-358, at pages 14–40
3. Chart of comments, at pages 41–48

Rules 3.1384, 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955 of the California Rules of Court are amended, effective January 1, 2021, to read:

Rule 3.1384. Petition for approval of the compromise of a claim of a minor or a person with a disability; order for deposit of funds; and petition for withdrawal

(a) Petition for approval of the compromise of a claim

A petition for court approval of a compromise or covenant not to sue under Code of Civil Procedure section 372 must comply with rules 7.950 or 7.950.5, 7.951, and 7.952.

(b) * * *

Rule 7.101. Use of Judicial Council forms

(a) * * *

(b) Alternative mandatory forms

The following forms have been adopted by the Judicial Council as alternative mandatory forms for use in probate proceedings or other proceedings governed by provisions of the Probate Code:

(1)–(2) * * *

(3) *Petition to Approve for Approval of Compromise of ~~Disputed~~ Claim or ~~Pending~~ Action or Disposition of Proceeds of Judgment for Minor or Person With a Disability* (form MC-350) and *~~Expedited Petition to Approve Compromise of Disputed Claim or Pending Action~~ Petition for Expedited Approval of Compromise of Claim or Action or Disposition of Proceeds of Judgment for Minor or Person With a Disability* (form MC-350EX).

(c) * * *

Rule 7.950. Petition for court approval of the compromise of, ~~or a covenant on, a disputed claim; a compromise or settlement of a pending claim or action; or the disposition of the proceeds of a judgment for minor or person with a disability~~

A petition for court approval of a compromise of, or a covenant not to sue or enforce judgment on, a minor's disputed claim; a compromise or settlement of a pending action or proceeding to which a minor or person with a disability is a party; or the disposition of

1 the proceeds of a judgment for a minor or person with a disability under ~~chapter 4 of part~~
2 ~~8 of division 4 of the~~ Probate Code (~~commencing with~~ sections 3500 and 3600–3613) or
3 Code of Civil Procedure section 372 must be verified by the petitioner and must contain a
4 full disclosure of all information that has any bearing upon the reasonableness of the
5 compromise, covenant, settlement, or disposition. Except as provided in rule 7.950.5, the
6 petition must be ~~prepared~~ submitted on a ~~fully~~ completed *Petition to Approve for*
7 *Approval of Compromise of Disputed Claim or Pending Action or Disposition of*
8 *Proceeds of Judgment for Minor or Person With a Disability* (form MC-350).

11 **Rule 7.950.5. Expedited Petition for expedited court approval of the compromise of,**
12 **or a covenant on, a disputed claim; a compromise or settlement of a pending**
13 **claim or action; or the disposition of the proceeds of a judgment for minor or**
14 **person with a disability**

16 (a) **Authorized use of expedited petition for expedited approval**

18 ~~Notwithstanding the provisions of rule 7.950, If all the circumstances specified in~~
19 ~~paragraphs (1) through (9) of this rule exist, a petitioner for court approval of a~~
20 ~~compromise of, or a covenant not to sue or enforce judgment on, a minor's~~
21 ~~disputed claim; a compromise or settlement of a pending action or proceeding to~~
22 ~~which a minor or person with a disability is a party; or the disposition of the~~
23 ~~proceeds of a judgment for a minor or person with a disability under chapter 4 of~~
24 ~~part 8 of division 4 of the Probate Code (commencing with sections 3500 and~~
25 ~~3600–3613) or Code of Civil Procedure section 372 may, in the following~~
26 ~~circumstances, satisfy the information requirements of that rule by fully completing~~
27 ~~the *Expedited* satisfy the disclosure requirements of rule 7.950 by submitting the~~
28 ~~*petition on a completed* *Petition to Approve for Expedited Approval of Compromise*~~
29 ~~*of Disputed Claim or Pending Action or Disposition of Proceeds of Judgment for*~~
30 ~~*Minor or Person With a Disability* (form MC-350EX).~~

32 (1)–(7) * * *

34 (8) The judgment for the minor or ~~disabled~~ claimant with a disability (exclusive
35 of interest and costs) or the total amount payable to the minor or ~~disabled~~
36 claimant with a disability and all other parties under the proposed
37 compromise or settlement is \$50,000 or less or, if greater:

39 (A) The total amount payable to the minor or ~~disabled~~ claimant with a
40 disability represents payment of the individual-person policy limits of
41 all liability insurance policies covering all proposed contributing
42 parties; and

(B) All proposed contributing parties would be substantially unable to discharge an adverse judgment on the ~~minor's or disabled person's~~ claim from assets other than the proceeds of their liability insurance policies; and

(9) The court does not otherwise order;

(b) Determination of ~~expedited~~ petition

~~An expedited~~ A petition for expedited approval must be determined by the court not more than 35 days after it is filed, unless a hearing is requested, required, or scheduled under (c), or the time for determination is extended for good cause by order of the court.

(c) Hearing on ~~expedited~~ petition

(1) The ~~expedited~~ petition for expedited approval must be determined by the court without a hearing unless:

(A) A hearing is requested by the petitioner at the time the ~~expedited~~ petition is filed; or

(B) An objection or other opposition to the petition is filed by an interested party; or

(C) A hearing is scheduled by the court under (2) or (3).

(2) The court may, on its own motion, elect to schedule and conduct a hearing on ~~an expedited~~ a petition for expedited approval. The court must make its election to schedule the hearing and must give notice of its election and the date, time, and place of the hearing to the petitioner and all other interested parties not more than 25 days after the date the ~~expedited~~ petition is filed.

(3) If the court decides not to grant ~~an expedited~~ a petition for expedited approval in full as requested, it must schedule a hearing and give notice of its intended ruling and the date, time, and place of the hearing to the petitioner and all other interested parties within the time provided in (2).

Rule 7.951. Disclosure of the attorney's interest in a petition to for approval of compromise a of claim

1 If the petitioner has been represented or assisted by an attorney in preparing the petition
2 ~~to for approval of the~~ compromise of the claim or in any other respect with regard to the
3 claim, the petition must disclose the following information:

4
5 (1)–(6) * * *

6
7
8 **Rule 7.952. Attendance at hearing on the petition ~~to for approval of~~ compromise a**
9 **of claim**

10
11 **(a) Attendance of ~~the~~ petitioner and claimant**

12
13 The person petitioning for approval of the ~~compromising~~ compromise of the claim
14 on behalf of the minor or person with a disability and the minor or person with a
15 disability must attend the hearing on the ~~compromise of the claim~~ petition unless
16 the court for good cause dispenses with their personal appearance.

17
18 **(b) Attendance of ~~the~~ physician and other witnesses**

19
20 ~~At the hearing,~~ The court may require the presence and testimony of witnesses,
21 including the attending or examining physician, at the hearing.

22
23
24 **Rule 7.955. Attorney's fees for services to a minor or a person with a disability**

25
26 **(a)–(d)** * * *

27
28 **Advisory Committee Comment**

29
30 This rule requires the court to approve and allow attorney's fees in an amount that is reasonable
31 under all the facts and circumstances, under Probate Code section 3601. The rule is declaratory of
32 existing law concerning attorney's fees under a contingency fee agreement when the fees must be
33 approved by the court. The facts and circumstances that the court may consider are discussed in a
34 large body of decisional law under section 3601 and under other statutes that require the court to
35 determine reasonable attorney's fees. The factors listed in rule 7.955(b) are modeled in part after
36 those provided in rule ~~4-200 1.5~~ of the Rules of Professional Conduct of the State Bar of
37 California concerning an unconscionable attorney's fee, but the advisory committee does not
38 intend to suggest or imply that an attorney's fee must be found to be unconscionable under rule ~~4-~~
39 ~~200 1.5~~ to be determined to be unreasonable under this rule.

40
41 * * *

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			
CASE NAME:	CASE NUMBER:		
PETITION FOR APPROVAL OF COMPROMISE OF CLAIM OR ACTION OR DISPOSITION OF PROCEEDS OF JUDGMENT FOR MINOR OR PERSON WITH A DISABILITY	HEARING DATE: <table style="width: 100%;"> <tr> <td style="width: 50%;">DEPT:</td> <td style="width: 50%;">TIME:</td> </tr> </table>	DEPT:	TIME:
DEPT:	TIME:		

NOTICE TO PETITIONER

Except as noted below, you must use this form to request court approval of (1) the compromise of a **minor's** disputed claim, (2) the compromise **or settlement** of a pending action or proceeding to which a minor or a person with a disability (including a conservatee) is a party, or (3) the disposition of the proceeds of a judgment awarded to a minor or a person with a disability. (See Code Civ. Proc., § 372; Prob. Code, §§ 3500, 3600–3613.)

Both you and the minor or **person with a disability** must attend the hearing on this petition unless the court dispenses with a personal appearance. The court may require the presence and testimony of witnesses, including the attending or examining physician, and **the presentation of other evidence** relating to the claim and the nature and extent of the injury, care, treatment, and hospitalization.

The court has authority to consider a request for expedited approval without a hearing of the compromise of certain claims or actions or the disposition of the proceeds of certain judgments. To determine whether your claim, action, or judgment qualifies, see Cal. Rules of Court, rule 7.950.5. If you want to request expedited consideration, you must use form MC-350EX.

1. **Petitioner (name or pseudonym*):**
 is the (check all boxes that apply): ☐ Parent ☐ Guardian ad litem* ☐ Guardian ☐ Conservator
☐ Other (specify relationship):
 of the claimant identified in item 2. (*Petitioner may appear under a pseudonym only if appointed as guardian ad litem under that pseudonym. (See Code Civ. Proc., § 372.5.))
2. **Claimant (name):**
 - a. Address:
 - b. Date of birth: c. Age: d. ☐ Minor **or** ☐ Person with a disability
 (If the claimant is an adult with a disability who (1) has capacity to consent to the order requested and (2) does not have a conservator of the estate, check e. and f. and ensure that the claimant personally reads and signs item 21. (Prob. Code, § 3613.))
 - e. ☐ Has the capacity, within the meaning of Probate Code section 812, to consent to the requested order or judgment.
 - f. ☐ Does not have a conservator of the estate.
3. **Claim** The claim of the minor or adult person with a disability (check one):
 - a. ☐ Is not the subject of a pending action or proceeding. (Complete items 4–23.)
 - b. ☐ Is the subject of a pending action or proceeding that will be compromised or settled without a trial. (Complete items 4–23.)
 Name of court: _____
 Case no.: _____ Trial date: _____
 - c. ☐ Is the subject of **an** action or proceeding in which a judgment has been or will be entered for the claimant against the defendants named below in the amount (excluding interest and costs) of (specify total): \$ _____
 Defendants (names): _____

☐ Additional defendants listed on Attachment 3.

☐ The judgment was filed on (date): _____

(Attach a copy of the (proposed) judgment as Attachment 3c and complete items 12–23.)

CASE NAME:	CASE NUMBER:
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4. Incident or accident The incident or accident occurred as follows:

- a. Date and time:
- b. Place:
- c. Persons involved (*names*):

☐ Continued on Attachment 4.

5. Nature of incident or accident

The facts, events, and circumstances of the incident or accident are (*describe what happened*):

☐ Continued on Attachment 5.

6. Injuries

The following injuries were sustained by the claimant as a result of the incident or accident (*describe*):

☐ Continued on Attachment 6.

7. Treatment

The claimant received the following care and treatment for the injuries described in item 6 (*describe*):

☐ Continued on Attachment 7.

8. Extent of injuries and recovery (*An original or a photocopy of any doctor's report containing a diagnosis of the claimant's injuries or a prognosis for the claimant's recovery, and a report of the claimant's current condition, must be attached to this petition as Attachment 8. A new report is not necessary if a previous report accurately describes the claimant's current condition.*)

- a. ☐ The claimant has recovered completely from the effects of the injuries described in item 6, and there are no permanent injuries.
- b. ☐ The claimant has not recovered completely from the effects of the injuries described in item 6, and the following injuries from which the claimant has not recovered are temporary (*describe the remaining injuries and symptoms*):

☐ Continued on Attachment 8b.

- c. ☐ The claimant has not recovered completely from the effects of the injuries described in item 6, and the following injuries from which the claimant has not recovered are permanent (*describe the permanent injuries and symptoms*):

☐ Continued on Attachment 8c.

CASE NAME:

CASE NUMBER:

9. ☐ Petitioner has made a careful and diligent inquiry and investigation into the facts and circumstances of the incident or accident in which the claimant was injured; the responsibility for the incident or accident; and the nature, extent, and seriousness of the claimant's injuries. Petitioner understands that if the compromise proposed in this petition is approved by the court and consummated, the claimant will never be able to recover any more compensation from the settling defendants named below even if the claimant's injuries turn out to be more serious than they now appear.

10. Amount and terms of settlement

To settle the claim in item 3a or 3b, the defendants named below have offered to pay the following amounts to the claimant:

- a. The total amount offered by all defendants named below is (specify): \$ _____
- b. The defendants and amounts offered by each are as follows (specify):

Defendants (names)

Amounts

\$
\$
\$
\$
\$

☐ Defendants and amounts offered continued on Attachment 10b.

- c. The terms of settlement are as follows (if the settlement is to be paid in installments, both the total amount and the present value of the settlement must be included):

☐ Continued on Attachment 10c.

11. Settlement payments to others

- a. ☐ No defendant named in item 10b has offered to pay money to any person or persons other than the claimant to settle claims arising out of the same incident or accident that resulted in the claimant's injury.
- b. ☐ To settle claims arising out of the same incident or accident that resulted in the claimant's injury, one or more defendants named in item 10b have also offered to pay money to a person or persons other than claimant.

(1) The total amount offered by all defendants to others is (specify): \$ _____

(2) Petitioner ☐ does not have ☐ has a claim against the recovery of the claimant (other than for reimbursement of fees or expenses paid by petitioner and listed under item 14).
(If you answered "has," explain in Attachment 11b(2) the circumstances and the effect your claim has on the proposed compromise of the claim described in this petition.)

(3) Petitioner ☐ is not ☐ is a plaintiff in the same action with the claimant.
(If you answered "is," explain in Attachment 11b(3) the circumstances and the effect your claim and its disposition has on the proposed compromise of the claim or action described in this petition.)

(4) ☐ Petitioner would receive money under the proposed settlement.

(5) The settlement payments are to be apportioned and distributed as follows:

Other plaintiffs or claimants (names)

Amounts

\$
\$
\$
\$

☐ Additional plaintiffs or claimants and amounts are listed on Attachment 11b(5).

- (6) Reasons for the apportionment of the settlement payments between the claimant and each other plaintiff or claimant named above are specified in Attachment 11b(6).

CASE NAME:

CASE NUMBER:

12. The claimant's medical expenses—including medical expenses paid by petitioner, Medicare, Medi-Cal, and private insurers—to be paid or reimbursed from proceeds of settlement or judgment**a. Totals**

- | | | |
|---|-----|---|
| (1) Total medical expenses before any reductions: | \$ | |
| (2) Total medical expenses paid (include payments by private insurance, Medi-Cal, or Medicare): | (\$ |) |
| (3) Total of negotiated, contractual, or statutory reductions, if any: | (\$ |) |
| (4) Total medical expenses to be paid or reimbursed from the proceeds: | \$ | |
| (5) Total amount of statutory or contractual liens, if any: | \$ | |

b. Medical expenses were paid and are to be reimbursed from the proceeds as follows:

- (1) ☐ Paid by petitioner in the amount of: \$ _____
- (2) ☐ Paid by private health insurance or a self-funded plan under:
- (a) ☐ An Employee Retirement Income Security Act (ERISA) insured plan.
- (b) ☐ An ERISA self-funded plan.
- (c) ☐ A Non-ERISA insured plan.
- (d) ☐ A Non-ERISA self-funded plan.
- (e) Amount paid by plan: \$ _____
- (f) Amount of reimbursement to the plan from the proceeds of the settlement or judgment:
- (i) ☐ No reimbursement is requested by the plan.
- (ii) ☐ Reimbursement is to be made to the plan, and:
- (A) ☐ There is a contractual reduction of: (\$ _____),
- (B) ☐ There is a negotiated reduction of: (\$ _____),
- (C) ☐ No reduction has been agreed to,
- for a **total reimbursement** to the plan, in full satisfaction of its lien rights, in the amount of: \$ _____
- (3) ☐ Paid by Medicare in the amount of: \$ _____
- less the statutory reduction in the amount of: (\$ _____)
- for a **total reimbursement** to Medicare in the amount of: \$ _____
- (Attach a copy of the final Medicare demand letter or letter agreement as Attachment 12b(3).)
- (4) ☐ Paid by Medi-Cal in the amount of: \$ _____
- (a) ☐ Notice of this claim or action has been given to the Director of Health Care Services. (Welf. & Inst. Code, § 14124.73.) A copy of the notice and proof of delivery:
- ☐ is attached ☐ was filed in this case on (date): _____.
- (b) ☐ Notice of this claim or action has **not** been given to the Director of Health Care Services. (Explain why notice has not been given in Attachment 12b(4)(b).)
- (c) ☐ In full satisfaction of its lien rights, Medi-Cal has agreed to accept **reimbursement** in the amount of: \$ _____
- (Attach a copy of the final Medi-Cal demand letter or letter agreement as Attachment 12b(4)(c).)
- (d) ☐ Petitioner is entitled to a reduction of the Medi-Cal lien under Welfare and Institutions Code section 14124.76 and (check one):
- (i) ☐ Is filing a motion seeking a reduction of the lien concurrently with this petition.
- (ii) ☐ Requests that the court reserve jurisdiction over this issue.
- The amount of the lien in dispute is: \$ _____
- (5) (a) (i) ☐ There are no statutory or contractual liens for payment of claimant's medical expenses.
- (ii) ☐ There are one or more statutory or contractual liens of medical service providers for payment of claimant's medical expenses. The total amount claimed under these liens is: \$ _____
- In full satisfaction of their lien claims, the lienholders have agreed to accept the sum of: \$ _____
- (Provide requested information for each lienholder and other specified medical service providers on next page.)

CASE NAME:

CASE NUMBER:

12. Claimant's medical expenses (continued)

- b. (5) (b) The name of each medical service provider that furnished care and treatment to claimant and (1) has a lien for all or any part of the charges or (2) was paid (or will be paid from the proceeds) by petitioner, for which **payment** petitioner requests reimbursement; the amounts charged and paid; the amount of negotiated reductions of charges, if any; and the amount to be paid from the proceeds of the settlement or judgment to each provider are as follows:

- (i) (A) Provider (*name*):
(B) Address:

(C) Amount charged: \$ _____
 (D) Amount paid (whether or not by insurance): (\$ _____)
 (E) Negotiated reduction, if any: (\$ _____)
 (F) Amount to be paid from proceeds of settlement or judgment: \$ _____

- (ii) (A) Provider (*name*):
(B) Address:

(C) Amount charged: \$ _____
 (D) Amount paid (whether or not by insurance): (\$ _____)
 (E) Negotiated reduction, if any: (\$ _____)
 (F) Amount to be paid from proceeds of settlement or judgment: \$ _____

- (iii) (A) Provider (*name*):
(B) Address:

(C) Amount charged: \$ _____
 (D) Amount paid (whether or not by insurance): (\$ _____)
 (E) Negotiated reduction, if any: (\$ _____)
 (F) Amount to be paid from proceeds of settlement or judgment: \$ _____

- ☐ Continued on Attachment **12b(5)**. (Provide information about additional providers in the above format, including providers paid or to be paid by petitioner, for which **payment** reimbursement is requested in item **12b(1)**, above. You may use form MC-350(A-12b(5)) for this purpose.)

13. Claimant's attorney's fees and all other expenses (except for medical expenses), including expenses advanced by claimant's attorney or paid or incurred by petitioner, to be reimbursed from proceeds of settlement or judgment

- a. Total amount of attorney's fees for which court approval is requested: \$ _____
 (If fees are requested, attach as Attachment **13a** a declaration from the attorney explaining the basis for the request, including a discussion of applicable factors listed in rule 7.955(b) of the Cal. Rules of Court. Respond to item **17a(2)** on page 7 and attach a copy of any written attorney fee agreement as Attachment **17a**.)
- b. The following additional items of expense (other than medical expenses) have been incurred or paid, are reasonable, resulted from the incident or accident, and should be paid out of claimant's share of the proceeds of the settlement or judgment:

<u>Items</u>	<u>Payees (names)</u>	<u>Amounts</u>
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$

- ☐ Continued on Attachment **13b**.

Total: \$ _____

CASE NAME:

CASE NUMBER:

14. Reimbursement of fees and expenses paid by petitioner

- a. ☐ Petitioner has paid none of the fees or expenses listed in items 12 and 13 for which reimbursement is requested.
- b. ☐ Petitioner has paid (or become obligated to pay) the following total amounts of the claimant's fees and expenses for which reimbursement is requested.

- (1) ☐ Medical expenses listed in item 12: \$
- (2) ☐ Attorney's fees included in the total fee amount shown in item 13a: \$
- (3) ☐ Other expenses included in the total shown in item 13b: \$

Total: \$ _____

(Attach proofs of the fees and expenses incurred and the payments made or obligations to pay incurred, e.g., bills or invoices, canceled checks, credit card statements, explanations of benefits from insurers, etc.)

15. Net balance of proceeds for the claimant

The balance of the proceeds of the proposed settlement or judgment remaining for the claimant after payment of all requested fees and expenses is:

\$ _____

16. SUMMARY

- a. Gross amount of proceeds of settlement or judgment: \$
- b. Medical expenses to be paid from proceeds of settlement or judgment: \$
- c. Attorney's fees to be paid from proceeds of settlement or judgment: \$
- d. Expenses (other than medical) to be paid from proceeds of settlement or judgment: \$ _____
- e. Total fees and expenses to be paid from proceeds of settlement or judgment (add (b), (c), and (d)): (\$ _____)
- f. Balance of proceeds of settlement or judgment available for claimant after payment of all fees and expenses (subtract (e) from (a)): \$ _____

CASE NAME:	CASE NUMBER:
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17. Information about attorney representing or assisting petitioner

- a. (1) ☐ Petitioner has not been represented or assisted by an attorney in preparing this petition or in any other way with respect to the claim asserted. *(Skip the rest of item 17 and go to item 18.)*
- (2) ☐ Petitioner has been represented or assisted by an attorney in preparing this petition or with respect to the claim asserted. Petitioner and the attorney ☐ do not ☐ do have an agreement for services provided in connection with the claim giving rise to this petition.
(If you answered "do," attach a copy of the agreement as Attachment 17a, and complete items 17b–17f.)

b. The attorney who has represented or assisted petitioner is (name):

(1) State Bar number:

(2) Law firm:

(3) Address:

(4) Telephone number:

(5) Email:

- c. The attorney ☐ has not ☐ has received attorney's fees or other compensation in addition to that requested in this petition for services provided in connection with the claim giving rise to this petition. *(If you answered "has," identify the person who paid the fees or other compensation, the amounts paid, and the dates of payment):*

<u>From whom (names)</u>	<u>Amounts</u>	<u>Dates</u>
	\$	
	\$	
	\$	
	\$	
	\$	

☐ Continued on Attachment 17c.

- d. The attorney ☐ did not ☐ did become concerned with this matter, directly or indirectly, at the instance of a party against whom the claim is asserted or a party's insurance carrier. *(If you answered "did," explain the circumstances in Attachment 17d.)*
- e. The attorney ☐ is not ☐ is representing or employed by any other party or any insurance carrier involved in the matter. *(If you answered "is," identify the party or carrier and explain the relationship in Attachment 17e.)*
- f. The attorney ☐ does not ☐ does expect to receive attorney's fees or other compensation in addition to that requested in this petition for services provided in connection with the claim giving rise to this petition. *(If you answered "does," identify the person who will pay the fees or other compensation, the amounts to be paid, and the expected dates of payment):*

<u>From whom (names)</u>	<u>Amounts</u>	<u>Expected dates</u>
	\$	
	\$	
	\$	
	\$	
	\$	

☐ Continued on Attachment 17f.

CASE NAME:

CASE NUMBER:

18. Disposition of balance for claimant (check either a or b, then check each option requested and enter amount(s)):

- a. ☐ There is a guardianship of the estate of the minor or a conservatorship of the estate of the adult person with a disability filed in (name of court):
Case no.:
- (1) ☐ Petitioner requests that \$ of the proceeds in money or other property be paid or delivered to the guardian or the conservator of the estate. The money or other property is specified in Attachment 18a(1).
- (2) ☐ Petitioner is the guardian or conservator of the estate of the minor or the adult person with a disability. Petitioner requests authority to deposit or invest \$ of the money or other property to be paid or delivered under 18a(1) in insured accounts in one or more financial institutions in this state or with a trust company, subject to withdrawal only on authorization of the court. The money or other property and the name, branch, and address of each financial institution or trust company are specified in Attachment 18a(2).
- (3) ☐ Petitioner proposes that all or a portion of the proceeds **not** become part of the guardianship or conservatorship estate. Petitioner requests authority to deposit or transfer these proceeds as follows (check all that apply):
- (a) ☐ \$ to be deposited in insured accounts in one or more financial institutions in this state, subject to withdrawal only on authorization of the court. The name, branch, and address of each depository are specified in Attachment 18a(3)(a).
- (b) ☐ \$ to be invested in a single-premium deferred annuity subject to withdrawal only on authorization of the court. The terms and conditions of the annuity are specified in Attachment 18a(3)(b).
- (c) ☐ \$ to be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act. The name and address of the proposed custodian and the property to be transferred are specified in Attachment 18a(3)(c).
- (d) ☐ \$ to be transferred to the trustee of a trust that is either created by or approved in the order approving the settlement or judgment for the minor. This trust is revocable when the minor reaches 18 years of age and contains all other terms and conditions determined to be necessary by the court to protect the minor's interests. The terms of the proposed trust and the property to be transferred are specified in Attachment 18a(3)(d).
☐ A copy of the (proposed) judgment is attached as Attachment 3c.
- (e) ☐ \$ to be transferred to the trustee of a special needs trust under Probate Code section 3604 for the benefit of the minor or the adult person with a disability. The terms of the proposed special needs trust and the property to be transferred are specified in Attachment 18a(3)(e).
- b. ☐ There is **no** guardianship or conservatorship of the estate of the claimant. Petitioner requests that the court order the disposition of the balance of the proceeds of the settlement or judgment as follows (check each option requested):
- (1) ☐ A guardian of the estate of the minor or a conservator of the estate of the adult person with a disability be appointed and \$ of money or other property or both be paid or delivered to the person so appointed. The money or other property are specified in Attachment 18b(1).
- (2) ☐ \$ be deposited in insured accounts in one or more financial institutions in this state, subject to withdrawal only on authorization of the court. The name, branch, and address of each depository are specified in Attachment 18b(2).
- (3) ☐ \$ be invested in a single-premium deferred annuity, subject to withdrawal only on authorization of the court. The terms and conditions of the annuity are specified in Attachment 18b(3).
- (4) ☐ \$ be paid or transferred to the trustee of a special needs trust under Probate Code section 3604 for the benefit of the minor or the adult person with a disability. The terms of the proposed special needs trust and the money or other property to be paid or transferred are specified in Attachment 18b(4).
- (5) ☐ \$ be paid or delivered to a parent of the minor, without bond, on the terms and under the conditions specified in Probate Code sections 3401–3402. The name and address of the parent and the money or other property to be delivered are specified in Attachment 18b(5). (Value of minor's entire estate, including the money or property to be delivered, must not exceed \$5,000.)
- (6) ☐ \$ be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act. The name and address of the proposed custodian and the money or other property to be transferred are specified in Attachment 18b(6).

CASE NAME:

CASE NUMBER:

18. Disposition of balance of proceeds of settlement or judgment (continued)

- b. ☐ There is **no** guardianship or conservatorship of the estate **of the claimant**. Petitioner requests that the court order the **disposition of** the balance of the proceeds of the settlement or judgment as follows (*check each option requested*):
- (7) ☐ \$ _____ be transferred to the trustee of a trust that is either created by or approved in the order approving the settlement or judgment for the minor. This trust is revocable when the minor reaches 18 years of age, and contains all other terms and conditions determined to be necessary by the court to protect the minor's interests. The terms of the proposed trust and the money or other property to be transferred are specified in Attachment **18b(7)**.
☐ A copy of the (proposed) judgment is attached as Attachment **3c**.
- (8) ☐ \$ _____ of money be held on **any** conditions the court determines **are** in the best interest of the minor or the adult person with a disability. The proposed conditions are specified on Attachment **18b(8)**. (*Amount must not exceed \$20,000.*)
- (9) ☐ \$ _____ of property other than money be held on **the** conditions **that** the court determines **are** in the best interest of the minor or the adult person with a disability. The proposed conditions and the property are specified in Attachment **18b(9)**.
- (10) ☐ \$ _____ be deposited with the county treasurer of the County of (name):
 The deposit is authorized under and subject to the conditions **specified** in Probate Code section 3611(h).
- (11) ☐ \$ _____ be paid or **delivered** to the adult person with a disability. The money or other property is specified in Attachment **18b(11)**.

19. ☐ Statutory liens for special needs trust

Petitioner requests **an** order for payment of funds to a special needs trust (*explain how statutory liens under Probate Code section 3604, if any, will be satisfied*):

☐ Continued on Attachment **19**.

20. ☐ Additional orders


Petitioner requests the following additional orders (*specify and explain*):

☐ Continued on Attachment **20**.

CASE NAME:	CASE NUMBER:
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21. ☐ I, the claimant named in item 2, consent to the order or judgment requested in this petition.
(Required if the claimant is an adult with a disability who has the capacity, under Probate Code section 812, to consent to the order or judgment and does not have a conservator of the estate. (See Prob. Code, § 3613.))


Date:

<hr/> (TYPE OR PRINT NAME OF CLAIMANT)		<hr/> (SIGNATURE OF CLAIMANT)
--	---	-------------------------------

22. Petitioner recommends approval of the proposed compromise, settlement, or disposition of judgment proceeds to the court as fair, reasonable, and in the best interest of the claimant. Petitioner requests that the court approve this compromise, settlement, or disposition and make any other orders that are just and reasonable.


23. Number of pages attached: _____

Date:

<hr/> (TYPE OR PRINT NAME OF ATTORNEY)		<hr/> (SIGNATURE OF ATTORNEY)
--	--	-------------------------------

I declare under penalty of perjury under the laws of the State of California that the foregoing information on this form and all attachments is true and correct.

Date:

<hr/> (TYPE OR PRINT NAME OF PETITIONER)		<hr/> (SIGNATURE OF PETITIONER)
--	---	---------------------------------

CASE NAME:

CASE NUMBER:

**ADDITIONAL MEDICAL SERVICE PROVIDERS ATTACHMENT
TO PETITION FOR APPROVAL OF COMPROMISE OF CLAIM OR
ACTION OR DISPOSITION OF PROCEEDS OF JUDGMENT**

If you are using form MC-350 to petition for court approval of the compromise of a claim or action or the disposition of the proceeds of a judgment for a minor or person with a disability, you must provide complete information, in item 12b(5) of form MC-350, about any medical service providers that (1) have liens for payment of charges for medical services provided to the minor or person with a disability or (2) you paid (or will pay from the proceeds), for which payment you request reimbursement from the proceeds of the compromise or judgment. If you don't have enough room on form MC-350, you may use one or more copies of this form to provide the required information about additional medical service providers.

Attachment 12b(5) to form MC-350

12. b. (5) (b) Each medical service provider that furnished care and treatment to claimant and (1) has a lien for all or any part of the charges or (2) was paid (or will be paid from the proceeds) by petitioner, for which payment petitioner requests reimbursement; the amounts charged and paid; the amount of negotiated reductions of charges, if any; and the amount to be paid from the proceeds of the settlement or judgment to each provider are as follows:

____(A) Provider (name):

(B) Address:

(C) Amount charged:

\$

(D) Amount paid (whether or not by insurance):

(\$)

(E) Negotiated reduction, if any:

(\$)

(F) Amount to be paid from proceeds of settlement or judgment:

\$ _____

____(A) Provider (name):

(B) Address:

(C) Amount charged:

\$

(D) Amount paid (whether or not by insurance):

(\$)

(E) Negotiated reduction, if any:

(\$)

(F) Amount to be paid from proceeds of settlement or judgment:

\$ _____

____(A) Provider (name):

(B) Address:

(C) Amount charged:

\$

(D) Amount paid (whether or not by insurance):

(\$)

(E) Negotiated reduction, if any:

(\$)

(F) Amount to be paid from proceeds of settlement or judgment:

\$ _____

____(A) Provider (name):

(B) Address:

(C) Amount charged:

\$

(D) Amount paid (whether or not by insurance):

(\$)

(E) Negotiated reduction, if any:

(\$)

(F) Amount to be paid from proceeds of settlement or judgment:

\$ _____

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
PETITION FOR EXPEDITED APPROVAL OF COMPROMISE OF CLAIM OR ACTION OR DISPOSITION OF PROCEEDS OF JUDGMENT FOR MINOR OR PERSON WITH A DISABILITY	<input type="checkbox"/> No hearing date is requested. <input type="checkbox"/> HEARING DATE: DEPT.: TIME:

NOTICE TO PETITIONER

You must use this form to request expedited court approval of a qualifying (1) compromise of a minor's disputed claim, (2) compromise of a pending action or proceeding in which a minor or a person with a disability (including a conservatee) is a party, or (3) disposition of the proceeds of a judgment for a minor or person with a disability. (See Code Civ. Proc., § 372; Prob. Code, §§ 3500, 3600–3613.) You may request expedited approval **only if** (1) you are represented by an attorney; (2) the statements in items 3a, 3b, 3c, 3d, 3e, 3f, and either 3g(1) or 3g(2), below, are true and accurate; and (3) the court does not otherwise order.

If your compromise or judgment qualifies and you choose to use this form, the court may consider and act on your petition without a hearing. If your compromise or judgment qualifies for expedited consideration but you choose not to use this form or your compromise or judgment does not qualify for expedited consideration, you must use *Petition for Approval of Compromise of Claim or Action or Disposition of Proceeds of Judgment for Minor or Person With a Disability* (form MC-350), and the court will schedule a hearing.

1. **Petitioner (name or pseudonym)*:**
 is the (check all boxes that apply): ☐ Parent ☐ Guardian ad litem* ☐ Guardian ☐ Conservator
☐ Other (specify relationship):
 of the claimant identified in item 2. (*Petitioner may appear under a pseudonym only if appointed as guardian ad litem under that pseudonym. (See Code Civ. Proc., § 372.5.))
2. **Claimant (name):**
 - a. Address:
 - b. Date of birth: c. Age: d. ☐ Minor or ☐ Person with a disability
 (If the claimant is an adult with a disability who (1) has capacity to consent to the order requested and (2) does not have a conservator of the estate, check e. and f. and ensure that the claimant personally reads and signs item 21. (Prob. Code, § 3613.))
 - e. ☐ Has the capacity, within the meaning of Probate Code section 812, to consent to the requested order.
 - f. ☐ Does not have a conservator of the estate.
3. **Qualification for Expedited Approval**
 - a. The claimant's claim or action is **not** for damages for the death of a person caused by the wrongful act or neglect of another.
 - b. No portion of the net proceeds of the judgment or settlement in favor of the claimant is to be placed in a trust.
 - c. There are no unresolved disputes concerning liens to be satisfied from the proceeds of the judgment or settlement.
 - d. Petitioner's attorney did not become involved with this matter, directly or indirectly, at the request of a party against whom the claim is asserted or a party's insurance carrier.
 - e. Petitioner's attorney is not representing, employed by, or associated with a defendant in this matter or an insurance carrier.
 - f. All defendants that have appeared in a pending action on the claim are participating in the proposed compromise **or** the court has made a final determination that all settling parties entered into the settlement in good faith.
 - g. (1) ☐ The judgment described in item 4c (exclusive of interest and costs) or the total settlement described in items 11 and 12 payable to the claimant and all other persons named in item 12 is in the amount of \$50,000 or less; or
 (2) ☐ The settlement described in item 11 represents payment of the single-person policy limits of all liability insurance policies covering the defendants named in that item. The investigation described in Attachment 3 shows that all of those defendants are judgment-proof outside of their insurance coverage. (Describe investigation and results in Attachment 3.)

CASE NAME:	CASE NUMBER:
------------	--------------

4. Claim The claim of the minor or adult person with a disability:

a. ☐ Is not the subject of a pending action or proceeding. (Complete items 5–23.)

b. ☐ Is the subject of a pending action or proceeding that will be compromised without a trial. (Complete items 5–23.)

Name of court:

Case no.:

Trial date:

c. ☐ Is the subject of an action or proceeding in which a judgment has been or will be entered for the claimant against the defendants named below in the amount (exclusive of interest and costs) of (specify): \$

Defendants (names):

☐ Additional defendants listed on Attachment 4. ☐ The judgment was filed on (date):
(Attach a copy of the (proposed) judgment as Attachment 4c and complete items 13–23.)

5. Incident or accident The incident or accident occurred as follows:

a. Date: Time:

b. Place:

c. Persons involved (names):

☐ Additional persons listed on Attachment 5.

6. Nature of incident or accident

The facts, events, and circumstances of the incident or accident are (describe what happened):

☐ Continued on Attachment 6.

7. Injuries

The following injuries were sustained by the claimant as a result of the incident or accident (describe):

☐ Continued on Attachment 7.

8. Treatment

The claimant received the following care and treatment for the injuries described in item 7 (describe):

☐ Continued on Attachment 8.

CASE NAME:

CASE NUMBER:

9. **Extent of injuries and recovery** (An original or a photocopy of any doctor's report containing a diagnosis of the claimant's injuries or a prognosis for the claimant's recovery, and a report of the claimant's current condition, must be attached to this petition as Attachment 9. A new report is not necessary if a previous report accurately describes the claimant's current condition.)

- a. ☐ The claimant has recovered completely from the effects of the injuries described in item 7, and there are no permanent injuries.
- b. ☐ The claimant has not recovered completely from the effects of the injuries described in item 7, and the following injuries from which the claimant has not recovered are temporary (describe the remaining injuries and symptoms):

☐ Continued on Attachment 9b.

- c. ☐ The claimant has not recovered completely from the effects of the injuries described in item 7, and the following injuries from which the claimant has not recovered are permanent (describe the permanent injuries and symptoms):

☐ Continued on Attachment 9c.

10. ☐ Petitioner has made a careful and diligent inquiry and investigation into the facts and circumstances of the incident or accident in which the claimant was injured; the responsibility for the incident or accident; and the nature, extent, and seriousness of the claimant's injuries. Petitioner understands that if the compromise proposed in this petition is approved by the court and consummated, the claimant will never be able to recover any more compensation from the settling defendants named below even if the claimant's injuries turn out to be more serious than they now appear.

11. Amount and terms of settlement

To settle the claim in 4a or 4b, the defendants named below have offered to pay the following amounts to the claimant:

- a. The total amount offered by all defendants named below is (specify): \$
- b. The defendants and amounts offered by each are as follows (specify):

Defendants (names)

Amounts

\$
\$
\$
\$

☐ Additional defendants and amounts offered are listed on Attachment 11b.

- c. The terms of settlement are described on Attachment 11c. (If the settlement is to be paid in installments, both the total amount and the present value of the settlement must be included.)

12. Settlement payments to others

- a. ☐ No defendant named in item 11b has offered to pay money to any person or persons other than the claimant to settle claims arising out of the same incident or accident that resulted in the claimant's injury.
- b. ☐ One or more of the defendants named in item 11b have also offered to pay money to a person or persons other than claimant to settle claims arising out of the same incident or accident that resulted in the claimant's injury.

- (1) The total amount offered by all defendants to others is (specify): \$
- (2) ☐ Petitioner would receive money under the proposed settlement.
- (3) The settlement payments are to be apportioned and distributed as follows:

Other plaintiffs or claimants (names)

Amounts

\$
\$
\$
\$

☐ Additional plaintiffs or claimants and amounts are listed on Attachment 12.

- (4) ☐ The settlement payments are apportioned between the claimant and each other plaintiff or claimant named above on a pro rata basis, based upon the special damages claimed by each. The special damages claimed by each other plaintiff or claimant are specified on Attachment 12.
- (5) ☐ Reasons for the apportionment of the settlement payments between the claimant and each other plaintiff or claimant named above are specified on Attachment 12.

a. Totals

- | | | |
|---|-----|---|
| (1) Total medical expenses before any reductions: | \$ | |
| (2) Total medical expenses paid (include payments by private insurance, Medi-Cal, or Medicare): | (\$ |) |
| (3) Total of negotiated, contractual, or statutory reductions, if any: | (\$ |) |
| (4) Total amount of medical expenses to be paid or reimbursed from proceeds: | \$ | |
| (5) Total amount of statutory or contractual liens, if any: | \$ | |

b. (1) ☐ None of the claimant's medical expenses have been paid by Medicare.

(2) ☐ Medicare paid some or all of claimant's medical expenses. In full satisfaction of its lien rights, Medicare will be reimbursed in the amount of:

c. (1) ☐ None of the claimant's medical expenses have been paid by Medi-Cal.

- (2) ☐ Medi-Cal paid some or all of claimant's medical expenses.
- (a) Notice of this claim or action has been given to the Director of Health Care Services. (Welf. & Inst. Code, § 14124.73.)
A copy of the notice and proof of delivery ☐ is attached ☐ was filed in this matter on (date):

- (b) In full satisfaction of its lien rights, Medi-Cal has agreed to accept reimbursement in the amount of: \$

(Attach a copy of the final Medi-Cal demand letter or letter agreement as Attachment 13c(2).)

- d. ☐ The claimant's health plan is requesting reimbursement for medical expenses paid under the plan. In full satisfaction of the plan's lien rights, it will be reimbursed in the amount of: \$

(Attach statements from the plan showing expense payments and requesting reimbursement.)

- e. ☐ Petitioner has paid claimant's medical expenses to be reimbursed in the amount of: \$
(See instructions for item 15.)

- f. (1) ☐ There are no statutory or contractual liens for payment of the claimant's medical expenses.
 (2) ☐ There are one or more liens from medical service providers for payment of the claimant's medical expenses.
 In full satisfaction of their lien claims, the lienholders have agreed to accept the sum of: \$

- q. (Select (1) or (2) below.)

- (1) ☐ Latest statements from all medical service providers are attached as Attachment 13g.
- (2) ☐ All medical expenses have been paid by private insurance, Medicare, or Medi-Cal.

a. Total amount of attorney's fees for which court approval is requested: \$

(If fees are requested, attach as Attachment 14a a declaration from the attorney explaining the basis for the request, including a discussion of applicable factors listed in rule 7.955(b) of the Cal. Rules of Court. Include a copy of any written attorney fee agreement in Attachment 14a.)

- b. The following additional items of expense (other than medical expenses) have been incurred or paid, are reasonable, resulted from the incident or accident, and should be paid or reimbursed out of claimant's share of the proceeds of the settlement or judgment:

[illegible]

☐ Continued on Attachment 14b.

Total: \$

- c. ☐ Costs of suit attributable to more than one settling plaintiff are **not** apportioned between them on a pro rata basis based on their gross settlement amounts. The apportionment of these costs is described and explained in Attachment 14c.

CASE NAME:

CASE NUMBER:

15. Reimbursement of fees and expenses paid by petitioner

- a. ☐ Petitioner has paid none of the fees or expenses listed in items 13 and 14 for which reimbursement is requested.
- b. ☐ Petitioner has paid the following total amounts of the claimant's fees and expenses for which reimbursement is requested.
- (1) ☐ Medical expenses listed in item 13: \$
- (2) ☐ Attorney's fees included in the total fee amount shown in item 14a: \$
- (3) ☐ Other expenses included in the total shown in item 14b: \$

(Attach proofs of the fees and expenses incurred and payments made, e.g., bills or invoices, canceled checks, credit card statements, explanations of benefits from insurers, etc.)

Total: \$ _____

16. Net balance of proceeds remaining for claimant

The balance of the proceeds of the proposed settlement or judgment remaining for the claimant after payment or reimbursement of all requested fees and expenses is (specify):

\$ _____

17. Summary

- a. Gross amount of proceeds of settlement or judgment for claimant: \$
- b. Medical expenses to be paid from proceeds of settlement or judgment: \$
- c. Attorney's fees to be paid from proceeds of settlement or judgment: \$
- d. Expenses (other than medical) to be paid from proceeds of settlement or judgment: \$
- e. Total fees and expenses to be paid from proceeds of settlement or judgment (add (b), (c), and (d)): (\$)
- f. Balance of proceeds of settlement or judgment available for claimant after payment of all fees and expenses (subtract (e) from (a)): \$ _____

18. Information about attorney representing or assisting petitioner

- a. The attorney ☐ is not ☐ is representing or employed by another party involved in this matter.
(If you answered "is," identify the other party and explain the relationship in Attachment 18a. If the other party is a defendant, you must use form MC-350 for your petition and are not eligible for expedited consideration by the court. See item 3e on page 1 and Cal. Rules of Court, rule 7.950.5(a)(6).)
- b. The attorney ☐ has neither received nor expects to receive ☐ has received or expects to receive attorney's fees or other compensation in addition to that requested in this petition for services provided in connection with the claim giving rise to this petition (if you answered "has received or expects to receive," identify the person who paid or will pay the fees or other compensation, the amounts paid or to be paid, and the dates of payment or expected payment):

From Whom Paid or Expected (name)Date Paid or ExpectedAmount
Paid or Expected

\$

\$

\$

\$

\$

\$

\$

☐ Continued on Attachment 18b.

Total: \$ _____

CASE NAME:

CASE NUMBER:

19. Disposition of balance to claimant (check either a or b, then check each option requested and enter amount(s)):

- a. ☐ There **is** a guardianship of the estate of the minor or a conservatorship of the estate of the adult person with a disability filed in (name of court):
Case no.:
- (1) ☐ Petitioner requests that \$ of the proceeds in money or other property be paid or delivered to the guardian of the estate of the minor or the conservator of the estate of the conservatee. The money or other property is specified in Attachment 19a(1).
- (2) ☐ Petitioner is the guardian or conservator of the estate of the minor or the adult person with a disability. Petitioner requests authority to deposit or invest \$ of the money or other property to be paid or delivered under 19a(1) in one or more insured accounts with financial institutions in this state or with a trust company, subject to withdrawal only on authorization of the court. The money or other property and the name, branch, and address of each financial institution or trust company are specified in Attachment 19a(2).
- (3) ☐ Petitioner proposes that all or a portion of the proceeds **not** become part of the guardianship or conservatorship estate. Petitioner requests authority to deposit or transfer these proceeds as follows (check all that apply):
- (a) ☐ \$ to be deposited in insured accounts in one or more financial institutions in this state, subject to withdrawal only on authorization of the court. The name, branch, and address of each depository are specified in Attachment 19a(3)(a).
- (b) ☐ \$ to be invested in a single-premium deferred annuity, subject to withdrawal only on authorization of the court. The terms and conditions of the annuity are specified in Attachment 19a(3)(b).
- (c) ☐ \$ to be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act. The name and address of the proposed custodian and the property to be transferred are specified in Attachment 19a(3)(c).
- b. ☐ There is **no** guardianship of the estate of the minor or conservatorship of the estate of the adult person with a disability. Petitioner requests that the balance of the proceeds of the settlement or judgment be disbursed as follows (check all that apply):
- (1) ☐ A guardian of the estate of the minor or a conservator of the estate of the adult person with a disability be appointed and \$ of money and other property be paid or delivered to the person so appointed. The money or other property are specified in Attachment 19b(1).
- (2) ☐ \$ of money be deposited in insured accounts in one or more financial institutions in this state, subject to withdrawal only on authorization of the court. The name, branch, and address of each depository are specified in Attachment 19b(2).
- (3) ☐ \$ of money be invested in a single-premium deferred annuity, subject to withdrawal only on authorization of the court. The terms and conditions of the annuity are specified in Attachment 19b(3).
- (4) ☐ \$ be paid or delivered to a parent of the minor on the terms and under the conditions specified in Probate Code sections 3401–3402, without bond. The name and address of the parent and the money or other property to be delivered are specified in Attachment 19b(4). (Value of minor's entire estate, including the money or other property to be delivered, must not exceed \$5,000.)
- (5) ☐ \$ be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act. The name and address of the proposed custodian and the money or other property to be transferred are specified in Attachment 19b(5).
- (6) ☐ \$ of money be held on the conditions that the court determines to be in the best interest of the minor or adult person with a disability. The proposed conditions are specified on Attachment 19b(6). (Value must not exceed \$20,000.)
- (7) ☐ \$ of property other than money be held on the conditions that the court determines to be in the best interest of the minor or adult person with a disability. The proposed conditions and the property are specified in Attachment 19b(7).
- (8) ☐ \$ be deposited with the county treasurer of the County of (name):
The deposit is authorized under and subject to the conditions specified in Probate Code section 3611(h).
- (9) ☐ \$ be paid or transferred to the adult person with a disability. The money or other property is specified in Attachment 19b(9).

CASE NAME:	CASE NUMBER:
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20. ☐ **Additional orders**

Petitioner requests the following additional orders (*specify and explain*):

☐ Continued on Attachment 20.

21. ☐ I, the claimant named in item 2, consent to the order or judgment requested in this petition.
(Required if the claimant is an adult with a disability who has the capacity, under Probate Code section 812, to consent to the order or judgment and does not have a conservator of the estate. (See Prob. Code, § 3613.))

Date:

 (TYPE OR PRINT NAME OF CLAIMANT)



 (SIGNATURE OF CLAIMANT)

22. Petitioner recommends the proposed compromise, settlement, or disposition of judgment proceeds for the claimant to the court as being fair, reasonable, and in the best interest of the claimant. Petitioner requests that the court approve this compromise, settlement, or disposition and make any other orders that are just and reasonable.

23. Number of pages attached: _____

Date:

 (TYPE OR PRINT NAME)



 (SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME OF PETITIONER)



 (SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%; text-align: center;"> ORDER APPROVING COMPROMISE OF CLAIM OR ACTION OR DISPOSITION OF PROCEEDS OF JUDGMENT FOR MINOR OR PERSON WITH A DISABILITY </div> <div style="width: 35%;"> CASE NUMBER: <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">HEARING DATE, IF ANY:</div> <div style="width: 40%;">DEPT.:</div> </div> </div> </div>	

1. Hearing

- a. ☐ No hearing was held. The matter is eligible for expedited approval under rule 7.950.5 of the California Rules of Court.
- b. ☐ A hearing was held: Date: Time: Dept.:
- c. Judicial officer:

2. Petitioner (name or pseudonym*):

is the (check all relationships or representative capacities that apply): ☐ parent ☐ guardian ad litem*
☐ guardian ☐ conservator ☐ other (specify):

of the claimant named in item 3. Petitioner has requested approval of the compromise or settlement of a disputed claim or pending action or the disposition of the proceeds of a judgment for a minor or a person with a disability.

(*Petitioner was appointed guardian ad litem under a pseudonym. (See Code Civ. Proc., § 372.5.))

3. Claimant (name):

- a. ☐ is a minor.
- b. ☐ is a "person with a disability" within the meaning of Probate Code section 3603 who is:
- (1) ☐ An adult. Claimant's date of birth is (specify):
- (2) ☐ A minor described in Probate Code section 3603(b)(3).

4. Defendant

The claim or action to be compromised or settled is asserted, or the judgment is entered, against (name of settling or judgment defendant or defendants (the "payer")):

THE COURT FINDS

5. ☐ Notice has been given as required by law.
6. a. ☐ The claimant is an adult who has the capacity to consent to this order within the meaning of Probate Code section 812 and does not have a conservator of the estate. The claimant has given express consent to this order.
- b. ☐ The claimant's consent to this order is not required because the claimant is a minor, a conservatee, or a person who lacks the capacity to consent to the order within the meaning of Probate Code section 812.

CASE NAME:

CASE NUMBER:

THE COURT ORDERS

6. The petition is granted and the proposed compromise or settlement, or the proposed disposition of the proceeds of the judgment, is approved. The gross amount or value of the settlement or judgment in favor of claimant is: \$.

7. ☐ Until further order of the court, jurisdiction is reserved to determine a claim for a reduction of a Medi-Cal lien under Welfare and Institutions Code section 14124.76. The amount shown payable to the Department of Health Care Services in item 8a(4) of this order is the full amount of the lien claimed by the department but is subject to reduction on further order of the court upon determination of the claim for reduction.

8. The payer must disburse the proceeds of the settlement or judgment approved by this order in the following manner:

a. Payment of fees and expenses

Fees and expenses shall be paid by one or more checks or drafts drawn payable to the order of the petitioner and the petitioner's attorney, if any, or directly to third parties entitled to receive payment identified in this order for the following items of expense or damage, which are hereby authorized to be paid out of the proceeds of the settlement or judgment:

(1) ☐ Attorney's fees in the total amount of: \$ payable to (specify):

(2) ☐ Reimbursement for medical and all other expenses paid by the petitioner or the petitioner's attorney in the total amount of: \$

(3) ☐ Medical, hospital, ambulance, nursing, and other similar expenses payable directly to providers as follows, in the total amount of: \$

(a) Payee (name):

(i) address:

(ii) Amount: \$

(b) Payee (name):

(i) address:

(ii) Amount: \$

☐ Continued on Attachment 8a(3). (Provide information about additional payees in the above format.)

(4) ☐ Other authorized disbursements payable directly to third parties in the total amount of: \$
(Describe and state the amount of each item and provide the name and address of each payee):

☐ Continued on Attachment 8a(4).

(5) ☐ Total allowance for fees and expenses from the settlement or judgment: \$

CASE NAME:

CASE NUMBER:

8. b. Balance for claimant

The balance of the settlement or judgment available for claimant after payment of all allowed fees and expenses is:

\$

The balance shall be disbursed as follows:

- (1) ☐ By one or more checks or drafts in the total amount of (specify): \$
 drawn payable to the order of the petitioner in the petitioner's representative capacity. Each check or draft must bear an endorsement on the face or reverse that it is for deposit in one or more interest-bearing, federally insured accounts in the name of the petitioner in the petitioner's representative capacity. No withdrawals may be made from these accounts ("blocked accounts") except as provided in the Order to Deposit Funds in Blocked Account (form MC-355) signed at the same time as this order.

- (2) ☐ By the following method(s) (describe each method, including the amount to be disbursed by each):

☐ Continued on Attachment 8b(2).

- (3) ☐ If money is to be paid to a special needs trust under Probate Code section 3604, all statutory liens in favor of the state Department of Health Care Services, the state Department of State Hospitals, the state Department of Developmental Services, and any city and county in California must first be satisfied by the following method (specify):

☐ Continued on Attachment 8b(3).

9. ☐ Further orders of the court concerning blocked accounts

The court makes the following additional orders concerning any part of the balance ordered to be deposited in a blocked account under item 8b(1):

- a. Within 48 hours of receipt of a check or draft described in item 8b(1), the petitioner and the petitioner's attorney, if any, must deposit the check or draft in the name of petitioner in the petitioner's representative capacity in one or more blocked accounts at (specify name, branch, and address of each depository, and the amount of each account):

☐ Continued on Attachment 9a.

CASE NAME:

CASE NUMBER:

9. b. The petitioner and the petitioner's attorney, if any, must deliver to each depository at the time of deposit three copies of the *Order to Deposit Funds in Blocked Account* (form MC-355), which is signed at the same time as this order, and three copies of the *Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account* (form MC-356). The petitioner or the petitioner's attorney must file a copy of the receipt with this court within 15 days of the deposit. The sole responsibilities of the petitioner and the petitioner's attorney, if any, are to place the balance in a blocked account or accounts and to file a copy of the receipt **on time**.
- c. The balance of the proceeds of the settlement or judgment deposited in a blocked account or accounts under item **8b(1)** may be withdrawn only as follows (*check (1) or (2)*):
- (1) ☐ No withdrawals of principal or interest may be made from the blocked account or accounts without a further written order under this case name and number, signed by a judicial officer, and **file-stamped by** this court. The money on deposit is not subject to escheat.
 - (2) ☐ The blocked account or accounts belong to a minor, who was born on (*date*):
No withdrawals of principal or interest may be made from the blocked account or accounts without a further written order under this case name and number, signed by a judicial officer, and **file-stamped by** this court, until the minor **reaches 18 years of age**. When the minor **reaches 18 years of age**, the depository, without further order of this court, is authorized and directed to pay by check or draft directly to the former minor, on proper demand, all funds, including interest, deposited under this order. The money on deposit is not subject to escheat.

10. ☐ **Authorization to execute settlement documents**

The petitioner is authorized to execute settlement documents as follows (*check only one*):

- a. ☐ **On** receipt of the full amount of the settlement sum approved by this order and the deposit of funds, the petitioner is authorized and directed to execute and deliver to the payer (1) a full, complete, and final release and discharge of any and all claims and demands of the claimant by reason of the accident or incident described in the petition and the resultant injuries to the claimant and (2) a properly executed dismissal with prejudice.
- b. ☐ The petitioner is authorized and directed to execute any and all documents reasonably necessary to carry out the terms of the settlement.
- c. ☐ The petitioner is authorized and directed **to** (*specify*):

☐ Continued on Attachment **10c**.

11. Bond is ☐ ordered and fixed in the amount of: \$ ☐ not required.

12. A copy of this order must be served on the payer immediately.

13. ☐ **Additional orders**

The court makes the following additional orders (*specify*):

☐ Continued on Attachment **13**.

Date:

JUDICIAL OFFICER

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (Name):		FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CASE NAME:		
ORDER TO DEPOSIT FUNDS IN BLOCKED ACCOUNT		CASE NUMBER:

1. The petition of (name):
 acting as (specify representative capacity):
 funds in one or more blocked accounts came on for hearing on (date):
 of the person named in item 2, to deposit
 at (time): in Dept.:

THE COURT ORDERS

2. Funds that belong to (name):
 must be deposited in one or more interest-bearing, federally insured blocked accounts.
3. Each account must be opened in the legal name of the petitioner as ☐ parent ☐ guardian ☐ conservator
☐ other (specify relationship): of the person named in 2.
4. The total amount authorized for deposit, including any accrued interest, is: \$
5. Withdrawals (check a or b):
- a. ☐ No withdrawal of principal or interest may be made from the blocked account or accounts without a written order under this case name and number signed by a judicial officer and file-stamped by this court. The money on deposit is not subject to escheat.
- b. ☐ The funds in the blocked account or accounts belong to a minor, who was born on (date):
 No withdrawal of principal or interest may be made from the blocked account or accounts without a written order under this case name and number signed by a judicial officer and file-stamped by this court until the minor reaches 18 years of age.
 When the minor reaches 18 years of age, the depository, without further order of this court, is authorized and directed to pay by check or draft directly to the former minor, on proper demand, all funds, including interest, deposited under this order. The money on deposit is not subject to escheat.
6. The petitioner and the petitioner's attorney, if any, must (1) deliver a copy of this order to each depository in which funds are deposited under this order and (2) file with this court an acknowledgment from each depository of receipt of this order and the funds within 15 days of deposit.

Date:

 JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	DRAFT Not approved by the Judicial Council
CASE NAME:	
ACKNOWLEDGMENT OF RECEIPT OF ORDER AND FUNDS FOR DEPOSIT IN BLOCKED ACCOUNT	CASE NUMBER:

(Attach a copy of Order to Deposit Funds in Blocked Account (form MC-355) to this receipt.)

1. I acknowledge receipt of the Order to Deposit Funds in Blocked Account (form MC-355), a copy of which is attached to this form, and of the funds specified in item 7, below.
2. The account described below, in which funds have been deposited under the court's order, is an interest-bearing, federally insured blocked account.
3. Name and title on account:
4. Name of depository:
 - a. Branch:
 - b. Address:
5. Account number:
6. Date account opened:
7. Amount of initial deposit: \$
8. Current balance: \$

I certify that the foregoing information is true and correct, that I am authorized to execute this acknowledgment of receipt on behalf of the depository named in 4, and that no withdrawal of principal or interest from this account will be permitted without a signed, file-stamped order under this case name and number from the court named above.

Date:

(TYPE OR PRINT NAME)



(AUTHORIZED SIGNATURE)

Title:

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
PETITION TO WITHDRAW FUNDS FROM BLOCKED ACCOUNT <input type="checkbox"/> EX PARTE	CASE NUMBER:

1. Petitioner (name):
requests an order authorizing the withdrawal of funds belonging to the person identified in item 2.

2. The person whose funds are to be withdrawn (name): is
 - a. ☐ a minor.
 - b. ☐ a conservatee.
 - c. ☐ a beneficiary.
 - d. ☐ other (specify):

3. Additional information about the person named in item 2:
 - a. Date of birth:
 - b. Address:
 - c. Telephone number:
 - d. Email address:
 - e. Current school (name and address):
 - f. Current employer (name and address):

4. If the person identified in item 2 is a minor, the minor's parents are:
 - a. ☐ (Name, address, phone number, and email):
 - b. ☐ (Name, address, phone number, and email):

5. Petitioner brings this petition as the ☐ parent ☐ guardian ☐ conservator
☐ Other (specify relationship): of the person named in item 2.

6. Account status
 - a. Name and title on account:
 - b. Depository (name):
 - (1) Branch (name):
 - (2) Address:
 - c. Account number:
 - d. Current balance: \$

CASE NAME:

CASE NUMBER:

6. e. Previous withdrawals from this account (*select one*):(1) ☐ None.(2) ☐ As follows:

(a) Amount: \$

(b) Date:

(c) Purpose of withdrawal:

☐ Additional previous withdrawals from this account are detailed in Attachment 6 (*for each additional previous withdrawal, give the information required by item 6e(2)*).f. ☐ Additional accounts from which petitioner seeks to withdraw funds are described in Attachment 6 (*for each additional account, give all the information required by item 6a–6e*).

7. Amount to be disbursed under this petition:

a. ☐ Balance of account or accounts described in item 6.b. ☐ Other (*specify total amount to be disbursed*): \$

8. Reasons for disbursement of funds:

a. ☐ Minor has reached 18 years of age, and this is a final distribution.b. ☐ Other (*describe*):

9. Person(s) to whom funds will be paid:

a. Payee (*name*):

(1) Address:

(2) Amount: \$

(3) Purpose of payment:

b. Payee (*name*):

(1) Address:

(2) Amount: \$

(3) Purpose of payment:

c. Payee (*name*):

(1) Address:

(2) Amount: \$

(3) Purpose of payment:

d. Payee (*name*):

(1) Address:

(2) Amount: \$

(3) Purpose of payment:

☐ Additional payees and amounts to be distributed are listed on Attachment 9.

10. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

- ## THE COURT ORDERS

- Date:

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

SPR20-25

Rules and Forms: Compromise of Claim for Minor or Person With a Disability (Amend Cal. Rules of Court, rules 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955; revise forms MC-350, MC-350(A-13b(5)), MC-350EX, MC-351, MC-355, MC-356, MC-357, and MC-358)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Miss Laray [no other name given] Corona	A	*The commenter's son passed away. She seems to have spent considerable time in the wrong court, possibly because of one of the rules in this proposal or possibly because of rule 5.4, which requires local rules and forms regarding family law actions and proceedings to comply with the Family Rules (division 1 of title 5 of the California Rules of Court). She supports this proposal.	The committee regrets the commenter's loss and appreciates her comment. No further response required.
2.	Orange County Bar Association by Scott B. Garner, President Newport Beach	AM	<p>The Judicial Council forms related to the approval of a minor's compromise ubiquitously references a "disputed" claim. This term is unnecessary and could create confusion for the party filing necessary papers. Oftentimes, for example, claims are resolved without any dispute from either the party receiving funds or the payor of funds. This is especially so in 1st-party underinsured and uninsured motorist claims.</p> <p>Suggestion to Form MC-350:</p> <ul style="list-style-type: none">• 2(a) should be for the person's name and 2(b) should be for the person's address; renumbering to follow• 2(e) and 2(f) are not necessary for minors and thus should be noted as optional• 8(a)–8(c) has spacing issues	<p>The committee appreciates the bar association's comments. The committee does not recommend removing the term "disputed" from the forms, which implement the requirements of Probate Code sections 3500 and 3600–3613. The relevant language in sections 3500(a) and 3600(a) limits the application of those requirements to court approval of the compromise of a minor's "disputed claim."</p> <p>The committee does not recommend the suggested change. The distinction in item 2 on form MC-350 between the claimant's name and address is sufficiently clear. No reports of confusion have been received since the form's adoption, effective January 1, 2002.</p> <p>The committee agrees that 2e and 2f apply only to adult claimants and has modified the form to clarify that limited application.</p> <p>The committee prefers to leave extra space after</p>

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> 12a(1) should be combined with 12a(2), or clarification should be provided whether the total medical expenses is the total medical expenses owed before or after any reduction. <p>Suggestion to Form MC-350EX</p> <ul style="list-style-type: none"> 2(e) and 2(f) are not necessary for minors and thus should be noted as optional <p>Suggestion to Form MC-351</p> <ul style="list-style-type: none"> 6 and 7 could use clarification on how the settlement check should be made payable such as “e.g. John Smith, in his representative capacity as father of minor, Jane Doe” <p>Specific Comments</p> <p>Does the proposal appropriately address the stated purpose? <i>Yes, the proposal is helpful to a certain extent but in need of further clarification in areas.</i></p> <p>Should the forms be renumbered to move them from the MC form set and place them in a separate form set by themselves or with other forms? <i>This does not seem necessary.</i></p>	<p>8b and 8c to allow the petitioner to provide the information required for the court to determine whether to approve the settlement.</p> <p>The committee agrees with the comment and has revised its recommendation to specify that the total expenses after any reductions should be listed in item 12a(1).</p> <p>The committee agrees that 2e and 2f apply only to adult claimants and has modified the form to clarify that limited application.</p> <p>The committee agrees with the suggested change to item 6 and has modified its recommendation accordingly. Item 7 cross-references item 6, and the modification to item 6 also applies to item 7.</p> <p>The committee agrees and has clarified its recommendation in several respects, including those mentioned by the commenter.</p> <p>The committee agrees and has left the numbering of the forms unchanged.</p>

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Rules and Forms: Compromise of Claim for Minor or Person With a Disability (Amend Cal. Rules of Court, rules 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955; revise forms MC-350, MC-350(A-13b(5)), MC-350EX, MC-351, MC-355, MC-356, MC-357, and MC-358)
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Rules and Forms: Compromise of Claim for Minor or Person With a Disability (Amend Cal. Rules of Court, rules 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955; revise forms MC-350, MC-350(A-13b(5)), MC-350EX, MC-351, MC-355, MC-356, MC-357, and MC-358)

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	Commenter	Position	Comment	Committee Response
			<p>2. Should the forms be renumbered to move them from the MC form set and place them in a separate form set by themselves or with other forms?</p> <p><i>Similar to Probate—Decedents Estates, consider implementing a separate category on the court public website Probate—Minor's Compromise, but leave the MC designation on the form.</i></p> <p>3. Are further revisions needed to ensure compliance with the legal requirements for establishing, administering, and accessing special needs trusts on behalf of claimants with disabilities?</p> <p><i>No</i></p> <p>4. Would the proposal result in costs or savings to the court? If so, please what costs or savings would be associated with implementing the proposal?</p> <p><i>Yes. The clarifications concerning account establishment and the capacity of the petitioners will help those seeking assistance have a clearer understanding of how to proceed. Fewer hearings will result from reduced errors and issues with forms that banking institutions would not previously accept. For example, the revisions to forms MC-351 and MC-355 will facilitate depositing funds into blocked accounts without having to come back to court for an order. The reduced number of hearings will</i></p>	<p>The committee considered renumbering the forms, but concluded that renumbering them would promote more confusion than clarity. The committee will explore whether the forms can be identified as a separate set on the website without changing their numbers.</p> <p>No response required.</p> <p>The committee is pleased that the revisions will provide some cost savings. No further response required.</p>

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Rules and Forms: Compromise of Claim for Minor or Person With a Disability (Amend Cal. Rules of Court, rules 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955; revise forms MC-350, MC-350(A-13b(5)), MC-350EX, MC-351, MC-355, MC-356, MC-357, and MC-358)

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	Commenter	Position	Comment	Committee Response
			<p><i>provide cost savings in court staff time including legal processing specialists, courtroom clerks, court reporters and probate examiners.</i></p> <p>5. What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p><i>Case processing specialists, probate examiners, courtroom clerks, and judicial officers will need to be informed. Training will need to be provided to case processing, courtroom, and probate examiners on the filing and application of the new forms. The new forms changes will have the biggest impact on probate examiners, depending on what their current process is for reviewing and developing probate notes. With the form number changes and additional information, probate examiners may need to update their own processes. Expected hours of training development, updating processes and staff training could be up to 16 hours.</i></p> <p>6. Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <i>Yes</i></p> <p>7. How well would this proposal work in courts</p>	<p>The committee appreciates the court's explanation of the training costs imposed by changing the form numbers, and has left the form numbers unchanged.</p> <p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			of different sizes? <i>This proposal will work in all court sizes but will possibly have a more positive effect in bigger courts.</i>	No response required.
5.	Superior Court of San Diego County by Mike Roddy, Executive Officer	NI	Does the proposal appropriately address the stated purpose? <i>Yes.</i> Should the forms be renumbered to move them from the MC form set and place them in a separate form set by themselves or with other forms? <i>No, the forms should remain MC forms for the reason cited in the invitation (e.g. initials "MC" correspond to minor's compromise and forms used by self-represented litigants).</i> Are further revisions needed to ensure compliance with the legal requirements for establishing, administering, and accessing special needs trusts on behalf of claimants with disabilities? <i>No.</i> Would the proposal provide cost savings? If so, please quantify. <i>Yes, to the extent that the revised forms would reduce the number of hearings continued due to incomplete information being provided by the petitioner and additional hearings seeking clarifying orders to establish a bank account for the minor/person with disability.</i>	The committee appreciates the court's comments. No response required. The committee agrees and does not recommend changing the form numbers. The committee will explore whether the forms can be identified as a separate form set without changing their numbers. No further response required. The committee is pleased that the revisions will provide some cost savings. No further response required.

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Rules and Forms: Compromise of Claim for Minor or Person With a Disability (Amend Cal. Rules of Court, rules 7.101, 7.950, 7.950.5, 7.951, 7.952, and 7.955; revise forms MC-350, MC-350(A-13b(5)), MC-350EX, MC-351, MC-355, MC-356, MC-357, and MC-358)

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	Commenter	Position	Comment	Committee Response
			<p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p><i>Revising internal procedures, adding forms to case management system, and training business office and courtroom staff.</i></p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p><i>Yes, provided the final version of the forms are provided to the courts at least 30 days prior to the effective date. This will give courts sufficient time to update their procedures and provide training to staff.</i></p> <p>How well would this proposal work in courts of different sizes?</p> <p><i>It appears that the proposal will work for courts of various sizes.</i></p>	<p>No response required.</p> <p>The committee understands that Judicial Council policy and practice is to provide all new and revised forms to the courts at least 30 days before their effective date.</p> <p>No response required.</p>
6.	Trial Court Presiding Judges Advisory Committee Court Executives Advisory Committee Joint Rules Subcommittee (JRS)	A	<p>The JRS notes that the proposal should be implemented because the amended forms will better assist the court and litigants in processing claims involving minor's compromises.</p> <p>The JRS also notes the following impact to court operations: Results in additional training, which requires the commitment of staff time and court resources.</p>	<p>The committee appreciates the JRS's comments.</p> <p>The committee recognizes that the proposal will require staff training, but does not believe or intend that the training will be unusually onerous. No further response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Request for Specific Comments:</p> <p>Should the forms be renumbered to move them from the MC form set and place them in a separate form set by themselves or with other forms?</p> <p><i>Yes. They should be moved out of the miscellaneous set and be moved in a separate form set related strictly to minor's compromises.</i></p> <p>Are further revisions needed to ensure compliance with the legal requirements for establishing, administering, and accessing special needs trusts on behalf of claimants with disabilities?</p> <p><i>Yes. Later revisions should be made to address specific requirements as to Special Needs Trusts that are created as a part of the compromise.</i></p>	<p>The committee prefers to retain the current numbers to avoid confusion of the part of self-represented litigants. The committee will explore whether the forms can be identified as a separate form set without changing their numbers.</p> <p>The committee will review the requirements for the establishment of special needs trusts and, if any necessary revisions are identified, will recommend those revisions in a future rules and forms cycle.</p>

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