Judicial Council of California

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Title
Rules and Forms | Approval of Compromise of Claim for Minor or Person With a Disability (Action Required)

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 clarify 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 remove unnecessary references to gender, 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.

Speakers

Hon. Jayne C. Lee, Chair, Probate and Mental Health Advisory Committee
Hon. David L. Belz, Superior Court of Orange County