

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 08-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 08-05
(Amending AO Number 06-04)**

**IN RE: AMENDMENT TO
STANDARDS AND PROCEDURES
FOR THE PROTECTION OF MINORS
IN THE SETTLEMENT OF PERSONAL
INJURY, WRONGFUL DEATH AND
MEDICAL MALPRACTICE LAWSUITS
AND CLAIMS**

WHEREAS, pursuant to Administrative Order No. 06-04, certain procedures and standards were adopted in all matters involving the settlement of personal injury, wrongful death and medical malpractice lawsuits ("filed action") or claims that are not the subject of a lawsuit ("unfiled action"), arising wherein one or more minors are involved; and

WHEREAS, the Court also adopted the form Order Approving Settlement of Minor's Claim; and

WHEREAS, Part III of the Administrative Order and paragraph 2 of the form Order mandate that the settlement proceeds shall be paid into an interest bearing trust account under the control and supervision of Plaintiffs' counsel; and

WHEREAS, the Court has been advised that compliance with such language would make it impossible to obtain a tax-free structured settlement for the benefit of the minor, in that, in order to maintain the tax-free nature of structured settlements, neither the client nor the attorney can constructively receive settlement funds necessary to fund the structure; and

WHEREAS, in order to fund a tax-free structured settlement, the settlement funds must be transferred directly from the defendant insurance company to the assignment company; and

WHEREAS, accordingly, Administrative Order No. 06-04 and the Order Approving Settlement of Minor's Claim must be amended;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, Administrative Order No. 06-04 and the Order Approving Settlement of Minor's Claim are amended in the following particulars:

1. The following language shall be added to Administrative Order No. 06-04 (Part III Re: Disbursement of settlement proceeds and Legal Guardianship) and the Order Approving Settlement of Minor's Claim (paragraph 2):

"However, as to any net settlement proceeds which will be used to fund a tax-free structured settlement for the benefit of the minor, upon agreement of the parties, said proceeds may be held by the Defendant pending the funding of the structured settlement."

2. Except as amended herein, Administrative Order No. 06-04 and the Order Approving Settlement of Minor's Claim (attached hereto) shall remain in full force and effect.

This Order shall take effect immediately upon execution and shall remain in full force and effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this _____ day of _____, 2008.

**JOSEPH P. FARINA, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

CASE NO.

Plaintiff(s)

vs.

ORDER APPROVING SETTLEMENT
OF MINOR'S CLAIM

(Form Order re: AO No. 08-05 amending
AO No. 06-04)

Defendant(s)

On _____ (date), this cause came to be heard on a petition for the court to approve the settlement of a claim on behalf of a minor(s). The Court having heard argument of counsel, reviewed the report of the Guardian Ad Litem, and otherwise being fully advised in the premises, finds the settlement reflected in the attached closing statement to be in the minor's best interest and the share allocable to the minor to be fair under the circumstances.

It is therefore **ORDERED** and **ADJUDGED**:

1. This settlement of the minor's claim is approved subject to the establishment of an appropriate guardianship in the Probate Division pursuant to § 744.387, Florida Statutes.
2. Pursuant to Administrative Order No. 06-04, as amended by Administrative Order No. 08-05, the settlement proceeds shall be paid into an interest bearing trust account under the control and supervision of plaintiff's counsel who is hereby authorized to disburse to all the plaintiffs, other than the minor plaintiff(s) who are the subject of a guardianship proceeding, the net settlement proceeds which have been apportioned to such persons as well as the approved attorney's fees and cost attributable to the minor's settlement. However, as to any net settlement proceeds which will be used to fund a tax-free structured settlement for the benefit of the minor, upon agreement of the parties, said proceeds may be held by the Defendant pending the funding of the structured settlement.
3. No other disbursements, dispositions and/or management of the net settlement proceeds allocable to the minor shall be made except upon appropriate directives and orders of the Probate Judge.

4. Counsel shall file with the Probate Division Judge a duplicate copy of this order, the closing statement and the Guardian Ad Litem report.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this _____ day of

_____.

Circuit Court Judge