

Rule 62. Court Approval of Settlement of Claims of Persons Under Disability

(a) This rule sets forth procedures by which a court considers requests for approval of the proposed settlement of claims on behalf of a minor or an adult in need of protection pursuant to §15-14-401, et seq., C.R.S. (“respondent”). In connection with a proceeding brought under this rule, the court shall:

- 1) Consider the reasonableness of the proposed settlement and enter appropriate orders as the court finds will serve the best interests of the respondent;
- 2) Ensure that the petitioner and respondent and/or his/her legal guardian/fiduciary understands the finality of the proposed settlement;
- 3) Adjudicate the allowance or disallowance, in whole or in part, of any outstanding liens and claims against settlement funds, including attorney fees; and
- 4) Make protective arrangements for the conservation and use of the net settlement funds, in the best interests of the respondent, taking into account the nature and scope of the proposed settlement, the anticipated duration and nature of the respondent’s disability, the cost of any future medical treatment and care required to treat respondent’s disability, and any other relevant factors, all pursuant to §15-14-101, et seq., C.R.S.

(b) Venue for a petition brought under this rule shall be in accordance with §15-14-108(3), C.R.S.

(c) An interested person seeking a court order approving the proposed settlement of a claim on behalf of a respondent shall petition for approval of any proposed settlement in accordance with the procedures set forth in this rule.

(d) The petition for approval of settlement shall include the following information:

(1) Facts.

- A. The respondent's name and address;
- B. The respondent's date of birth;
- C. If the respondent is a minor, the name and contact information of each legal guardian. If the identity or contact information of any legal guardian is unknown, or if any parental rights have been terminated, the petition shall so state;
- D. The name and contact information of the respondent’s spouse, partner in a civil union, or if the respondent has none, an adult with whom the respondent has resided for more than six months within one year before the filing of the petition;
- E. The name and contact information of any guardian, conservator, custodian, trustee, agent under a power of attorney, or any other court appointed fiduciary for the respondent. A description of the purpose of any court appointed fiduciary shall be included; and

- F. The date and a brief description of the event or transaction giving rise to the claim.

(2) Claims and Liabilities.

- A. The contact information of each party against whom the respondent may have a claim;
- B. The basis for each of the respondent's claims;
- C. The defenses and/or counterclaims if any, to the respondent's claims; and
- D. The name and contact information of each insurance company involved in the claim, the type of policy, the policy limits, and the identity of the insured.

(3) Damages.

- A. A description of the respondent's injuries;
- B. The amount of time missed by the respondent from school or employment and a summary of lost income resulting from the respondent's injuries;
- C. A summary of any damage to respondent's property;
- D. A summary of any expenses incurred for medical or other care provider services as a result of the respondent's injuries; and
- E. The identification of any person, organization, institution, or state or federal agency that paid any of the respondent's expenses and a summary of expenses that have been or will be paid by each particular source.

(4) Medical Status.

- A. A description of respondent's current condition including but not limited to the nature and extent of any disability, disfigurement, or physical or psychological impairments and any current treatments and/or therapies; and
- B. An explanation of respondent's prognosis and any anticipated treatments and/or therapies.

(5) Status of Claims.

- A. For this claim and any other related claim, the status of the claim and if any civil action has been filed, the court, case number, and parties; and
- B. For this claim and any other related claim, identify the amount of the claim and contact information of any party having a subrogation right including any state or federal agency paying or planning to pay benefits to or for the respondent. A list of all subrogation claims and/or liens against the settlement proceeds shall be included as well as a summary of efforts to negotiate them.

(6) Proposed Settlement and Proposed Disposition of Settlement Proceeds.

- A. The name and contact information of any party/entity making and receiving payment under the proposed settlement;

- B. The proposed settlement amount, payment terms, and proposed disposition, including any restrictions on the accessibility of the funds and whether any proceeds will be deposited into a restricted account;
- C. The details of any structured settlement, annuity, insurance policy or trust instrument, including the terms, present value, discount rate, payment structure and the identity of the trustee or entity administering such arrangements;
- D. Legal fees and costs being requested to be paid from the settlement proceeds; and
- E. Whether there is a need for continuing court supervision, the appointment of a fiduciary or the continuation of an existing fiduciary appointment. The court may appoint a conservator, trustee, or other fiduciary to manage the settlement proceeds or make other protective arrangements in the best interests of the respondent.

(7) Exhibits.

- A. The petition shall list each exhibit filed with the petition.
- B. The following exhibits shall be attached to the petition:
 - (i) A written statement by the respondent's physician or other health care provider. The statement shall set forth the information required by subparagraph 4, A and B of this rule and comply with C.R.P.P. 27.1 unless otherwise ordered by the court;
 - (ii) Relevant legal fee agreements, statement of costs and billing records and/or billing summary; and
 - (iii) Any proposed settlement agreements and proposed releases.
- C. The court may continue, vacate, or place conditions on approval of the proposed settlement in response to petitioner's failure to include such exhibits.

(e) Notice of a hearing and a copy of the petition (except as otherwise ordered by the court in any specific case), shall be given in accordance with §15-14-404(1) and (2), C.R.S. and C.R.P.P. 8.

(f) An appearance hearing is required for petitions brought under this rule.

(g) The petitioner, respondent, and any proposed fiduciary shall attend the hearing, unless excused by the court prior to the hearing for good cause.

(h) The court may appoint a guardian ad litem, attorney, or other professional to investigate, report to the court, or represent the respondent.