

FORM - STANDARD COMPROMISE ORDER

At an IAS Part _____ of the Supreme Court of
The State of New York, held in and for the
County of Bronx, at the Courthouse thereof, located
at 851 Grand Concourse, on the ____ day of
_____, 200__.

Present: Hon. Paul A. Victor, J.S.C.

_____ x

Index No. _____
Infants Compromise Order

Plaintiff(s),

-against-

Defendant(s).

_____ x

Upon reading and filing the petition of _____, parent
and natural guardian of the infant herein, duly sworn to the ____ day of _____, 200__;
the affidavit of _____, the infant plaintiff who is over the age of 14,
having been born on _____; the affirmation of _____
_____, attorney(s) for plaintiff(s), dated the ____ day of _____,
200 __; the affirmation of _____, M.D. dated the __ day of
_____, 200 __; and the aforesaid mother and natural guardian, and the infant plaintiff, and
their attorney having appeared before me on the _____ day of _____, 200__; and
upon all of the papers, pleadings and proceedings heretofore had herein; and it appearing that the best
interests of the infant will be served by approval of this settlement;

NOW, on motion of plaintiffs attorneys, it is

1. ORDERED¹, that the aforesaid parent and natural guardian of the infant plaintiff, be and hereby is authorized and empowered to settle the action against the defendant(s) for the sum of _____ (\$ _____) dollars; and it is further ordered that the aforesaid sum shall be apportioned and paid by defendant(s) as follows:

- (A) The sum of \$ _____ shall be paid by the defendant(s) _____ or its/their insurer as hereinafter provided; and
- (B) The sum of \$ _____ shall be paid by the defendant(s) _____ or its/their insurer, as hereinafter provided; and

2. ORDERED that the aforesaid defendant, (identified in 1A above) or its/their insurer pay the aforesaid settlement sum as follows:

- (A) The sum of (\$ _____) to the order of the above named attorneys for the plaintiff as and for attorneys' fees, inclusive of all disbursements and expenditures made on plaintiff's behalf; and
- (B) The sum of (\$ _____) to the order of _____, in full satisfaction of the outstanding lien for services rendered and/or money advanced to said plaintiff; and
- (C) The sum of (\$ _____) to the aforesaid parent and natural guardian of the said infant, jointly with an officer of the _____ Bank, located at _____, said funds to be deposited in said Bank and held therein for the sole use and benefit of said infant, subject to the further order of this Court; and
- (D)² The sum of (\$ _____) to the aforesaid parent and natural guardian of the said infant, jointly with an officer of the _____ Bank, located at _____, said funds to be deposited in said Bank and held therein for the sole use and benefit of said infant, subject to the further order of this Court; and

and it is further

¹ Paragraphs numbered 1, 2 and 3 are designed for settlements where there are two defendants contributing to the settlement. If there are more than, or less than, two defendants, the number of paragraphs and/or sub-paragraphs should be modified to equal the number of contributing defendants. Superfluous paragraphs should be omitted.

² If the total sum to be received by the infant does not exceed the then prevailing Federal Deposit Insurance Corporation limits, paragraphs 2(D), 3 (C) and 3A(D) can be omitted.

(3) ORDERED that the aforesaid defendant(s), (identified in 1B above) or its/their insurer pay the aforesaid settlement sum as follows:

- (A) The sum of (\$ _____) to the order of the above named attorney's for the plaintiff as and for attorneys' fees, inclusive of all disbursements and expenditures made on plaintiff's behalf; and
- (B) The sum of (\$ _____) to the order of _____, in full satisfaction of the outstanding lien for services rendered and/or money advanced to said plaintiff; and
- (C) The sum of (\$ _____) to the aforesaid parent and natural guardian of the said infant, jointly with an officer of the _____ Bank, located at _____, said funds to be deposited in said Bank and held therein for the sole use and benefit of said infant, subject to the further order of this Court; and
- (D) The sum of (\$ _____) to the aforesaid parent and natural guardian of the said infant, jointly with an officer of the _____ Bank, located at _____, said funds to be deposited in said Bank and held therein for the sole use and benefit of said infant, subject to the further order of this Court; and

and it is further

(4) ORDERED, that upon full payment of all of the aforesaid amounts, defendant(s) and its (their) insurer(s) shall have no further liability herein; and it is further

(5) ORDERED, that the funds deposited in (each) said Bank shall be held therein for the sole use and benefit of said infant, subject to the further order of this Court.; and it is further

(6) ORDERED, that (each) said Bank shall place these funds in the highest interest bearing time accounts or certificates of deposit, and said certificates and accounts shall be renewed upon maturity, provided, however, the maturity date of such certificates and accounts or any renewal thereof, shall not extend beyond the date of the infant's eighteenth (18th) birthday; and it is further

(7) ORDERED, that the attorney for the plaintiffs shall serve a copy of this Order upon (each) said Bank and shall arrange for the deposit of said funds as expeditiously as is reasonably possible; and it is further

(8) ORDERED, that within thirty (30) days of the deposit of said funds in the above-designated bank(s) the above guardian shall submit to the Clerk's Office, Room 217, a copy of the certificate of deposit(s) issued by said bank(s); and there shall be no right of withdrawal from any of the aforesaid account(s) and certificates of deposit until the infant plaintiff's eighteenth (18th) birthday, except upon further order of this Court, which said Order shall be certified by the Clerk of this Court; and it is further

(9) ORDERED, that in the event that the balance of the aforesaid account(s) and/or certificates exceeds the then prevailing Federal Department Insurance Corporation limits, the officer-trustee of said Bank and the infant's guardian herein are directed to notify the Court so that a further designation of an individual depository may be made in order to keep the balance of each such account and certificate within federally insured limits; and it is further

(10) ORDERED, that (each) Bank shall pay over all monies held in the aforesaid certificates and accounts to the infant plaintiff herein upon demand and without further Court order when the infant reaches the age of eighteen (18) years upon presentation of proper proof and compliance with the Bank rules of withdrawal; and it is further

(11) ORDERED, that each year (or quarterly as the case may be) during the minority of the infant plaintiff, upon presentation to the above named Bank of a duly executed income tax return or other document showing the amount of income or estimated tax due on behalf of the infant, said Bank shall provide the infant's guardian herein with checks made payable to the Internal Revenue Service and/or State and/or Municipal Taxing Authority to which said income tax is owed by said infant. However, said checks shall be only for such amounts as may be due and payable for that portion of the infant's personal income tax liability attributable to income earned on said accounts [including interest and penalties thereon] as shown on any official bill therefor issued by the taxing authority. Said check and/or checks shall identify the infant and said infant's social security number in order to insure that said amounts are being made for the benefit of the infant; and it is further

(12) ORDERED, that said banks be and hereby are authorized without further order of this court to pay out of the infant's bank accounts, reasonable fees for the preparation of any income tax, return or estimated income tax return or accounting that may be required to be filed by or on the infant's behalf. Said fees shall not exceed \$ _____ without the further order of the Court; and it is further

(13) ORDERED, that in the event of the death of said infant plaintiff on or prior to the 18th birth date of said infant, all of the aforesaid sums described in (each) said Bank shall be paid to the estate of said infant plaintiff, or to the designated beneficiary of said estate in the same amount and in the same manner as hereinbefore set forth; and it is further

(14) ORDERED, that the cause of action for loss of services and/or medical expenses of the guardian be and the same hereby is dismissed without costs and with prejudice; and it is further

(15) ORDERED, that conditioned upon compliance with the terms of this order, the aforesaid parent and natural guardian of the infant plaintiff, be and hereby is authorized and empowered to execute and deliver a general release and all other instruments necessary to effectuate the settlement herein; and it is further

(16) ORDERED, that if it appears that any government agency may attach a lien to the infant's payment, this Order may be amended to allow the creation of a Supplemental Needs Trust for the benefit of the infant and the Supplemental Needs Trust will be substituted as the payee of the payments.

(17) ORDERED, that the filing of a bond be dispensed within accordance with the applicable provisions of the Civil Practice Law and Rules.

Hon. Paul A. Victor, J.S.C