

SAMPLE INFANT'S COMPROMISE ORDER  
WHEN DEPOSITING THE INFANT'S NET  
SETTLEMENT PROCEEDS IN A BANK

*At a Settlement Conference Part of the Supreme Court  
of the State of New York, held in and for the County of  
Westchester located at the Honorable Richard J.  
Daronco Westchester County Courthouse, 111 Dr.  
Martin Luther King, Jr. Boulevard, Courtroom 1600,  
White Plains, New York 10601 on the \_\_\_\_\_ day of  
\_\_\_\_\_, 2019.*

P R E S E N T : HONORABLE JOAN B. LEFKOWITZ  
Justice of the Supreme Court

\_\_\_\_\_  
XX, an infant under/over the age of fourteen (14) years  
by her parent and natural guardian, Jane/John Doe,

Plaintiff(s)/Petitioner(s),

- against -

Index No. 12354/YEAR

Jane Doe and/or John Doe,

\_\_\_\_\_  
Defendant(s)/Respondent(s). X  
LEFKOWITZ, J.S.C.

Upon the reading and filing of the affidavit [and petition] of \_\_\_\_\_, as parent and natural guardian

of XX [infant's initials only pursuant to 22 NYCRR 202.5(e)], an infant, under/over the age of fourteen (14) years<sup>1</sup>,  
sworn to on the \_\_\_ day of \_\_\_\_\_, 20\_\_ ; the affirmation of \_\_\_\_\_, Esq., of the firm of  
\_\_\_\_\_, attorney for the plaintiff(s)/petitioner(s) herein dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ ; the affirmation of  
\_\_\_\_\_, M.D., dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ ; the exhibits annexed hereto; the  
plaintiff(s)/petitioner(s), infant XX, and counsel for plaintiff(s)/petitioner(s) appearing before this Court on the \_\_\_ day  
of \_\_\_\_\_, 20\_\_, and upon all the pleadings and proceedings heretofore had herein; and it appearing that the best  
interests of the infant will be served by the settlement of the infant's action [or claims, if no action commenced], it is

N O W on motion of \_\_\_\_\_, Esq., of the firm of \_\_\_\_\_, attorney for the  
plaintiff(s)/petitioner(s) herein for court approval of the settlement of infant's action [or claims], it is

ORDERED *that*, \_\_\_\_\_, as parent and natural guardian of XX, an infant under/over the age of

\_\_\_\_\_  
<sup>1</sup> 22 NYCRR 202.5(e) requires the redaction of confidential personal information, including an infant's full name and birth date. Infant's initials and birth year are permitted. If the infant is fourteen (14) years or older, a consent/affidavit from such infant must be filed with the Court.

fourteen (14) years, is hereby authorized and empowered to enter into a compromise of settlement of the infant's claim against defendant(s) \_\_\_\_\_ in the amount of [INSERT THE GROSS AMOUNT OF THE SETTLEMENT and XX/100] (\$ \_\_\_\_\_ .XX) dollars; and it is further

ORDERED that the total sum of [INSERT THE GROSS AMOUNT OF THE SETTLEMENT and XX/100] (\$ \_\_\_\_\_ .XX) shall be paid by defendant(s)/respondent(s) and/or their insurer(s) within the time period set forth in CPLR 5003-a as set forth herein; and it is further

ORDERED *that*, the sum of [INSERT THE AMOUNT OF LEGAL FEES AND DISBURSEMENTS YOU ARE SEEKING and XX/100] (\$ \_\_\_\_\_ .XX ) dollars shall be paid to \_\_\_\_\_ , as attorney for the plaintiff(s)/petitioner(s) herein as and for its fees inclusive of disbursements by defendant(s)/respondent(s) and/or their insurer(s); and it is further

ORDERED *that*, the sum of [INSERT THE AMOUNT OF ANY MEDICAID OR MEDICAL EXPENSE LIEN and XX/100] (\$ \_\_\_\_\_ .XX) dollars shall be paid to the New York State Department of Health [or other lien holder], as and for the full and final payment of the New York State Medicaid lien [or lien] for expenditures made on behalf of the infant; and it is further

ORDERED *that*, the balance thereof, in the sum of [INSERT THE NET AMOUNT OF THE SETTLEMENT PROCEEDS TO BE DEPOSITED] shall be paid by defendant(s)/respondent(s) and/or their insurer(s) to \_\_\_\_\_ , as parent and natural guardian of XX , an infant under/over the age of fourteen (14) years jointly with an officer of [INSERT THE NAME OF THE NEW YORK BANK] located at [INSERT THE ADDRESS OF THE BANK], to be held for the sole use and benefit of said infant, to be deposited in said bank in an insured high-yield, interest-bearing bank account in the name of said guardian jointly with an officer of the bank; and it is further

ORDERED *that*, no withdrawals shall be made from said account before the infant reaches the age of eighteen (18) years, except by further order of this Court; and it is further

ORDERED *that*, the date of the maturity of the account shall not be extended beyond the infant's eighteenth (18<sup>th</sup>) birthday, and shall be continuously renewed, and when no such account is available due to the infant's age, the accumulated funds shall then be placed in an insured, savings, interest-bearing account to be held until the infant reaches the age of eighteen (18) years and makes a demand for the monies; and it is further

ORDERED *that*, when the infant reaches the age of eighteen(18) years of age, the said depository is directed to pay over, without further order of this Court or any other proceedings, to said infant, upon demand and prior proof of age and identification, all of the monies in the aforesaid account; and it is further

ORDERED *that*, in the event that the amount on deposit exceeds the then prevailing Federal Deposit Insurance limits, the officer-trustee of said bank and the infant's guardian(s) herein are directed to notify the Court so that a further designation of an additional depository may be made in order to keep the amount within federally insured limits; and it is further

ORDERED *that*, the attorney for plaintiff(s)/petitioner(s) shall serve a copy of this order upon said Bank and shall arrange for the deposit of said funds as expeditiously as is reasonably possible; and it is further

ORDERED *that*, within thirty (30) days of the deposit of said funds in the above-designated bank, a copy of proof of the deposit shall be filed with the Court with all confidential personal information redacted, including the infant's full name and the account number, except for the last four digits; and it is further

ORDERED *that*, [if an action has been commenced] the cause of action for loss of services and/or medical expenses of the parent and natural guardian \_\_\_\_\_, the same having been waived, is discontinued with prejudice and without costs; and it is further

[OR if no action has been commenced] the claim for loss of services and/or medical expenses of the parent and natural guardian \_\_\_\_\_ has been waived; and it is further

ORDERED *that*, conditioned upon compliance with the terms of this order, the parent and natural guardian of said infant is authorized and empowered to execute and deliver general releases and all other instruments necessary to effectuate the settlement herein; and it is further

[If infant is a person with severe and chronic or persistent disabilities as defined in EPTL § 7-1.12 add the following language if a Supplemental Needs Trust has not been established for infant:

ORDERED *that*, if it appears that any government agency (i.e. Department of Social Services) may attach a lien to the infant's payments, 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 payee of the payments upon further order of this Court; and it is further]

ORDERED *that*, the filing of a bond be dispensed with.

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HONORABLE JOAN B. LEFKOWITZ  
Justice of the Supreme Court