

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. : EMAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	CASE NUMBER:
PETITION FOR APPROVAL OF COMPROMISE OF CLAIM OR ACTION OR DISPOSITION OF PROCEEDS OF JUDGMENT FOR MINOR OR PERSON WITH A DISABILITY	HEARING DATE: DEPT.: TIME:
NOTICE TO PETITIONER Except as noted below, you must use this form to request court approval of (1) the compromise of a minor's disputed claim, (2) the compromise or settlement of a pending action or proceeding to which a minor or a person with a disability (including a conservatee) is a party, or (3) the disposition of the proceeds of a judgment awarded to a minor or a person with a disability. (See Code Civ. Proc., § 372; Prob. Code, §§ 3500, 3600–3613.) Both you and the minor or person with a disability must attend the hearing on this petition unless the court dispenses with a personal appearance. The court may require the presence and testimony of witnesses, including the attending or examining physician, and the presentation of other evidence relating to the claim and the nature and extent of the injury, care, treatment, and hospitalization. The court has authority to consider a request for expedited approval without a hearing of the compromise of certain claims or actions or the disposition of the proceeds of certain judgments. To determine whether your claim, action, or judgment qualifies, see Cal. Rules of Court, rule 7.950.5. If you want to request expedited consideration, you must use form MC-350EX.	

1. **Petitioner (name or pseudonym*):**
 is the (check all boxes that apply): Parent Guardian ad litem* Guardian Conservator
 Other (specify relationship): _____
 of the claimant identified in item 2. (*Petitioner may appear under a pseudonym only if appointed as guardian ad litem under that pseudonym. (See Code Civ. Proc., § 372.5.))
2. **Claimant (name):**
 - a. Address: _____
 - b. Date of birth: _____ c. Age: _____ d. Minor or Person with a disability
 (If the claimant is an adult with a disability who (1) has capacity to consent to the order requested and (2) does not have a conservator of the estate, check e. and f. and ensure that the claimant personally reads and signs item 21. (Prob. Code, § 3613.))
 - e. Has the capacity, within the meaning of Probate Code section 812, to consent to the requested order or judgment.
 - f. Does not have a conservator of the estate.
3. **Claim** The claim of the minor or adult person with a disability (check one):
 - a. Is not the subject of a pending action or proceeding. (Complete items 4–23.)
 - b. Is the subject of a pending action or proceeding that will be compromised or settled without a trial. (Complete items 4–23.)
 Name of court: _____
 Case no.: _____ Trial date: _____
 - c. Is the subject of an action or proceeding in which a judgment has been or will be entered for the claimant against the defendants named below in the amount (excluding interest and costs) of (specify total): \$ _____.
 Defendants (names): _____

Additional defendants listed on Attachment 3.
 The judgment was filed on (date): _____
 (Attach a copy of the (proposed) judgment as Attachment 3c and complete items 12–23.)

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4. **Incident or accident** The incident or accident occurred as follows:

- a. Date: _____ Time: _____
 b. Place:
 c. Persons involved (*names*):

Continued on Attachment 4.

5. **Nature of incident or accident**

The facts, events, and circumstances of the incident or accident are (*describe what happened*):

Continued on Attachment 5.

6. **Injuries**

The following injuries were sustained by the claimant as a result of the incident or accident (*describe*):

Continued on Attachment 6.

7. **Treatment**

The claimant received the following care and treatment for the injuries described in item 6 (*describe*):

Continued on Attachment 7.

8. **Extent of injuries and recovery** (*An original or a photocopy of any doctor's report containing a diagnosis of the claimant's injuries or a prognosis for the claimant's recovery, and a report of the claimant's current condition, must be attached to this petition as Attachment 8. A new report is not necessary if a previous report accurately describes the claimant's current condition.*)

- a. The claimant has recovered completely from the effects of the injuries described in item 6, and there are no permanent injuries.
 b. The claimant has not recovered completely from the effects of the injuries described in item 6, and the following injuries from which the claimant has not recovered are temporary (*describe the remaining injuries and symptoms*):

Continued on Attachment 8b.

- c. The claimant has not recovered completely from the effects of the injuries described in item 6, and the following injuries from which the claimant has not recovered are permanent (*describe the permanent injuries and symptoms*):

Continued on Attachment 8c.

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9. **Petitioner has made a careful and diligent inquiry and investigation into the facts and circumstances of the incident or accident in which the claimant was injured; the responsibility for the incident or accident; and the nature, extent, and seriousness of the claimant's injuries. Petitioner understands that if the compromise proposed in this petition is approved by the court and consummated, the claimant will never be able to recover any more compensation from the settling defendants named below even if the claimant's injuries turn out to be more serious than they now appear.**

10. Amount and terms of settlement

To settle the claim in 3a or 3b, the defendants named below have offered to pay the following amounts to the claimant:

- a. The total amount offered by all defendants named below is *(specify)*: \$
- b. The defendants and amounts offered by each are as follows *(specify)*:

<u>Defendants (names)</u>	<u>Amounts</u>
	\$
	\$
	\$
	\$

Defendants and amounts offered continued on Attachment 10b.

- c. The terms of settlement are as follows. *(If the settlement is to be paid in installments, both the total amount and the present value of the settlement must be included.)*

Continued on Attachment 10c.

11. Settlement payments to others

- a. No defendant named in item 10b has offered to pay money to any person or persons other than the claimant to settle claims arising out of the same incident or accident that resulted in the claimant's injury.
- b. To settle claims arising out of the same incident or accident that resulted in the claimant's injury, one or more defendants named in item 10b have also offered to pay money to a person or persons other than claimant.

(1) The total amount offered by all defendants to others is *(specify)*: \$

(2) Petitioner does not have has a claim against the recovery of the claimant (other than for reimbursement of fees or expenses paid by petitioner and listed under item 14).
(If you answered "has," explain in Attachment 11b(2) the circumstances and the effect your claim has on the proposed compromise of the claim described in this petition.)

(3) Petitioner is not is a plaintiff in the same action with the claimant.
(If you answered "is," explain in Attachment 11b(3) the circumstances and the effect your claim and its disposition has on the proposed compromise of the claim or action described in this petition.)

(4) Petitioner would receive money under the proposed settlement.

(5) The settlement payments are to be apportioned and distributed as follows:

<u>Other plaintiffs or claimants (names)</u>	<u>Amounts</u>
	\$
	\$
	\$
	\$

Additional plaintiffs or claimants and amounts are listed on Attachment 11b(5).

- (6) Reasons for the apportionment of the settlement payments between the claimant and each other plaintiff or claimant named above are specified in Attachment 11b(6).

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12. The claimant's medical expenses—including medical expenses paid by petitioner, Medicare, Medi-Cal, and private insurers—to be paid or reimbursed from proceeds of settlement or judgment

a. Totals

- | | | |
|---|-----|---|
| (1) Total medical expenses before any reductions: | \$ | |
| (2) Total medical expenses paid (include payments by private insurance, Medi-Cal, or Medicare): | (\$ |) |
| (3) Total of negotiated, contractual, or statutory reductions, if any: | (\$ |) |
| (4) Total medical expenses to be paid or reimbursed from the proceeds: | \$ | |
| (5) Total amount of statutory or contractual liens, if any: | \$ | |

b. Medical expenses were paid and are to be reimbursed from the proceeds as follows:

- (1) Paid by petitioner in the amount of: \$ _____
- (2) Paid by private health insurance or a self-funded plan under:
- (a) An Employee Retirement Income Security Act (ERISA) insured plan.
- (b) An ERISA self-funded plan.
- (c) A Non-ERISA insured plan.
- (d) A Non-ERISA self-funded plan.
- (e) Amount paid by plan: \$ _____
- (f) Amount of reimbursement to the plan from the proceeds of the settlement or judgment:
- (i) No reimbursement is requested by the plan.
- (ii) Reimbursement is to be made to the plan, and:
- (A) There is a contractual reduction of: (\$ _____),
- (B) There is a negotiated reduction of: (\$ _____),
- (C) No reduction has been agreed to,
- for a **total reimbursement** to the plan, in full satisfaction of its lien rights, in the amount of: \$ _____
- (3) Paid by Medicare in the amount of: \$ _____
- less the statutory reduction in the amount of: (\$ _____)
- for a **total reimbursement** to Medicare in the amount of: \$ _____
- (Attach a copy of the final Medicare demand letter or letter agreement as Attachment 12b(3).)*
- (4) Paid by Medi-Cal in the amount of: \$ _____
- (a) Notice of this claim or action has been given to the Director of Health Care Services. (Welf. & Inst. Code, § 14124.73.) A copy of the notice and proof of delivery: _____ is attached _____ was filed in this case on *(date)*: _____.
- (b) Notice of this claim or action has **not** been given to the Director of Health Care Services. *(Explain why notice has not been given in Attachment 12b(4)(b).)*
- (c) In full satisfaction of its lien rights, Medi-Cal has agreed to accept **reimbursement** in the amount of: \$ _____
- (Attach a copy of the final Medi-Cal demand letter or letter agreement as Attachment 12b(4)(c).)*
- (d) Petitioner is entitled to a reduction of the Medi-Cal lien under Welfare and Institutions Code section 14124.76 and *(check one)*:
- (i) Is filing a motion seeking a reduction of the lien concurrently with this petition.
- (ii) Requests that the court reserve jurisdiction over this issue.
- The amount of the lien in dispute is: \$ _____
- (5) (a) (i) There are no statutory or contractual liens for payment of claimant's medical expenses.
- (ii) There are one or more statutory or contractual liens of medical service providers for payment of claimant's medical expenses. The total amount claimed under these liens is: \$ _____
- In full satisfaction of their lien claims, the lienholders have agreed to accept the sum of: \$ _____
- (Provide requested information for each lienholder and other specified medical service providers on next page.)*

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12. Claimant's medical expenses (continued)

b. (5) (b) The name of each medical service provider that furnished care and treatment to claimant and (1) has a lien for all or any part of the charges or (2) was paid (or will be paid from the proceeds) by petitioner, for which payment petitioner requests reimbursement; the amounts charged and paid; the amount of negotiated reductions of charges, if any; and the amount to be paid from the proceeds of the settlement or judgment to each provider are as follows:

- (i) (A) Provider (*name*):
- (B) Address:

- (C) Amount charged: \$ _____
- (D) Amount paid (whether or not by insurance): (\$ _____)
- (E) Negotiated reduction, if any: (\$ _____)
- (F) Amount to be paid from proceeds of settlement or judgment: \$ _____

- (ii) (A) Provider (*name*):
- (B) Address:

- (C) Amount charged: \$ _____
- (D) Amount paid (whether or not by insurance): (\$ _____)
- (E) Negotiated reduction, if any: (\$ _____)
- (F) Amount to be paid from proceeds of settlement or judgment: \$ _____

- (iii) (A) Provider (*name*):
- (B) Address:

- (C) Amount charged: \$ _____
- (D) Amount paid (whether or not by insurance): (\$ _____)
- (E) Negotiated reduction, if any: (\$ _____)
- (F) Amount to be paid from proceeds of settlement or judgment: \$ _____

Continued on Attachment 12b(5). (*Provide information about additional providers in the above format, including providers paid or to be paid by petitioner, for which payment reimbursement is requested in item 12b(1), above. You may use form MC-350(A-12b(5)) for this purpose.*)

13. Claimant's attorney's fees and all other expenses (except for medical expenses), including expenses advanced by claimant's attorney or paid or incurred by petitioner, to be reimbursed from proceeds of settlement or judgment

a. Total amount of attorney's fees for which court approval is requested: \$ _____
(*If fees are requested, attach as Attachment 13a a declaration from the attorney explaining the basis for the request, including a discussion of applicable factors listed in rule 7.955(b) of the Cal. Rules of Court. Respond to item 17a(2) on page 7 and attach a copy of any written attorney fee agreement as Attachment 17a.*)

b. The following additional items of expense (other than medical expenses) have been incurred or paid, are reasonable, resulted from the incident or accident, and should be paid out of claimant's share of the proceeds of the settlement or judgment:

<u>Items</u>	<u>Payees (names)</u>	<u>Amounts</u>
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____
Total:		\$ _____

Continued on Attachment 13b.

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14. Reimbursement of fees and expenses paid by petitioner

- a. Petitioner has paid none of the fees or expenses listed in items 12 and 13 for which reimbursement is requested.
 - b. Petitioner has paid (or become obligated to pay) the following total amounts of the claimant's fees and expenses for which reimbursement is requested.
 - (1) Medical expenses listed in item 12: \$
 - (2) Attorney's fees included in the total fee amount shown in item 13a: \$
 - (3) Other expenses included in the total shown in item 13b: \$
- Total:** \$ _____

(Attach proofs of the fees and expenses incurred and the payments made or obligations to pay incurred, e.g., bills or invoices, canceled checks, credit card statements, explanations of benefits from insurers, etc.)

15. Net balance of proceeds for the claimant

The balance of the proceeds of the proposed settlement or judgment remaining for the claimant after payment of all requested fees and expenses is: \$ _____

16. Summary

- a. Gross amount of proceeds of settlement or judgment: \$
- b. Medical expenses to be paid from proceeds of settlement or judgment: \$
- c. Attorney's fees to be paid from proceeds of settlement or judgment: \$
- d. Expenses (other than medical) to be paid from proceeds of settlement or judgment: \$
- e. Total fees and expenses to be paid from proceeds of settlement or judgment *(add (b), (c), and (d))*: (\$ _____)
- f. Balance of proceeds of settlement or judgment available for claimant after payment of all fees and expenses *(subtract (e) from (a))*: \$ _____

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17. Information about attorney representing or assisting petitioner

- a. (1) Petitioner has not been represented or assisted by an attorney in preparing this petition or in any other way with respect to the claim asserted. *(Skip the rest of item 17 and go to item 18.)*
- (2) Petitioner has been represented or assisted by an attorney in preparing this petition or with respect to the claim asserted. Petitioner and the attorney do not do have an agreement for services provided in connection with the claim giving rise to this petition.
(If you answered "do," attach a copy of the agreement as Attachment 17a, and complete items 17b–17f.)

b. The attorney who has represented or assisted petitioner is *(name)*:

- (1) State Bar number:
(2) Law firm:
(3) Address:

(4) Telephone number: (5) Email:

c. The attorney has not has received attorney's fees or other compensation in addition to that requested in this petition for services provided in connection with the claim giving rise to this petition. *(If you answered "has," identify the person who paid the fees or other compensation, the amounts paid, and the dates of payment):*

<u>From whom (names)</u>	<u>Amounts</u>	<u>Dates</u>
	\$	
	\$	
	\$	
	\$	
	\$	

Continued on Attachment 17c.

d. The attorney did not did become concerned with this matter, directly or indirectly, at the instance of a party against whom the claim is asserted or a party's insurance carrier. *(If you answered "did," explain the circumstances in Attachment 17d.)*

e. The attorney is not is representing or employed by any other party or any insurance carrier involved in the matter. *(If you answered "is," identify the party or carrier and explain the relationship in Attachment 17e.)*

f. The attorney does not does expect to receive attorney's fees or other compensation in addition to that requested in this petition for services provided in connection with the claim giving rise to this petition. *(If you answered "does," identify the person who will pay the fees or other compensation, the amounts to be paid, and the expected dates of payment):*

<u>From whom (names)</u>	<u>Amounts</u>	<u>Expected dates</u>
	\$	
	\$	
	\$	
	\$	
	\$	

Continued on Attachment 17f.

CASE NAME:

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18. **Disposition of balance for claimant** (check either a or b, then check each option requested and enter amount(s)):

- a. There **is** a guardianship of the estate of the minor or a conservatorship of the estate of the adult person with a disability filed in (name of court):
Case no.:
- (1) Petitioner requests that \$ _____ of the proceeds in money or other property be paid or delivered to the guardian or the conservator of the estate. The money or other property is specified in Attachment 18a(1).
- (2) Petitioner is the guardian or conservator of the estate of the minor or the adult person with a disability. Petitioner requests authority to deposit or invest \$ _____ of the money or other property to be paid or delivered under 18a(1) in insured accounts in one or more financial institutions in this state or with a trust company, subject to withdrawal only on authorization of the court. The money or other property and the name, branch, and address of each financial institution or trust company are specified in Attachment 18a(2).
- (3) Petitioner proposes that all or a portion of the proceeds **not** become part of the guardianship or conservatorship estate. Petitioner requests authority to deposit or transfer these proceeds as follows (check all that apply):
- (a) \$ _____ to be deposited in insured accounts in one or more financial institutions in this state, subject to withdrawal only on authorization of the court. The name, branch, and address of each depository are specified in Attachment 18a(3)(a).
- (b) \$ _____ to be invested in a single-premium deferred annuity, subject to withdrawal only on authorization of the court. The terms and conditions of the annuity are specified in Attachment 18a(3)(b).
- (c) \$ _____ to be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act. The name and address of the proposed custodian and the property to be transferred are specified in Attachment 18a(3)(c).
- (d) \$ _____ to be transferred to the trustee of a trust that is either created by or approved in the order approving the settlement or judgment for the minor. This trust is revocable when the minor reaches 18 years of age and contains all other terms and conditions determined to be necessary by the court to protect the minor's interests. The terms of the proposed trust and the property to be transferred are specified in Attachment 18a(3)(d).
 A copy of the (proposed) judgment is attached as Attachment 3c.
- (e) \$ _____ to be transferred to the trustee of a special needs trust under Probate Code section 3604 for the benefit of the minor or the adult person with a disability. The terms of the proposed special needs trust and the property to be transferred are specified in Attachment 18a(3)(e).
- b. There is **no** guardianship or conservatorship of the estate of the claimant. Petitioner requests that the court order the disposition of the balance of the proceeds of the settlement or judgment as follows (check each option requested):
- (1) A guardian of the estate of the minor or a conservator of the estate of the adult person with a disability be appointed and \$ _____ of money or other property be paid or delivered to the person so appointed. The money or other property are specified in Attachment 18b(1).
- (2) \$ _____ be deposited in insured accounts in one or more financial institutions in this state, subject to withdrawal only on authorization of the court. The name, branch, and address of each depository are specified in Attachment 18b(2).
- (3) \$ _____ be invested in a single-premium deferred annuity, subject to withdrawal only on authorization of the court. The terms and conditions of the annuity are specified in Attachment 18b(3).
- (4) \$ _____ be paid or transferred to the trustee of a special needs trust established under Probate Code section 3604 for the benefit of the minor or the adult person with a disability. The terms of the proposed special needs trust and the money or other property to be paid or transferred are specified in Attachment 18b(4).
- (5) \$ _____ be paid or delivered to a parent of the minor, without bond, on the terms and under the conditions specified in Probate Code sections 3401–3402. The name and address of the parent and the money or other property to be delivered are specified in Attachment 18b(5). (Value of minor's entire estate, including the money or property to be delivered, must not exceed \$5,000.)
- (6) \$ _____ be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act. The name and address of the proposed custodian and the money or other property to be transferred are specified in Attachment 18b(6).

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18. Disposition of balance of proceeds of settlement or judgment (continued)

- b. There is **no** guardianship or conservatorship of the estate of the claimant. Petitioner requests that the court order the disposition of the balance of the proceeds of the settlement or judgment as follows (*check each option requested*):
- (7) \$ _____ be transferred to the trustee of a trust that is either created by or approved in the order approving the settlement or judgment for the minor. This trust is revocable when the minor reaches 18 years of age, and contains all other terms and conditions determined to be necessary by the court to protect the minor's interests. The terms of the proposed trust and the money or other property to be transferred are specified in Attachment 18b(7).
 A copy of the (proposed) judgment is attached as Attachment 3c.
- (8) \$ _____ of money be held on any conditions the court determines are in the best interest of the minor or the adult person with a disability. The proposed conditions are specified on Attachment 18b(8). (*Amount must not exceed \$20,000.*)
- (9) \$ _____ of property other than money be held on the conditions that the court determines to be in the best interest of the minor or adult person with a disability. The proposed conditions and the property are specified in Attachment 18b(9).
- (10) \$ _____ be deposited with the county treasurer of the County of (*name*): _____
The deposit is authorized under and subject to the conditions specified in Probate Code section 3611(h).
- (11) \$ _____ be paid or delivered to the adult person with a disability. The money or other property is specified in Attachment 18b(11).

19. **Statutory liens for special needs trust**

Petitioner requests an order for payment of funds to a special needs trust (*explain how statutory liens under Probate Code section 3604, if any, will be satisfied*):

Continued on Attachment 19.

20. **Additional orders**

Petitioner requests the following additional orders (*specify and explain*):

Continued on Attachment 20.

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21. I, the claimant named in item 2, consent to the order or judgment requested in this petition.
(Required if the claimant is an adult with a disability who has the capacity, under Probate Code section 812, to consent to the order or judgment and does not have a conservator of the estate. (See Prob. Code, § 3613.))

Date: _____

_____  _____

(TYPE OR PRINT NAME OF CLAIMANT) (SIGNATURE OF CLAIMANT)

22. Petitioner recommends approval of the proposed compromise, settlement, or disposition of judgment proceeds to the court as fair, reasonable, and in the best interest of the claimant. Petitioner requests that the court approve this compromise, settlement, or disposition and make any other orders that are just and reasonable.

23. Number of pages attached: _____

Date: _____

_____  _____

(TYPE OR PRINT NAME OF ATTORNEY) (SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing information on this form and all attachments is true and correct.

Date: _____

_____  _____

(TYPE OR PRINT NAME OF PETITIONER) (SIGNATURE OF PETITIONER)

**PETITION FOR APPROVAL OF COMPROMISE OF CLAIM
OR ACTION OR DISPOSITION OF PROCEEDS OF
JUDGMENT FOR MINOR OR PERSON WITH A DISABILITY**

