

STATE OF MICHIGAN  
BERRIEN COUNTY TRIAL COURT  
811 Port Street, St. Joseph, Michigan 49085 Telephone 269-983-7111

**POLICY ON SETTLEMENTS/VERDICTS INVOLVING  
MINORS/INCAPACITATED ADULTS**

This policy applies when a minor or incapacitated adult claims, or is proposed as a recipient of, money, including deferred payments such as a structured settlement, from an injury, wrongful death or otherwise, including a settlement or verdict in a civil action pending in the Berrien County Trial Court Civil Division. The Trial Court has adopted this policy because such a settlement/verdict may implicate hearings, rulings and orders in both the Civil and Family Divisions. This policy will avoid multiple hearings in the Civil and Family Divisions, and will allow the Family Division staff to set up measures for funding and monitoring of the conservatorship established in the Family Division for the minor/incapacitated adult.

**THIS POLICY DOES NOT APPLY WHEN THERE IS NO MINOR/INCAPACITATED ADULT MAKING A CLAIM, OR BEING PROPOSED AS A RECIPIENT OF, MONEY FROM THE SETTLEMENT/JUDGMENT IN THE CIVIL DIVISION, EVEN IF A FAMILY DIVISION DECEDENT'S ESTATE IS INVOLVED OR WHEN THE FIDUCIARY FOR THE MINOR/INCAPACITATED ADULT IS SUPERVISED BY A COURT OTHER THAN THE BERRIEN COUNTY TRIAL COURT FAMILY DIVISION.**

1. Regardless of whether an action is pending in the Civil Division, when the minor or incapacitated adult claims, or is proposed as a recipient of, money from a proposed settlement of a claim arising out of an injury, wrongful death, bequest or otherwise, the assigned Family Division Judge shall establish and monitor the conservatorship for the minor/incapacitated adult. MCL 700.5423(2)(u) notwithstanding, the proposed settlement shall be submitted for approval by the assigned Family Division Judge under MCR 2.420, MCL 600.2922(6), MCL 700.3924 as provided in MCL 600.2922(9) or otherwise as provided by statute, court rule or ordered by the assigned Family Division Judge. If the conservatorship is not already established, the assigned Family Division Judge shall hold the hearings for the commencement of the conservatorship proceedings and for the approval of the settlement concurrently. A hearing for the approval of the settlement should be held within 28 days of reaching the proposed settlement. The parties shall obtain a hearing date in accordance with the Family Division procedure. If the proposed net distribution to the minor/incapacitated adult is less than \$5000, the petitioner may request a waiver or suspension of the filing fee for the commencement of the Family Division

proceeding. The Family Division Judge approving a settlement and distribution with a net distribution of less than \$2,000.00 to or on behalf of the minor/incapacitated adult may authorize that distribution be made under MCL 700.5102. If an action is pending in the Civil Division, the parties shall serve a copy of the order pertaining to the settlement and distribution on the Assignment Clerk for the assigned Civil Division Judge within 7 days after the entry of the order, and an order approving a settlement and distribution shall comply with MCR 2.602(A)(3). Within 56 days after the entry of an order approving a settlement and distribution, the parties shall file with the Family Division the documents concluding the distribution. If an action pending in the Civil Division goes to a verdict resulting in an award of money to the minor/incapacitated person, thereafter, the assigned Family Division Judge shall establish and monitor the conservatorship for the minor/incapacitated adult.

2. A guardian ad litem shall be appointed for the minor/incapacitated adult in any action pending in the Civil Division where the minor's/incapacitated adult's interest is potentially adverse to, or in conflict or shared with, the minor's/incapacitated adult's next friend, guardian or conservator. See MCR 2.420 and MCL 600.2922(6)(c).

3. A Judge shall have discretion to appoint a competent and responsible non-professional volunteer nominated by a party as a conservator, guardian, guardian ad litem or next friend.

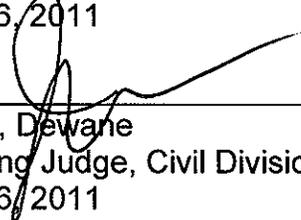
This policy shall become effective on June 20, 2011.

I so order.

  
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Alfred M. Butzbaugh  
Chief Judge  
June 16, 2011

I concur.

  
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Thomas E. Nelson  
Presiding Judge, Family Division  
June 16, 2011

  
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John E. Dewane  
Presiding Judge, Civil Division  
June 16, 2011