

# PROBATE COURT, CITY AND COUNTY OF DENVER, COLORADO

---

## PERSONAL INJURY SETTLEMENT PACKET FOR LAWYERS

---

The Denver Probate Court has created this packet to assist lawyers representing clients who are requesting the Court's approval of a personal injury settlement for a minor or incapacitated person. This packet is intended to guide attorneys through the process to prevent improper or incomplete pleadings, as well as to ensure that parents, guardians, and/or conservators are aware of the continuing responsibilities after settlement of a personal injury claim. Colorado law requires this Court to hold all litigants and fiduciaries to the same standards; lack of knowledge of the law is not a defense to a charge of breach of fiduciary duty.

The explanations and directions in this packet are not exhaustive. Some situations require special proceedings or pleadings, in which case the Court will ask you and your client to comply with the additional requirements. Court staff cannot give you legal advice.

**Court staff cannot help you complete the forms** for two reasons. First, staff must remain impartial and cannot assist one party to a court proceeding. Second, the staff does not have the time to assist litigants; in 2000 alone the Probate Court opened nearly 3000 new cases.

The filing fee for a petition for settlement of a personal injury claim under \$10,000 is \$40.00 for a settlement of a personal injury claim for \$10,000 or more is \$136.00.

The Court does not accept multiple copies of filings. **Do not send or submit more than one copy of your pleadings.**

This packet is divided into eight sections:

- Definitions of important legal terms. (page 2).
- Instructions for completing and filing the forms. (page 3).
- Instructions for setting the matter for hearing (page 10).
- Obtaining Court approval of a petition (page 12).
- C.R.P.P. Rule 16 (page 14).
- C.R.S. §§15-14-404 and 15-14-114 notice requirements (page 16).
- Guidelines for petitions to withdraw funds (page 17).
- The forms.

2006 3/16/03 →

## DEFINITIONS

- *Acceptance of appointment.* A pleading signed by the nominated conservator indicating his or her agreement to serve as conservator, to act as a fiduciary for the protected person, and to abide by the Orders of the Court.
- *Affidavit of personal service.* A document that identifies the process server and states what papers he or she served, upon whom he or she served them, and where and when he or she served them. The process server must then sign this document and have his or her signature notarized. See Form 7P.
- *Affidavit of publication.* A document prepared by the newspaper that published notice indicating what notice it published on what dates.
- *Certificate of service.* A document, signed by the individual who prepared and gave notice of the hearing, which identifies the documents mailed, and when and to whom they were mailed. See Form 7.
- *Conservator.* A person appointed by the Court to manage the financial affairs for a protected person. Conservators owe duties of loyalty and care and are liable to the protected person for breaches of that duty. Conservators are also subject, at all times, to Orders of the Court with regard to the protected person.
- *Demand for notice.* A pleading filed by an interested person demanding that the petitioner send copies of all pleadings in the case to that interested person.
- *Division clerk.* Assistant to the Judge or Magistrate.
- *Docket.* The hearing schedule for the Judge or Magistrate.
- *Fiduciary.* A person in a position of trust who owes fiduciary duties of loyalty and care to another person or persons. A conservator is a fiduciary.
- *Incapacitated Person.* A person who lacks sufficient capacity to make responsible decisions concerning his person due to mental illness or deficiency, physical illness or deficiency, chronic drug or alcohol abuse, or other cause except minority.
- *Interested persons.* A class of persons including heirs, devisees, children and spouse of the protected person, anyone having a claim against the estate of the protected person which may be affected by the proceeding, and any current guardians or conservators of the protected person.
- *Letters.* Court certified documents that indicate the Court has appointed a person to serve as conservator. Many doctors, schools, and other institutions will require Letters as proof of the conservator's capacity to act for the protected person.
- *Notary.* A person licensed by the State of Colorado to witness signatures.
- *Notice by publication.* Publication of notice of the hearing in a newspaper of general circulation in Denver County for three successive weeks. See Forms 5 and 6.
- *Notice of hearing.* A document given to interested parties identifying your petition and the date, time, and location of the hearing. See Form 2.

- *Personal service.* Notice to the respondent by a process server. The process server must, after physically handing the papers to the respondent, create an affidavit of personal service.
- *Petition.* A document filed with the court which identifies all the interested parties, states the relevant facts, and requests certain action from the court.
- *Petitioner.* This is the person who has filed a petition with the court.
- *Proof of service.* The combination of one or more of the following, depending on the type(s) of notice given: (1) affidavit of personal service, (2) certificate of mailing, (3) affidavit of publication, (4) waiver of notice. The petitioner must file proof of service at least 48 hours before the hearing.
- *Protected person.* A person who lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her financial affairs.
- *Respondent.* This is the name given to the protected person or minor before the Court appoints a fiduciary.
- *Service by mail.* Notice to an interested party made by mailing a copy of your petition and notice of hearing to the interested party by ordinary first-class mail.
- *Setting a hearing.* The division clerk will set a date, time, and location for your hearing and mark your hearing on the docket.
- *Waiver of notice.* A document signed by an interested person indicating that person does not desire to be notified of the hearing. See Form 8.
- *Ward.* A person for whom a guardian has been appointed.

### COMPLETING AND FILING THE FORMS

There is currently no form approved by the Colorado Supreme Court for petitioning the Court for settlement of a personal injury claim. A petition to settle a personal injury claim must include all the required information, as outlined in C.R.P.P. 16 and should follow a format such as is suggested in the attached form DPC-PI. In addition, you must give proper notice of the hearing on your petition by completing CPC Forms 2, 2-R, 5, 6 and/or 8.

You may copy any form in this packet for non-commercial use, or you may submit forms that have been recreated, so long as they provide all of the information required under Rule 16, including attachments.

**NOTE:** *The Matter of the Estate of Jasmine Simmons*, 98 PR 2018, is an example of a properly completed Petition to Settle Personal Injury Claim. Attorneys may review this file by checking it out from the Probate Court Clerk's Office, Room 230.

**Venue.** Petitions to settle personal injury claims may be filed in the Denver Probate Court if venue and jurisdiction have been properly established. Venue is proper in the county in which the protected person resides or if the protected person does not reside in this state, in any place where he/she has property. The Denver Probate Court has jurisdiction over all petitions to settle

personal injury claims arising from Denver District Court cases in which the proposed settlement is for the benefit of a minor ward. Pursuant to an inter-court protocol between Denver Probate Court and Denver District Court, settlements in amounts under \$10,000 may, at the discretion of the trial judge presiding over the personal injury case, be filed and heard in Denver District Court subject to appropriate filing fees and the applicable provisions of C.R.P.P. 16.

**Petition to Settle Personal Injury Claim.** Rule 16 outlines the information that must be included in the petition. **The Court strongly encourages you to create a form that follows the same organization and outline as Rule 16.**

1. Facts.

The Facts section **must** include:

- a. the respondent's name and address;
- b. the respondent's date of birth;
- c. the names and addresses of the respondent's parents if the respondent is a minor;
- d. the names and addresses and descriptions of duties and limitations of the respondent's custodian or court appointed fiduciary (NOTE: if you are asserting that the minor's father is "not known," you should submit a copy of the minor's birth certificate);
- e. the date and a brief description of the nature of the event or transaction giving rise to the claim, including the age of the respondent at the time of the event or transaction.

2. Liability.

The Liability section **must** include:

- a. the name and address of each party who is or may be liable for the respondent's claim;
- b. the basis for the respondent's claim of liability;
- c. the defenses, if any, to the respondent's claim;
- d. the name and address of each insurance company involved in the claim, the type of policy, who was insured under the policy, and its limits.

3. Damages.

The Damages section **must** include:

- a. the nature of the respondent's claim;
- b. the nature of the injuries, if any, sustained by the respondent;
- c. the amount of time, if any, missed by the respondent from school or employment;
- d. a summary of the expenses, if any, incurred for medical or other care provider services as a result of the respondent's injuries;
- e. a summary of the income from work lost by the respondent, if any, as a result of the ward's injuries;
- f. the nature of the damage, if any, to the respondent's property;
- g. a summary of expenses, if any, incurred as a result of any property damage to the respondent's property;

h. the identification of the source of funds for payment of any of the respondent's expenses and a summary of what expenses have been paid and will be paid by each particular source.

4. Medical Status.

The Medical Status section **must** include:

- a. the nature and extent of the respondent's injuries and the ward's present condition;
- b. the nature, extent, and duration of the treatment required or anticipated as a result of the respondent's injuries;
- c. the prognosis of the respondent's condition, including, when applicable, the nature and extent of any disability, disfigurement, or impairment;
- d. **a written statement by the ward's physician or other health care provider shall be attached setting forth the information requested by A, B, and C above. The Denver Probate Court prefers to receive physician/health care provider statements dated within 90 days of the hearing.**

5. Status of Claims.

The Status of Claims section **must** include:

- a. for this claim and any other claim that is relevant to the event or transaction giving rise to the claim, the status of the claim and, if any civil action(s) have been filed, the court, the case number, and the parties;
- b. for this claim and any other claim that is relevant to the event or transaction giving rise to the claim, the name and address of any party having a subrogation right and any governmental agency paying or planning to pay benefits to the respondent.

6. Proposed Settlement and Proposed Disposition of Settlement Proceeds.

The Proposed Settlement section **must** include:

- a. the name and address of the person(s) making and receiving payment under the proposed settlement;
- b. the amount of the settlement, terms of payment, and proposed disposition;
- c. if a structured settlement, in whole or in part, the type of arrangement (e.g., annuity or insurance policy), the name of the annuity or the insurance company, the rating of the annuity or insurance company, and the present cash value and cost of the annuity or insurance;
- d. the amount of court costs, legal expenses, and attorney's fees (**attach a copy of attorney fee agreement and billings**) incurred as a result of the transaction or event giving rise to the respondent's claim;
- e. whether there is a need for continuing court supervision, the appointment of a fiduciary, or the continuation of an existing fiduciary appointment.

7. Attachments.

The Attachments must be listed in the petition and **must** include:

- a. a doctor's letter conforming to the requirements of 4(d);
- b. a copy of the proposed Settlement Agreement and Release Agreement between the respondent and the liable party;
- c. a copy of the attorney fee agreement and billings.

**IMPORTANT NOTE: Both Judge Stewart and Magistrate Franklin require that the minor child attend the hearing if a personal injury claim is being settled. See C.R.S. §15-14-408(1). If you are requesting that the child's attendance be excused, you must set forth the basis for your request in the Petition.**

**Form 2R - (Notice of Hearing to Respondent)** This form notifies the respondent of the date and time of your hearing. A disinterested person must personally serve any respondent over age 12 with a copy of this form, along with your petition, at least 10 days before the hearing. If the minor is under the age of 12, personal service is not required.

**NO EXCEPTIONS are granted to the requirement that the respondent be given legal notice of the hearings even if the person is severely incapacitated and unable to understand that he or she is being served (this includes persons who are in a coma, or otherwise unable to communicate). The requirement of notice must be met or your hearing will be cancelled.**

You must file the completed Notice of Hearing, Form 2 and the Notice of Hearing to Respondent, Form 2-R, with the Probate Court Clerk's office **at least 48 hours before the hearing.** Both sides of the forms must be completed. If the protected person is not personally served and is not present at the hearing or if you have not filed the completed form 2-R by the 48 hour deadline, you will be notified by a clerk that your hearing has been vacated. This means you will have to reset the hearing date with the Division Clerk and again serve all interested persons with the notice of hearing for the new date.

- A. Fill in the case number (this number was assigned by the Court when you filed the petition).
- B. Write the respondent's name under "In The Matter Of."
- C. Write the date and time of the hearing on the line provided (you will be given the date from either the Judge's Division Clerk, or the Magistrate's Division Clerk when you call to set the hearing after you have filed the petition. When you set the hearing you must clear the date with all other interested persons.)
- D. Indicate whether the hearing is in Room 224 (Judge) or 232 (Magistrate)
- E. Sign on the appropriate line.
- F. Write your name, address, and telephone number on the lines provided.
- G. On the back of the form is the Personal Service Affidavit. Be sure to write the title of the pleading that was served on the person (generally this will be "Petition for Appointment of Conservator" and/or "Notice of Hearing to Respondent").
- H. Write the names and addresses of the persons who were personally served.
- I. Have the person who made the personal service sign the personal service affidavit in front of a notary public, and have the notary public complete the remainder of the form. To ensure your hearing date is not vacated, file the completed notice of hearing with the Probate Court Clerk's office at least 48 hours prior to the hearing date.

**Form 2 - (Notice of Hearing)** This form notifies interested persons (other than the protected person) of the date and time of your hearing. You must serve a copy of this form, along with your petition, on all interested persons at least 10 days before the hearing. You must also file the completed Notice of Hearing (both sides, including the Certificate of Service) with the Probate Court Clerk's office at least 48 hours before the hearing.

- A. Fill in the case number if one has already been assigned to you (this number was assigned by the Court when you filed the petition).
- B. Write the respondent's name under "In The Matter Of."
- C. Write the date and time of the hearing on the line provided (you will be given the date from either the Judge's Division Clerk, or the Magistrate's Division Clerk when you call to set the hearing after you have filed the petition. When you set the hearing you must clear the date with all other interested persons.).
- D. Indicate whether the hearing is in Room 224 (Judge) or 232 (Magistrate).
- E. Sign on the appropriate line.
- F. Write your name, address, and telephone number on the lines provided.
- G. On the back of the form, indicate the date you made service of the notice of hearing and write in the title of the pleading served (generally this will be "Petition for Appointment of Conservator" and/or "Notice of Hearing").
- H. Check the box indicating the method of service you used.
- I. Write the names and addresses of the persons upon whom you served the notice of hearing.
- J. Write your name, address, and telephone number on the lines provided.

**NOTE: You must always give notice to both parents without regard to custody orders, support payments, etc.**

**Form 5 - (Motion and Order for Notice by Publication)** This form may be used in certain circumstances to request the Court's permission to notify an interested person or persons of your hearing in lieu of notice by mail.

- A. Fill in the case number if one has already been assigned to you (this number was assigned by the Court when you filed the petition).
- B. Write the respondent's name under "In The Matter Of."
- C. State the name of the pleading you want served by publication. This is generally the Petition to Settle Personal Injury Claim and the Notice of Hearing.

- D. In the left column, list the person(s) to whom you wish to publish notice. Include the last known address, if known.
- E. In the right column, indicate what steps you have taken to locate the person(s). This should detail all attempts you have made to locate the person(s). The Court will not grant your motion unless you have taken all possible, reasonable steps to identify and locate the person(s).
- F. On the second page, type the name of the newspaper you will use for publication.
- G. *In the presence of a notary*, sign and date on the lines provided, and have the notary notarize your signature.
- H. Write your name, address, and telephone number on the lines provided.
- I. File the form with the Court, along with a self-addressed stamped envelope for the Court to mail your Order for Publication back to you.

**Form 6 - (Notice of Hearing by Publication).** This form is used to instruct the newspaper, which will publish your ad, what to print. You must use a newspaper with general circulation in Denver County. Examples are the Daily Journal, Rocky Mountain News, and the Denver Post.

- A. Fill in the case number if one has already been assigned to you (this number was assigned by the Court when you filed the petition).
- B. Write the respondent's name under "In The Matter Of."
- C. Write the names of the persons to whom you are publishing notice next to "TO."
- D. Write the name of the pleading after "A hearing on." You will usually fill in "Petition to Settle Personal Injury Claim" here.
- E. After "for" include a description of what you want the Court to do. For example: approval of settlement of personal injury claim to (name of petitioner) for (name of respondent).
- F. Write the date and time of the hearing on the line provided.
- G. Indicate whether the hearing is in Room 224 (Judge) or 232 (Magistrate).
- H. Sign and date and write in your address and telephone number on the lines provided.
- I. Write the name of the newspaper next to "INSTRUCTIONS TO."
- J. The newspaper will send you an "affidavit of publication" after it has completed printing your notice. File a copy of this affidavit along with this Form 6 at least 48 hours before the hearing.

**Form 7 - (Certificate of Service).** This form is used to tell the Court who you have given notice to. You do not need to use this form if you have properly completed the back of Form 2.

- A. Fill in the case number if one has already been assigned to you (this number was assigned by the Court when you filed the petition).
- B. Write the respondent's name under "In The Matter Of."
- C. On the line provided write the date you sent notice to interested persons.
- D. On the next line write in the title of the pleading that was sent (e.g., Petition to Settle Personal Injury Claim, or Notice of Hearing).
- E. Check the box that indicates the type of mail you used.
- F. In the name and address columns, write the names and addresses of the persons to whom you mailed notice.
- G. Sign on the line provided.
- H. Write your name, address, and telephone number on the lines provided.

**Form 7-P (Personal Service Affidavit)** This form is used to tell the Court that one of the interested persons has been personally served. You do not need to use this form if you have properly completed the back of form 2-R.

- A. Fill in the case number if one has already been assigned to you (this number was assigned by the Court when you filed the petition).
- B. Write the respondent's name under "In The Matter Of."
- C. Indicate the title of the pleading served on the person (generally this will be "Petition for Appointment of Conservator," "Notice of Hearing," or "Notice of Hearing to Respondent.").
- D. Write the names and addresses of the persons who were personally served.
- E. Have the person who made the personal service sign the personal service affidavit *in front of a notary public*, and have the notary public complete the remainder of the form. To ensure your hearing date is not vacated, file the completed notice of hearing with the Probate Court Clerk's office at least 48 hours prior to the hearing date.

**Form 8 - (Waiver of Notice).** This form is used by an interested person to tell the Court that he or she waives notice of any hearings on your Petition. If an interested person waives notice, you need not send notice of your hearing to that person. **IMPORTANT NOTE: Under no circumstances may a respondent waive notice!**

- A. Leave the "Case No." line blank; the Court will assign a case number for you (fill in the case number if you have already filed your case and have been assigned a case number).
- B. Write the respondent's name under "In The Matter Of."
- C. The person waiving notice must write his or her name on the line provided.
- D. *In the presence of a notary*, the person waiving notice must sign his or her name and write his or her name, address, and telephone number on the lines provided. The notary must notarize the signature.

### SETTING THE MATTER FOR HEARING

The Petitioner must set the hearing on the Petition to Settle Personal Injury Claim before either the Judge or the Magistrate. **Petitions to Settle Personal Injury Claims will NOT be heard on a non-appearance basis and should NOT be set on the non-appearance docket.** The Petitioner may set the hearing by contacting either the Judge's Division Clerk at (720) 865-8311 or the Magistrate's Division Clerk at (720) 865-8313.

**Notice.** The Court will strike (remove) your hearing from the docket if you fail to give proper notice, or if you do not file proof of such notice with the Court at least 48 hours before the hearing. If your hearing is struck, you will have to reschedule it, sending a new notice of hearing to each person entitled to it.

**YOU MUST SERVE THE FOLLOWING PERSONS** with a copy of your completed petition and a completed Form 2 (Notice of Hearing) or Form 2-R (Notice of Hearing to Respondent) at least ten days before the hearing, **and you must file your proof of service** with the Probate Court Clerk's Office (see Forms 2, 6, 7, and/or 8) at least 48 hours before the hearing:

- **The respondent** must be **personally served** with a copy of form 2-R and a copy of the *Petition*. Personal service means that a disinterested third person hands the forms to the protected person. This must be done, no matter how disabled the person may be. **DO NOT MAIL THE FORMS TO THE RESPONDENT.** It is the petitioner's responsibility to arrange the personal service. The completed forms must be served by a disinterested third person. Neither Court staff nor the Court Visitor can serve the forms on the protected person. The person serving the paperwork must complete the *Personal Service Affidavit* located on the back of Form 2-R. The *Affidavit* must indicate the protected person's name, the date served, the place served, and that the manner of service was "hand delivery." The *Affidavit* must be notarized.
- **The respondent's spouse, if any.** The spouse can be served by mail or hand delivery.
- **The respondent's parents**, if the protected person is not married or if the protected person is a minor. The parents may be served by mail or hand delivery. **Notice shall be given to both parents, regardless of any custody arrangements. The only exception to this requirement is if a parent's parental rights have been terminated by death or by Court Order. If a restraining order or other special circumstances are present in your case, you may petition the Court for special exemption from statutory notice requirements.**

- Any person currently serving as guardian. The guardian may be served by mail or hand delivery.
- Any person currently serving as conservator. The conservator may be served by mail or hand delivery.
- Any person who has filed a request for notice with the Court.

Interested persons, **except the respondent**, may waive notice. See Form 8.

If you do not know the address or identity of the person to be notified, you may request permission to publish notice to a person in lieu of service by mail or personal service. See Forms 5 and 6. You must file the Motion and Order for Notice by Publication well before the hearing date to give the Court time to review the Motion, and to give yourself sufficient time to publish the notice for the required three weeks. If your Motion is granted, you must file the Notice of Hearing by Publication (Form 6) with the Court.

**IMPORTANT NOTE: Notifying interested persons of the hearing by telephone or face-to-face conservation is, by itself, insufficient notice.**

**Attendance at the Hearing.** The Petitioner and the Respondent are required to appear at the hearing. Often, the Court places great weight upon the testimony offered at the hearing in determining whether to grant the Petition and approve the Settlement Agreement.

**Appointment of a Conservator.** When completing the petition and forms, you should also consider whether a Petition for Appointment of Conservator must also be completed. A Conservator should be appointed if the proposed net amount of settlement proceeds is equal to or greater than \$10,000. In this case a Petition for Appointment of Conservator is filed along with the petition to settle the personal injury claim.

In some circumstances, an interested party may feel it is in the best interests of the ward to have a conservator appointed to manage the settlement proceeds even if the proceeds do not exceed \$10,000. In addition, the Court may determine that the appointment of a conservator is necessary. A Petition for Appointment of Conservator shall be filed under the same case number as the Petition to Settle Personal Injury Claim and may accompany the Petition to Settle Personal Injury Claim.

#### **Court Approval of Petition to Settle Personal Injury Claim**

The Court considers several factors in making its determination whether to approve a personal injury settlement for a ward. The following are the primary factors the Court takes into consideration.

First, the Court looks to whether the requirements of Rule 16 have been met. The Court will not approve a Petition to Settle Personal Injury Claim unless the required attachments have been submitted and proper notice has been given to all interested parties.

Second, the Court considers the nature of the injury. The Court will consider the seriousness of the injury, the probability of a full recovery, any symptoms of recurrent or

ongoing pain or discomfort, the need for any future medical treatment, and the cost and method of payment for any necessary or cosmetic future medical treatment.

Third, the Court uses a five-part test to analyze the appropriateness of the settlement. The Court looks at whether settlement of the claim is in the best interests of the ward, whether the parties understand the finality of a settlement agreement, whether the proceeds of the settlement will afford the ward the opportunity to obtain any future medical treatment that may be either necessary or desired, whether the attorney fees being charged to the ward are reasonable, and whether an appropriate use of the settlement proceeds has been proposed by the Petitioner.

In determining whether the proposed use of the proceeds is appropriate, the Court will look at the individual circumstances of the case. **The Court will not approve an outright distribution to the respondent.** Generally, where a family member will be named as the fiduciary that will handle the minor's settlement, the Court will require that all of the proceeds be deposited into a restricted account. A restricted account is one in which a withdrawal shall not be made unless approved by Court Order. The court requires that the financial institution servicing the restricted account file an Acknowledgement submitting itself to the jurisdiction of the Court and agreeing to prohibit withdrawals from the account unless so ordered. However, additional funds may be added to the restricted account at any time without a Court Order. Any additional funds later deposited into the account will be subject to all of the same restrictions as the settlement proceeds originally used to fund the account.

Alternatives to a restricted account are the creation of a trust for the benefit of the respondent or the placement of the proceeds into a structured settlement arrangement. If the petitioner chooses to place the proceeds into a trust, a satisfactory trustee must be named. The Court discourages the appointment of a family member as the sole trustee. If the petitioner chooses to place the proceeds into a structured arrangement, the Court will include in its Order a limitation on the fiduciary preventing him from selling the structured settlement. **A fiduciary may not sell a structured settlement in order to receive a lump sum payment.**

The fourth factor the Court considers is whether the ward would benefit from the appointment of a Guardian ad Litem or Conservator. A Guardian ad Litem may be appointed if the Court is concerned about whether the best interests of the ward are being represented by the Petitioner. In addition, the Court may require that a Conservator be appointed to manage the settlement proceeds if the proceeds exceed a certain amount or if the Court finds that it is in the best interests of the ward that a third party be appointed to manage the proceeds.

**Orders.** If the Court determines that settlement of the personal injury claim is in the ward's best interest, it will issue two Orders. The first Order, an Order Granting Leave to Settle Personal Injury Claim, gives the Petitioner the authority to settle the personal injury claim on behalf of the ward, authorizes the execution of any releases required as a condition to settlement, and states the amount that may be paid as payment in full of attorney fees and costs.

The second Order is either an Order Appointing Conservator with requirements for filing an inventory, financial plan, and annual accountings, or an Order for Deposit of Funds to Restricted Account. The fiduciary is ordered to deposit the proceeds of the settlement into a

restricted account with a federally insured financial institution for the sole benefit of the respondent. Further, it orders that the financial institution shall permit no withdrawals from the account without Court approval. The respondent, if a minor, is allowed to make withdrawals after reaching the age of twenty-one. Also, the Court requires the financial institution to return to the Court a certificate of its acknowledgment and acceptance of the arrangement. In some circumstances the Court enters both of these Orders.

Restricted accounts are created for the safekeeping of a minor's or protected person's money. Such accounts can always be supplemented with additional monies (including deposits, interest, and investment income/dividends) and may be freely transferred among different types of investment vehicles offered by the financial institution where the restricted account is established. All such additions and transfers are subject to the same restrictions as money already in the restricted accounts, i.e. withdrawals require a court order.

The Court does not advise fiduciaries on proper/improper investments. Each person who manages the asset of another person is required to observe the limitations of the Prudent Investor Rule, C.R.S. §15-1.1-101.

This information packet provides a generic description of the Orders issued by the Court. However, circumstances may require that special restrictions or special directions be placed in the Orders.

**NOTE: Counsel should submit proposed Orders before the date of the hearing.**

## C.R.P.P. 16

The Rule governing the filing and hearing of the settlement of a personal injury claim for a minor or incapacitated person is Colorado Rules of Probate Procedure Rule 16, Court Approval of Settlement of Claims of Persons Under Disability.

### **Rule 16. Court Approval of Settlement of Claims of Persons Under Disability**

- (a) Where a guardian, conservator, or next friend seeks court approval of a settlement of a ward's claim, such approval shall be sought by way of a petition for approval of proposed settlement. For purposes of this Rule, the term "ward" includes a protected person, an incapacitated person, or a person under disability.
- (b) The petition shall request the approval of the proposed settlement as being in the ward's best interests and shall include the following information or an explanation of why the information is not applicable:
  - (1) Facts.
    - A. The ward's name and address;
    - B. The ward's date of birth;
    - C. The names(s) and address(es) of the ward's parent(s) if the ward is a minor;
    - D. The names(s), address(es) and description(s) of type of the ward's custodian or court appointed fiduciary, if any; and
    - E. The date and a brief description of the nature of the event or transaction giving rise to the claim.
  - (2) Liability
    - A. The name and address of each party who is or may be liable for the ward's claim;
    - B. The basis for the ward's claim of liability;
    - C. The defenses, if any, to the ward's claim; and
    - D. The name and address of each insurance company involved in the claim, the type of policy, who was insured under the policy, and its limits.
  - (3) Damages
    - A. The nature of the ward's claim;
    - B. The nature of the injuries, if any, sustained by the ward;
    - C. The amount of time, if any, missed by the ward from school or employment;
    - D. A summary of the expenses, if any, incurred for medical or other care provider services as a result of the ward's injuries;
    - E. A summary of the income from work lost by the ward, if any, as a result of the ward's injuries;
    - F. The nature of the damage, if any, to the ward's property;
    - G. A summary of the expenses, if any, incurred as a result of any property damage to the ward's property; and
    - H. The identification of the source of funds for payment of any of the ward's expenses and a summary of what expenses have been paid and will be paid by each particular source.

(4) Medical Status.

- A. The nature and extent of the ward's injuries and the ward's present condition;
- B. The nature, extent, and duration of the treatment required or anticipated as a result of the ward's injuries;
- C. The prognosis of the ward's condition, including, when applicable, the nature and extent of any disability, disfigurement, or impairment; and
- D. A written statement by the ward's physician or other health care provider shall be attached setting forth the information requested by A, B, and C above.

(5) Status of Claims.

- A. For this claim and any other claim that is relevant to the event or transaction giving rise to the claim, the status of the claim and, if any civil action(s) have been filed, the court, the case number, and the parties; and
- B. For this claim and any other claim that is relevant to the event or transaction giving rise to the claim, the name and address of any party having a subrogation right and any governmental agency paying or planning to pay benefits to the ward.

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

- A. The name and address of the person(s) making and receiving payment under the proposed settlement;
- B. The amount of the settlement, terms of payment, and proposed disposition;
- C. If a structured settlement, in whole or in part, the type of arrangement (*e.g.*, annuity or insurance policy), the name of the annuity or the insurance company, the rating of the annuity or insurance company, and the present cash value and cost of the annuity or insurance;
- D. The amount of court costs, legal expenses, and attorney's fees (attach a copy of attorney fee agreement and billings) incurred as a result of the transaction or event giving rise to the ward's claim; and
- E. Whether there is a need for continuing court supervision, the appointment of a fiduciary, or the continuation of an existing fiduciary appointment.

(7) Attachments.

- A. The petition shall list each of the attachments to the petition; and
- B. A copy of the proposed settlement agreement and proposed release shall be attached to the petition.

- (c) **Notice.** Notice of the hearing on a petition to settle a claim on behalf of persons under disability shall be given in accordance with C.R.S. §15-14-404. See also C.R.P.P. 8.1.

**C.R.S. §15-14-404. Notice.** (1) A copy of the petition and the notice of hearing on a petition for conservatorship or other protective order must be served personally on the respondent, if the respondent has attained twelve years of age, but if the respondent's whereabouts is unknown or personal service cannot be made, service on the respondent must be made by substituted service or publication. The notice must include a statement that the respondent must be physically present unless excused by the court, inform the respondent of the respondent's rights at the hearing, and, if the appointment of a conservator is requested, include a description of the nature, purpose, and consequences of an appointment. A failure to serve the respondent with a notice substantially complying with this subsection (1) is jurisdictional and thus precludes the court from granting the petition.

(2) In a proceeding to establish a conservatorship or for another protective order, notice of the hearing must be given to the persons listed in the petition. Failure to give notice under this subsection (2) does not preclude the appointment of a conservator or the making of another protective order.

(3) Notice of the hearing on a petition for an order after appointment of a conservator or making of another protective order, together with a copy of the petition, must be given to the protected person, if the protected person has attained twelve years of age and is not missing, detained, or unable to return to the United States, any conservator of the protected person's estate, and any other person as ordered by the court.

(4) A conservator shall give notice of the filing of the conservator's inventory, report, or plan of conservatorship, together with a copy of the inventory, report, or plan of conservatorship to the protected person and any other person the court directs. The notice must be delivered or sent within ten days after the filing of the inventory, report, or plan of conservatorship.

**C.R.S. §15-14-114. Waiver of notice** A person may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding in accordance with Colorado rules of probate procedure. However, a respondent, ward, or protected person may not waive notice.

## PETITION TO WITHDRAW FUNDS FROM A RESTRICTED ACCOUNT

A conservator or other fiduciary named in the Order must petition the Court for approval to withdraw funds from the respondent's restricted account. A Bank may not allow a withdrawal of funds from the restricted account without an Order signed by the Court authorizing the withdrawal. See *Matter of Conservatorship of Roth*, 804 P.2d 265 (Colo.App. 1990). The Court in *Roth* held that once the Bank returned the acknowledgment form to the Court, it was transformed from being merely a depository to a fiduciary pursuant to C.R.S. 15-1-507. As a fiduciary, a Bank has a duty to refrain from transactions that are contrary to the interests of the ward. The Court determines whether the transaction is in the best interest of the ward by either granting or denying the Petition to Withdraw Funds.

Petitions to Withdraw Funds are decided on a case-by-case basis. They are reviewed by both the Judge and the Magistrate and are handled "off the docket" as time permits. A Petition may be ruled on within 24 hours or it may be several weeks, depending on the Court's schedule. Whether a Petition is granted depends on the amount of money in the respondent's restricted account, the pattern and frequency of withdrawals, the need for future medical treatments and method of payment for any such future treatments, the use of the requested funds, and other factors which may be situation-specific. However, there are some guidelines the Court follows when making its determination:

- Requests must be properly submitted on the Court's form.
- Requests will not be considered if a review of the file reveals that the requesting party is delinquent on a prior Court Order, e.g. accountings are late, receipts from a prior withdrawal have not been filed, etc.
- The first priority for proceeds from the settlement of a personal injury claim is for expenses related to the personal injury. The Court will generally approve petitions for the withdrawal of funds for necessary for elective surgeries, therapy, special equipment, or other expenses that arise from the injury.
- The Court will not allow withdrawals for items that a parent or guardian of the respondent has a duty to provide, such as food, clothing, shelter, etc. These matters are part of the parental support obligation. Parents should be discouraged from submitting such requests.
- The Court is not supportive of petitions for "loans" to be made from a restricted account. The Court will consider such a petition only in the most dire of circumstances and only if the "loan" is for the benefit of the ward. Parents who "borrow" from their children's restricted accounts and fail to make repayments are subject to fines and penalties.
- The Court generally is not supportive of petitions to withdraw funds for the purchase of automobiles. The Court will consider such a petition only if the petitioner can prove that ownership of an automobile would be of great benefit to the respondent, that the automobile will be titled in the respondent's name, and that the expenses associated with ownership of an automobile, such as insurance, maintenance, parking, gasoline, etc., will be paid from funds **other than** those in the ward's restricted account.

- **The Court will not approve withdrawals of funds for the purchase of motorcycles, mopeds, gopeds, or other motorized vehicles other than automobiles and will not approve withdrawals of funds for the purchase of an automobile for a ward who is under the legal driving age or who does not hold a valid driver's license.**
- The Court is generally supportive of petitions to withdraw funds if the request is related to the educational endeavors of the respondent and if the parents are not able to afford the expense. Examples of such expenses include tuition and expenses for college, development of a particular skill or talent, such as music, sports, etc., purchase of a personal computer, tuition and expenses for camps or outings that are of benefit to the respondent, and other related expenses.
- Withdrawals to pay the income taxes due on the income earned by the respondent's account are granted routinely if a copy of the tax return is submitted with the petition for the withdrawal.

Petitions to withdraw funds, even when granted, may be conditional – that is, they may be partially allowed and partially denied. The Court frequently requires that receipts be filed to prove purchases following the Order Allowing Withdrawal.

In certain circumstances, the Court will require that a Petition for Withdrawal be set for hearing so that the Judge or Magistrate can hear testimony in their consideration of the request.

PROBATE COURT CITY AND COUNTY OF DENVER, COLORADO  City & County Building 1437 Bannock Street, Room 230 Denver, CO 80202	
In the Matter of the Estate of   <input type="checkbox"/> Minor <input type="checkbox"/> Incapacitated Person	
Name and Address of Petitioner   Phone Number: e-mail address:	▲Court Use Only▲ Case Number:
<b>PETITION TO SETTLE PERSONAL INJURY CLAIM</b>	

Petitioner, \_\_\_\_\_, as (natural parent) and/or (next friend) of the above  minor  incapacitated person, pursuant to Rule 16 of the Colorado Rules of Probate Procedure, files this Petition to Settle Personal Injury Claim as follows:

1. FACTS

- A. The respondent's name and address: \_\_\_\_\_  
\_\_\_\_\_.
- B. The respondent's date of birth: \_\_\_\_\_.
- C. The name and address(es) of the respondent's parent(s) if the respondent is a minor (attach copy of birth certificate if name of father is not known): \_\_\_\_\_  
\_\_\_\_\_.
- D. The names(s), address(es) and description(s) of type of the respondent's custodian or court appointed fiduciary, if any: \_\_\_\_\_  
\_\_\_\_\_.
- E. The date and a brief description of the nature of the event or transaction giving rise to the claim: \_\_\_\_\_  
\_\_\_\_\_.

2. Liability

A. The name and address of each party who is or may be liable for the respondent's claim: \_\_\_\_\_  
\_\_\_\_\_.

B. The basis for the respondent's claim of liability: \_\_\_\_\_  
\_\_\_\_\_.

C. The defenses, if any, to the respondent's claim: \_\_\_\_\_  
\_\_\_\_\_.

D. The name and address of each insurance company involved in the claim, the type of policy, who was insured under the policy, and its limits: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. Damages

A. The nature of the respondent's claim: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

B. The nature of the injuries, if any, sustained by the respondent: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

C. The amount of time, if any, missed by the respondent from school or employment: \_\_\_\_\_  
\_\_\_\_\_.

D. A summary of the expenses, if any, incurred for medical or other care provider services as a result of the respondent's injuries: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

E. A summary of the income from work lost by the respondent, if any, as a result of the respondent's injuries: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

F. The nature of the damages, if any, to the respondent's property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

G. A summary of the expenses, if any, incurred as a result of any property damage to the respondent's property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

H. The identification of the source of funds for payment of any of the respondent's expenses and a summary of what expenses have been paid and will be paid by each

particular source: \_\_\_\_\_  
\_\_\_\_\_

4. Medical Status

A. The nature and extent of the respondent's injuries and the respondent's present condition: \_\_\_\_\_  
\_\_\_\_\_

B. The nature, extent, and duration of the treatment required or anticipated as a result of the respondent's injuries: \_\_\_\_\_  
\_\_\_\_\_

C. The prognosis of the respondent's condition, including, when applicable, the nature and extent of any disability, disfigurement, or impairment: \_\_\_\_\_  
\_\_\_\_\_

D. A written statement by the respondent's physician or other health care provider shall be attached setting for the information requested by A., B., and C. above.

5. Status of Claims

A. For this claim and any other claim that is relevant to the event or transaction giving rise to the claim, the status of the claim and, if any civil action(s) have been filed, the court, the case number and the parties: \_\_\_\_\_  
\_\_\_\_\_

B. For this claim and any other claim that is relevant to the event or transaction giving rise to the claim, the name and address of any party having a subrogation right and any governmental agency paying or planning to pay benefits to the respondent: \_\_\_\_\_  
\_\_\_\_\_

6. Proposed Settlement and Proposed Disposition of Settlement Proceeds

A. The name and address of the person(s) making and receiving payment under the proposed settlement: \_\_\_\_\_  
\_\_\_\_\_

B. The amount of the settlement, terms of payment, and proposed disposition: \_\_\_\_\_  
\_\_\_\_\_

C. If a structured settlement, in whole or in part, the type of arrangement (e.g. annuity or insurance policy), the name of the annuity or the insurance company, the rating of the annuity or insurance company, and the present cash value and cost of the

annuity or insurance: \_\_\_\_\_

D. The amount of court costs, legal expenses, and attorneys' fees (attach a copy of attorney fee agreement and billings) incurred as a result of the transaction or event giving rise to the respondent's claim: \_\_\_\_\_

E. Whether there is a need for continuing court supervision, the appointment of a fiduciary, or the continuation of an existing fiduciary appointment: \_\_\_\_\_

F. Whether there are outstanding Medicaid liens and/or Medicare claims arising from care and treatment received as a result of the injury and, if so, in what amount(s) and whether such liens or claims will be satisfied out of the settlement proceeds: \_\_\_\_\_

7. Attachments

A. Attachments to the petition:  
proposed settlement agreement;  
proposed settlement agreement/release;  
doctor's statement;  
proposed orders (Leave to Settle Personal Injury Claim, Deposit of Funds to Restricted Account)

other: \_\_\_\_\_

WHEREFORE, Petitioner requests that the Court set a time and place of hearing; that after notice and hearing the Court find that the proposed settlement of the personal injury claim is in the best interests of the ward; and that the Court authorize the acceptance of \$ \_\_\_\_\_ in full settlement of the ward's personal injury claim against \_\_\_\_\_, authorizing \$ \_\_\_\_\_ to be paid out of the settlement proceeds for attorney fees and costs, and authorizing disposition of the net proceeds of the settlement in the manner set forth in paragraph 6(B) of this Petition.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Attorney for Petitioner

Type or print name, address,  
telephone #, and reg. # below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner

Type or print name, address, and  
telephone # below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROBATE COURT CITY AND COUNTY OF DENVER, COLORADO  City and County Building, Room 230 1437 Bannock Street Denver, CO 80202		
<b>IN THE MATTER OF THE ESTATE OF:</b>   		
<b>Respondent.</b>		<b>▲ Court Use Only ▲</b>
Attorney or Party Without Attorney (Name and Address):   		<b>Case Number:</b>   
Phone Number:	E-mail:	
Fax Number:	Atty. Reg. #	
<b>NOTICE OF HEARING TO RESPONDENT</b>		

A hearing on  Petition for Appointment of Guardian  Petition for Appointment of Conservator  
 \_\_\_\_\_  
 a copy of which accompanies this Notice, will be held at the following time and location or at a later date to which the hearing may be continued.

Date and Time:

Location: DENVER PROBATE COURT  
 City and County Building,  Room 230  Room 224  
 1437 Bannock Street (Colfax and Bannock)  
 Denver, CO 80202

**The outcome of this proceeding may limit or completely take away your right to make decisions about your personal affairs or your financial affairs or both. You must appear in person unless excused by the court. The petitioner is required to make reasonable efforts to help you attend the hearing.**

**You have the right to be represented by an attorney of your choice at your own expense. If you cannot afford an attorney, one may be appointed for you at State expense. You may request a professional evaluation of your condition. You have the right to present evidence and subpoena witnesses and documents; examine witnesses, including any court-appointed physician, psychologist, or other qualified individual providing evaluations, and the court visitor; and otherwise participate in the hearing. You may ask that the hearing be held in a manner that reasonably accommodates you. You have the right to request that the hearing be closed, but the hearing may not be closed over your objection.**

\_\_\_\_\_  
 Signature of Attorney for or Person Giving Notice

**Personal Service Affidavit**

State of Colorado )  
 ) ss.  
County of \_\_\_\_\_ )

I served a copy of the foregoing Notice of Hearing to Respondent, together with a copy of the petition, on the following:

Name	Date	Place	Manner of Service
------	------	-------	-------------------

I am over the age of 18 years, and I am not interested in nor a party to this matter.

\_\_\_\_\_  
Signature of Person Certifying Service

\_\_\_\_\_  
Name (Print or type)

Signed under oath before me on: \_\_\_\_\_  
Date

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[Seal]

NOTE: This Notice of Hearing to Respondent must be personally served on the respondent, along with a copy of the petition, at least 10 days prior to the hearing pursuant to §15-14-309(1) or §15-14-404(1).

Do not attach copies of the petition when filing the Notice of Hearing to Respondent with the court.

PROBATE COURT CITY AND COUNTY OF DENVER, COLORADO  City and County Building, Room 230 1437 Bannock Street Denver, CO 80202		
<b>IN THE MATTER OF <input type="checkbox"/> THE ESTATE OF:</b>  <input type="checkbox"/> <b>Minor</b> <input type="checkbox"/> <b>Incapacitated Person</b> <input type="checkbox"/> <b>Protected Person</b> <input type="checkbox"/> <b>Deceased.</b>		<b>▲ Court Use Only ▲</b>  <b>Case Number:</b>
Attorney or Party Without Attorney (Name and Address):  Phone Number:                      E-mail: Fax Number:                          Atty. Reg. #		
<b>NOTICE OF HEARING</b>		

A hearing on (title of pleading) \_\_\_\_\_, a copy of which accompanies this Notice, will be held at the following time and location or at a later date to which the hearing may be continued.

Date and Time: \_\_\_\_\_  
 Location: DENVER PROBATE COURT  
 City and County Building, Room 224 232  
 1437 Bannock Street (at Colfax)  
 Denver, Colorado 80202

\_\_\_\_\_  
 Signature of person giving notice

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (Type or print name, address and telephone number of person giving notice)

### Certificate of Service

I certify that on (date) \_\_\_\_\_, a copy of this (title of pleading) \_\_\_\_\_  
 \_\_\_\_\_ was served on each of the following at the indicated address  
 by:

- |  |   |
|--|---|
| <input type="checkbox"/> hand delivery<br><input type="checkbox"/> first class U.S. mail, postage pre-paid | <input type="checkbox"/> certified U.S. mail, postage pre-paid<br><input type="checkbox"/> registered U.S. mail, postage pre-paid |
|--|---|

Name	Address

\_\_\_\_\_  
 Signature of person giving notice (type or print name, address  
 and telephone number of person giving notice below)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**NOTE:** This certificate of service cannot be used in cases where personal service is required or used. Use CPC7-P (*Personal Service Affidavit*) or CPC8-A (*Waiver of Service*) for each person required to be served personally.

<b>PROBATE COURT</b> <b>CITY AND COUNTY OF DENVER, COLORADO</b>  City and County Building, Room 230 1437 Bannock Street Denver, CO 80202		
<b>IN THE MATTER OF</b> <input type="checkbox"/> <b>THE ESTATE OF:</b>  <input type="checkbox"/> <b>Minor</b> <input type="checkbox"/> <b>Incapacitated Person</b> <input type="checkbox"/> <b>Protected Person</b> <input type="checkbox"/> <b>Deceased.</b>		<b>▲ Court Use Only ▲</b>
Attorney or Party Without Attorney (Name and Address):  Phone Number:                      E-mail: Fax Number:                          Atty. Reg. #		
		<b>Case Number:</b>
<b>MOTION AND ORDER FOR NOTICE BY PUBLICATION</b>		

The following persons should be given notice by publication of the hearing on (title of pleading) \_\_\_\_\_, because the addresses or identities of such persons are not known and cannot be ascertained with reasonable diligence.

NAME AND LAST KNOWN ADDRESS (If unknown, so state)	DETAIL EFFORTS TO IDENTIFY AND LOCATE [Rule 4(h), C.R.C.P.]

MOVANT REQUESTS that an order be entered directing notice by publication in (name of newspaper)\_\_\_\_\_

The notice must be in a newspaper having general circulation published in the county where the hearing is to be held. If there is no newspaper of general circulation in the county of appointment, the notice must be in such a newspaper in an adjoining county. [Section 15-10-401(1)(c), C.R.S.]

Being sworn, I verify that the facts set forth in this motion are true to the best of my knowledge, information, and belief.

Being sworn, I verify that the facts set forth in this motion are true to the best of my knowledge, information, and belief.

DATE: \_\_\_\_\_

Signature of Petitioner (type or print name, address and telephone # below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_

|  
| ss.  
|

\_\_\_\_\_ COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me by the applicant on

\_\_\_\_\_

My commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**ORDER**

The Court finds that the Movant has used due diligence in attempting to give notice to the foregoing persons or that efforts to give notice would have been to no avail. It is ordered that notice be given in the newspaper named above in accordance with C.R.S. § 15-10-401(a).

DATE: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_  
Judge/Magistrate/(Deputy) Clerk



---

**INSTRUCTIONS TO** (name of newspaper) \_\_\_\_\_ :

**Publish the above Notice once a week for three consecutive calendar weeks.**

---

- \* Insert name and last know address (if any) of persons whose present address is unknown. For persons whose identities are unknown, identify persons through name and last know address of an ancestor.

**Notes:** This notice must be published in a newspaper having general circulation in the county where the hearing is to be held once during each week of three consecutive calendar weeks with at least twelve days elapsing between the first and last publication, and the last publication is to be at least ten days before the time set for the hearing. [C.R.S. § 15-10-401] The contents of the petition or other pleading which is the subject of the hearing need not be published as a part of this Notice, but this Notice must briefly state the nature of the relief requested. [Rule 8, C.R.P.P.]

<b>PROBATE COURT</b> <b>CITY AND COUNTY OF DENVER, COLORADO</b>  City and County Building, Room 230 1437 Bannock Street Denver, CO 80202	
<b>IN THE MATTER OF <input type="checkbox"/> THE ESTATE OF:</b>  <input type="checkbox"/> <b>Minor</b> <input type="checkbox"/> <b>Incapacitated Person</b> <input type="checkbox"/> <b>Protected Person</b> <input type="checkbox"/> <b>Deceased.</b>	<b>▲ Court Use Only ▲</b>
Attorney or Party Without Attorney (Name and Address):  Phone Number:                      E-mail: Fax Number:                          Atty. Reg. #	<b>Case Number:</b>
<b>CERTIFICATE OF SERVICE</b>	

I certify that on (date) \_\_\_\_\_, a copy of  
 the notice of hearing on (title of pleading) \_\_\_\_\_,

together with a copy of the document, was served on each of the following at the indicated address by:

hand delivery	certified U.S. mail, postage pre-paid
first class U.S. mail, postage pre-paid	registered U.S. mail, postage pre-paid

(use additional pager if necessary)

Name	Address

\_\_\_\_\_  
 Signature of person giving notice (type/print name,  
 address, & telephone number below)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**NOTE:** This certificate of service cannot be used in cases where personal service is required or used. Use CPC7-P (*Personal Service Affidavit*) or CPC8-A (*Waiver of Service*) for each person required to be served personally.

PROBATE COURT CITY AND COUNTY OF DENVER, COLORADO  City and County Building, Room 230 1437 Bannock Street Denver, CO 80202	
<b>IN THE MATTER OF</b> <input type="checkbox"/> <b>THE ESTATE OF:</b>  <input type="checkbox"/> <b>Minor</b> <input type="checkbox"/> <b>Incapacitated Person</b> <input type="checkbox"/> <b>Protected Person</b> <input type="checkbox"/> <b>Deceased.</b>	<b>▲ Court Use Only ▲</b>
Attorney or Party Without Attorney (Name and Address):  Phone Number: _____ E-mail: _____ Fax Number: _____ Atty. Reg. # _____	<b>Case Number:</b>  _____
<b>PERSONAL SERVICE AFFIDAVIT</b>	

STATE OF \_\_\_\_\_ ) ss.  
 \_\_\_\_\_ COUNTY OF \_\_\_\_\_ )

I handed a copy of the notice of hearing on (title of pleading) \_\_\_\_\_  
 \_\_\_\_\_  
 together with a copy of the pleading, on each of the following:

Name	Date	Place

I am over the age of 18 years, and I am not interested in nor a party to this matter.

Signed under oath before me on: \_\_\_\_\_  
 (Date) \_\_\_\_\_ Name \_\_\_\_\_

\_\_\_\_\_  
 Notary Public

My commission expires: \_\_\_\_\_

PROBATE COURT CITY AND COUNTY OF DENVER, COLORADO  City and County Building, Room 230 1437 Bannock Street Denver, CO 80202	▲ Court Use Only ▲
IN THE MATTER OF <input type="checkbox"/> THE ESTATE OF:  <input type="checkbox"/> Minor <input type="checkbox"/> Incapacitated Person <input type="checkbox"/> Protected Person <input type="checkbox"/> Deceased.	Case Number:
<b>WAIVER OF NOTICE</b>	

I, being of full age, waive notice of the following hearings or other matters:

DATE: \_\_\_\_\_

\_\_\_\_\_  
 Signature of Person Waiving Notice or Attorney for Person  
 Waiving Notice

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Type or print name, address, telephone # and registration # of  
 Attorney for Person Waiving Notice

Type or print name, address and telephone # of Person Waiving  
 Notice

STATE OF \_\_\_\_\_ ) ss.  
 \_\_\_\_\_ COUNTY OF \_\_\_\_\_ )

This Waiver of Notice was acknowledged before me on: (date) \_\_\_\_\_  
 by (name) \_\_\_\_\_

My commission expires \_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public

NOTES: Unless otherwise approved by the Court, a waiver of notice shall identify the nature of the hearings or other matters,  
 notice of which is waived. [Rule 8.2, C.R.P.P.]  
 When filed with the Court, a copy of the petition or other pleading need not be attached to this waiver of notice. [Rule  
 8, C.R.P.P.]

PROBATE COURT CITY AND COUNTY OF DENVER, COLORADO  City and County Building, Room 230 1437 Bannock Street Denver, CO 80202	<p style="text-align: center;"><b>▲ Court Use Only ▲</b></p>
<b>IN THE MATTER OF:</b>  <b>J.E.T.,</b>  <b>Minor.</b>	<b>Case Number: 01 PR 559</b>
<b>ORDER FOR DEPOSIT OF FUNDS TO RESTRICTED ACCOUNT</b>	

IT IS ORDERED THAT \_\_\_\_\_, as  
Fiduciary Conservator shall open an account in a federally insured financial institution for the sole benefit of the minor. The account shall be opened in the name of the Fiduciary Conservator for the benefit of the minor. The Fiduciary Conservator shall deposit \$\_\_\_\_\_ and funds received subsequently in the account. This person may make internal transfers of funds in order to take advantage of changes in interest rates.

IT IS FURTHER ORDERED that, except for internal transfers, the financial institution shall permit no withdrawals from the account(s), except by separate certified Order of this Court. The minor may withdraw funds from this account upon reaching age 21.

IT IS FURTHER ORDERED that the following acknowledgment must be returned to the Court within \_\_\_\_\_ days.

IT IS FURTHER ORDERED that there shall be no payment of attorneys' fees until the Court has received acknowledgement of the establishment of the restricted account.

Dated \_\_\_\_\_

BY THE COURT

\_\_\_\_\_  
 Judge, Probate Court

---

---

**ACKNOWLEDGMENT**

\_\_\_\_\_, a federally insured financial institution, acknowledges that funds have been deposited, in the name of \_\_\_\_\_ as  Fiduciary  Conservator for the benefit of \_\_\_\_\_ in the following accounts and account numbers:

Account number

Amount

Total \$ \_\_\_\_\_

This institution submits itself to the jurisdiction of this Court and agrees that it shall not permit any withdrawal of funds except upon being furnished a certified copy of an Order of this Court authorizing such withdrawal.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Authorized Bank Officer

**RETURN TO:**

Denver Probate Court  
1437 Bannock Street, Room 230

City and County Building  
Denver, CO 80202

\_\_\_\_\_  
Type Name and Title of Authorized Bank Officer

\_\_\_\_\_  
Name, Address and Tele. # of Financial  
Institution