

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 835

Adding new Civil Rule 90.2
concerning settlements and
judgments in favor of minors

IT IS ORDERED:

1. A new Civil Rule 90.2 is added to provide:

Rule 90.2: Settlements and Judgments in Favor of a
Minor

(a) Approval of Settlement of Claims on Behalf of
Minors.

(1) Approval. A parent or guardian of a minor who has a claim against another person has the power to execute a full release or a covenant not to sue, or to execute a stipulation for entry of judgment on such claim. However, before such a document is effective, it must be approved by the court upon the filing of a petition or motion.

(2) Petition or Motion. A petition or motion for court approval of a minor's settlement under this rule must state the date of birth of the minor, the relationship between the moving party and the minor, the circumstances giving rise to the claim, the amount of any applicable liability insurance, and the basis for determining that the settlement is fair and reasonable. If the settlement arises from personal injuries to the minor, the petition or motion must describe the extent of the injuries, the medical treatment provided and the probable future course of treatment. If the settlement arises from the wrongful death or injury of another person, the petition or motion must describe the relationship between the other person and the minor and state whether the amount of the settlement is consistent with applicable state law.

(3) Attorneys' Fees and Costs. The court shall approve any attorneys' fees and costs that are to be paid from the settlement proceeds when the minor claimant is represented by counsel.

(4) Hearing. The court may approve the minor's settlement without a hearing if the settlement proceeds, after attorney's fees and costs are deducted, do not exceed \$25,000. When a hearing on the petition or motion is held, the court may require the presence of any

person that has information concerning the minor's claim, the fairness of the settlement or any related matter.

(5) Termination of Minor's Rights. No instrument executed under this rule is effective to terminate a minor's interests until such funds are paid as directed by the court.

(b) Disbursement of Proceeds.

(1) Order Directing Payment of Expenses, Costs and Fees. The court shall order that reasonable expenses (medical or otherwise, including reimbursement to a parent, guardian or conservator), costs and attorney's fees be paid from the settlement.

(2) Disposition of Remaining Balance. The court shall order that the remaining balance of the settlement, including any future payments, be disposed of in a manner which benefits the best interests of the minor. Dispositions which may be allowed include:

(A) ordering the settlement to be held by a parent or guardian for the benefit of the minor if the remaining balance of the settlement does not exceed \$10,000;

(B) ordering that a formal trust be established for the benefit of the minor;

(C) ordering the appointment of a conservator to hold the proceeds of the settlement for the benefit of the minor;

(D) ordering that the proceeds of the settlement be deposited in a federally insured financial institution in an account from which withdrawal is not permitted without authority of the court; or

(E) ordering that the proceeds of the settlement be transferred to a custodian for the benefit of the minor under the Alaska Uniform Gifts to Minors Act (commencing with AS 45.60.011).

(3) Standards for Disbursement of Proceeds. The person or institution with authority under subparagraph (b)(2) may authorize disbursement of the settlement proceeds:

(A) for the support and education of the minor if the settlement proceeds are the result of the death or disability of another person;

(B) for the medical bills, special education or other costs related to the minor's injuries if the settlement proceeds are the result of injuries to the minor; or

(C) for any payment in the best interests of the minor after consideration of the benefit to the minor, the resources of the parents or guardian, and the amount of remaining settlement proceeds.

(c) Probate Master.

A master appointed to hear probate proceedings has the authority under this rule to:

(1) conduct the hearing set forth in paragraph (a)(4) and recommend to the court that the settlement be approved; (2) receive proof that the proceeds have been disposed of as set forth in subparagraph (b)(2); and (3) issue orders approving the withdrawal of funds pursuant to subparagraph (b)(2)(D).

(d) Disbursement of Proceeds Resulting From Judgment.

Proceeds resulting from a judgment in favor of a minor must be disbursed as set forth in paragraph (b).

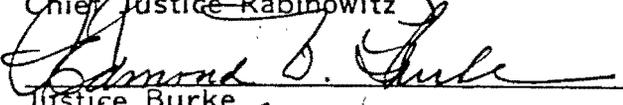
2. Judicial Administrative Order 313 for the third judicial district (Special Order 72-___: Special Order Concerning Minor Settlement Proceedings (10/31/72)) is superceded by this Supreme Court Order.

DATED: April 30, 1987

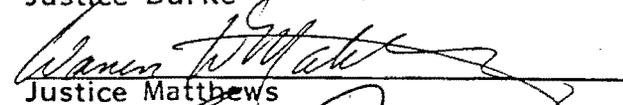
EFFECTIVE DATE: August 1, 1987



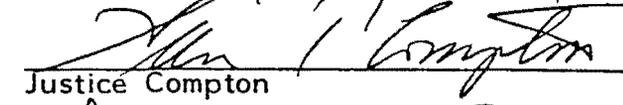
Chief Justice Rabinowitz



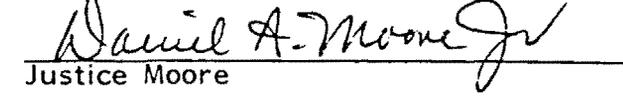
Justice Burke



Justice Matthews



Justice Compton



Justice Moore