

LAWSUIT SETTLEMENT APPROVAL PROCEDURE CONSERVATORSHIP CASES

The following requirements/procedures will be followed to process a petition to approve a litigation settlement in conservatorship cases:

1. A sworn petition providing details of the proposed settlement must be filed.
 - A. If approval of attorney's fees and expenses are requested, the petition should address the 12 *Peebles* factors (as appropriate in the given case) and include an itemization of the time expended - as required by decisions of the Alabama Supreme Court.
 - B. If another court has approved the settlement (and attorney's fees and expenses) a copy of said order should be attached to the petition and there is no need to address the 12 *Peebles* factors (as appropriate) or furnish an itemization of the time expended.
 - C. The terms of a settlement can be kept confidential with regard to the Court's file by submitting the terms in *separate* correspondence (not a pleading) addressed to the Court and noting in the petition that the terms of the settlement are confidential. In such instances the material will be returned to the petitioner's lawyer after review by the Court.
 - D. The Court must be informed of the dollar amounts involved to enable the Court to address the conservator's bond status.
2. The Court will appoint a guardian ad litem to represent the interests of the Ward. *If a guardian ad litem was utilized in the other court handling the litigation, if we are furnished the name of said guardian ad litem we will attempt to use the same person as the guardian ad litem in the matter before the Court.* If the guardian litem(s) consents in writing to the petition being granted, the Court will consider the petition without a hearing.
3. If a guardian ad litem objects to the proposed settlement, the petition will be set for hearing. At such hearing appropriate testimony should be offered in support of the petition, approval of attorney's fees and expenses (if requested). Affidavits will be accepted in lieu of in-court testimony if there is no objection by the guardian ad litem.
4. The conservator's bond will have to be reviewed and may have to be increased before the order approving the litigation settlement is issued.
5. The conservator will be required to file an updated inventory (to reflect the additional assets in the Ward's estate). A tracking date of 60 days will be set to monitor compliance.
6. There is no appeal time involved in this type matter.