

## **RULE 4:44. Proceedings To Approve Settlements**

### **4:44-1. Venue; Filing**

Actions brought in the Superior Court on behalf of a minor or mentally incapacitated person, instituted without process, for the purpose of obtaining the court's approval of a settlement shall be brought in any county in which the venue might be laid under R. 4:3-2, and in such actions in the Superior Court, the papers shall, unless the court otherwise orders, be filed with the deputy clerk of the Superior Court in the county of venue before the hearing on the application for approval.

**Note:** Source-R.R. 4:56A(a)(b); amended July 26, 1984 to be effective September 10, 1984; amended July 13, 1994 to be effective September 1, 1994; amended June 28, 1996 to be effective September 1, 1996; amended July 12, 2002 to be effective September 3, 2002.

### **4:44-2. Medical Testimony**

Medical testimony as to the injuries of a minor or mentally incapacitated person given in proceedings to obtain the approval of a settlement shall be that of the attending or consulting physician and may be submitted by affidavit unless the court, for good cause shown, permits the testimony of other medical experts or in its discretion requires the physician's personal appearance.

**Note:** Source-R.R. 4:56A(c); amended July 13, 1994 to be effective September 1, 1994; amended July 12, 2002 to be effective September 3, 2002.

### **4:44-3. Hearing; Order; Expenses**

All proceedings to enter a judgment to consummate a settlement in matters involving minors and mentally incapacitated persons shall be heard by the court without a jury. The court shall determine whether the settlement is fair and reasonable as to its amount and terms. In the case of a structured settlement providing for deferral of all or part of the proceeds thereof, the court shall also satisfy itself, based on the financial security of the obligor or surety and such other relevant facts as may be adduced, of the reasonable certainty that all future payments will be made as proposed by the settlement. If the court approves the settlement it shall enter an order reciting the action taken and directing the appropriate judgment in accordance with R. 4:48A, whose provisions shall also apply to deferred payments under structured settlements. The court, on the request of the claimant or the claimant's attorney or on its own motion, may approve the expenses incident to the litigation, including attorney's fees. If the fees of the attorney representing the guardian ad litem are to be paid by the defendant, the defendant shall upon the court's request make available to it defendant's complete file in the action.

**Note:** Source-R.R. 4:56A(e). Amended July 7, 1971 to be effective September 13, 1971; amended May 3, 1988 to be effective immediately; amended July 13, 1994 to be effective September 1, 1994; amended July 12, 2002 to be effective September 3, 2002.