

# PI Updates

## Changes to Personal Injury Settlements in the Denver Probate Court

In March, 2007, the Denver Probate Court implemented a change to the way the proceeds of Personal Injury Settlements are processed. In the past, an Order Approving Personal Injury Settlement would issue along with an Order for Deposit of Funds to Restricted Account. The responsible party (generally a minor's parents) must take this order along with the settlement check to a bank, open a restricted account, deposit all of the funds, and return an acknowledgment to the Court from the bank stating the same. This leaves a lot of room for error and possible misplacement of the funds.

The Denver Probate Court can now open up restricted interest-bearing accounts within the Court's Registry. Thus, as soon as the order is signed, the check can be signed over directly to the Court and the account will be opened in the minor's name. The Court will then issue an Acknowledgment letter to the parties letting them know that the money has been deposited. Another benefit arising from this is that those parties that are not able to open bank accounts due to poor credit or other reasons now do not have to worry about it. The money is safe, and everyone knows where it is. The custodian is still able to petition to withdraw funds from the Registry just as they would from a bank account, but without needing to get a certified copy of the order to take to their bank. The Court will simply issue a check once the order is signed. The Court feels that this process eliminates most of the risk normally associated with these proceedings.

*It is the Court's preference that this procedure be used for small accounts*

Susie Jordan  
Protective Proceedings Facilitator

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## HOW TO SET UP A REGISTRY ACCOUNT

The Denver Probate Court implemented a change to the way Personal Injury Settlements are processed effective May, 2007. A procedure is now in place whereby these funds may be deposited into the Registry of the Court.

*What is the Registry of the Court?*

The Court Registry contains funds that are held in trust by the Court. With the approval of the judicial officer, these funds are placed in an interest bearing account. The Clerk of Court, pursuant to a court order, receives these funds and deposits them to an interest-bearing account. (The court refers to this type of account as a "special account".) The account lists the Clerk of Court as the owner of the account and includes the case number within the account caption. There is no cost to establish the fund

and all of the earned interest is distributed to the beneficiary of the account. A court order is required to distribute these funds.

#### *How do I get the funds into a Special Account?*

Once the court order has been approved allowing the Clerk of Court to receive the funds, the paying party tenders payment in cash or check (preferably a cashier's check) in the full amount ordered by the court to the Clerk of Court. (If you pay by check, the Clerk is required to hold the funds for eight business days to ensure that the check has cleared the bank. You will also need to provide the Clerk of Court the beneficiary's tax identification number at the time the funds are given to the court.

The Clerk of Court will provide you with a receipt for the deposited funds. Generally within two business days, the new account has been opened and the money has been moved into the new interest bearing account. The Clerk of Court obtains a Public Deposit Protection Act number (P.D.P.A.) for each account. The good news is that the P.D.P.A. number acts to protect the funds in the account pursuant to legislation. The bad news is that P.D.P.A. accounts usually garner less interest because it is necessary for the banks to pledge more capital to ensure the liquidity of the accounts.

#### *What is the interest rate paid on the Special Account?*

The interest rate is set by the bank and depends on several factors. The rate fluctuates depending on those factors. The current interest is competitive and is available upon request from the Clerk of Court.

#### *How is earned interest on the account reported?*

Currently, when the earned interest statement is filed with the court, a copy is sent to the parties of record via LexisNexis File & Serve. The parties are responsible for any taxes due. However, the State Court Administrator's Office is currently reviewing the reporting process. You will be advised via our website if and when any reporting changes are made.

#### *Into what type of account are the funds deposited?*

Funds received for this purpose at the Denver Probate Court are placed into a money market account.

#### *How are funds withdrawn from the Special Accounts?*

The requesting party must petition the court to withdraw funds from these accounts. Once a court order approving the withdrawal has been granted, the Clerk of Court is able to write the check and disburse the funds pursuant to the court order.

#### *Conclusion*

It is our hope that this process will streamline the procedures for depositing and withdrawing funds, reduce the costs and hassle associated with the depositing and withdrawing funds and provide the opportunity for a secure place to deposit the funds for the beneficiary.