

SURROGATES INTERMINGLED TRUST FUND

EX PARTE VERIFIED COMPLAINT FOR MINOR'S FUND WITHDRAWAL ORDER

INTRODUCTION

All requests for withdrawal of minors' funds held in the Surrogates Intermingled Trust Fund (SITF) accounts must be made by verified complaint to the Probate Part judge. Requests for withdrawals may be presented *ex parte*. R. 4:48A. The guardian must sign the complaint and the verification and file the same with the Surrogate in his or her role as Deputy Superior Court Clerk. The matter proceeds *ex parte* unless the court otherwise orders. The initial review of an application is commonly on the papers in chambers; if an application is denied after an in-chambers review, the guardian may ask to be heard on the record.

COMMENTARY

The purpose of SITF is to protect minors' funds until minors reach majority and can take control of their funds. It is the duty of a minor's parents to provide for a minor's support, maintenance and education. Funds belonging to a minor should not ordinarily be used for such purposes. Accordingly, withdrawal is disfavored and courts safeguard these funds from unreasonable dissipation and will not allow withdrawals unless compelling and unusual circumstances exist, such as, medical emergencies or exceptional needs that a parent is unable to satisfy. Except withdrawals to pay taxes on a minor's wages or fund income, the court will ordinarily not grant orders for withdrawals if either or both parents are living and financially able to pay the requested expenditure. The Court will not authorize withdrawals for the benefit of parents or any person other than the minor.

CONTENT OF VERIFIED COMPLAINT

Forms of the verified complaint and order for withdrawal of minors' funds are available in the Surrogate's Office.

The verified complaint must include a statement regarding the minor's age, current resident address, current school, current employment and income, if any, and disabilities or impairments, if any. It must state the amount to be paid and to whom and a statement of the purpose of the withdrawal application and the reason that the disbursement serves the interests of the minor. The complaint must state the guardian's relationship to the minor. In all cases sufficient documentation to support the guardian's request must be submitted with the verified complaint. If the application is for matters involving the support, maintenance or education of the minor, the court requires additional parental financial information. See *Parent(s) Financial Circumstances* section below.

CONTENT OF WITHDRAWAL ORDER

The order will set forth the amount approved, if any, the payee or payees and an abbreviated description of the purpose. A withdrawal order will include the fees payable to the Surrogate as permitted by *N.J.S.A. 22A:2-30*. A withdrawal order for a former minor may include, if applicable, satisfaction of the former minor's child support obligation, *N.J.S.A. 2A:17-56.37 to 39*, and child support judgment search fee, if any.

PURPOSE/ JUSTIFICATION

Where a guardian seeks a withdrawal before majority, the guardian must disclose the purpose of the withdrawal and satisfactorily demonstrate that the withdrawal is in the best interest of the minor.

BILLS AND INVOICES

Copies of bills, statements or invoices related to the request must be attached to the verified complaint.

INSURANCE

If the request for withdrawal pertains to medical care or an accident or other casualty, an explanation about why insurance does not cover the expense must be included.

REIMBURSEMENT

If the request is for reimbursement of an expense already paid, proof of payment, *i.e.*, canceled check or receipt, must be attached to the verified complaint.

TAXES

For requests for payments of taxes on the minor's funds, the guardian must submit copies of the applicable tax returns separately with the verified complaint, but should not be attached to the verified complaint. Tax returns will not be retained in the court's file or microfilmed.

MOTOR VEHICLES

If the guardian requests a withdrawal for the purchase of a car, a guardian must attach a copy of the proposed purchase/sale agreement to the verified complaint showing the type of car, year, purchase price and whether payment will be made in full or in specified installments. A guardian should not enter into a binding agreement before obtaining a court order, since the court may deny the withdrawal application. The application must provide a detailed explanation why the minor needs a motor vehicle. The application must provide information about all the licensed drivers in the household and who will be permitted to drive the motor

vehicle. In addition, a liability and casualty insurance quote must be attached to the verified complaint showing that motor vehicle insurance coverage has been arranged and an explanation of whom will pay the insurance.

MINOR'S SUPPORT AND MAINTENANCE

The court will not authorize disbursements from a SITF account for a minor's support, maintenance or education where one or both parents are living, except upon a showing of the parent(s)' financial inability or other compelling circumstance supports the court departing, for the best interest of the minor, from this rule.

PARENT(S) FINANCIAL CIRCUMSTANCES

If the funds requested are for the support maintenance or education of the minor, the verified complaint shall include or be accompanied by a detailed explanation, including financial statements, if necessary, describing the parent's or parents' ¹ income and expenses and the parent's or parents' inability to support, maintain or educate the minor. If both of the minor's parents do not live with the minor, the verified complaint shall report the amount of any child support received by the custodial parent and the court's name that entered the order. If child support is not being collected, the guardian must state the reason for the lack of child support.

Copies of the parents' two most recent pay stubs and latest federal and state tax returns must accompany the application. The Surrogate will return the pay stubs and the tax returns to the parents after the court enters an order. The Surrogate will not retain copies of the pay stubs or the tax returns in the court's file or microfilm the same.

MAJORITY

Where a former minor seeks withdrawal because the minor has reached majority, the order establishing the SITF account is not self-executing and a certified copy of the minor's birth certificate or other convincing evidence of the minor's age must be presented with the verified complaint for withdrawal. The former minor must sign the verified complaint. The former minor must submit proof of identity. The final withdrawal order must provide for the payment of the funds only to the former minor.

MAJORITY/ CHILD SUPPORT OBLIGATION

Final withdrawal applications are subject to verification that the former minor is not a child support obligor and the fee, if any, for such verification shall be satisfied from the former minor's

¹ Both parents should provide financial information, when practicable. Circumstances in single parent household may create difficulties. Judges' discretion concerning the extent of financial information required to review the application ultimately will control.

funds. Outstanding child support obligations shall be satisfied and the remainder of the funds shall be paid over to the former minor.

ATTORNEY FEE

An attorney is normally not involved and, except in extraordinary circumstances, will not be paid a fee from the minor's funds for making a withdrawal application.

VIOLATION OF PRIOR WITHDRAWAL ORDERS

No subsequent withdrawal order should be entered by the court where a guardian has not complied with the terms of a prior withdrawal order.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
PROBATE PART

In the Matter of _____,
a Minor

Docket No. _____

CIVIL ACTION
*COMBINATION EX PARTE VERIFIED COMPLAINT, ACCOUNT
INFORMATION AND WITHDRAWAL ORDER FOR MINOR'S
FUNDS FROM SURROGATE'S INTERMINGLED TRUST FUND*

_____, residing at _____, guardian of the property of _____, a minor, by way of verified complaint, requests an order of the court authorizing the withdrawal of funds belonging to the above named minor held in the Surrogates Intermingled Trust Fund.

MINOR'S INFORMATION:

1. Date of Birth _____ Age _____ Sex M / F
2. Home Address: _____
3. Current School _____ Grade _____
4. Current Employer _____ Address _____
Job Description _____ Current Monthly Gross \$ _____ Net \$ _____
5. Describe minor's disabilities or impairments, if any. _____

WITHDRAWAL REQUEST:

- | | |
|---------------------|--------|
| 6. Amount requested | Payee: |
| \$ _____ | _____ |
| \$ _____ | _____ |
| \$ _____ | _____ |

Additional payees on attachment.

7. Purpose of withdrawal application and reason it is the best interest of the minor:¹
- _____
- _____

Minor reached majority on _____ (attach proofs of age and identity)²

¹ Copies of bills, statements or invoices related to the request, such as, doctor bills or a doctor's explanation of a required treatment or equipment, must be attached.

² If the former minor is the plaintiff, the former minor executes the pleadings.

8. The guardian's relationship to the minor is: *(natural parent, relative (describe), foster parent, other (describe))*:

PARENTS' INFORMATION (If application involves support, maintenance or education, matters which are the parents' obligation, then complete this section.)

9. Name, address, occupation and monthly income and expenses of the minor's natural or adoptive parents are:

father:		mother:	
name: _____		name: _____	
address: _____		address: _____	
city and state: _____		city and state: _____	
marital status: _____		marital status: _____	
occupation: _____		occupation: _____	
monthly gross income: ³	\$ _____	monthly gross income: ³	\$ _____
monthly net income:	\$ _____	monthly net income:	\$ _____
child support payment (receipts): ⁴	\$ _____	child support payments (receipts): ⁴	\$ _____
other income (itemize):	\$ _____	other income (itemize):	\$ _____

If applicable, the reason child support is not collected is: _____

father:		mother:	
Rent	\$ _____	Rent	\$ _____
Mortgage (including Taxes)	\$ _____	Mortgage (including Taxes)	\$ _____
Utilities (Gas and Electric)	\$ _____	Utilities (Gas and Electric)	\$ _____
Fuel Oil	\$ _____	Fuel Oil	\$ _____
Telephone	\$ _____	Telephone	\$ _____
Medical/ Dental		Medical/ Dental	
(Insurance/ Out of Pocket)	\$ _____	(Insurance/ Out of Pocket)	\$ _____

³ Attach a copy of parent's two most recent pay stub or other verification of income. Attach a copy of parent's federal 1040 tax return and schedules.

⁴ If child support is not being collected, the reason for the lack of child support must be stated.

ACCOUNT INFORMATION (To be Completed by Surrogate's Staff)

Deposit Date

Deposit Amount

\$ _____

\$ _____

Total amount remaining in the SITF account on _____, 20__ \$ _____

PREVIOUS WITHDRAWAL APPLICATIONS (To be Completed by Surrogate's Staff)

Date

Purpose

Amount

Amount

Requested

Approved

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

Additional withdrawals described on attachment.

TOTAL WITHDRAWALS

\$ _____

ORDER DENYING/ GRANTING WITHDRAWAL APPLICATION

This matter having come before the Court in accordance with R. 4:48A and R. 4:57-2(b) on application of _____ the guardian of the estate of _____, a minor, and the Court having reviewed the record including the verified complaint and attachments and good cause [not] appearing,

IT IS ON THIS _____ day of _____, 20__ ORDERED that:

- 1. The within application is denied with/without prejudice.
- 1A. The withdrawal application is granted and the payee or payees to whom funds will be disbursed are:

Payee

Amount

Purpose

\$ _____

\$ _____

\$ _____

\$ _____

2. A withdrawal fee, payable to the Surrogate, as allowed by N.J.S.A. 22A:2-30, is hereby authorized.

3. Other terms and conditions: _____

J. S.C.