

Deceased, Minor and Incompetent Claimant Procedures

I. INTRODUCTION

A Minor Claimant or Incompetent Claimant cannot sign a Registration Form, Claim Form or Release on his or her own behalf. Instead, the claimant's representative must sign and prove his or her authority to act on the claimant's behalf. Similarly, a Deceased Claimant's representative must sign the Registration Form, Claim Form, and Release and also prove his or her authority to settle the claim on behalf of all heirs of the Deceased Claimant's estate. This Alert explains how we are handling claims from such claimants.

II. MINOR CLAIMANTS AND INCOMPETENT CLAIMANTS

A. Guardian Ad Litem for Minor Claimants and Incompetent Claimants

Section 31 of the Deepwater Horizon Settlement Agreement required the Parties to nominate a Guardian Ad Litem to protect the interests of Minor Claimants and Incompetent Claimants who are not represented by an attorney or a personal representative. In a Preliminary Approval Order filed on 5/2/12, the United States District Court for the Eastern District of Louisiana appointed the Honorable P. Raymond Lamonica as the Guardian Ad Litem for the Economic and Property Damages Settlement Class members.

The Guardian Ad Litem for Minor Claimants and Incompetent Claimants has three duties:

1. Investigation

Investigate potential claims of Minor Claimants and Incompetent Claimants and report his findings to the Parties.

- (a) Make an independent investigation into the terms and provisions of the Settlement Agreement on behalf of those class members who are minors, lack capacity, or are incompetent
- (b) Inquire of existing minor or incompetent claimants that the Guardian Ad Litem learns of whether they have any claims falling into any Damage Category covered by and not excluded from the Settlement Agreement.

2. Recommendation

Make a recommendation to the Court as to whether the Settlement Agreement is fair, reasonable and adequate to protect the interests of Minor Claimants and Incompetent Claimants.

3. Representation

Work with the Claims Administrator to identify Minor Claimants and Incompetent Claimants who lack representation and ensure that the rights of

those claimants are fully exercised and protected under the terms of the Settlement Agreement.

The Claims Administrator must notify the Guardian Ad Litem of any Minor Claimants or Incompetent Claimant who is not represented by counsel and who also does not have a representative with appropriate authority to act on his or her behalf. If a Minor Claimant or Incompetent Claimant files a claim on his or her own behalf and is not represented by an attorney, the Claims Administrator will give the Guardian Ad Litem access to the claimant's contact information and all documentation the claimant submitted with his or her claim. The Guardian Ad Litem may also review the claims process occasionally to meet his responsibilities.

B. Signing a Registration Form and Claim Form on Behalf of Minor and Incompetent Claimants

A Minor Claimant or Incompetent Claimant's representative must sign the Registration Form and Claim Form and also submit proof of his or her authority to sign on the claimant's behalf. If a claimant signs on his or her own behalf, the claimant will receive an Incompleteness Notice. If the representative fails to submit acceptable representative documentation, the claimant will receive an Incompleteness Notice.

1. Acceptable Representative Documentation: Minor Claimants

A representative submitting a claim on behalf of a Minor Claimant may submit a copy of any of the following documents to prove his or her authority to sign the Registration Form and Claim Form on the claimant's behalf:

- (a) Court Order, Decree, or other official Court document establishing the representative's authority to act on the claimant's behalf.
- (b) Power of Attorney granted to a third party by claimant's parent or guardian. This document type is only acceptable when there is also proof establishing the parent or guardian's relationship to the Minor Claimant.
- (c) Claimant's birth certificate naming the representative as the claimant's parent.
- (d) Claimant's baptismal certificate naming the representative as the claimant's parent.
- (e) Minor Claimant Representative Certification (REP-2 Form) signed by the representative. This form is available in the Other Forms section under Personal Representative Forms on the DWH website.

2. Acceptable Representative Documentation: Incompetent Claimants

A representative submitting a claim on behalf of an Incompetent Claimant may submit a copy of any of the following documents to prove his or her authority to sign the Registration Form and Claim Form on the claimant's behalf:

- (a) Court Order, Decree, or other official Court document establishing the representative's authority to act on behalf of the claimant.
- (b) Power of Attorney establishing the representative's authority to act on the claimant's behalf.
- (c) Incompetent Claimant Representative Certification (REP-3 Form) signed by the representative. This form is available in the Other Forms section under Personal Representative Forms on the DWH website.

C. Higher Standard for Representative Documentation for Payment

The documentation a representative submits to prove his or her authority to sign a Registration Form or Claim Form on behalf of a Minor Claimant or Incompetent Claimant may not be sufficient to show his or her authority to sign a Release on the claimant's behalf and receive payment on the claim.

D. Payment and Signing a Release on Behalf of Minor Claimants and Incompetent Claimants

If a Minor Claimant or Incompetent Claimant's claim is payable, the Claims Administrator may require the claimant's representative to submit additional documentation before payment, even if the representative previously submitted acceptable documentation to establish his or her authority to sign a Registration Form or Claim Form on the claimant's behalf. Depending on the law of the state where a claimant resides, the claimant's representative may be required to obtain court approval of the settlement, approving the settlement amount, manner of payment and the representative's authority to sign a Release on the claimant's behalf. The Claims Administrator will notify the claimant if the representative is required to obtain court approval or submit additional documentation before payment. The Claims Administrator will also notify the Guardian Ad Litem if there are issues regarding proper representation.

III. DECEASED CLAIMANTS

A. No Guardian Ad Litem

There is no Guardian Ad Litem for Deceased Claimants.

B. Signing a Registration Form on Behalf of a Deceased Claimant

A representative submitting a claim on behalf of a Deceased Claimant may submit any of the following documents to prove his or her authority to sign the Registration Form and Claim Form on behalf of the claimant's estate:

1. Court Order, Decree, or other official Court document establishing the representative's authority to act on the claimant's behalf.
2. A will naming the representative as executor of the claimant's estate.
3. Letters of Administration or Appointment naming the representative as administrator of the claimant's estate.
4. Deceased Claimant Representative Certification (REP-1) signed by the representative. This form is available in the Other Forms section under Personal Representative Forms on the DWH website.

C. Higher Standard for Representative Documentation for Payment

The documentation a representative submits to prove his or her authority to sign a Registration Form or Claim Form on behalf of a Deceased Claimant may not be sufficient to show his or her authority to sign a Release and receive payment on the claim.

D. Payment and Signing a Release on Behalf of Deceased Claimants

If a Deceased Claimant's claim is payable, the Claims Administrator may require the claimant's representative to submit additional documentation before payment, even if the representative previously submitted acceptable documentation to establish his or her authority to sign a Registration Form or Claim Form. Depending on the law of the state where a Deceased Claimant resided at the time of his or her death, the claimant's representative may be required to obtain court approval of the settlement, approving the settlement amount, manner of payment and the representative's authority to sign a Release on behalf of all heirs to the claimant's estate. The Claims Administrator will notify the claimant's representative if the representative is required to obtain court approval or submit additional documentation before payment.