

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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IN RE:
Local Civil Rule 83.2

**ADMINISTRATIVE
ORDER
99-1**

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Whereas at the January 19, 1999 meeting of the Board of Judges, the Court adopted an amendment to Local Civil Rule 83.2, now therefore it is

ORDERED that Local Civil Rule 83.2 for the Eastern District of New York is hereby amended, effective immediately. See text attached.

SO ORDERED.

Dated: Brooklyn, New York
January , 1999

Feb. 1, 1999



Charles P. Sifton, Chief Judge

Local Civil Rule 83.2. Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, [and Conscious Pain and Suffering Actions]

(a) Settlement of Actions by or on Behalf of Infants or Incompetents

(1) An action by or on behalf of an infant or incompetent shall not be settled or compromised, or voluntarily discontinued, dismissed or terminated, without leave of the court embodied in an order, judgment or decree. The proceeding upon an application to settle or compromise such an action shall conform, as nearly as may be, to the New York State statutes and rules, but the court, for cause shown, may dispense with any New York State requirement.

(2) The court shall authorize payment to counsel for the infant or incompetent of a reasonable attorney's fee and proper disbursements from the amount recovered in such an action, whether realized by settlement, execution or otherwise and shall determine the said fee and disbursements, after due inquiry as to all charges against the fund.

(3) The court shall order the balance of the proceeds of the recovery or settlement to be distributed as it deems may best protect the interest of the infant or incompetent.

(b) Settlement of Wrongful Death Actions [and Actions for Conscious Pain and Suffering].

In an action for wrongful death [or conscious pain and suffering]:

(1) Where required by statute or otherwise, the court shall apportion the avails of the actions, and shall approve the terms of any settlement.

(2) the court shall approve an attorney's fee only upon application in accordance with the provisions of the New York State statutes and rules.

[Source: Former Local Civil Rules 28, 29]

*New language is underlined and in brackets.