

***IN THE SUPREME COURT, STATE OF WYOMING***

*October Term, A.D. 2010*

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*In the Matter of the Adoption of* )  
*Rule 909 of the Uniform* )  
*Rules for District Courts of the* )  
*State of Wyoming* )

**ORDER ADOPTING RULE 909 OF THE UNIFORM RULES FOR  
DISTRICT COURTS OF THE STATE OF WYOMING**

**The District Court Judges' Conference** has recommended that this Court adopt proposed Rule 909 of the Uniform Rules for the District Courts of the State of Wyoming. The Court, having carefully reviewed the proposed rule, finds that proposed Rule 909 should be adopted. It is, therefore,

**ORDERED** that Rule 909 of the Uniform Rules of the District Courts of the State of Wyoming, attached hereto, be and hereby is adopted by the Court to be effective July 1, 2011; and it is further

**ORDERED** that this Order and Rule 909 be published in the advance sheets of the Pacific Reporter; that Rule 909 be published in the Wyoming Court Rules Volume; and that this Order and Rule 909 be made available online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The Rule 909 shall thereafter be spread at length upon the journal of this Court.

**DATED** this 3rd day of February, 2011.

**BY THE COURT:**

/s/

**MARILYN S. KITE**  
Chief Justice

## Uniform Rules for the District Courts of the State of Wyoming

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### **Rule 909. Compromise, settlement, discontinuance and distribution of action involving minor or incompetent person.**

(a) No action to which a minor or incompetent person is a party or claim belonging to a minor or incompetent person shall be compromised, settled or discontinued except after approval by the court pursuant to a petition presented by the conservator of the minor or incompetent person. The petition shall be filed in the court in which the action is pending or it may be filed in the conservatorship matter.

(i) The petition shall disclose the age and sex of the minor or incompetent person, the nature of the causes of action to be settled or compromised, the facts and circumstances out of which the causes of action arose, including the time, place and persons involved, the manner in which the compromise amount or other consideration was determined, including such additional information as may be required to enable the court to determine the fairness of the settlement or compromise, and, if a personal injury claim, the nature and extent of the injury with sufficient particularity to inform the court whether the injury is temporary or permanent. The conservator shall submit a succinct statement of the medical issues involved. The Court, on motion of any interested party, or on its own motion, may direct that reports of physicians or other similar experts that have been prepared shall be provided to the court. The court may also require the filing of experts' reports when none have previously been prepared or additional experts' reports if appropriate under the circumstances. Reports protected by an evidentiary privilege may be submitted in a sealed condition to be reviewed only by the court in camera, with notice of such submission to all parties.

(ii) When the minor or incompetent person is represented by an attorney, it shall be disclosed to the court by whom and the terms under which the attorney was employed; whether the attorney became involved in the petition at the instance of the party against whom the causes of action are asserted, directly or indirectly; whether the attorney stands in any relationship to that party; and whether the attorney has received or expects to receive any compensation, from whom, and the amount.

(iii) Upon the hearing of the petition, the representative compromising the claim on behalf of the minor or incompetent person shall be in attendance. The court, for good cause shown, may require that the minor or incompetent person shall be in attendance. The court may require the testimony of any appropriate expert, as well as the submission of other evidence relating to the petition.

(iv) A copy of the petition and all supporting documents filed in connection therewith shall be filed in the district court with a copy to all parties and to the judge who may either approve the settlement or compromise without hearing or calendar the matter for hearing.

(v) The court shall determine that the following have been carefully considered by the conservator:

- 1) whether the proposed settlement was fairly and honestly negotiated;

2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt;

3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and

4) the judgment of the parties that the settlement is fair and reasonable.

(b) When a compromise or settlement has been so approved by the court, or when a judgment has been entered upon a verdict or by agreement, the court, upon petition by the conservator or any party to the action, shall make an order approving or disapproving any agreement entered into by the conservator for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the court may make such order as it deems proper fixing counsel fees and other proper expenses. The balance of the fund shall be paid to a conservatorship of the estate of the minor, or incompetent person, qualified to receive the fund, if the minor has one or one is to be appointed.

(c) When a judgment has been entered in favor of a minor plaintiff and no petition has been filed under the provisions of subdivision (b) of this rule, the amount of the judgment or any part thereof shall be paid only to a conservator of the estate of the minor qualified to receive the fund

(d) Nothing contained in this rule shall prevent the payment into court of any money by the defendant.