



When a minor is injured in a motor vehicle accident the minor may be eligible for compensation from a variety of sources. When a compensation offer is made, the Public Guardian and Trustee (PGT) is required to review the proposed settlement to see that it appropriately compensates the minor. This document describes the process for three specific scenarios reviewing settlements for motor vehicle accidents that took place between April 1, 2019 and April 30, 2021. As of May 1, 2021 ICBC moved to the [Enhanced Care Model](#).

For information on motor vehicle accidents prior to April 1st 2019, please click [here](#).

For more information, contact the Public Guardian and Trustee by telephone at 604.775.3480 or email cys@trustee.bc.ca.

Omar's Story

Omar was injured in a MVA on or after April 1, 2019.

The claim is assessed by ICBC.

If parties agree on all 3 factors identified in step 3 then settlement is referred to the PGT:

The guardian files insurance claim for less than \$50,000 on behalf of Omar.

The guardian and ICBC discuss the claim and the following factors:

- Question of who is at fault is not an issue;
- Agreement on minor or non-minor injury designation; and
- Quantum: Agreement on compensation;
 - Minor injury
 - for pain and suffering—capped at \$5,500
 - other applicable damages to a maximum total of \$50,000
 - Non-minor injury
 - pain and suffering plus other damages to a maximum of \$50,000

- The PGT conducts a review as per the Infants Act, s. 40
- If the PGT consents:
 - The Infant Settlement Review is signed;
 - Guardian Settlement Agreement (GSA) is signed (click [here](#) for more information);
 - Funds are sent directly from ICBC to the PGT in trust for Omar (click [here](#) for more information).

- If the PGT does not consent:
 - Returned to parties to re-evaluate;

- Once issues have been re-evaluated, the PGT again reviews;
- If the PGT consents:
 - The Infant Settlement Review is signed;
 - GSA is signed (click [here](#) for more information);
 - Funds for Omar's portion of the settlement are sent directly from ICBC to the PGT in trust for him (click [here](#) for more information).

If PGT does not provide consent as per the Infants Act, s. 42 and the Guardian:

- Decides to pursue a settlement:
 - Then the guardian must request a [Civil Resolution Tribunal](#) (CRT) hearing;
 - The guardian must obtain legal representation as per CRT Rule 1.13(3); Civil Resolution Tribunal Act, s. 20(4).
 - The CRT will make a decision and issue a ruling;
 - The CRT has limited jurisdiction regarding legal fees.
 - The PGT's consent as per the Infants Act, s. 42 is required during the overall settlement approval process
 - Funds are sent to the PGT as per the Insurance (Vehicle) Act, s. 92 (click [here](#) for more information).

OR

- Decides to hold off on the settlement:
 - When Omar is 19, they can settle the matter on their own.



Fabian's Story

Fabian was injured in a MVA prior to May 1, 2021.

The claim is assessed by ICBC and either:

The guardian files insurance claim for greater than \$50,000 on behalf of Fabian and no court action initiated.

The guardian and ICBC agree on a settlement:

- The settlement is referred to PGT for statutory comments as per the Infants Act, s. 40(10).
- If the Court grants approval, the settlement becomes binding as per the Infants Act, s. 40(5).
- Funds for Fabian's portion are sent directly from ICBC to the PGT as per ICBC policy via Insurance (Vehicle) Act, s. 92 and held in trust for the infant (click [here](#) for more information).

OR

The guardian and ICBC cannot agree on a settlement:

- The Guardian files a Notice of Civil Claim in the Supreme Court of British Columbia and becomes litigation guardian; or

- ICBC files a Notice to Proceed as per the Limitation Act, s. 20. If the PGT finds that Fabian has a viable claim and the guardian is not pursuing the claim, then the PGT may file a Notice of Civil Claim in Supreme Court of British Columbia and become litigation guardian as per the Limitation Act, s. 9.

- If the guardian refuses to file or delays filing and the PGT becomes aware then the PGT may:
 - Negotiate with ICBC directly as per the Infants Act, s. 40(5) and seek a Court Order granting approval of the settlement; or
 - Take on the role as litigation guardian to initiate court action and make a binding agreement to settle upon Court approval; or
 - ICBC may issue a Notice to Proceed as per the Limitation Act, s. 20; or

- Fabian has the opportunity to file a claim up to 2 years after they turn 19 as per the Limitation Act, s. 18.

- The court will then
 1. Issue an order approving the PGT as Litigation Guardian or an ICBC settlement agreement; or
 2. Issue a decision.
- Once concluded:
 1. Funds are sent directly from ICBC to the PGT as per ICBC policy via Insurance (Vehicle) Act, s. 92 and held in trust for Fabian (click [here](#) for more information); or
 2. Funds are sent to an appointed trustee as per the Family Law Act, s. 179 (the PGT will provide comments to the Court as part of this process).

OR

If proceedings have been commenced in the CRT and the guardian and ICBC consent to a Court process as per the Civil Resolution Tribunal Act, s. 16.4 (2)(b), then:

- The guardian becomes litigation guardian and initiates the Notice of Civil Claim in the Supreme Court of British Columbia;
- When the Court issues its decision on the matter:
 1. Funds are sent directly from ICBC to the PGT as per ICBC policy via Insurance (Vehicle) Act, s. 92 and held in trust for Fabian (click [here](#) for more information); or
 2. Funds are sent to an appointed trustee as per the Family Law Act, s. 179 (the PGT will provide comments to the Court as part of this process).



ICBC



Yuki's Story

Yuki was injured in a MVA prior to May 1, 2021.

The guardian files insurance claim for greater than \$50,000 with ICBC.

The guardian obtains legal counsel and becomes litigation guardian to file the Notice of Civil Claim for greater than \$50,000.

The claim is assessed by ICBC before court action proceeds to trial and:

- The litigation guardian and ICBC agree on a settlement. The settlement is:
 - Referred to the PGT for statutory comments as per the Infants Act, s. 40(10).
 - A draft Consent Order is created.
 - The settlement is referred to Court as per the Infants Act, s. 40(8).
 - If the Court grants approval, the settlement is binding as per the Infants Act, s. 40(8).
 - Funds are sent directly from ICBC to the PGT as per ICBC policy via Insurance (Vehicle) Act, s. 92 and held in trust for Yuki (click [here](#) for more information); or

- The litigation guardian and ICBC cannot agree on a settlement.
 - The litigation guardian proceeds with court action.
 - The Court issues its decision on the matter:
 1. Funds are sent directly from ICBC to the PGT as per ICBC policy via Insurance (Vehicle) Act, s. 92 and held in trust for Yuki (click [here](#) for more information); or
 2. Funds are sent to an appointed trustee as per the Family Law Act, s. 179 (the PGT will provide comments as part of this process).

