

# WEST VIRGINIA CODE: §44-10-16

## **§44-10-16. Settlement of derivative claims.**

(a) Nothing contained in this article may limit the derivative rights of a parent or guardian to compromise and settle any claim they may personally have for damages arising out of injury to their minor child or ward for whom they are responsible. This authority to compromise and settle derivative claims includes, without limitation, the authority to compromise and settle claims for the costs of medical or other care for the child or ward attributable to the bodily injury.

(b) The separate settlement of a derivative claim by a parent or guardian does not limit any person, including the parent or guardian, from seeking damages for the minor child or ward.

(c) Any release or waiver of a right to bring a legal action to assert a derivative claim, made and executed prior to the commencement of a civil action, shall be in writing and shall be binding against the person who accepts valuable consideration in exchange for the release or waiver of right to bring the legal action: Provided, That in the event a parent or guardian fully repays the consideration received in exchange for a release or waiver of a right to bring a derivative claim or action to the appropriate entity within ninety days after the commencement of a civil action brought on behalf of the child or ward who was injured, the parent or guardian may fully assert the derivative claim in conjunction with the child or ward's claim: Provided, however, That if more than a year has elapsed since the payment of the consideration, full repayment shall include, in addition to the principal sum paid, legal interest on the principal sum calculated in accordance with section thirty-one, article six, chapter fifty-six of this code.

(d) Nothing contained in this section may be construed to reduce the limitation period for filing any civil action for damages arising out of the bodily injury of a minor child.