

Understanding Structured Settlements

For nearly 25 years, the federal government has recognized and encouraged the use of structured settlements in personal injury cases. Structured settlements have also attracted strong support from plaintiff attorneys, state attorneys general, legislators, judges, and disability advocates.

Historically, damages paid as a result of an injury lawsuit came in the form of a single lump sum payment. This kind of payment, especially in catastrophic injury cases, often placed the injury victim (or family) in a difficult financial position. With the victim focused on adapting to a new lifestyle, there was often no time to manage large sums of money.

That can lead to serious trouble. A person who loses funds intended to cover a lifetime of future medical expenses runs the risk of losing critical medical care. He or she may also have to rely on public assistance programs that carry significant restrictions. This is why, in 1982, a bipartisan coalition of legislators in Congress came together to pass legislation that amended the federal tax code. Their action, the Periodic Payment Settlement Act of 1982 (Public Law 97-473), formally recognized and encouraged the use of structured settlements in physical injury cases.

Introduction

TO STRUCTURED SETTLEMENTS

What Are Structured Settlements?

Structured settlements are an innovative method of compensating injury victims through the use of annuities.

Encouraged by the U.S. Congress since 1982, a structured settlement is a voluntary agreement between the injury victim and the defendant for future periodic payments.

With a structured settlement annuity, the injury victim doesn't receive compensation for his or her injuries in one lump sum. Rather, he or she receives a stream of tax-free payments tailored to meet future medical expenses and basic living needs.

A structured settlement may be agreed to privately (for example, in a pre-trial settlement) or it may be required by a court order, which often happens in cases involving minors.

What Kind of Flexibility Do I Have in Setting Up a Structured Settlement?

Structured settlement annuities are exceptionally flexible and can be designed to meet virtually any set of needs. A relatively simple payment schedule can be set up that provides for equal payments at set intervals – for example, every month for 20 years.

Yet payments need not be in equal amounts. Someone who will need a new wheelchair every three years might elect to receive a larger payment every 36 months to help defray the cost. (This would presumably be in addition to the regular payments.)

Structured settlements inherent flexibility means that they are well-suited to compensate people for a wide variety of injuries. Your attorney or a Synergy Settlement Consulting planner will be able to explain additional details as they apply to your case.

Who Determines the Amount of Payments and the Payment Schedule?

In any physical injury case, the plaintiff and defendant negotiate issues such as the victim's medical care, basic living and family needs. Oftentimes, one side (or both) will bring in an expert, such as a structured settlement planner, who provides calculations on the long-term cost of these needs.

When there is an agreement on the amount of damages due to the injury victim (which can happen before, during or after a lawsuit), the victim can select a periodic payment plan that meets his or her needs, and the defendant will agree to make the future payments via a structured settlement. The defendant then assigns this obligation to an experienced third party, a life insurance company that funds the damage payments with an annuity.

Why Choose A STRUCTURED SETTLEMENT?

A structured settlement annuity has been the preferred method of funding because of its pricing and flexibility. As structured settlements involve complex calculations, you should always consult your attorney and a structured settlement planner.

Are Structured Settlements More Likely To Be Used In Certain Types Of Cases?

Structured settlements can be ideally suited for many types of cases, including:

- Persons with temporary or permanent disabilities
- Guardianship cases that may involve minors or persons found to be incompetent
- Workers' compensation cases
- Wrongful death cases where the surviving spouse and/or children need monthly or annual income
- Severe injury, especially with long-term needs for medical care, living expenses and support of family
Independent surveys show that the more serious the injury, the greater the likelihood that a structured settlement will be used

What Are The Advantages Of A Structured Settlement Over A Lump-Sum Payment?

A long-term structured settlement has several advantages. First, there is security. A structured settlement provides guaranteed long-term income. That gives the victim or the victim's family the ability to recover without spending time and resources determining investment strategies.

Second, structured settlement recipients avoid the possibility of a financial loss due to poor investment choices. Structured settlements provide a secure, low-risk source of compensation and the convenience of regular payments tailored to fit the victim's specific needs.

Third, when Congress amended the federal tax code to encourage structured settlements, it explicitly

I'm Involved In A Lawsuit Now. Why Should I Consider A Structured Settlement?

The tax-free payments from a structured settlement can:

- Relieve the financial pressures of medical expenses and living needs
- Meet long-term rehabilitation or permanent care facility expenses
- Provide for the future cost of college funds, retirement down payment on a home, or mortgage payment
- Provide enhanced protection of the recovery from creditors and predators
- Provide long-term financial security

provided that 100 percent of every structured settlement payment would be exempt from federal and state income taxes.

There are many other benefits as well. The victim avoids the risk of mismanaging his or her settlement proceeds. **It is widely believed, although not proven, that almost a third of accident victims completely dissipate their judgments or settlements within a few months of recovery, and most spend it all within five years.** Structures can offer rates of return that are competitive with other investments. Finally, using a structured settlement, you can avoid the risk of outliving your recovery by transferring the risk to a secure financial institution with experience in this field.

What

STRUCTURED SETTLEMENT RECIPIENTS SAY

In 1973, Shirley Adams of Memphis, Tennessee gave birth to a daughter, Tiffany, who was born with brain damage. Ms. Adams maintained this damage was the result of medical malpractice by the hospital.

In 1980, Shirley and her husband received a settlement of \$250,000. Despite the attorney's advice to invest this money prudently, Shirley says her husband put the money into his own construction company.

By the mid-1980s, the company was bankrupt and the money to care for Tiffany was gone. In 1993, Shirley and her husband divorced. He moved to Eastern Europe and stopped paying child support.

But the story does not end there. In 1987, Tiffany's wheelchair malfunctioned, causing it to roll forward and throwing her face first into the street. Tiffany suffered severe facial injuries. This time, Ms. Adams insisted that the settlement from the wheelchair manufacturer be in the form of a structured settlement.

Today, Ms. Adams is convinced of the benefit structured settlements have brought to her life. "Taking care of Tiffany is a full-time job and requires constant attention, not to mention the financial need," she says. "My structured settlement protects Tiffany from other people completely taking advantage of her for the whole amount of the settlement."

Shirley Adams (Yorba Linda, CA)

Mother of a Child with Brain Damage

"Who do you trust to give you advice about your financial future? In the weeks after our car accident, in which my husband died, I was faced with this question many times. During the litigation process I was even more confused with how I should structure my money so that it would last me and my three children for our future. I was introduced to a settlement planner at my first mediation.

He answered all my questions about structured settlements and ran figures for me as often as I needed. He put the figures into real life terms that made it easier to make a decision. He prepared me and educated me through the process so that I could make a well-informed decision on my financial future. The decisions that I made over 2 years of litigation have proved to be very good ones providing me with the financial security and stability that I need to raise my 3 children. I now have the financial resources to take care of my children and provide myself with income through retirement. I believe that I was given good and trusted advice from my settlement planner. He provided me with information, education and the answers to many, many questions. He helped me through a very tough time in my life and for that I will always be grateful."

D. Barnett (Texas)

Plaintiff in Wrongful Death Products Liability Case

Excerpts from a letter written by Mr. Jeske to one of the people who represented him after his 2001 accident:

"Now that the dust has somewhat settled from a long legal battle, I feel very good about the decision I made to invest in a structured settlement annuity package.

I will admit that I was skeptical at first, but the more I considered the 'structured settlement,' the more it made damn good sense. At this point in time good sense was an obvious and critical ingredient to making a sound financial decision. Especially, being aware that I was under much mental, physical, emotional, and now financial pressure. I knew that I was very vulnerable to the very real world.

In this very complicated world today it is very easy to fall prey to poor or crooked financial advisors, stock brokers, hidden laws, fluctuations in all types of

financial markets and economies around the world, corporate manipulation and corruption (like Enron for example), not to mention the effects of terrorism.

At that point I realized all at once that I didn't have to become an overnight business and financial expert with one chance to get it right with little or no experience. And not forgetting that I am personally injured, I also realized at that point that I could secure and guarantee the payments for my loved ones or family in the event something happened to me.

And as far as investments go, I also realized that I could still invest portions of my monthly payments, in increments over time, in a much more calculated, controlled, and comfortable way. This would be the best of both worlds for us. I hope that this form of logic can somehow be conveyed to others that are and will be in that very difficult and financially dangerous place that I was once in."

William Wayne Jeske (Corinth, New York)

Victim in a Products Liability Case

"One option a structured settlement annuity guarantees me, financial security and a monthly payout for the rest of my life. I urge anyone who has obtained a large settlement to speak to a settlement planner, listen to the options they present, and consider placing their funds into a structured settlement also. As with me, you will enjoy the long-term benefit of doing so."

E. Anderson (Alabama)

Shooting Victim in Premises Liability Case

"The structured settlement that our settlement planner worked on with me has provided financial security for our lifetime. It gave me peace of mind knowing that our planner truly cared about what our future held.

He discussed several different options with me, explaining them thoroughly until I understood. With his expertise we were able to decide what would benefit us the most."

R. Noel (Florida)

Plaintiff in Wrongful Death Motor Vehicle Case

"The pain of losing my wife and two of my sons in a car accident caused me to focus on a future without them, and being there emotionally for my two oldest children. I did not spend much time thinking of a lawsuit or our financial future. But more than two years after filing a lawsuit and on the verge of receiving a good settlement, it was time to think about our financial future. This is where my settlement planner became a tremendous blessing in my life. Explaining the advantages and disadvantages of structured settlements was extremely helpful to me in making a decision, but more than that, my advisors pointed out some personal things to consider that proved very true. My planner talked to me like a concerned friend, and now having lived through the requests for loans and the 'can't miss' business deal offers, I am grateful for his concern. If I had to make a decision between a 'lump sum' and 'structured settlement' today, I would make the same decision again. My children and I have a great financial future as a result of our settlement planner's advice and the structured settlements we put into place."

E. Small (Alabama)

Plaintiff in Wrongful Death Motor Vehicle Case

What

INDEPENDENT VOICES SAY

Disability advocates and America's most reputable plaintiff attorneys* speak out about structured settlements:

"Structured settlements are a model benefit for people with disabilities because there is no financial disincentive for a person who chooses to go back to work."

Andrew J. Imparato

President, American Association of People with Disabilities

"For years, structured settlements have offered great benefits and financial security to injury victims, surviving spouses and children involved in tort cases."

Philip Corboy, Esq.

Trial attorney and former chairman, American Bar Association Committee on Medical Professional Liability

"A creative structured settlement consultant can put together a package that will give the injured person some flexibility and access to money when they need it, but also preserve that money over many years."

Fayrell Furr, Esq.

President, Southern Trial Lawyers Association (2005-2006)

"Structured settlements are an effective tool to provide financial security, which most families desperately need after a serious accident or death."

Nancy Starnes

Vice President, National Organization on Disability

"Structured settlements have been adopted by Congress and state legislatures to assure people who need long-term medical and other support will get it."

Robert Hunter

Director of Insurance, Consumer Federation of America

"Structured settlements are a benefit that I have recommended to clients as one of the best ways to guarantee financial security and independence."

William Garmer, Esq.

Board of Governors, Association of Trial Lawyers of America

"Structured settlements ensure that victims have enough funds to not only pay their bills today, but also in the future. I am one of those victims whose life needed to be put back together."

Hon. James Langevin

Member of Congress & structured settlement beneficiary

"Ask yourself: What if you had invested your settlement in Enron? Or a 'dot-com' company? The money for your medical and rehabilitation costs, not to mention your child's education, would be gone forever. A structured settlement is a good solution."

Maria Diamond

Past President, Washington State Trial Lawyers Association

"A structured settlement allows a family to focus on recovery with the knowledge that their settlement will be there to help them through the years to come. That's why I have been comfortable recommending structured settlements for more than 10 years."

Donna Davis, Esq.

Past President, Tennessee Trial Lawyers Association

"The structured settlement has proven so effective at keeping seriously injured and disabled Americans out of public assistance that [in 1997], Congress amended the tax code to allow for increased use of structured settlements in workers compensation cases."

William Robinson, Esq.

Past President, Kentucky Bar Association

*These quotations are property of the National Structured Settlement Trade Association and are not an endorsement of a particular structured settlement firm.

Details

YOU NEED TO KNOW

What Are Some Of The Federal Tax Rules That Make Structured Settlements Beneficial?

In the Periodic Payment Settlement Act of 1982 (P.L. No. 97-473), Congress adopted specific tax rules to encourage the use of structured settlements to resolve physical injury cases.

Section 104(a)(2) of the Internal Revenue Code clarifies that the full amount of the structured settlement payments is tax-free to the victim. (By contrast, the investment earnings on a lump sum payment are usually fully taxable.)

What Is A “Qualified Assignment”?

The defendant or its insurer may transfer the obligation to make future payments through a “qualified assignment” to a financially secure and experienced institution – a life insurance company, for example. The assignment provides the injury victim with strong financial security, and the defendant can close its books on the case. This process relieves the defendant of further responsibility for the payments and transfers the administration and record-keeping responsibilities. The assignment company specializes in these activities and may offer additional financial security to the claimant.

What Other Federal Tax Rules Govern The Use Of Structured Settlements And Qualified Assignments?

In order to protect the public, Congress specified in Section 130 the requirements to establish a qualified assignment:

- The assignee assumes the liability from the defendant
- Both the victim (and his/her attorney) and the defendant agree that the payment schedule cannot be “accelerated, deferred, increased or decreased”
- The payment stream may be excluded from the recipient’s gross income for tax purposes
- The injury must be a physical sickness or injury
- A highly secure funding asset (such as an annuity or U.S. Government obligation) must be used to fund the payments

What Are The Disadvantages Of A Structured Settlement?

There are two main disadvantages:

- The periodic payments can’t be borrowed against, deferred, accelerated or changed once set up
- Default risk, meaning the life insurance company that is selected is unable to make the payments. However, this risk is small due to the well-capitalized life insurance companies that are used for structured settlement annuities. Additionally, there are state insurance guaranty associations for every state that guarantee annuities up to a certain value (excludes workers’ compensation reinsurance). Finally, settlement proceeds can be spread amongst several different life insurance companies to lessen default risk.

Conclusion

A structured settlement is a proven, effective solution for the needs of personal injury victims. Personal injury lawyers advocate the use of structured settlements for their clients because they can effectively meet an injured victim's needs for security, as well as provide more future benefits over time than a single lump sum settlement.

Structured Settlement Payment Plans Are:

- Free from federal & state income taxes
- Tailored to your specific needs
- Protection against premature dissipation
- Guaranteed to arrive on time and in full

Who is Synergy Settlement Consulting?

Synergy Settlement Consulting (SSC) is a unique plaintiff based settlement planning firm offering services nationwide. SSC has been involved in the settlement of millions of dollars in injury settlements over the years. When you need comprehensive and expert settlement planning services, depend on SSC's experienced settlement planners. Our personnel are highly qualified to provide professional solutions for the most difficult cases. We specialize in evaluating cases where clients are eligible for any type of public benefits and advising regarding special needs trusts, Medicare set-asides, as well as financial planning options for the personal injury settlement.

Looking for comprehensive settlement consulting services?

Synergy Settlement Consulting is your one stop resource. When you need a skilled settlement planner, rely upon settlement planners that top trial lawyers across the United States and injury victims alike turn to for guidance.



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