



Healthcare Risk-Quality-Safety, Simplified

Structured Settlements – Medical Malpractice

A Structured Settlement is a financial arrangement that allows the plaintiff to receive guaranteed, tax-free payments over a period of years - as opposed to a single, lump-sum amount. These arrangements are prevalent throughout civil injury cases, and medical malpractice situations are no exception.

Cases of catastrophic injury are often particularly appropriate for settlements of this nature. Injuries sustained may include: birth injuries; significant neurological injuries; loss of limbs; loss of sight, and so on. When a patient is seriously harmed in a healthcare setting, he or she is often in a vulnerable position already. Depending on the severity of the injury sustained, the patient will undoubtedly incur significant medical expenses, some of which may continue for the rest of his or her life. The individual may be unable to work, or at least unable to continue working in his or her past position.

Structured Settlements can help ensure medical expenses, loss of earnings, pain and suffering, and additional costs are accounted for in a consistent, well-planned, structured manner. Whether payments are made to a patient or his or her family, these settlements can provide an effective way to remedy medical malpractice claims.

Advantages

Structured Settlements may benefit the **plaintiff** in several ways:

- Payments can be specifically tailored to meet the injured party and the family's current and anticipated financial needs.
- Income from Structured Settlements are tax-free.
- The payment structure is generally set up for the life-time of the plaintiff, with a guarantee for a specified number of years.
- Should the plaintiff die before the guaranteed years have expired, his or her heirs will continue to receive payments over that period.
- The structure can be set up to compound annually at a rate agreed upon by the plaintiff.
- Additional lump-sum payments can be built into the structure to provide for such things as college education or a future wedding of a child.
- There are significant protections against garnishment and bankruptcy. For example, in many states Structured Settlement monies are exempt from bankruptcy proceedings and may not be pursued.
- These settlements encourage fiscal restraint on behalf of the plaintiff, helping to avoid the loss of significant payment monies through poor financial choices.



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Structured Settlements also benefit the **insurance company**:

- It is a helpful negotiating tool at mediation, providing flexibility to the process. The plaintiff is able to see how the payments will be received over time and the amount of the total benefit.
- It can save the insurance company money, as the cost to purchase the annuity is less than the total benefit to the plaintiff. It is critical that the annuity is purchased from a safe and secure life insurance company with high performance ratings.

Disadvantages

Structured Settlements have some potential disadvantages:

- A financially competent plaintiff may lose certain investment opportunities, as he or she will not have immediate access to the whole settlement amount.
- The plaintiff may not be able to develop a useful emergency fund, as would more likely be the case with a lump-sum.
- There is the potential that not all payments will be honored. For example, the insurance company could become insolvent.

Who Do You Call?

Due to the complexity and sophistication involved when setting up a Structured Settlement, it is paramount that this task is completed by an appropriately experienced and qualified Structured Settlement Broker.

The Civil Division of the United States Department of Justice provides an annually updated list of annuity brokers who meet the minimum criteria required to provide annuity brokerage services in connection with Structured Settlements. Any individual who wishes to be placed on this list must submit a formal Declaration indicating his or her compliance with the full criteria (relating to: experience; qualifications; insurance; and character). It should be noted that the Department of Justice does not guarantee that a broker in fact meets these standards, merely that the individual has submitted the formal Declaration in that regard. Further to this, a broker holding particular licenses/certifications may be able to demonstrate enhanced experience and expertise. Licensing may vary from state-to-state, but designations such as Certified Structured Settlement Consultant (CSSC) are particularly well regarded.

Conclusion

Structured Settlements offer many benefits and protections to personal injury plaintiffs who are awarded compensation. Payment plans of this nature are often the best method for delivering settlement monies and should at least be considered as part of any financial plan for plaintiffs. Selecting an appropriate broker will also help ensure a Structured Settlement is created and maintained with the proper level of care and skill and may prevent a lot of issues from arising in the future.