

Misconceptions. Selecting the Best Claims for Structured Settlements

Ask a mix of a hundred claims professionals, defense attorneys and plaintiff attorneys to rank the most likely candidates for structured settlements and most will put minors at the top of the list. That is a fair and just belief since funds should remain protected until at least age 18, and the fact that longer deferrals of annuity benefits, will yield greater returns on the investment. Categories of cases that fall further down the list include Senior Citizen claimants, relatively smaller cases and the indemnity portion of Workers' Compensation claims. Reconsider these paradigms and you might find a lot more claim settlements flying off your desk. Let's look at the settlement potential of each of these types of cases.

Structured settlements make sense for mature claimants because an annuity can alleviate the concern of financial security and provide near-retirees with a guaranteed fixed income they cannot outlive. Further, a structured settlement is a shelter from market volatility, and can ensure that older claimants won't need to be dependent on their children or on welfare. Older individuals also have a higher likelihood of having health issues outside the scope of the claim, which can make lifetime income payments more important, and which may also result in a rated age. Finally, some baby boomers would like to maximize the value of the benefits being left to their heirs and avoid probate taxes on their estates. Structured settlement annuities allow a beneficiary or beneficiaries to receive continuing payments or refund proceeds after the death of the annuitant. Such payments are income tax-free, and generally free from probate expenses, unlike cash settlement proceeds, which may flow through the probate expense mill.

The second myth to debunk is that the best cases to structure have a value over a million dollars. In the EPS database of tens of thousands of settled cases, nearly 60% were in the range of \$0 - \$100,000 for annuity premium, and only about 5% were over a million dollars. A better measure of the appropriateness of a structured settlement involves an examination of the facts of the case. Consider a structured settlement offer, regardless of case size, in cases involving:

- Minors or incompetent claimants
- Death claims
- Policy limits cases
- Diminished future earnings
- Severe injury
- Questionable liability with dangerous verdict potential

Finally, workers' compensation claim handling habits die hard. If you have been in the claim business for long, you have heard that structuring the Medicare Set-Aside component in workers' compensation claims often saves 35% or more compared to fronting the full CMS-approved

amount at one time. This is a satisfying outcome that benefits both the injured party and insurance carrier. Structured MSAs are so popular, in fact, that the remaining elements of the workers' compensation claim are often forgotten. Consider structured settlements for death benefits, non-Medicare-covered medical costs, wage differentials and permanent partial disability (PPD) payments.

In a scenario where the injured worker is receiving permanent/total workers' compensation benefits that cease upon the injured worker's death, his or her spouse would be left with nothing. A structured settlement of the indemnity payments can ensure continuing income for the surviving spouse, alleviating a great deal of stress beyond the loss of a partner. One creative design is to offer a Joint and Survivor annuity, where payments are scheduled to continue through the lives of both spouses.

Dismissing elder cases, smaller cases and Workers' Compensation indemnity benefits as structured settlement candidates is a habit worth rethinking. Utilizing structures in these situations will provide attractive options to claimants and lead to an increased number of desirable settlements in these unconquered segments of the claim pool.

Credit and appreciation go to Joseph Costello, CEO of EPS Settlements Group, for allowing the adaptation of his article "Seniors and Structured Settlements."