

Since 1982, structured settlements, also known as annuities, have been available to provide funding for the settlement of plaintiff personal injury claims. Structures can be a partial alternative to a lump-sum cash payment. They provide a stream of income on a periodic basis, typically monthly. There is a 100% exemption from federal income tax on the structure payments.

Structures are most effective in the context of an agreed settlement, such as a mediation. For example, in a medical malpractice case involving an injury to an individual, when agreement has been reached on the benefits due to the injured person, the defendant will agree to fund that amount. The settling parties may still have very different opinions about the individual's reasonable life expectancy.

A structured settlement provides for payments for the lifetime of the individual. The life expectancy risk is shifted to the life insurance company from which the defendant purchases the structure. The structure will typically provide a guarantee period so that the insurance company is obligated to make payments for the life of the individual, with some minimum number of payments guaranteed against the possibility of the individual dying early.

The structured settlement broker is an independent professional who will obtain quotations from many different life insurance companies, based on the totality of the medical conditions affecting the individual, not just those flowing from the alleged medical malpractice. During the course of the negotiations, the structured settlement broker will provide the parties with illustrations showing the cost to purchase the structure, the

estimated payout over the lifetime of the individual, and the guaranteed payout. The life insurance companies will compete for this business, both in financial return and in providing an estimated "rated age" for the individual. For example, in an extreme case, an 8-year-old child can be given the life expectancy of a 75-year-old. (Payments will nevertheless continue for the life of the individual.) Whether the structured settlement broker appears as a consultant to the defendant or to the plaintiff, he or she should be given access to all current medical underwriting information so the most favorable rated age can be obtained.

It is also important that the parties, particularly the structured settlement broker, understand the reasonable life care needs of the injured person. For example, if he or she needs 40 hours of attendant care per week for 10 years, and then 60 hours per week thereafter for life, the periodic payments can be tailored to this need.

In small cases, the use of a structured settlement annuity may not be appropriate.

However, in larger cases where there is enough money for up-front cash and a structure, the structure can provide flexibility, with guaranteed payments for the life of the injured person, regardless of the investment outcome of the cash portfolio. In many cases, there should be a sufficient lump sum for immediate needs, such as a home, vehicle, vacation and repayment of debt. The mix of cash and structure should be tailored to the expected needs of the injured person – which should, in turn, be determined by taking advantage of available resources such as Life Care Plans, financial advisors, structured settlement brokers, and special needs trust counsel.



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**quality of life**  
requires informed  
**decisions.**

The best way to provide your special needs child with compassionate care and a comfortable life is to support your legal and financial decisions with reliable information and proven expertise. That's why America's finest disability lawyers have combined their talents to create the Special Needs Alliance.

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**Striking  
a Balance**  
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