

Managing Settlement Awards for Victims of Sexual Abuse

Victims of sexual abuse are litigating. Among the most prominent defendants are schools, medical professionals, entertainment industry tycoons, politicians, coaches, and clergy. Often, if the case has value, a settlement can be reached, with plaintiffs taking their award as a one-time lump sum or as a structured settlement (a series of payments collected over a period of time). The decision to select a lump-sum payment or a structured settlement will depend upon many factors. These include:

- The nature of the damages suffered, and whether any part of the award should be set aside and reserved for future use;
- The pace at which the money will likely be spent;
- Tax considerations. Sexual abuse lawsuits often result in both taxable and tax-free damages;
- Whether the plaintiff may want or need assistance in managing the award; and
- The size and schedule of the payments.

The laws and regulations for structured settlements of this type are significantly dictated by the Periodic Payment Settlement Act of 1982 (Public Law 97-473), which was designed to recognize the use of structured settlements in applicable personal injury and wrongful death cases. The Act allows structured settlements made up of current and/or future payments to be excluded from gross income. If the settlement is well-structured, it will allow for growth of the award over time while eliminating some or all of the tax burden associated with future growth.

Minor or college-aged plaintiffs

Structured settlements are often a good choice for minors or younger plaintiffs. A structured settlement manages all sorts of risks associated with providing a young person with a windfall of easily accessible cash. For example, a structured settlement can be designed to provide lump sum payments in each of the four years following the minor's age of majority. This scheme provides a sum certain for college expenses, if desired.

Another approach may provide a lump sum at around age 25, another at age 30, and even more as the plaintiff ages. This approach assumes that the plaintiff will have certain needs as they approach middle age. This type of structured settlement can provide a down payment on a permanent residence, or perhaps the flexibility to purchase an automobile without taking on significant debt.

Some plaintiffs choose to defer payment and instead receive monthly checks



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starting at a certain age. This approach anticipates other needs, such as childcare or living expenses. Of course, structured settlements offer much flexibility, and elements of all of the above-described approaches can be incorporated into any structure.

Structures for persons with developmental or cognitive disabilities

Structured settlements are particularly valuable for persons who experience difficulties managing their own affairs or who are vulnerable to exploitation. Building in limits to how much is distributed and when the distributions arrive allows ample time to plan how each distribution will be used. This can also minimize the chances that the individual will be seen as a target for exploitation since there is no time at which they have control of an unusually large amount of cash.

Psychological considerations and future damages

Assuming the settlement involved significant proceeds, it is important to ensure that any settlement adequately provides for future needs. In sex abuse cases, victims can suffer challenges that last a lifetime. Sex abuse can affect victims differently as they age, and particularly as they have children of their own. Having children, and the worry that accompanies having adolescent children, is commonly reported as a significant stressor in victims of sexual abuse who later become parents. A structured settlement can allow for sufficient funds to cover expenses associated with counseling, a psychologist, or even a psychiatrist and medication. It is always important to consider future needs when deciding upon a structured settlement.

Conclusion

Properly set up, a structured settlement can provide guaranteed, stable income for the rest of a client's life. Critically, guarantee periods can be used to protect the income for surviving spouses and families, and can protect the client from predators, including unscrupulous family members and friends. Victims of sexual abuse who are legally due a monetary award may be wise to structure a settlement that ensures the money is available for their greatest benefit and future quality of life.



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