

Why Plaintiffs Should Engage Their Own **STRUCTURED SETTLEMENT BROKER**



VOTED “THE BEST STRUCTURED SETTLEMENT PROVIDER”

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Critical Reasons to Have Your Own Consultant on Every Case - *no matter the size.*

Fraudulent Practices

Structured settlements are a great tool for bridging the gap between plaintiff and defendant to produce a win-win situation. Unfortunately, a structured settlement can also be a tool for abuse, which is the reason Creative Capital developed the Certificate of Reliability and Assurances (CORA) nearly 30 years ago. CCI's CORA Affidavit has been incorporated into the court rules of many judges who will not approve a settlement without this document, now called a “Structured Settlement Affidavit”. The following is an overview of frequently alleged fraudulent practices:

Rebating of Commissions

This abuse is carried out through commission arrangements whereby the broker pays part of its commission back to the P&C company or related entity that retained its services. In the class action law suit of *Macomber v. Travelers P&C*, the Supreme Court of Connecticut called these practices “short changing” the plaintiff, a “rebating scheme”, and a practice that resulted in plaintiff attorneys inadvertently “overcharging” their clients on the mistaken belief that the actual cost to the carrier was higher than it really was (after receipt of the rebate). Because of *Macomber* and other similar cases, as well as CCI's Structured Settlement Affidavit that many judges require, we believe this practice has virtually been eliminated.

Post Settlement Medical Underwriting

Post settlement medical underwriting is a fraudulent practice whereby the plaintiff is given proposals at a stated cost, but after agreement has been reached on a specific plan, the broker submits medicals to the life company and obtains a “rated age”, thus lowering the defendant's cost without advising the plaintiff. This post settlement medical underwriting abuse can be avoided by insisting on your own broker to either place the case entirely or co-broker the case with the defendant's broker. Obtaining a rated age can and should benefit one party only...the plaintiff.

Steering

Some P&C insurance companies have affiliated life companies to which they instruct their structured settlement brokers to “place” business. This practice allows a company to profit (through its affiliated life company) from the settlement of the claim. This is not necessarily a negative practice, provided the plaintiff is protected by:

- Making sure the life company has acceptable ratings. Most judges and plaintiff attorneys require the life company to have a rating of A+ or better.
- Making sure the plaintiff is getting the best annuity rate from amongst those life companies with acceptable ratings.

If a life company which is affiliated with a P&C carrier meets the criteria required by plaintiff's counsel and/or the court there would be no reason to exclude that life company from providing the structured settlement annuity.

Bait and Switch

Do you ever receive a structured settlement proposal that doesn't show the name of the proposed life insurer whose annuity has been quoted? Bait and switch is a tactic that is easily maneuvered by not disclosing the name of the life insurance company issuing the annuity. After the plaintiff has agreed to accept a proposal, the defense switches to a different life company with less expensive pricing, thereby saving money without telling the plaintiff.

Misuse of Present Value

Present Value can be a legitimate measure of the real present day value of a future stream of payments or of a single lump sum payment payable in the future. However, it can also be misleading depending on the actuarial assumptions used to calculate the present value. These include the period of the payout, the discount rate being used and any increase factors that should be included in the calculations. The simple way to avoid PV abuse is to insist on full disclosure of the actual cost of annuity.

Why the Creative Approach is the Right Choice

Creative Capital Inc. (CCI) is a nationwide Structured Settlement consulting firm and a founder of the structured settlement industry. For nearly forty years, our skilled team has partnered with attorneys to provide all manner of innovative solutions to achieve better settlements. Everything we do is driven by a strict code of ethics and the expertise and experience of an industry leader.

In contrast to the solo franchise approach taken by most structured settlements companies, Creative Capital recognizes the strength in a collective expertise and experience. Immediately upon CCI's involvement, our case experts begin working together to understand the unique needs of your case, which in-turn allows them to offer in detail the best settlement solutions available to plaintiffs and their families, while providing the highest return and security.

Next, CCI's legal department gets involved. We will draft (or review and revise) the various settlement documents and proposed orders to properly conclude a structured settlement and ensure compliance with all tax and legal requirements. This includes the Settlement Agreement and Release ("SA&R"), Qualified Assignment agreements, Court Orders required for approval of settlement, etc. Often, defense brokers draft settlement documents to meet the specific needs of the carrier, sometimes without regard to the possible tax and legal consequences to the plaintiff. We see our job as protecting the tax efficacy of every structured settlement. In our nearly 40 years, no CCI structured settlement has ever foundered for failure to comply with the tax laws pertaining to structured settlements. Our legal department will also draft & review your settlement documents for pitfalls to be avoided and suggestions to cure defects. These will be pointed out to you for your decision on how to address any issues.

Creative Capital focuses not on the sale of a product, but on the entirety of your case from beginning to end. By engaging CCI as your own structured settlement expert, you will receive unparalleled expertise on issues involved in achieving a fair and secure structured settlement for your client. No other structured settlement firm offers this level of involvement on every case. This *Creative Approach* to structured settlements sets CCI apart from the industry standard, and is one of the reasons we were voted the Nation's Best Structured Settlement Provider.

Insist on your own structured settlement expert:



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