

Congressional Structured Settlements Caucus

Staff Briefing on Structured Settlements

Room 2456

Rayburn House Office Building

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Structured Settlements Briefing Outline:

United States Justice system

- Criminal laws
- Civil laws
 - Tort system fault based
 - Unless you are hurt at work, then no-fault

Four requirements:

- Duty owed
- Duty “breached”
- Causation
- Damages

NOTE: Have to prove all four to collect

Steps are:

- Incident
- File claim
- If claim refused
- File law suit
 - Period of “discovery” to establish the facts
 - Attempts to resolve informally
 - Negotiations/mediation/(arbitration)

Elements of Damages:

- Actual/Other harms
- Medical bills incurred
- Lost wages (past) from time away from work
- Future medical expenses
- Lost Future wages
- Pain & suffering
- Loss of consortium, etc.

Injured person is “plaintiff”, alleged responsible party is “defendant”

- Most people carry insurance
- Agreement to reimburse you up to “x” of any loss you might be found liable for
- Agreement to defend you (pay your lawyer)

Negotiations are usually between plaintiff and defendants or their insurer

Compensation in form of money because we can’t undo actual harm

How paid matters because:

- Section 104 says...not taxable
- Amended to allow interest earned also if paid over time
- = big benefit for injured person.
- More money for plaintiff at no extra cost for defendant
- Time value of money (interest earned)
- Tax benefit – cover “taxable equivalent”

Turns out to offer even more value than this because it creates financial stability which was lost

- More money
- Safer money (can’t deplete or be taken by others)
- More manageable economic event – people can manage an income; few a large lump sum

Totally customizable cash flows

- Monthly, annual etc.
- Payments level, payments which increase over time
- Single lump sums to cover identifiable future needs
- Can be arranged so as not to disqualify from public benefits

Good public policy because

- Reduces costs of compensation to the parties
- Makes secure injured persons, stay off public assistance programs
- If already on, does not disqualify them
- Is reimbursed (SNT) or pre-funded (MSAs)

So we care about Section 104 and Section 130

- Original treatment of personal injury compensation
- Mechanism which allows transfer of obligation for future payments and

their security (Treasury bonds and annuities only)