

The background of the entire page is a photograph of a person in a wheelchair. The person is wearing a dark green jacket and is positioned in the foreground, with their hands on the wheelchair's wheels. The background is a brightly lit, blurred hallway with warm tones and circular light fixtures, creating a sense of depth and movement.

SETTLEMENT PLANNING

For Adult Physical Injury Cases

When an injured adult is preparing to settle a case, the best settlement options are determined by a variety of factors, including:

- Age
- Family Situation
- Employment
- Financial Status
- Government Benefit Eligibility
- Severity of Injury & Long-Term Prognosis
- State of Residence

The size of the settlement is a major determining factor. While there is no one-size-fits-all approach to planning a settlement, there are some general guidelines to consider for each settlement option.

Settlement Options

Cash: Cash from a personal injury settlement is income tax-free. However, there may be negative implications to accepting a cash lump sum, including the loss of government benefits eligibility. A sudden windfall (such as a settlement) can be a destabilizing event. Many people have never dealt with a large sum of money and could run into issues with spending it quickly or giving it away, leaving inadequate funds for future needs.

Structured Settlement Annuity: A structured settlement annuity provides guaranteed, fixed income for ongoing needs. Rather than receiving the settlement funds as a lump sum, the annuity provides a series of entirely tax-free periodic payments.

Market-Based Structured Settlement: A market-based structured settlement provides periodic payments. Instead of an annuity serving as the underlying investment, a market-based portfolio underlies the structured settlement to provide market-correlated growth. Payments and growth are income tax-free.

Pooled Trust: A pooled trust is established by a nonprofit organization. Beneficiaries open a sub-account within the pooled trust and fund it with their settlement money. Distributions can be used for goods and services that the beneficiary needs not otherwise covered by government benefits.

Special Needs Trust: Like a pooled trust, a special needs trust holds the beneficiary's funds while allowing them to maintain access to needs-based government benefits. Distributions are for the sole use of the beneficiary and typically cover goods and services not covered by needs-based government benefits.

Investment Accounts: If a claimant takes a cash settlement, it may make sense to place the funds in an investment account. Any interest earned on investments is subject to income tax or capital gains tax, depending on how long the claimant holds the investment.

Settlement Options by Case Size

A combination of settlement options will meet a claimant's immediate and long-term needs. Where cash and a special needs trust suit one individual, a structured settlement and an investment account may better fit another individual. A settlement consultant will work with the claimant to assess needs, goals, and potential issues, then work collaboratively to find the best solution.

Cash Settlements Under \$25,000

- Cash
- Structured settlement annuity

Settlements under \$25,000 typically have limited options. Many claimants may choose to take the cash lump sum. Depending on the amount and the client's financial needs, a small structured settlement may make sense. Claimants who currently receive needs-based government benefits (e.g., Medicaid, SSI, etc.) should be aware that they are likely to temporarily lose their benefits eligibility because their settlement causes them to exceed the asset threshold.

About the American Association of Settlement Consultants

The American Association of Settlement Consultants (AASC) is an industry advocacy group committed to a vibrant, strong, and modern settlement planning industry. We promote collaboration within the structured settlement industry, actively encourage balanced settlement planning on behalf of our clients, and believe in integrated, common-sense solutions that protect the needs of injured people and their families. Together, we work for public policies that strengthen our essential industry and benefit the consumer.

\$25,000-\$100,000 Settlements

- Cash
- Structured settlement annuity
- Market-based structured settlement
- Pooled trust

Once a settlement reaches more than \$25,000, it is time to discuss ongoing needs. A structured settlement annuity can provide future funds to supplement an existing source of income or replace a lost source of income.

Claimants who meet specific disability requirements may be eligible for a Pooled Special Needs Trust (PSNT). A pooled trust has lower fees than a first-party Special Needs Trust, making it a more affordable option for preserving government benefits eligibility. Additionally, a claimant can choose to take advantage of income tax-free growth on their settlement money by funding their PSNT sub-account with a structured settlement.

A claimant without long-term medical needs who has more financial flexibility may want to incorporate a market-based structured settlement into their plan. Much like an annuity-based structured settlement, a market-based structured settlement grows income tax-free. However, it allows the claimant to take advantage of more significant growth potential on the funds.

\$100,000- \$250,000 Settlements

- Cash
- Structured settlement annuity
- Market-based structured settlement
- Pooled trust
- Individual investment accounts

Above the \$100,000 mark, claimants may be ready to begin incorporating future goals into ongoing needs. Generally speaking, the most appropriate settlement options are similar to those for claimants with settlements in the \$25,000-\$100,000 range.

Structured Settlements: A Stable Choice for Cases of all Sizes

Structured settlement annuities are among the safest financial options available, regardless of case size. By combining the tax-free advantages and guaranteed¹ payments of a structured settlement with other settlement tools, a customized plan can be built to establish long-term financial security.

Claimants who do not intend to maintain access to needs-based government benefits may want to take a portion of their settlement in cash to meet immediate needs. The claimant can create a steady source of tax-free, guaranteed¹ income with a structured settlement annuity, and a market-based structured settlement can provide tax-free income with additional growth potential. Claimants with disabilities may lean more towards a pooled special needs trust, which will preserve their settlement funds, help meet their daily needs, and allow them to maintain access to needs-based government benefits.

Beyond those options, claimants may want to place a portion of their funds in an individual investment account. While any interest earned on a traditional investment account is taxable, there is a deep pool to meet larger-scale future financial goals.

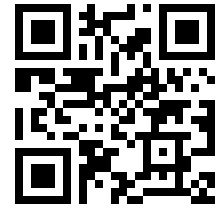
\$250,000- \$500,000 Settlements

- Cash
- Structured settlement annuity
- Market-based structured settlement
- Pooled trust
- First-Party Special Needs Trust
- Individual investment accounts

Once an individual reaches the \$250,000+ level of settlement funds, the option to utilize a first-party Special Needs Trust comes into play. A Special Needs Trust (SNT; sometimes referred to as a (d)(4)(A) trust) An SNT is restricted to individuals under age 65, so claimants who exceed the age limit will want to consider a Pooled SNT instead.

Again, a combination of cash, structured settlements, trusts, and investment accounts can be used to meet the claimant's needs and goals.

\$500,000+ Settlements



- Cash
- Structured settlement annuity
- Market-based structured settlement
- First-Party Special Needs Trust
- Individual investment accounts

After addressing immediate needs with cash, individuals with settlements over \$500,000 can focus on larger needs and goals. Some claimants may wish to use a portion of the money to make a large purchase—a home, for instance. Others may want to place some of the funds in a structured settlement annuity to provide a long-term source of guaranteed¹ income while also incorporating a market-based structured settlement to take advantage of potential market-related growth. Still, others may wish to open taxable individual investment accounts.

On the other hand, severely injured claimants must consider the ramifications of accepting any portion of the settlement in cash. Those with long-term medical needs may want to utilize a first-party Special Needs Trust to help ensure that the funds will last. This option is crucial for claimants who qualify for Medicaid to help cover medical costs. With health care costs continuing to rise, it is prudent to consider how to best preserve the quality of life for individuals with severe disabilities.

Ultimately, the goal of settlement planning is to ensure the injured claimant and their family have the best options in place to help them successfully move forward with their lives.

Contact an AASC Member Settlement Consultant Today

Comprehensive settlement plans require personalized, expert guidance. For more information, contact an AASC member settlement consultant today or visit www.americanasc.org.



¹ Guarantees are subject to the claims-paying abilities of the issuing insurance company.