



A SETTLEMENT TEAM APPROACH

Porter Leslie Ametros
Richard Regna, CSSC Arcadia Settlements Group

When settling workers' compensation or liability cases, you are bound to run into some that are difficult to close. Whether it is addressing the value of the offer, complex benefit issues, a claimant's comfort with managing ongoing medical issues, or other odd and unique issues, sometimes you need to get creative about your settlement strategies.

In these situations, it is important to have a team of partners that you can trust to bring the unique benefits of their services to help get the cases settled. Two such important settlement partners are structured settlement firms and professional administrators.

"Receiving a response of 'no' to an offer of settlement is not a reason to shelf a file," says Thomas S. Thornton III, attorney at Carr Allison, and a member of the USLAW Board of Directors. "It should motivate you to dig deeper to determine what hurdles need to be overcome to achieve claim resolution. Having the right team put together to provide those services empow-

ers us as attorneys to achieve those goals."

The right structured settlement consultant can help you get creative with a structured settlement to alleviate concerns on both sides about funding and ensure a secure tax-free income for injured individuals. What you can expect from a "best-in-class" settlement consultant is a holistic approach, leading to a "better settlement." These experts know a well-designed structured settlement addresses all current and future needs – the certainty of lifetime payments, tax-advantaged income, a desire for growth, the need for liquidity and, where appropriate, the preservation of public benefits and ongoing medical management. A Structured Settlement Specialist helps settle more cases, faster, delivering growth and liquidity alongside spendthrift protection using multiple settlement tools which include:

- Tax-Free Annuity
- Growth Structured Settlement

- Trust Accounts
- Cash

An experienced professional administrator can help assure the injured individual will have a resource for their future medical care after settlement. The professional administrator can explain available services, and the medical treatment discounts they can offer the claimant as part of the settlement proposal. Adding this healthcare concierge as an ongoing resource can help make the injured person more comfortable with the idea of settling the claim.

Additionally, the best professional administrators offer services that go above and beyond and can be used creatively to help move cases towards resolution.

Banking Solutions: Often these partners help overcome banking problems by setting up checking and saving accounts or by issuing prepaid cards to provide solutions for receipt of a claimant's settlement funds. These solutions are tailored specifi-

cally to the resources available and can be established even if the injured party has a poor banking history. These solutions can be made available in cases where the claimant may not have a Social Security Number (SSN) or Tax ID.

Complex Benefit Issues: In some cases, a claimant will need to retain government benefits, but is concerned about the possible loss of these benefits if the settlement is not properly handled. This potential loss can hold up or complicate a settlement. These partners have resources available who advise on government benefits. They know how a settlement could potentially adversely impact valued government benefits and can help the carrier or employer to ensure their offer considers these sensitive issues, resulting in the case settling.

Medicare & Health Plan Options: Many professional administrators are experts in coordinating all things healthcare related. They can enroll the claimant in health insurance plans, including Medicare and Medicare Advantage plans. These services include consultations with licensed agents answering questions and helping the injured person maximize their options so they know support will be available to them after the case settles.

In a case where the injured person may not understand what life will be like post settlement, offering this additional support with benefits through professional administration and structuring of the settlement proceeds is another way to make settlement appealing.

Having these two partners work together creatively can overcome and resolve issues impeding settlement, the result being more successful outcomes and savings for your client.

“When working in the fast-paced world of claims, it is nice to partner with a group who is proactive as opposed to reactive in achieving cost savings for our clients,” says Thornton.

REACHING A SUCCESSFUL WORKERS COMPENSATION SETTLEMENT:

A 35-year-old laborer fell from the rooftop of a three-story home when installing shingles. The injured worker underwent multiple back surgeries, and though he survived the fall, he was diagnosed with T12 paraplegia. He was young and should have a long life ahead of him since he had no significant preexisting injuries or medical conditions. He was a high school graduate with on the job training as a roofer. His life changed drastically as his young family adapted to his post-injury lifestyle. His wife had to leave her job to help with his medical needs and daily concerns, and his children no longer enjoyed the active

father they once knew.

Under workers’ compensation, payments for lost wages were limited by statute to two-thirds of his average weekly wage (which was tight already). His finances were in chaos as medical bills and other expenses piled up. The injured worker retained counsel and applied for Social Security Disability Insurance (SSDI). The application process took some time but was ultimately successful and he became eligible for Medicare. Complete resolution of his case did not appear possible any time soon due to the high cost of future medical care and the need for a Medicare Set-Aside. He also incurred significant expenses for non-Medicare covered items such as a modified home, attendant care, handicapped-accessible vans over his life expectancy, and other ancillary lifetime costs.

Thinking ahead, the claims professional knew the case involved considerable future medical and settlement would be so costly that the best chance of meeting these large anticipated costs would be with a structured settlement. She contacted Arcadia to work with a settlement consultant early in the process. This resulted in months of collaboration between the settlement consultant, the injured worker, counsel and the claims professional. At the same time, the defense attorney engaged Ametros to ensure a team of experts could help the injured worker’s family with all MSA-related reporting to ensure Medicare benefits would be available to the injured worker if the allocated settlement funds were exhausted. In addition, the administrator would pay all non-Medicare-covered expense, too, including attendant care and transportation. Ultimately, the case settled on a full and final basis due to the savings provided by the structured settlement and the comfort and support provided by the professional administration.

COORDINATION TO HELP SETTLE AN AUTO CLAIM

In 2019, a defense client was trying to settle the case of a 58-year-old truck driver who had a below-the-knee amputation. The client invited the structured settlement firm to attend the mediation to speak with the plaintiff.

In this case, there were liens for Medicaid and a disability carrier, there was no plaintiff-side settlement consultant, no MSA allocation opinion, and the plaintiff would be applying for Social Security Disability Insurance (SSDI), so Medicare involvement was likely.

The structured settlement firm assisted both sides, keeping direct communication

with the plaintiff and their attorney to help them understand the benefit of a structured settlement, while sorting through some of the more complex benefits and helping to make determinations around the allocation.

Since he was applying for SSDI, Medicare’s interests would need to be taken into consideration and a Liability Medicare Set Aside (LMSA) allocation was secured. With the post-settlement responsibilities of an MSA, the structured settlement firm also engaged a professional administrator. The administrator explained their services and the savings they could provide for the plaintiff. This helped ease the plaintiff’s settlement fears, as they would have a support system in place for their medical needs. The administrator would also take care of ordering the plaintiff’s prosthetics and other equipment outside of the MSA while still securing a discount on those items.

Together, the advantages of the structure and the benefits of the professional administration helped the case settle.

Settlements can be very complex, and it can be easy to view them as zero-sum game, but it is worth considering if partners can bring value to the table with their years of experience and unique services. Addressing the difficult issues and engaging with experts to talk through solutions can often lead to outcomes that make all sides comfortable and make settlement an achievable option.



Porter Leslie, president of Ametros, directs the growth of Ametros and works with its many partners and clients. He built his career leading customer-focused businesses in healthcare and financial services. Prior to Ametros, Porter worked in investment banking, private equity and corporate development. He resides in Boston with his wife and two children. Ametros is USLAW’s official future medical fund management partner.



Rich Regna is president of Arcadia Settlements Group, formerly SFA. Rich has a long-standing reputation as a leader and high-volume producer, bringing over 20 years of experience in the structured settlement business to his role as president of Arcadia Settlements Group. He focuses on helping plaintiffs design comprehensive settlement plans to establish a solid post-settlement foundation. Arcadia Settlements Group is USLAW’s official structured settlement partner.