

Consider the possibilities of a structured fee

Many plaintiff lawyers are confused about what they can and cannot do when structuring legal fees, and what is most important in securing the financial and tax benefits of structures. Here are some important points to consider when structuring legal fees:

Timing is everything. Get the ball rolling before you have a right to collect your fee. Once the settlement agreement is signed, it's too late to structure. As settlement negotiations in the case heat up, get the appropriate professionals involved.

Change is good. Consider revising your generic contingent fee agreement to expressly contemplate periodic payments for all your cases.

The possibilities are endless. How do you want the payments made—over a period of 10 years, over your (or your spouse's) projected lifetime? Do you want payments to start immediately or to defer for 10 years? Do you want to have lump sums periodically disbursed when you expect large expenses (for example, years in which you might have children attending college)? The options are almost infinite; however, once you lock in your payment structure, it can't be changed.

Honesty is the best policy. A qualified settlement broker earns a commission on the sale of the annuity product, but he or she usually earns nothing unless the transaction closes. Brokers therefore have an incentive to provide you with all the data you need. Ask your broker to run as many financial scenarios as you think make sense. You need to be forthcoming with information, too: Don't hold back on providing your broker with financial details about your family, your practice, and your medical, education, and retirement needs.

Two experts can be better than one. If you are a sole practitioner, structuring legal fees is usually simple. If you practice in a firm, additional questions are likely to arise (for example, will the firm or the lawyer buy the structure, and how

will the structure be paid and taxed?). In this situation, you probably need not only a broker but also a tax lawyer.

Robert W. Wood
San Francisco