



PROPER PLANNING MAY CREATE PEACE OF MIND



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## Client Satisfaction Requires Teamwork

The right balance of investments is important when a settlement will fund a guardianship or special needs trust. Persons with disabilities have unique needs so the investment strategy must be tailored to achieve client satisfaction. Initially, an appropriate mix may include sufficient cash and a structured settlement. Consider the following scenarios for proper planning:

*The Tale:* A trial attorney settles a case that nets the plaintiff \$900,000.00. The attorney arranges for all of the net proceeds to be placed in a structured settlement and assumes the plaintiff's parent will be appointed guardian. The background investigation reveals an incident which prevents the parent from being appointed. The Probate Judge orders that a corporate guardian be appointed yet corporate guardians are not willing to take a case with no liquid assets. The Court orders the insurance company to reduce the amount of the structure. *There is a delay in appointing a guardian and in funds being available to meet the plaintiff's needs.*

*The Tale:* A catastrophically injured plaintiff nets \$2M. The plaintiff receives government benefits so a special

needs trust is necessary. The trial attorney recommends placing \$1.7M in a structured settlement. The elder law attorney is asked to find an experienced corporate trustee. Since there is only \$300,000.00 in cash funding the special needs trust it is difficult to find a corporate trustee willing to accept the case as most trust companies require a \$500,000.00 minimum.

*Successful Planning Tip:* Once the case settles a 'team planning meeting' should take place among the: client, trial attorney, elder law attorney, prospective guardian, prospective corporate trustee, and structured settlement specialist. Bring the care plan or, a comprehensive assessment report. Together, the team can create a balanced plan based on:

***“Once the case settles a team planning meeting should take place among the client, trial and elder law attorneys, prospective guardian & trustee, structure specialist.”***

1. Long term care needs of the client;
2. Anticipated immediate large purchases (house; car);
3. An estimated monthly budget (know what Medicaid will not pay for);
4. The amount of income the plan must generate to support the client.

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### Practice Areas

**Estate & Incapacity Planning**

- ◆ Last Will & Testament
- ◆ Probate & Trust Administration
- ◆ Revocable Trust
- ◆ Durable Power of Attorney
- ◆ Designation of Healthcare Surrogate
- ◆ Quit Claim Deed
- ◆ Living Will

**Emergency & Advocacy Services**

- ◆ Emergency & Standard Guardianships
- ◆ Long Term Care Facility Residents' Rights
- ◆ Medicaid Applications & Appeals

**Government Assistance**

- ◆ Special Needs Trusts
- ◆ Representation of Special Needs Trust's Trustees
- ◆ Protecting Lawsuit Proceeds and Inheritances While Preserving Medicaid and SSI Eligibility
- ◆ Exceptions to Medicaid Lien Recovery