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Williams on business

Structured settlements provide disabled a stable future

By Tom Williams
Recorder Business Writer

Nobody in their right mind wants to be disabled. Except for some genuine con artists, people just don't go looking for an accident so they can sue somebody and collect some cash.

Disabled means you can't do things you've always done. Disabled means you can't earn an income anymore, or you can't earn as much. Disabled means medical bills. Sometimes it means a shorter life.

So people don't try to become disabled because they might get a cash settlement in court comparable to winning the lottery.

But injuries do happen, people do become disabled, and sometimes it happens because of someone else's negligence. When a permanently disabled person does receive a court settlement, that person faces one more challenge: how to protect that money and make it provide a lifetime income.

Dealing with that money-management challenge prompted William T. "Tay" Robinson IV to take a turn in his career path. Robinson, who was with Cigna Financial Services as a financial planning consultant, has recently joined another Northern Kentucky native to specialize in making things financially more secure for people who have lost their earning power.

Robinson and Don McNay, an Edgewood native who established his business base in Lexington 15 years ago, specialize in helping disabled workers turn court settlements into lifetime income. What's more, their clients receive regular "paychecks" without paying income tax.

The income tax exclusion is the result of federal law that excludes from income tax certain forms of payments received by people as a result of injury or disability.

"We work with attorneys representing people who have filed suit because of an injury brought about by the defendant's negligence," Robinson said. "When the other side offers a settlement, our job is to bring their projections of future income and expenses back to present values. The goal is to maximize future benefits for the injured person."

McNay said Robinson's job is to cut through the glitter. Inflation, taxes and medical bills will otherwise reduce the value of settlement offers in the long run. On the other hand, investing the lump sum in an annuity that provides tax-free income can increase the value of the offer.

"I've had clients who had a figure in mind, and they found that a lower amount would provide what they wanted in the long run when you account for the impact of taxes," McNay said.

"Any income earned on investments from a settlement are taxable, unless you initiate a qualified structured settlement at the outset," Robinson said.

Structured settlements are the core of what McNay and Robinson do. Essentially, a structured settlement involves buying financial instruments that will provide steady income. Cash from a court settlement can be put into annuities, investment instruments offered by insurance companies.

"Compliance with the federal tax code for tax-free income can be provided by insurance company annuities," Robinson said.

The crux, of course, is choosing an annuity that meets the injured person's needs. That's not as simple as going to Kmart and picking a pop-up toaster.

Lawyers bring in financial consultants like McNay and Robinson because what they do is a professional specialty.

"I'm a lawyer. I know how to win cases and settlements, but I'm not a financial expert," said Andre Busald, a Florence attorney who has called in McNay and Robinson on several cases.

Busald, who has had several cases that resulted in large structured settlements, calls them an excellent way to ensure future income for an injured person.

"They are especially valid in cases involving children and in cases involving people with brain damage or other people who will require care and attention for the rest of their lives," Busald said.

In addition to setting up a way to provide future income, structured settlements also make certain that the money is there in the future to benefit the injured person.

Structured settlements are not brand-new, but the use of them is a phenomenon of the past decade. Randy Dyer traces the start of structured settlements to 1983, leading to accelerated growth in the 1990s. Dyer is executive vice president of the National Structured Settlement Trade Association in Washington, D.C., an association that did not exist until 1986.

"The tax exclusion written into the 1983 federal tax code was the first recognition of structured settlements and the use of them grew exponentially after that," Dyer said.

Structured settlements are involved in about $10.5 billion worth of court settlements each year. About half that amount is paid to defendants in lump sums — about $5.25 billion that injured persons put into annuities. An average settlement is about $300,000, Dyer said. Using those figures, the number of cases involving lump sum settlements is about 17,500 a year.

The use of structured settlements has grown tremendously in the past 10 years, but it's still a small part of the potential, McNay said.

"Only 3 to 5 percent of settlements are going into structured settlements now. That means that about 95 percent of the settlements remain as prospects," McNay said.

McNay worked on his first structured settlement in 1984, shortly after he had started his own insurance and financial planning business in Lexington. That case, won by trial lawyer Peter Perlman, was the largest verdict ever awarded for a personal injury in Kentucky at that time — $2.8 million. The defendant settled while the case was in the appeal process.

The growth in the use of structured settlements since then and the potential for future growth convinced McNay recently to devote his business solely to structured settlements and to expand from his Lexington base.

"I actually looked at Nashville first," he said. "Nashville is thriving and I'm familiar with it because I went to Vanderbilt University there, but I also wanted to look at Cincinnati and Northern Kentucky."

McNay grew up in Northern Kentucky, graduated from Covington Catholic High School in 1977 and went off to Eastern Kentucky University in Richmond before going to Vanderbilt for a master's degree.

Besides his hometown ties, three factors induced him to focus even more on the Cincinnati-Northern Kentucky area.

"Northern Kentucky is one of the fastest growing areas in the nation, so that was an additional reason," he said.

Also, several firms specializing in structured settlements have offices in Cincinnati, but none have Northern Kentucky offices, he said.

The clincher, however, was Tay Robinson.

"A mutual friend told me about Tay, so we met and talked and he is the main reason for the expansion being in the Cincinnati-Northern Kentucky locale," McNay said.

Robinson's nickname was chosen to distinguish him from his father, William T. "Bill" Robinson III, well-known Northern Kentucky civic leader and managing partner of the Northern Kentucky and Cincinnati law offices of Greenebaum Doll and McDonald PLLC.

Growing up in an environment of lawyers and legal talk turned out to be valuable preparation for his present financial service profession and working with lawyers.

Tay Robinson, for now, is probably better known in Northern Kentucky as a promising young tennis player for Covington Latin School and Northern Kentucky University. He put aside his racquet and boyhood visions of playing professional tennis several years ago. He went into financial planning with Household International Corp. and moved to Cigna Financial Advisors Inc., in 1993.

"Structured settlements allow me to work where I have training and experience, but it's also satisfying to help someone in need of the specialized service we provide," Robinson said.

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