

A BALTIMORE CITY JURY AWARDS FAMILY \$55 MILLION IN MEDICAL MALPRACTICE SUIT

Featured Case

Baltimore, MD: Robert W. Johnson & Associates was retained to provide economic testimony quantifying the present cash value of economic damages.

Citation: Enzo Martinez, et al. v. Johns Hopkins Hospital, et al., Circuit Court for Baltimore City – Civil System, Case No. 24C11001081. Plaintiff’s attorneys Gary A. Wais, H. Briggs Bedigian and Keith D. Forman of Wais, Vogelstein & Bedigian, LLC, Baltimore, Maryland. The judge was the Honorable Marcus Z. Shar.

Case Synopsis: On March 26, 2010, plaintiff Enzo Martinez was delivered via Caesarean Section at Johns Hopkins hospital while under the care of three obstetrical and gynecological doctors. Rebecca Fielding wanted to deliver her baby at home with the help of a midwife. After 14 hours of labor, complications began and when the birth progression stopped, an ambulance was called. Although the ambulance was called at 2:36 a.m., Fielding did not arrive at the hospital until 3:28 a.m. An urgent C-section was ordered soon after Fielding’s arrival, but was not performed for nearly two more hours.

Enzo Martinez was born with permanent brain damage, multiple physical and mental disabilities and cerebral palsy. He will require 24-hour aid and attendant care, in addition to intense physical and occupation therapies for the rest of his life. Plaintiffs’ counsel noted that he will never walk or talk.

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HOW CAN YOU BENEFIT FROM STRUCTURED ATTORNEY FEES?

Structured Attorney Fees provide a unique opportunity for attorneys to accumulate wealth, with unmatched rates of return.

Structuring is the ideal vehicle to achieve greater wealth accumulation. You can *defer taxes, receive unmatched rates of return* and, most importantly, be able to *pay yourself first*.

As an attorney, you know that your fees can be unpredictable. You are not sure when cases will arrive or when they will conclude, which makes it challenging to manage cash flow.



When your fees do arrive, taxes can take a huge bite from your income.

Structured Attorney Fees allow you to:

- Defer up to 100% of your pre-tax income
- Contribute as much income as you like
- Increase your guaranteed flow of income
- Even out your cash flow

Moreover, structuring your fees gives you a chance to plan for the “big things” in your life. For you, the “big thing” might be buying that next big house, or sending your child to Stanford,

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We are proud to announce that James A. Mills is now providing expert testimony.

JURY AWARDS FAMILY \$55 MILLION IN MEDICAL MALPRACTICE SUIT

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The parents contend that their child's cerebral palsy and seizure disorder was caused by a loss of oxygen to the brain while Fielding waited for the Caesarean section. The attorneys said their experts told jurors standards of care were not followed. The C-section should have happened within 30 to 45 minutes after the mother arrived at the hospital.

Expert Testimony: First, Mr. Johnson was asked to calculate Enzo's loss of future earning capacity. Second, Mr. Johnson was asked to calculate Enzo's future medical expenses.

Since Enzo was injured at birth, he had no earnings work history. Consequently, Mr. Johnson looked to his parents' level of educational attainment to establish a range of potential earning capacity for Enzo. The data would come from the latest Educational Attainment tables provided by the U.S. Census Bureau. Mr. Johnson was able to calculate two earning capacity scenarios based on educational attainment of a) a person with an Associate's degree; and b) an average college graduate. Mr. Johnson also included a national average fringe benefits package for each scenario. These scenarios yielded a present value range of lost earning capacity of \$2.1 million to \$2.6 million.



Next, Mr. Johnson reviewed the life care planner's future medical plan. The plan consisted of four different levels of care, home care and facility care and at what ages those care levels commenced. Enzo's injuries will make him dependent on 24-hour a day care for the rest of his life. Mr. Johnson presented the four future medical expense scenarios, which had a present value range from \$13.0 million to \$26.3 million.

Result: On June 25, 2012, after a three week trial, the jury deliberated for 11 hours and returned a verdict of \$55 million for Enzo. The verdict consisted of \$4 million for lost wages, \$25 million for future medical expenses and \$26 million for non-economic damages.

Attorney's Comments: According to plaintiffs' counsel Gary A. Wais, "Mr. Johnson had one of the hardest tasks as an expert in medical malpractice cases. He needed to convince a jury that this profoundly injured child, Enzo, should be compensated millions of dollars in lost earning capacity and future medical expenses. Mr. Johnson provided the jury with reasonable earning capacity scenarios and various ranges of medical care based on different life expectancies. Mr. Johnson explained to the jury that the most conservative approach to the range of potential life expectancies (20 year reduction to normal) was to choose the normal life expectancy so that the child would not run out of money. The jury in the end actually awarded Enzo more than the largest amounts that Mr. Johnson testified to."

The Proper Perspective

"It is not very unreasonable that the rich should contribute to the public expense, not only in proportion to their revenue, but something more than in that proportion." — Adam Smith

HOW CAN YOU BENEFIT FROM STRUCTURED ATTORNEY FEES?

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or buying out your partner when they retire. Whatever the “big thing” might be for you, the important point is that structuring your fees gives you the ability to achieve it – easily, painlessly, and with an unmatched rate of return.

How do structured settlements compare to traditional investments?

Structured Attorney Fees have been around since the mid 1990's. Unfortunately, attorneys have been reluctant to structure their fees because they have not been able to accurately compare this investment with other investment vehicles. Robert W. Johnson & Associates has developed the Tax Equivalent Guaranteed Return (**T.E.G.R.SM**) methodology to simplify this comparison for you.

What is the **T.E.G.R.SM**? The **T.E.G.R.SM** is the guaranteed rate of return that any other investment needs in order to match the pre-tax payout of Structured Attorney Fees.

Pre-Tax Comparison

It is important to remember that with Structured Attorney Fees you are working with 100% of your money because you invest on a pre-tax basis. It is also important to understand that the results are **guaranteed**. With a traditional investment, you are typically working with 60% - 65% of your money after-taxes, and the results usually are **not guaranteed**.

Unmatchable Rates of Return

Structuring your fees gives you an unmatched rate of return, with annual **Tax Equivalent Guaranteed Returns** that can reach:

- 20+% for a 5-year investment
- 15+% for a 10-year investment
- 10+% for a 20-year investment

A Long-Term Scenario: Funding Retirement

An attorney planning to retire has just settled a case with \$500,000 in fees. The attorney has the option to either (a) structure their \$500,000 fee, or (b) pay the tax and invest the balance.

(a) If the attorney structures their fee, the \$500,000 will pay out \$38,229 annually, before tax, over 20 years, **guaranteed**.

(b) On the other hand, if the attorney pays the 40% tax (\$200,000) and invests the \$300,000 balance, the investment would need to generate a **T.E.G.R.SM** of **11.23%** to match the structure's **guaranteed** total payout.

Clearly, few investments are likely to yield a steady return of 11.23% over 20 years, whereas the structure is **guaranteed**, no matter what happens. The structured approach is the obvious choice to maximize the return on the initial fee.

The benefits are clear:

- **Unbeatable, guaranteed returns**
- **Increased cash flow and lower taxes**
- **100% tax deferral**
- **Unlimited contribution allowance**

You can use the structure as an investment vehicle to meet almost any financial goal.

Structured Attorney Fees beat every other guaranteed investment vehicle for investing and maximizing the benefit from your hard-earned fees. It not only makes more money, but it is unhindered by down-turns in the economy and the stock market.

You provide the vision and we'll provide the investment vehicle.

All you need to do is contact us at (800) 541-7435 and we'll help you get started.

**ECONOMIST QUANTIFIES &
LIFE ACTIVITY CALENDAR®
SUPPORTS UNEMPLOYED
AMPUTEE'S DAMAGES – JURY
VERDICT: \$22,000,000**

Economist quantifies lost wages, benefits and future medical expenses for unemployed amputee. LIFE ACTIVITY CALENDAR® validates loss of enjoyment of life damages. Jury verdict \$22,000,000.

Los Angeles, California: Robert W. Johnson & Associates was retained to (a) present testimony that would assist the jury in quantifying the economic impact of the amputation of one leg and the degloving of the other leg and (b) prepare a **LIFE ACTIVITY CALENDAR®** that would graphically illustrate how the injury has changed the plaintiff's life.

Citation: *Pogosyan, et al., v. Southern California Rapid Transit Division, et al., Los Angeles County California Superior Court, No. BCO70359, Attorneys Brian J. Panish, Brown Greene (Greene, Broillet, Taylor & Wheeler - Santa Monica) and Robert S. Shtofman (Law Offices of Robert S. Shtofman - Los Angeles, California).*

Case Synopsis: Mrs. Lusik Pogoyan, a 45-year old mother, was getting into her car when she was struck by a vehicle involved in a police pursuit. The Plaintiff suffered a left leg amputation through the knee, a degloving of the right leg and crushing injuries to her pelvis and other areas. The life care plan estimated that Mrs. Pogoyan's future medical expenses would be approxi-



mately \$2,400,000. However, her profound injuries prevented her from ever entering the labor force and drastically reduced her quality of life.

Attorney Comments: “Damages were difficult because the plaintiff was both unemployed at the time of the accident and was taking ‘English as a Second Language’ to qualify for a job. Your (Robert Johnson) presentation of her lost earnings capacity gave the jury a logical, rational and understandable way to quantify these difficult areas of damages. During cross examination, your answers were succinct, direct and complete.

The **LIFE ACTIVITY CALENDAR®** your office prepared powerfully validated the plaintiff's family testimony so well that the defense offered no rebuttal.”

Results: Prior to trial the defense originally accepted plaintiff's demand of \$435,000, but later denied it. The jury returned a verdict of \$22,000,000 which included \$3,250,000 in economic (lost wages and medical expenses) damages and \$17,000,000 in general damages.

About Robert W. Johnson & Associates: A nationally recognized, full service, consulting firm that specializes in illustrating and quantifying damages. Services include: court-qualified expert witness testimony in quantifying the loss of enjoyment of life (pain and suffering) in personal injury cases and quantifying the loss of love, care, comfort, society, consortium, etc. to the survivors in

wrongful death cases. Other litigation support services include analysis and placement of structured settlements, generating wage loss reports that include the present value of future medical expenses and illustrating the loss of quality of life with the LIFE ACTIVITY CALENDAR®.

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