

ECONOMIST'S TESTIMONY AIDS JURY IN AWARDING \$10.3 MILLION FOR ASBESTOS EXPOSED RETIREE

Featured Case

San Francisco, California: Robert W. Johnson & Associates was retained to provide economic testimony in quantifying the present cash value of lost income and lost household services.

Citation: George Barnes and Darlene Barnes v. A.W. Chesterton Company, et al., San Francisco County Superior Court, Case No. 446017. Plaintiffs' attorney Martha Berman of the Law Offices of Levin, Simes, Kaiser and Gornick, San Francisco, California. The judge was the Honorable Diane Elan Wick.

Case Synopsis: Mr. Barnes was a union ship fitter who had worked at the Long Beach Naval shipyard for 25 years before retiring in 1992. Prior to his 60th birthday, Mr. Barnes, who had never smoked, began experiencing a persistent cough and noticed that his lung capacity had diminished. He went to see his doctor and the doctor was suspicious of the symptoms and requested an x-ray of his chest. The resulting image showed a large mass in the right side of his chest and a collapsed right lung. The doctor was unable to determine what the mass was so he consulted with a pulmonologist.

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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 already know that your fees can be unpredictable. You cannot be 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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How much will your children's college education cost you in the future? See Page 4



LIFE ACTIVITY CALENDAR® CASE: VERDICT OF \$3.2 MILLION

Jury awards \$3.2 million for 38-year-old secretary's soft tissue injury (Myofascial Pain Syndrome); loss of enjoyment of life testimony validated LIFE ACTIVITY CALENDAR®.

Los Angeles, California: Robert W. Johnson & Associates was retained to prepare a **LIFE ACTIVITY CALENDAR®**, admitted through the lay testimony of the plaintiff, that would graphically illustrate her shattered lifestyle. The **LIFE ACTIVITY CALENDAR®** was admitted into evidence.

Citation: McCracken v. City of Los Angeles, California Superior Court No. C658708, Attorneys Berglund & Johnson, by David W. Berglund, Granada Hills, California.

Case Synopsis: Mrs. Karen McCracken, a 38-year-old married secretary, was injured in a head-on collision with a city vehicle. The defendant admitted liability. Neither vehicle suffered extensive damage. The plaintiff suffered from Myofascial Pain Syndrome in her neck and back, whose symptoms were muscle spasms and severe pain. All of the diagnostic tests including the EMG, Milligram, CT Scan and MRI, yielded negative results. The plaintiff, unable to return to work, had special damages of approximately \$500,000.

The defense argued the injury was really a psychological problem based on pre-existing conditions.

Expert Testimony: Robert W. Johnson & Associates prepared a color-coded **LIFE ACTIVITY CALENDAR®**, showing the before and after effects of the injury on the plaintiff's lifestyle.

Results: The defense made indications, pre-trial, that they would be willing to settle the case for as high as \$300,000. The jury returned a verdict of \$3,200,000, which included special damages and pain and suffering/loss of enjoyment of life.

Attorney Comments: 'The color-coded **LIFE ACTIVITY CALENDAR®**, which was admitted through Mrs. McCracken, was ideal for this type of case. It demonstrated graphically to the jury all of the activities she was able to do "before" the collision and showed, by a virtually blank "after-injury" activities calendar, the impact of the injury to her life.'



Let us prepare a LIFE ACTIVITY CALENDAR for your next case. Call (800) 541-7435 ext. 200

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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.

ASBESTOS EXPOSED RETIREE AWARDED \$10.3 MILLION

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Mr. Barnes was then sent to a surgeon who performed a biopsy. After receiving the biopsy results, the doctors determined that Mr. Barnes was suffering from terminal mesothelioma, a lung cancer caused by asbestos exposure.

Expert Testimony: In this case, Mr. Johnson was retained to testify regarding loss of income and household services.

Mr. Johnson reviewed Mr. Barnes' income sources to determine his future economic losses. Presently, Mr. Barnes is receiving a Federal Civil Service Pension of \$32,808 per annum and a Navy Pension of \$10,800 per annum. He is projected to receive Social Security benefits of \$6,264 per annum beginning in August 2011. His household services were valued at \$10,346 per annum.

Dr. Barry Horn, plaintiff's pulmonologist, projected Mr. Barnes' reduced life expectancy to be only an additional 6 months. This is compared

to a normal life expectancy of 20 years. Mr. Johnson's calculation of Mr. Barnes' lost income and household services over 19.5 years (20 years - 6 months = 19.5 years) totaled \$1,040,057.

Result: On August 7, 2006, the jury found that Thorpe Insulation Company (the only remaining defendant) and other defendants were responsible for Mr. Barnes' asbestos exposure which led to his terminal mesothelioma. The jury returned a \$10.3 million verdict, consisting of \$861,083 for past and future income loss, \$178,974 for loss of ability to provide household services ($\$861,083 + \$178,974 = \$1,040,057$), \$210,000 in past and future medical bills and \$9 million for non-economic damages.

Attorney's Comments: According to Plaintiffs' attorney Martha Berman, "Mr. Johnson was very sincere and credible. One juror even commented that Mr. Johnson was able to explain damages in concepts that they could understand and appreciate. As a result, the jurors gave Mr. Barnes every dollar that Mr. Johnson put on the board for income and household services damages. I think the jurors' understanding of the economic concepts helped me in getting a large non-economic verdict."

2006 COLLEGE COST ESTIMATOR

Cumulative 4-Year College Costs (Future Dollars)

Child's Current Age	Public Universities	Private Universities
18	\$61,849	\$180,078
15	\$74,438	\$221,695
10	\$101,365	\$313,507
7	\$121,997	\$385,960
5	\$138,034	\$443,342
0	\$187,967	\$626,947

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®.