

NEWS LETTER

Robert W. Johnson & Associates

FORENSIC ECONOMISTS

Q4/03 - Q1/04

Featured Case:

*ECONOMIST'S TESTIMONY ASSISTS
JURY IN
\$70.9 MILLION AWARD
TO 9 YEAR-OLD BOY*

San Francisco, California: Robert W. Johnson & Associates was retained to provide economic testimony quantifying: (a) the present and future cash values of lost wages and fringe benefits and (b) the present and future cash values of medical and attendant services to the plaintiff.

Citation: Michael Cook, by his Guardian ad Litem, Cara M. Cook v. Stanford Health Services and Palo Alto Medical Clinic, Superior Court of the State of California for the City and County of San Francisco, No. 324905. Plaintiff attorney David B. Baum of the Law Offices of Baum & Blake, San Francisco, California.

Case Synopsis: The plaintiff was born at Stanford University Hospital in 1994, and was diagnosed with a genetic disease phenylketonuria (PKU) in 2000. As a result of the hospital and pediatricians not diagnosing the PKU, Michael developed permanent brain damage and a need for lifetime care.

Baum argued that the Hospital failed to timely perform the required tests, which screen for metabolic disorders in newborns.

Expert Consultation: In this case, Mr. Johnson first testified to Michael Cook's lost earnings capacity. Since the child had no earnings history, Mr. Johnson based Michael's earnings capacity on an average college graduate and a person with a Master's degree. The total present values of lost wages and fringe benefits yielded between \$2.4 and \$2.8 million. Secondly, he testified to the present value of his future medical and attendant services. The total present value of these services over his life expectancy was over \$5.8 million. The total future values ranged from \$84.5 to \$87.8 million.

Result: On September 26, 2003, the jury rendered a \$70.9 million future value verdict against the defendants Stanford Health Services and Palo Alto Medical Clinic. The verdict includes \$56.3 million for future medical and attendant services and \$14.1 million for lost wages and fringe benefits. The jury gave these amounts a present value of \$6.3 and \$1.8 million, respectively.

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**"How much did you defer in
income taxes by Structuring
your Attorney Fees?"**

See Page 3



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**LIFE ACTIVITY CALENDAR[®]
IMPACTS JURY IN STABBING
DEATH OF YOUNG WOMAN.
JURY VERDICT \$5,500,000**

Jury awards \$5,500,000 to parent and estranged husband in wrongful death of 28 year-old woman murdered by a temporary employee.

Santa Rosa, California: Robert W. Johnson & Associates was retained to prepare a **LIFE ACTIVITY CALENDAR[®]** based on actual testimony that would be used in closing arguments. The calendar illustrated the family relationship that the young woman shared with both her mother and her estranged husband. No expert was required for the **LIFE ACTIVITY CALENDAR[®]**.

Citation: Holway, et al v. Snelling & Snelling, Inc., et al, Santa Rosa, California, Superior Court No. 186184, Attorneys W. Barton Weitzenberg, and Jeffrey E. Stienberg, Santa Rosa, California.

Case Synopsis: Christina Appleton, a 28 year-old clerical worker, was on her way to work at Iron Horse Vineyards. At the entrance to the premises, she was stabbed 27 times in the torso and neck by Arvie Carroll. Mr. Carroll was a temporary employee hired by Snelling Temporaries and sent to work for the winery. He had been fired two weeks prior to her murder.

At the time of her death, Christina was living with her mother and was in the process of reconciling with her husband, from whom she had been separated. Christina was sharing expenses with both her mother and her husband; there was no claim for loss of economic support.



Trial Presentation: Through the use of the **LIFE ACTIVITY CALENDAR[®]** checklist, the mother and husband were able to catalog separately those activities they did with Christina. At trial, the shared activities generated by the LAC checklist was and integral part of both the mother's and husband's testimony. During closing arguments, the **LIFE ACTIVITY CALENDAR[®]** was used to powerfully and graphically to illustrate the total loss suffered by Christina's family.

Attorney Comments: The events shared by the mother and husband with Christina made a visual impact upon the jury. The **LIFE ACTIVITY CALENDAR[®]** clearly displays the fullness of life and activities before the wrongful death and dramatically illustrated the loss of these shared activities due to the wrongful death. The defense could not conceive of a way to rebut the **LIFE ACTIVITY CALENDAR[®]**.

Results: The defense offered, pre-trial, \$200,000 and asked the jury for a defense verdict. The jury returned a verdict of \$5,500,000.

Let us prepare a LIFE ACTIVITY CALENDAR[®] for your next case. Please call (800) 541-7435 Ext 200.

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STRUCTURING ATTORNEY FEES INCREASES CASH FLOW AND REDUCES TAXES

Since the Appellate Court affirmed the Childs, et al. v. Commissioner of Internal Revenue case in 1996, structuring attorney fees has become more and more prevalent. Here is a good example why more attorneys are turning to Structured Attorney Fees.

Short-Term Perspective – Increase Cash Flow & Reduce Taxes

When structured attorney fees are looked at from a short-term perspective of increasing cash flow while simultaneously reducing taxes, the financial results are impressive.

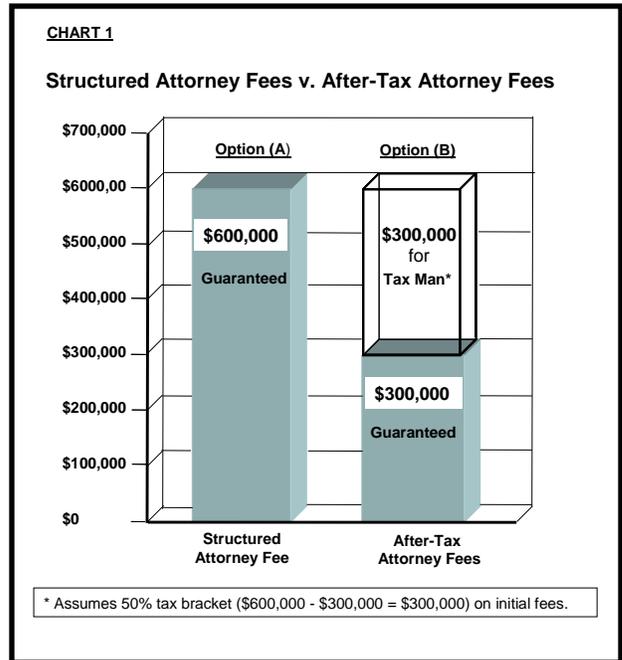
Consider the following scenario. A 60 year-old attorney wants to ensure that her office expenses of approximately \$10,000 per month over the next five years (60 months) are covered in spite of sporadic income from case settlements. Her goal is to increase cash flow and lower taxes by paying overhead expenses with pre-tax dollars. Her attorney's fees in a recently settled case are \$600,000.

She has two options:

Option (A) - structure her fees to **pay out \$10,000 per month (guaranteed)** for the next five years.

Option (B) – pay the tax on the \$600,000 and invest the remaining \$300,000 in U.S. Government Bonds for as many months as it can payout \$10,000 per month (**See CHART 1**).

If the attorney elects Option (A) to structure her attorney's fees (at current rates), then she is only taxed on the structured attorney fees as they are paid out.

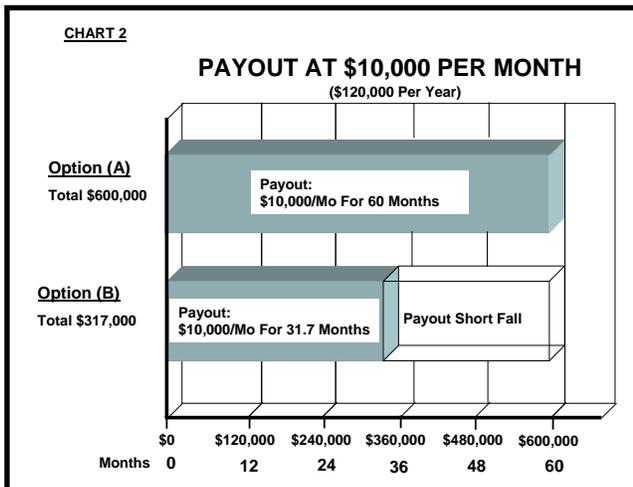


In her case, since her taxable income from the structured settlement (\$10,000/mo.) matches the tax-deductible office expenses (\$10,000/mo.), then her **net tax is zero**.

On the other hand, if the attorney elects Option (B) and decides to pay the 50% tax and invests the balance (at current interest rates), she will generate only 31 months of \$10,000 monthly income (**See CHART 2**).

In order for the pay the tax Option (B) to match the payout of the structured settlement, the attorney will need an investment return of over 27% per year to generate enough cash to make the \$10,000 per month payment for the full five years. Not even high-yield junk bonds have a yield that extravagant.

Contact Robert W. Johnson & Associates and we can help you **Keep What You Earn**.



(Continued from Page 1, ECONOMIST'S)

Michael was also awarded \$500,000 for non-economic damages of which he will only be able to collect \$250,000. California's Medical Injury Compensation Act (MICRA) caps non-economic damages at \$250,000.

The jurors found the Palo Medical Clinic 65% responsible for the damages and Stanford Health Services responsible for the other 35%. Michael Cook and the third defendant, the Regents of the University of California, reached a \$500,000 settlement after the trial began, per counsel.

Attorney's Comments: This medical malpractice case involved complex evidence to prove that approximately 80% of the future economic damages came from future medical care. Mr. Johnson was able to convince the jury that his future medical expense figures were accurate and reasonable although they were 30 times greater than the number put up by the defense's economist. Mr. Johnson was able to convey his message by using simple, common sense analogies which played a major role in achieving such a satisfying verdict for the plaintiff.

2003 Year End Verdicts

Select cases for which Robert W. Johnson & Associates provided support.

Attorney(s)	Case	Case Type	Verdict
Terrance Coleman	Chapman v. Unum Provident	Insurance - Bad Faith	\$31,700,000
J. Clark Aristei	Witham v. AVJet	Wrongful Death	\$9,500,000
David B. Baum	Cook v. Stanford University Medical Center	Personal Injury - Medical Malpractice	\$8,500,000
Garo Mardirossian	Castillo v. Korman	Personal Injury - Burn	\$6,315,556
Cynthia Bernet-McGuinn / Miles B. Cooper	Eagles v. Albertson's	Personal Injury - Crushed Foot	\$6,500,000
Daniel Rodriguez	Arranaga v. Bayridge Transport Ltd., et al.	Wrongful Death - Head-On Collision ¹	\$4,050,000
William Veen / Cynthia Bernet-McGuinn / Arnold Laub	Vu v. McNulty	Personal Injury - Amputation of Leg ¹	\$3,500,000
Daniel Rodriguez	Argueta v. Carreon, et al.	Personal Injury - Amputation of Leg ¹	\$3,000,000
Daniel Rodriguez	Rosas v. H.F. Cox, et al.	Personal Injury - Tibia & Fibular Fractures ¹	\$3,000,000
Ronald Shingler / Cheryl White	Soule v. Garlock	Personal Injury - Mesothelioma	\$2,600,000
Gary G. Goldberg	Sholes v. Network Pharmaceuticals	Personal Injury - Amputation of Legs	\$1,566,424
Daniel Rodriguez	Montesinos v. Bakersfield Memorial	Personal Injury - Medical Malpractice ¹	\$1,450,000
Jacob Shapiro	Horan v. Beverage Distributors	Personal Injury - Femur Fracture	\$1,000,000
Jerry A. Hurtubise	Nelson v. Kemper Insurance	Personal Injury - Uninsured Motorist	\$687,000
Jerry A. Hurtubise	Rodrigues v. Weaver	Personal Injury - Head-On Collision ¹	\$500,000
Gary A. Bixler	Toomey v. Crothall Services	Personal Injury - Slip & Fall ¹	\$500,000
			\$84,368,980

¹ Settled cases

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 analyzing 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[®].