

NEWS LETTER

Robert W. Johnson & Associates

FORENSIC ECONOMISTS

Q4/2004

Featured Case:

***ECONOMIST'S TESTIMONY ASSISTS
REDWOOD CITY JURY IN AWARDING
\$6.8 MILLION
IN WRONGFUL DEATH OF LABORER***

Redwood City, California: Robert W. Johnson & Associates was solely retained to provide economic testimony in quantifying the present cash values of lost wages and fringe benefits and household services that Mr. Sanchez provided to his family.

Citation: Maria Peña for herself and as Guardian ad Litem for Ernestina Sanchez and Jennifer Sanchez Peña v. R.J.S. & Associates, Inc.; JPI Westcoast Construction LP; CF & T and Available Concrete Pumping, Inc. and Does 1 to 100, Supreme Court of San Mateo County, Redwood City, California, Case No. CIV 423353. Plaintiffs' attorney Russell L. Moore, Jr., The Boccardo Law Firm, San Jose, California. Judge Foiles.

Case Synopsis: The decedent, Luis Miguel Sanchez, was a 35-year-old concrete finisher with a wife and two minor daughters. On September 12, 2001, Mr. Sanchez was working when a boom used to pour concrete suddenly fell downward and hit him on the head and

shoulder area. As a direct result of defendants' negligence, Luis Miguel Sanchez sustained a fatal injury.

Expert Consultation: In this case, Mr. Johnson was retained to testify as to the loss of economic support that Mr. Sanchez would have provided to his family. In reviewing Mr. Sanchez's earnings history, Mr. Johnson was able to calculate an economic range for his annual loss. He first looked at Mr. Sanchez's average earnings over the three years prior to his death, which yielded \$50,796 per annum. He then looked at Mr. Sanchez's 2001 year-to-date earnings and that annualized figure was \$66,048. This earnings range of \$50,796 to \$66,048 allowed the attorney to argue a loss of \$2 million in Mr. Sanchez's earnings capacity. Mr. Johnson also looked at the fringe benefits package provided by the Laborers Union Local 304, which amounted to over 36% of Mr. Sanchez's earnings.

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**"Learn how to defer taxes and manage
your cash flow by Structuring your
Attorney Fees"**

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**LIFE ACTIVITY CALENDAR[®]
PERSUASIVELY DEMONSTRATES
CLOSED HEAD INJURY JURY
VERDICT \$2,000,000**

Jury returns verdict of \$2,000,000 for a 44-year-old woman who was diagnosed as having a closed head injury two months after being rear-ended in a car crash.

Northville, Michigan: Robert W. Johnson & Associates was asked to prepare a **LIFE ACTIVITY CALENDAR[®]** to illustrate how "invisible injuries" to the brain can significantly affect an individual's chosen life-style.

Citation: *Barbara Ann Gray v. Matthew Burr Case, et al; Benzie County, Michigan; Charles N. Simkins; Simkins and Simkins,; Northville, Michigan.*

Case Synopsis: The 44-year-old plaintiff, Barbara Ann Gray, was rear-ended while driving her car. According to the emergency room records, she was not knocked unconscious at the scene of the crash, nor was she diagnosed in the emergency room, as having suffered a head injury. In fact, she was not diagnosed as having suffered a closed head injury until about two months after the crash, when she tried to return to her job as a



registered nurse and had difficulty doing her job.

Attorney Comments: "As part of our trial presentation, we used a **LIFE ACTIVITY CALENDAR[®]** in the opening statement, as well as during our presentation with the plaintiff. The calendar dramatically showed the difference in her activities before the accident, compared to the same activities two years post-injury. The **LIFE ACTIVITY CALENDAR[®]** significantly showed how the color of life was drained out of her nursing career, her involvement in EMS and firefighting, her participation at parties, on overnight trips, in doing housework, in organizations and visiting friends."

Results: The jury verdict was \$2,000,000.

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 \$10,500 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.

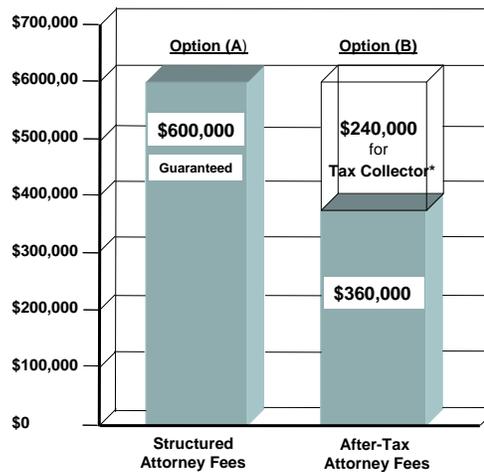
She has two options:

Option (A) - structure her fees to **pay out \$10,500 per month (guaranteed)** for the next five years.

Option (B) - pay taxes of approximately 40% on the \$600,000 and invest the remaining \$360,000 in U.S. Treasury Strips for as many months as it can payout \$10,500 per month (**See CHART 1**).

CHART 1

Structured Attorney Fees v. After-Tax Attorney Fees



* Assumes 40% tax bracket (\$600,000 - \$240,000 = \$360,000) on initial fees.

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 (\$10,500/mo.) matches the tax-deductible office expenses (\$10,500/mo.), then her **net tax is zero**.

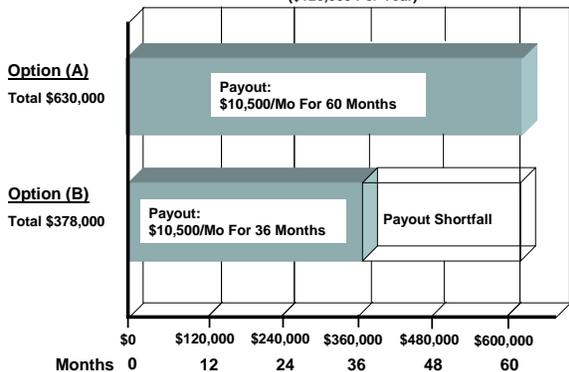
On the other hand, if the attorney elects **Option (B)** and decides to pay the 40% tax and invests the balance (at current interest rates), she will generate only 36 months of \$10,500 monthly income (**See CHART 2**).

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 20% per year to generate enough cash to make the \$10,500 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**.

CHART 2

PAYOUT AT \$10,500 PER MONTH (\$126,000 Per Year)



(Continued from Page 1, ECONOMIST'S)

Result: On November 18, 2004, the jury awarded \$6.8 million that consisted of \$1,853,284 for compensatory damages and \$5,000,000 for general damages.

Attorney's Comments: "Mr. Johnson's expert testimony was very helpful in putting future earnings and personal consumption

into perspective. By Mr. Johnson putting a range on the board, this allowed the jury room to negotiate equitable economic justice for the survivors. In addition, Mr. Johnson gave me information that allowed me to completely and thoroughly destroy both the validity and creditability of the defense expert in front of the jury."



2004 Year End Verdicts

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

Attorney(s)	Case	Verdict	Case Type
Brian J. Panish / Christine D. Spagnoli	Griggs v. Caterpillar, Inc., et al.	\$58,137,361	Personal Injury - Burn
Michael London / Gary J. Douglas	Frankson v. Brown & Williamson	\$20,000,000	Wrongful Death / Punitive Damages
William H. Carpenter	DeLeon v. Northrop-Grumman	\$8,750,000	Personal Injury - Numerous Severe & Traumatic
Russell L. Moore, Jr.	Peña v. R.J.S. & Associates, et al.	\$6,853,284	Wrongful Death
Cynthia Bernet-McGuinn / Miles B. Cooper / Anthony Label	Howard v. Third and Mission Associates, LLC & Pankow Residential Builders II	\$5,653,146	Personal Injury - Mild Brachial Plexus Nerve Injury
Karen E. Evans	Julius Bitterfeld	\$3,200,000	Wrongful Death - Medical Malpractice
Jonathan E. Gertler	Scott v. PG&E, et al.	\$3,100,000	Personal Injury - Back & Knee
William A. Levin	Ross v. A.W. Chesterton Company	\$2,600,000	Personal Injury - Mesothelioma
Anthony S. Petru	Libro v. UPR	\$2,500,000	Personal Injury - Back
John J. McAvoy	Berg v. Carter	\$1,400,000	Personal Injury - Neck
Paul M. Mahoney	Dent v. Farmers Insurance	\$1,000,000	Wrongful Termination
Totals		\$113,193,791	

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®.