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## Special Report: Supporting the legal practice

MICHAEL PETRO | BUFFALO LAW JOURNAL

Through structured settlements, Richard Naylon of Designed Settlement Services helps open the door to a lifetime income stream for clients who suffer serious injuries and face an uncertain future.

# Structured settlements can last a lifetime

BY MICHAEL PETRO  
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When a personal injury case settles or a verdict is reached, the resulting award to the plaintiff is tax-free.

If placed into a structured settlement, which is similar to a fixed annuity, payments to the injured person would continue tax-free for many years, according to Richard Naylon of Designed Settlement Services. Taking that same award settlement to a bank or stock market, he said, results in the growth on that money becoming taxable.

As a certified structured settlement consultant, Naylon said his chief responsibility is to provide a lifetime of tax-free income for people who are no longer able to or never will work due to injuries they suffered. He said structured settlements are a way of accomplishing that.

"It's a fascinating business and there's a lot to it," said Naylon, whose primary work is with plaintiffs in personal injury cases here and in Rochester and Syracuse. "You see a lot of billboards and different law firms advertising on TV and radio, so there's a lot more to this personal injury business than you might have originally imagined."

When such cases were settled in the 1970s and '80s, if the injured had an extended medical condition, property and casualty insurance companies were carrying those future obligations on their books, he said. Then someone in the industry came up with an idea of buying an annuity, which will take care of that future stream of payments, and even took things a step further

by having an assignment company buy the annuity and designate it to an entity other than the insurance carrier. IRS Code Section 104, regarding tax exemptions on compensation for the injured and sick, also was established in the 1980s, and since then, Naylon said it has become the backbone of the structured settlement industry.

"Between the government and insurance companies, they thought, 'These people are injured and already have enough problems, so it doesn't seem fair to give them some money and then tax the life out of it.' Say you're the injured iron worker and you get this big claim, if you put it into the structured settlement and it pays you for the rest of your life, you never have to declare taxes on that money," he said.

Paul Isaac Sr. of Paramount Settlement Planning said he tries to protect settlements by making sure that plaintiffs have a proper allocation and plan going forward.

He also helps them find insurance after a settlement, because many times they may be disqualified from the type of plans they received before an accident.

Structured settlements are a unique tool in the financial planning world, Isaac

said. When documents are properly crafted, a plaintiff could receive benefits tax-free over their lifetime and it can be tailored to meet their specific needs.

Such settlements also are protected from creditors, bankruptcy proceeds and claims

by family members looking for money and loans, according to Isaac, whose is licensed nationally but focuses on work in this state and Pennsylvania.

"There's a lot we can do with structured settlements that we can't do with other financial tools," he said. "We make sure that all options are discussed, covered and the best plan is produced for the plaintiff. ... We really enjoy helping people protect their settlement proceeds and assets and recover money that would otherwise go to collection agencies."

John Bair of Milestone Consulting/Settlement Planning and Management said his firm offers a variety of services including providing a financial picture for what to do

with the money from a settlement or as a result of a court decision. Among his goals: to provide life care plan analysis and to help clients with their own goals.

If settlement awards go unprotected, the money can be quickly depleted, he said.

There may be strong temptation to use a large lump sum to fund other expenses, which often wears away the intended settlement for lifetime care, according to Bair.

Professional advice is a must, he said.

"It's no fun being a guinea pig in a high-stakes game, and that's what every client litigant essentially is," he said. "They're going through it for the first time. They've

## Appellate service providers ease attorney's burden

BY MICHAEL PETRO  
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When attorneys have a case to handle in state or federal Appellate Court and Supreme Court, one of the last things they want to worry about is preparing, filing and serving documents and briefs.

That's according to Brian Robinson, president and CEO of Counsel Press. He said it's a big help when they can hand off that responsibility to those with expertise in procedural work and the particular court in which the documents are being filed. An appellate publishing service, for example, can be a major asset to attorneys focused on a case.

"We say to clients, 'We'll take care of the procedure; you focus on the argument,'" said Robinson, who's also an attorney and is based in Counsel Press' office in New York City. "When it comes to talking about anything procedural about your case, we like to speak your language and do it quickly so you can get back to focusing on the argument."

This type of service buys attorneys time, enabling them to work until the very last minute, if needed. Meanwhile, the appellate publishing service will make sure the appropriate paperwork gets to court.

"Allowing them to work right up to the deadline allows for flexibility," Robinson said. "That time is critical for attorneys."

Matthew Magill of Avalon Document Services said litigation support services take on many of the tasks that lawyers don't want and shouldn't have to do. He said the people working for the

company aren't afraid to get their hands dirty doing much of the grunt work in preparing and filing records and briefs in accordance with the rules of state and federal courts.

Avalon provides knowledge of the law and is able to spot red flags for a specific court to maintain technical compliance and accuracy, Magill said. Lawyers usually organize the content well and the courts' rules for form are not outlandish, which help these projects along, he added.

"I tell my clients all the time that you provide me the argument and I'll do the rest of it," said Magill, appellate specialist, working in Avalon's Syracuse office. "You worry about what you do best and what you went to school for and I'll worry about putting the thing together and making it look exactly how the court wants to see it."

Since attorneys most often work in town, city and county courts, they may not be as familiar with the rules and procedures of appellate courts, said Suzanne Druyssen, president of Batavia Legal Printing. That's where her company comes in, consulting



Magill



Bair



Isaac

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## APPELLATE

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with clients about how to complete court documents, before handling the appellate printing and delivery of them.

"Just us knowing what the court rules are helps," she said. "They call us and say, 'Hey, I went through the rules and couldn't find this,' and I'm able to help them. We're well-acquainted with the Appellate Court rules."

Robinson said Counsel Press, which has five locations statewide, also offers electronic preparation for the courts that require it.

"I used to say to customers, 'We can do as much or as little as you need,' when it comes to the procedural aspect of filing," he said.

Last year, Counsel Press worked with attorneys in every U.S. state and in more than 80 jurisdictions. The company has 19 appellate consultants or attorneys on staff including Robert Brucato, who's been in the Buffalo office for more than 20 years. He, like others in the field, occasionally handles a filing outside an area not covered by one of the company offices.

Avalon prides itself on being available 24/7 to do everything from putting together the record and brief to serving and filing it, said Magill, adding that full service and quick turnaround are a necessity these days.

"We go the whole nine yards. We're kind of a one-stop shop for the appellate services," he said. "It's not uncommon for records and briefs to come in at the very last minute and get turned around and filed and served with no issue whatsoever."

He primarily does work in state courts and has a few attorney clients in Virginia, Chicago and California.

Avalon has 100 employees across five offices, including Buffalo, but in appellate services, he and an assistant in the Utica office do much of this work. Magill noted that he's not an attorney but considers himself to be detail-oriented.

"That's one of Avalon's hallmarks in any of the services we provide," he said. "It was a natural progression to add appellate services."

Batavia Legal Printing prepares briefs and records statewide, including New York



PHOTO COURTESY: COUNSEL PRESS

The Counsel Press appellate services statewide team includes, from left, back row, Brian Robinson, president and CEO, Lora Reinhardt, who works in the Buffalo office, Nachele Brown (Rochester), LaFon Howard (Rochester) and Lisa O'Hara (Syracuse). Seated are, from left, Alan Kelso (New York City) and Robert Brucato (Buffalo).

City, but its primary work is in Buffalo. In her 17th year with the company, Duyssen runs the family-owned venture started by her father and his business associate. The two, who have a combined 80 years experience, trained nearly the entire staff.

"I enjoy this because it's something different every day," she said. "We may have records that we're going through one day. We'll be dealing with different cases every day and on a case-by-case basis they're all different. It makes my job enjoyable because I'm not doing the same thing every day."

Robinson said Counsel Press hires attorneys in the customer-facing positions, when possible. Many other representatives, though not attorneys, have been with the company for more than 20 years and have developed a deep expertise. He said the average tenure in the staff counsel position

is 13 years.

Having a high level of experienced appellate consultants helps clients attain critical information and speeds up the knowledge transfer so the job can get done more quickly, Robinson added.

"Keeping people a good, long time and developing their expertise as a group and as a team is really what's most important," he said. "We certainly look for the credentials when we hire people, but we also seek to develop and train them internally."

Magill said knowledge of court rules is critical because if documents are not prepared correctly, they can get rejected by the court. The courts he has dealt with have been quite accommodating in answering questions that arise, he said.

"Some people see us as the guys you go to when you need some copies, but there's a far-ranging subset of things we do here,

appellate included, that you might not have known was necessarily possible," he said.

Technology drives the business, according to Robinson.

Counsel Press also has custom in-house technology developed over the past decade that prepares appellate records, enters them into the computer system, shares them back to the clients as proofs and meets the rules of the courts. There is also a client portal that allows for communication back and forth, can provide a case status and accepts payments.

"Our in-house systems are probably what we rely on most for getting things turned around to the clients," Robinson said. "Because people are so busy today, making things easily accessible is an important part of what we try to do."

Magill said technology helps him do his work faster and cleaner. Computer programs are used to digitally scan records and then properly insert headers and footers and do so to the required size and format. It cuts down the time that Avalon has the documents in its hands, he said.

Emailing often enables same-day service for attorney clients in Buffalo, Duyssen said. Still, because many courts require an original signature on documentation, she sends drivers to pick up the paperwork or asks clients to send it by mail.

Converting documents to PDF form is another essential for most courts, she said. Some require documents to be on CDs, which are packed and shipped out for downstate clients and delivered for Buffalo-area and Rochester clients, many times as part of same-day service, she added.

"It gives attorneys up until the last hour and last minute to perfect their brief and send it to us," Duyssen said.

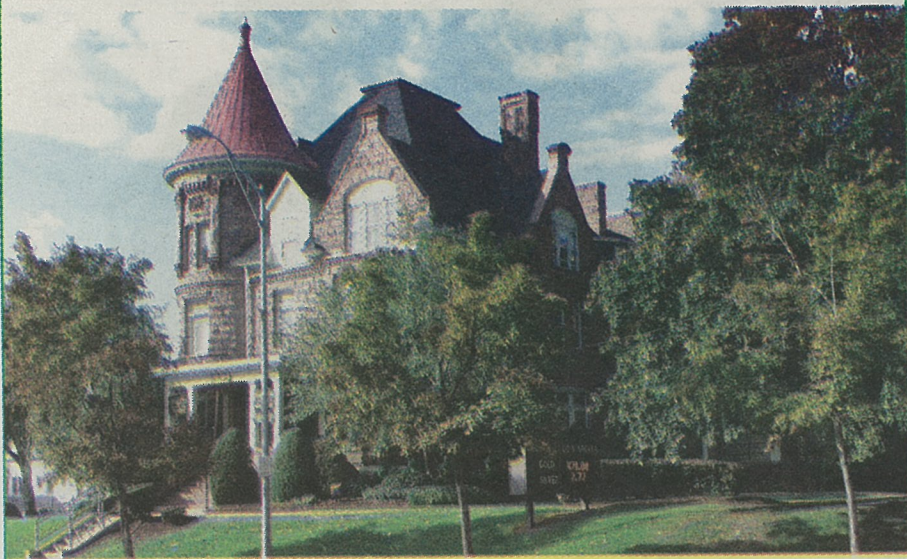
Counsel Press, which has been in business since 1938, views its offices in Buffalo, Rochester, Syracuse and Delhi as one group that works together to serve clients.

"It certainly took a long time to get there but we think it was worth the effort to have the strong presence in Western New York," Robinson said. "I think we're in a good position there and we've worked hard at that. It doesn't matter how long we've been around — attorneys aren't going to keep coming back if we're not a good provider."

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## S. Tier health club owner pleads guilty

The owner of a health club in Springville faces a maximum of 10 years in jail after pleading guilty to health care fraud.

While running Spring Creek Athletic Club between 2009 and 2012, Gary Wannamacher submitted fraudulent claims to private health insurance companies for reimbursement of health programs offered at the gym that were not actually attended by the beneficiaries listed in the claims, according to the U.S. Attorney's Office.

The government also contends that Wannamacher, 50, of Orchard Park even submitted claims for reimbursement for programs supposedly attended by two individuals

after their deaths. In addition, he allegedly submitted claims for individuals who were out of town on the date of the claim form or who recently had major surgery and could not have attended the gym at the time.

U.S. Attorney Elizabeth Moellering, who is handling the case, said that as part of the scheme, he also filed false claims for gym members who were part of Silver Sneakers, a program that allows for reimbursement from some insurance companies.

The charges carry a fine of up to \$250,000. Sentencing is scheduled for Sept. 21 before U.S. District Court Judge Elizabeth Wolford.

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