

Is Your Broker Really a Plaintiff Broker?

Nowadays it seems nearly every structured settlement broker claims to be a plaintiff broker. The truth is that of the five hundred structured settlement brokers in this country, only a few are really plaintiff loyal. The majority of these newcomer plaintiff brokers still derive the vast majority of their business from their defense clients, helping to perpetuate the plaintiff-abusive structured settlement processes so long enjoyed by defense. So how do you know if your broker is really plaintiff loyal?

Think back to how you first met our "plaintiff broker." Did you bring him into your case or was he thrust upon you by the defense? Almost certainly he was working for the defense, working to save them money via the structured settlement. And after your case concluded, did this defense broker contact you and offer to assist you with your future structured settlement needs?

Sometime later you were again confronted with a defense-proposed structured settlement offer. You may have called your newly found "plaintiff broker" for assistance with evaluating offers and/or making counter-proposals. And if your case concluded with a structure, chances are your "plaintiff broker" was compensated directly by the defense broker for his assistance in getting this matter resolved under the terms and control of the defense. These two brokers, whether you knew it or not, were successful at perpetuating the defense control of structured settlements and you assisted them.

These brokers were probably also involved in the creation and/or review of settlement documentation which gave them a full release of any and all liability from errors, omissions and professional misconduct in their handling of your structured settlement. Both you and your client signed off on these release terms.

Believing that your "plaintiff broker" had looked after your best interests, you may have subsequently contacted him on other cases. You may now seldom even question his recommendations. And that is precisely how he wants you to treat your relationship. So if your plaintiff broker is so helpful, why is it that your "plaintiff broker" doesn't work exclusively for plaintiffs counsel?

Because if he did commit himself to the plaintiff side, his defense broker comrades would not be so willing to split commissions with him. Instead, he would be viewed as a defense adversary, an adversary that could not be trusted to help the defense save money by controlling the structured settlement process. He also would be sacrificing his lucrative and dependable stream of defense cases if he ever publicly declared his plaintiff loyalty. He would also be excluded from all Department of Justice claims under the newly enacted bill entitled, "The 21st Century Department of Justice Appropriations Authorization Act."

We stand at a unique point in time when the plaintiff attorney is rapidly gaining ground in the control of the structured settlement process and the defense is fighting aggressively to regain their absolute control. Private Letter Rulings in favor of the plaintiff's control are now abundant, yet the defense brokerage community still bombards you with outdated and untrue reasons why you cannot control your plaintiff structures. Still, your continued use of defense-loyal "plaintiff brokers" will delay and compromise any chance of significant legislative changes in how your structured settlements are negotiated in the future.

It is important to remember that structured settlements are voluntary agreements. Should your client really be subjected to the self-serving rules and regulations that the defense industry created? Isn't it time you join the plaintiff revolution and take control of your structured settlements using a plaintiff-loyal broker?

