

RULE 68.2: Structured Settlements

If the parties involved in claims desire to enter into a structured settlement, defined as a settlement wherein payments are made on a periodic basis, the following rules shall also apply:

1. The application shall include an affidavit from an independent certified public accountant or other competent professional, specifying the present value of the settlement and the method by which that value was calculated.

2. If the settlement is to be funded by an annuity, the annuity shall be provided by an annuity carrier who meets or exceeds the following criteria:

a. The annuity carrier must be licensed to write annuities in Ohio and, if affiliated with the liability carrier or the person or entity paying the settlement, must be separately capitalized, licensed and regulated and must have a separate financial rating.

b. The annuity carrier must have a minimum of \$100,000,000.00 of capital and surplus, exclusive of any mandatory security valuation reserve.

c. The annuity carrier must have one of the following ratings from at least two of the following rating organizations:

1. A.M. Best Company: A++, A+, or A.
2. Moody's Investors Service (Financial Strength): Aaa, Aa1, or Aa2.
3. Standard & Poor's Corporation (Claims Paying/Solvency): AAA or AA.
4. Fitch Ratings: AAA, AA+, or AA.

d. In addition to the requirement of subsection (3) immediately above, an annuity insurer must meet any other requirement the Court considers reasonably necessary to assure that funding to satisfy periodic-payment settlements will be provided and maintained.

e. A qualified insurer issuing an annuity contract pursuant to a qualified funding plan under these rules may not enter into an assumption reinsurance agreement for the annuity contract without the prior approval of the Court, the owner of the annuity contract and the claimant having the beneficial interest in the annuity contract. The Court will not approve assumption reinsurance unless the re-insurer is also qualified under these rules.

f. The annuity insurance carrier and the broker procuring the policy shall each furnish the Court with an affidavit certifying that the carrier meets the criteria set forth in subsection (3) above as of the date of the settlement and that the qualification is not likely to change in the immediate future. The broker's

affidavit shall state that the determination was made with due diligence based on rating information which was available or should have been available to an insurance broker in the structured settlement trade.

g.If the parties desire to place the annuity with a licensed insurer in Ohio that does not meet the above criteria, the Court may consider approving the same, but only if the annuity obligation is bonded by an independent insurance or bonding company, licensed in Ohio, in the full amount of the annuity obligation.

3. The application shall include a statement of the actual cost to the defendant of the settlement. The actual cost shall be used to fix and determine attorney's contingent fees.