Best's Insurance Law Podcast

[Single Claimant Qualified Settlement Funds & Structured Settlements: A Reality Check - Episode #235]

Posted: Tues. Feb 3, 2026

Hosted by: John Czuba, Managing Editor
Guest Expert: Dan Finn of Finn Financial Group, LLC
Qualified Member in *Best's Insurance Professional Resources* since: 2017

FINN FINANCIAL GROUP
Helping you achieve stability in life

John Czuba: Welcome to "Best's Insurance Law Podcast," the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, managing editor of *Best's Insurance Professional Resources*.

Very pleased to have with us today, Dan Finn Dan is the founder of Finn Financial Group, LLC a nationally recognized provider of structured settlements products and services, headquartered in Newport Beach, California.

Dan is a former claims adjuster, claims training coordinator, and claims manager. He is the past president and chairman of the board of directors for the National Structured Settlements Trade Association in Washington DC, and a published author, with articles appearing in the "CPA Journal," "Claims Management," and "Plaintiff Magazine."

Dan, we're very pleased to have you with us again today.

Dan Finn: Thank you, John. Great to be here.

John: Today's discussion is going to center on qualified settlement funds. For our first question, Dan, most practitioners involved in personal injury litigation are familiar with the benefits of structured settlements.

In fact, we've had several podcasts with you on the value and benefit of them, and they're used pretty routinely, but I'm not sure the same could be said about qualified settlement funds. For starters, what is a qualified settlement fund, and when would one typically be used?

Dan: Sure. Happy to answer that, John. You're right. This isn't something that you would hear normally, but qualified settlement funds, more commonly known by their initials, QSF, is a product that came about because of the challenges that are inherent in resolving mass tort, class action, and other complex multiparty lawsuits.

You can imagine the difficulty of trying to agree to a settlement with terms and then securing a release that involves a dozen or more defendants and hundreds or even thousands of plaintiffs. It's just impractical to think every single plaintiff, some of whom may not even have been identified when the settlement was negotiated, are going to efficiently execute a release.

The QSF, which is governed by Section 468B of the Internal Revenue Code, solves this problem by permitting the settling parties to agree to an aggregate settlement value, usually specifying contributions from all the settling defendants. Then allow those defendants to pay their money into this special purpose fund, which then serves as a sort of limbo until the plaintiff allocations, fees, costs, etc. can all be properly accounted for while litigation can still continue against any defendants who decide against settling.

The beauty of this method is twofold. Number one, the defendants receive a complete release of liability and can then take a full deduction for the payments made into the QSF. Number two, the plaintiff's tax benefits, including the ability to choose a structured settlement if they so desire, are preserved.

The QSF, standing in the shoes then of the collective defendants, acts as a bridge to final distribution for the plaintiffs while permitting the defendants to end their involvement.

John: Dan, what prevents the parties from simply resolving the claim for the global figure and paying the agreed to settlement proceeds into the plaintiff attorney's client trust account like they normally do and letting them just distribute the funds? Why is a QSF even needed?

Dan: Technically, there's nothing that prevents them from resolving claims in the method you suggest, and it's actually done routinely a number of times. However, it becomes a question of timing. For the defense, either method is just fine provided they're able to secure the proper release, never mind how problematic that may be.

It's a different story for the plaintiffs though because the plaintiff's net recoveries are intended to compensate them for significant physical and nonphysical injuries. Structured settlements are going to be options they'd normally want to consider.

Because of the dual doctrines of constructive receipt and economic benefit, once these funds are irrevocably set aside for them, as would be the case once the plaintiff attorney takes the funds into their client trust account, any tax consequences are immediately triggered irrespective of whether they physically take possession of the funds or not.

Therefore, any opportunities to structure any of the settlement proceeds are immediately forfeited.

When Congress enacted Section 468B of the tax code, they did so with timing in mind. They wanted to make sure the defense could still deduct the loss in the year the payment was made while still preserving the recognition timing needs of the plaintiff sufficient to overcome these constructive receipt and economic benefit hurdles.

John: Dan, that helps explain why QSFs might be useful, even recommended in complex multi-party litigation, but I'm guessing from the title of what we were to this podcast to be, it may not be a viable option when there's only a single claimant. Why is that?

Dan: Very important distinction. 468B treasury regulations, which are the official rules issued by the Department of Treasury and the IRS, stipulate three requirements necessary for a QSF to be valid.

Number one, it must be established by a court order or other governmental authority and requires continuing jurisdictional oversight. Number two, it must resolve one or more claims, emphasis on the plural here, claims, arising out of a tort, contract, or statute. Three, the trust must be properly established under the regulations and applicable law.

Let's talk about this middle one first. Here, the treasury regulations appear to open the door to the QSFs to resolve "one or more" claims. This is a very important distinction. The body of the statute itself, 468B, which is the actual law enacted by Congress, only references claims, plural.

The entire legislative history leading up to its passage was to resolve claims, plural, involving multiple claimants.

Although some tax attorneys and structured settlement consultants alike will argue there's enough ambiguity to allow for a single-claimant QSF and will advise their clients to use them routinely even when the need cannot credibly be justified, both defense and plaintiff attorneys are well advised to avoid them if there's only a single claimant.

By the way, John, derivative claims such as those we see in wrongful death lawsuits, where the plaintiffs are all related but do not have diverse interests, are still considered a single claimant for this purpose.

John: Parties have resolved single-claimant disputes for years using structured settlements without considering qualified settlement funds. Why push for them when it falls into what seems to be at best a very gray area?

Dan: The only plausible explanation is the desire for control because structured settlements are voluntary agreements between the defense and the plaintiff using a third-party assignee as a conduit to properly implement them. There is a perceived advantage to the plaintiff if they can eliminate the other side from having any say in how the structured settlement is applied.

Maybe the plaintiff structured settlement advocate wants to recommend a structured settlement product that is not on the defense insurance carrier's approved list. That's perfectly normal and understandable.

The argument that this decision allows for freedom of choice falls completely apart when you consider the fact that all but one life market or market-based product provider will accept money from a single-claimant QSF.

That's because the insurance industry generally prefers not to live on the edges of what might be acceptable. They're infinitely more likely to only proceed with transactions that are considered tried and true to insulate them from the risk of litigation down the road.

You have to ask yourself if more than 90 percent of the companies offering structured settlements, which includes some of the largest and most financially viable companies in the country, aren't willing to go out on that limb, it's a mystery to me why anybody would.

Our advice to defense and plaintiff attorney clients alike on the issue of single-claimant QSF structured settlements is the same. Simply avoid them.

John: Dan, one final question today. Risk avoidance is something that every insurance carrier spends plenty of time thinking about.

Earlier, you mentioned that entering into a QSF permits the defense to end its litigation and take a deduction for the claim paid. If that's the case, is there any real risk to them if the plaintiff pursues a structured settlement in a single-claimant QSF situation? Aren't they cut out of it?

Dan: At face value, it sure seems like that, but not necessarily. Recall that one of the Treasury Regulation requirements I referenced earlier mandates ongoing judicial oversight of QSFs to ensure compliance with the law. Even beyond the single-claimant issue, what happens if the QSF is invalidated for any reason?

You can bet that everyone involved, plaintiff and defense alike, will be drawn into protracted litigation, potentially jeopardizing the tax treatment of the payments made and the deduction taken by the defense, while simultaneously rendering the tax treatment of the structured settlement payments made to the plaintiff null and void.

For the defense, it's not unreasonable to assume they may be required to reopen a claim they had already considered resolved and then be forced to keep it on the books for years until the final structured settlement payments are made. It's safe to say nobody welcomes that.

These issues, along with a myriad of others involving tangential structured settlement and QSF topics, are often highlighted in the Litigation Section of the "ABA Journal."

Those who are risk-averse, whether defense or plaintiff-oriented, would be well advised to heed the consensus recommendations of experts, and certainly our recommendations, to avoid single-claimant qualified settlement funds altogether.

John: Dan, thanks so much for joining us today. Always a very informative and enlightening podcast.

Dan: My pleasure, John. Great to talk with you always.

John: You just listened to qualified member expert service provider, Dan Finn, and special thanks to today's producer, Anthony Palma.

Thank you all for joining us for "Best's Insurance Law Podcast." To subscribe to this audio program, go to our web page, www.ambest.com/professionalresources. If you have any suggestions for a future topic regarding an insurance law case or issue, please email us at lawpodcast@ambest.com.

I'm John Czuba, and now this message.

Transcription by CastingWords