

Personal Injury Settlement Consulting

Does my client need a Special Needs Trust?

1. Is the plaintiff a “disabled” person? Yes No
2. Has the person received a disability determination by the Social Security Administration (SSA)? Yes No
3. Has the person or could the person apply for a determination of disability by the SSA? Yes No
4. Is the disabled person receiving or likely to receive any of the following means-tested public benefits?
 - SSI
 - Medicaid
 - Medicaid Waiver
 - NJ Family Care/PA CHIP
 - Section 8 Housing
 - Food Stamps
 - Group Home
 - Psychiatric Institutionalization
 - Other _____

If the answers to all of the questions above are YES, a Special Needs Trust should be considered.

If any of the items on the above list have not been addressed, the client has not been adequately protected and a potential malpractice suit may be looming.

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In settling the case, have I taken all of the necessary steps to protect my client and my practice?

1. Does my client have adequate medical insurance; i.e., if my client has Medicare, does he have a Medicare supplement? Yes No
2. Is my client entitled to any public benefits he is not currently receiving such as SSI, Medicaid, Medicaid Waiver Program, New Jersey Family Care, Section 8 Housing, Group Home, Food Stamps, or Psychiatric Institutionalization? Yes No

3. Has my client obtained advice concerning Federal and State estate taxes and income taxes? Yes No
4. Does my client have a Will, Living Trust, Living Will, and Power of Attorney? If my client is a minor or incapacitated person, do my client's parents have a Third Party Special Needs Trust? Yes No
5. Have I obtained a competent investment advisor or professional trustee for my client?
6. Does my client need a Special Needs trust? Yes No
Note: See separate questionnaire, does my client need a special needs trust?
7. Would my client benefit from a Settlement Preservation Trust? Yes No
Note: These trusts are particularly useful if the client is a minor or incapacitated person who is not receiving or likely to receive means-tested public benefits such as SSI and Medicaid or if my client needs assistance with money management)
8. Is a Medicare Set-Aside Arrangement required? Yes No
Note: See separate questionnaire, is a Medicare Set-Aside Arrangement (MSA) required?
9. Would my client benefit from a structured settlement? Yes No
10. Have all liens been satisfied or reduced; including:
- | | | |
|---|------------------------------|-----------------------------|
| <input type="checkbox"/> Medicaid | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Medicare Advantage Plan | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Medicare Part D | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> ARISA | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> State Worker's Compensation | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Federal Worker's Compensation | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Hospital Lien | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Veteran's Administration Claims | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Federal Employee Health Benefits Act | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Welfare Liens | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Mental Health Liens | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Is a Medicare Set-Aside Arrangement (MSA) required?

1. Is it anticipated that there will be future medical expenses relating to my client's injury? Yes No
2. Is my client a Medicare beneficiary? Yes No

3. Is my client receiving SSDI? Yes No
4. Has my client applied for SSDI or had my client applied and been denied but anticipates appealing the decision? Yes No
5. Is my client in the process of appealing and/or refiling for SSDI benefits?
 Yes No
6. Is my client age 62.5 years or older? Yes No
7. Does my client have End Stage Renal Disease (ESRD) but does not yet qualify for Medicare based on ESRD? Yes No

If the answers to questions 1 is YES and then the answer to any questions between 2 and 7 is YES then a MSA is required?