

# Structured Settlement Update

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## Structured Settlement Helps Resolve Kindergarten Dispute

A settlement was reached in the case of 5-year-old Alex Barton, who, at his teacher's suggestion, was voted out of his kindergarten class by the other children. The case settled for a total of \$350,000, most of which will be paid out in the form of a structured settlement beginning in 2020 when Alex reaches 18 years of age.

The settlement with the St. Lucie County School Board and the St. Lucie County School Classroom Teachers Association in the Southern District of Florida suit must still be approved by a guardian ad litem and the court before it is final. The school did not admit any liability.

Alex Barton, who was being tested for a mild form of autism at the time of the 2008 incident, was reportedly brought to the front of the Port St. Lucie School classroom by his teacher, Wendy Portillo. She gave each of his classmates a chance to say what they didn't like about him, according to his mother, then allowed them to vote on whether he should be allowed to stay in school. He lost, 14-2.

Those involved in the case declined to comment except for attorney Allen Sang, who represented Portillo. According to Sang, she was suspended for a year after the classroom incident, but did not herself have to pay for the settlement because she was indemnified by the school board.



**Author's Note:** While a terrible incident, the structured settlement will ensure that Alex is well cared for and his future assured with guaranteed, income tax-free periodic payments. Given the limited choices available for a minor's settlement due to the fact the minor cannot legally have the funds until the age of majority, a structured settlement is often the best yielding and most flexible settlement option available. It's no wonder that so many minor's settlements are resolved with a structured settlement. Advisor's who are aware of pending minor's settlements should contact Avitas for assistance in obtaining a structured settlement.

## Noteworthy Cases

In each newsletter, we make mention of some of the notable cases of the week, many of which would be suitable candidates for a structured settlement. These cases can make a great point of entry for a new client, or show additional value for an existing one:

### ***Rare legal doctrine leads to \$35 million verdict***

Attorneys in Missouri have used a legal doctrine rarely seen in state court to obtain a \$35.25 million jury verdict in a truck fatality case. The doctrine - offensive nonmutual collateral estoppel - allowed lead plaintiffs' counsel Kenneth McClain and co-plaintiffs' counsel Danny Thomas of Humphrey, Farrington & McClain in Independence, Mo., to limit the trial to a determination of damages. Source: Lawyers USA 11/22/2010.

### ***Settlement Reached in Officer Sexual Assault Suit***

A Los Angeles woman was awarded \$245,000 to settle a lawsuit in which she accused a Los Angeles County sheriff's deputy of sexual assault. The woman claimed in her suit that the officer solicited sex from her during a traffic stop in exchange for not taking her to jail. The deputy is facing criminal charges related to the incident. Source: LA Times 12/01/2010.

### ***Settlement Reached over Fatality from Faulty Porch***

A Chicago building management company has agreed to a \$2.7 million settlement in a lawsuit filed over the death of a man who fell from a porch during a 2007 New Year's Eve party. The lawsuit claimed the porch was defective and cited a city report that noted rotting wood and inadequate bolts. Although the company had received bids for the work, correction of the porch would have prevented the man's death. Source: Chicago Tribune 11/29/2010.

### ***Men Injured in Stair Collapse Awarded \$7.8 Million***

A Pittsburgh jury has awarded \$7.8 million to two local men who were injured when a metal stairway collapsed in a Consol Energy Inc. building in 2007. The jury ruled Consol had not adequately inspected and maintained the staircase over the four decades prior to its collapse. One of the men suffered a fractured hip and left leg and the other a permanently frozen right shoulder. Source: Pittsburgh Post-Gazette 11/24/2010.

### ***Suit Settled over Accidental Death of Police Officer***

The Massachusetts Turnpike Authority has agreed to a \$9 million settlement in a lawsuit filed over the death of a state trooper who crashed into a tunnel handrail. According to the documents, state officials had been warned that the Big Dig handrails were a safety hazard, and the rails have resulted in the death of six others since 2005. The suit claimed the design of the handrails increased the risk of death for a motorist that came in contact with them. Source: Boston Globe 11/23/2010.

