

Structured Settlement 2.0

Since January 1, 2012, CRSSAs (Claims Resolutions Structured Settlement Agreements) have provided an avenue for settling claims of qualified injured workers. We have successfully negotiated several CRSSAs.

One CRSSA involved an injured worker who the Department had found employable, terminated his time loss and closed his claim. We appealed to the Board of Industrial Insurance Appeals, seeking total and permanent disability (pension). However, this injured worker was looking at a potentially shorter lifespan due to previous battles with cancer. The CRSSA allowed the injured worker to avoid the uncertainty of litigation and receive a rather substantial settlement paid out over two years. Additionally, we successfully negotiated pre-authorization for a future total knee replacement. When the time comes, the injured worker will not have to go through the hassle of trying to reopen his claim to get a total knee replacement. A copy of the CRSSA can be found [here](#).

Several other CRSSAs involved injured workers who were “worn out” by the Department. They were in their late 50s or early 60s and the Department was demanding they go through retraining. They decided they were tired of dealing with the Department and chose to pursue employment avenues on their own terms, even starting their own business. In one CRSSA, the injured worker submitted a business plan for her own business to demonstrate to the Board of Industrial Insurance Appeals that she would be financially independent after CRSSA payments concluded. This was necessary to show the CRSSA was in “her best interest.”

The Court of Appeals recently held that an injured worker is no longer required to show that the CRSSA is in his or her best interest, if the worker is represented by an attorney.

If an injured worker does not have an attorney, the injured worker must still show the Board that the CRSSA is in the injured worker’s best interest.

STRUCTURED SETTLEMENT AGREEMENT
 BETWEEN THE DEPARTMENT OF LABOR AND INDUSTRIES,
 [REDACTED], AND BUD BERGER TRUCKING LLC.

The Department of Labor and Industries (Department) by and through its attorneys Robert W. Ferguson, Attorney General, and Linda Tobin, Assistant Attorney General, [REDACTED] (Claimant), by and through his attorney, Dane Ostrander, and Bud Berger Trucking LLC., by and through Bud Berger, Business Owner (Employer), enter into this Structured Settlement Agreement pursuant to RCW 51.04.063 to resolve all issues, except medical, within claim number [REDACTED] and to seek approval of this agreement from the Board of Industrial Insurance Appeals.

I. Parties to the Agreement:

Pursuant to RCW 51.04.063, the following are the parties to this settlement agreement:

A. "Claimant"

Name	[REDACTED]
Claimant Address	[REDACTED] Olympia, WA 98506 [REDACTED] E-Mail: None
Represented by	Dane Ostrander Williams, Wyckoff & Ostrander, PLLC. P O Box 316 Olympia, WA 98507 (360) 528-4800 E-Mail: dane@wwolaw.net WSBA No. 30042

B. "Department"

Name	Washington State Department of Labor and Industries
Address	PO Box 44251 Olympia WA 98504-4251 (360) 902-6101
Represented by	Linda Tobin Assistant Attorney General PO Box 40121 Olympia, WA 98504-0121 (360) 586-7752 Email: LindaT@atg.wa.gov

	WSBA No. 19113
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C. "Employer"

Name	Bud Berger Trucking LLC.
Address	1610 S Bank Road Oakville, WA 98568 (360) 273-1400 Email: None
Represented by	Bud Berger, Business Owner

No other employer is subject to any responsibility or burden under any other claim.

II. Criteria to Settle

Date of Birth and Age of Claimant	February 2, 1947 [REDACTED] is 66 years of age.
Gender	Male
Life Expectancy of Claimant	84.1 years pursuant to the tables provided by the Social Security Administration. Claimant is expected to live an additional 18.1 years (18.1 x 12 months = 217.2 months) (18.1 x 52 weeks = 941.2 weeks)
Marital Status	Married
Dependents	0
Claim Number	[REDACTED]
Injury and Claim	On December 22, 2009, [REDACTED] was getting out of logging truck when he missed a grab bar and fell in a ditch.
Date Claim Received by Department	May 28, 2010
Date of Claim Allowance	Claim [REDACTED] was allowed by Department order dated June 24, 2010.
Date Allowance Order became Final	The allowance order became final 60 days after Claimant received the order, which would have been on or about August 23, 2010.
Other Benefits	Claimant is receiving social security retirement benefits of \$1,973.00 per

	month. Additionally, he is receiving Veterans Administration (VA) benefits in the amount of \$1,700.00 per month.
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III. Claims Impacted

Claim Number	██████████
Date of Injury	December 22, 2009
Description of Accident	██████████ was getting out of a logging truck when he missed a grab bar and fell in a ditch.
Date of Allowance	June 24, 2010
Claim Status	Open. ██████████ is not currently receiving time loss compensation. He received time loss compensatuion from June 18, 2010 through December 13, 2011. His accepted medical conditions are at maximum medical improvement. ██████████ received an award for permanent impairment equivalent to 2 percent impairment of the right lower extremity in the amount of \$2,176.65. The parties agreed that Claimant may retain this award for permanent impairment.
Attending Physician	Edward Dagher, MD Physical Medicine/ Rehab
Accepted Conditions	Right knee meniscus tear
Denied Conditions	Left toe ganglion cyst
Contended Conditions	None
Other medical conditions that are not covered or related to this claim	Left shoulder dislocation High blood pressure Prostate cancer Cholecystectomy
Closing Order	██████████ claim is currentlty open. The claim will be closed as part of this settlement agreement.

The parties agree and stipulate that the following conditions are related to the industrial injury of December 22, 2009 and have been allowed/accepted under claim [REDACTED]: Right knee meniscus tear.

Further, the parties agree and stipulate that the following conditions are not related to the industrial injury of December 22, 2009, and have never been alleged to have been caused by or aggravated by the December 22, 2009 industrial injury, and have not been allowed under claim [REDACTED]: Left shoulder dislocation, high blood pressure, prostate cancer, left toe ganglion cyst, and cholecystectomy.

Finally, the Claimant agrees that the Department will at the time this agreement becomes final, issue an order detailing the conditions allowed and denied under this claim, and the parties agree that so long as the order is in accord with this agreement, no party will appeal. This order will be issued to clarify accepted conditions and is not done for the purpose of segregating conditions which have been contended under this claim. The parties further stipulate that no part of the settlement compensation in paragraph IX should be considered compensation for segregating these conditions.

IV. Claims Not Impacted

Claim Number	[REDACTED]
Date of Injury	August 3, 1976
Date of Order Allowing	Unable to determine. Microfiche claim file has been destroyed.
Status of Claim	Closed September 6, 1977, as medical only claim. No award for permanent impairment.
Description of Accident	Unable to determine. Microfiche claim file has been destroyed.
Accepted Conditions	Left eye
Denied Conditions	Unable to determine. Microfiche claim file has been destroyed.
Contended Conditions	Unable to determine. Microfiche claim file has been destroyed.

Claim Number	[REDACTED]
Date of Injury	March 5, 1979
Date of Order Allowing	Unable to determine. Microfiche claim file has been destroyed.
Status of Claim	Closed February 5, 1979, as medical only claim. No award for permanent

	impairment.
Description of Accident	Unable to determine. Microfiche claim file has been destroyed.
Accepted Conditions	Low Back.
Denied Conditions	None.
Contended Conditions	None.

Claim Number	[REDACTED]
Date of Injury	August 18, 1980
Date of Order Allowing	Unable to determine. Microfiche claim file has been destroyed.
Status of Claim	Closed October 21, 1980, as medical only claim. No award for permanent impairment.
Description of Accident	Unable to determine. Microfiche claim file has been destroyed.
Accepted Conditions	Abrasion of the left eye
Denied Conditions	None.
Contended Conditions	None.

Claim Number	[REDACTED]
Date of Injury	December 23, 1980.
Date of Order Allowing	Unable to determine. Microfiche claim file has been destroyed.
Status of Claim	Closed March 3, 1981, as medical only claim. No award for permanent impairment.
Description of Accident	Unable to determine. Microfiche claim file has been destroyed.
Accepted Conditions	Abrasion of the left eye.
Denied Conditions	Unable to determine. Microfiche claim file has been destroyed.
Contended Conditions	Unable to determine. Microfiche claim file has been destroyed.

V. Other Pre-Existing or Unrelated Medical Conditions:

Claimant has medical conditions that were not related to, caused by, or aggravated by his workers' compensation claims, and those medical conditions are not related to his workers' compensation claims. Those conditions include: Left shoulder dislocation, high blood pressure, prostate cancer, and cholecystectomy.

The parties agree that the listed unrelated medical conditions have never been treated under claim [REDACTED] and these listed conditions were not aggravated or impacted by the industrial injury of December 22, 2009. Any medical treatment needed for those unrelated conditions has not been covered, and will not be covered in the future even if claim [REDACTED] is reopened for further medical treatment.

The parties also agree that none of these conditions have been contended as related to the industrial injury of December 22, 2009 and that none of payments listed in section IX should be considered payment for the Claimant's agreement to segregate these conditions.

VI. No Further Disability Entitlement.

In consideration for the payments listed in section IX, the Claimant relinquishes any further Washington Industrial Insurance Act disability benefits or payments to which he may be entitled under claim [REDACTED]. Disability benefits include payment of time loss compensation (wage loss), loss of earning power (partial wage loss), and permanent partial disability and/or pension benefits.

VII. Vocational Entitlement.

In consideration for the payments set forth in section IX, the Claimant relinquishes any further Washington Industrial Insurance Act vocational benefits/services to which he may be entitled under claim [REDACTED]. The Claimant understands that vocational benefits/services include vocational assessment, vocational plan development and job retraining.

VIII. Medical Treatment

The parties stipulate that the Claimant is not in need of any further medically necessary and proper treatment and that all conditions related to the industrial injury as listed above in paragraph III have reached maximum medical improvement.

IX. Payment Schedule

In consideration of the release above, and for this agreement, the Department agrees to pay the Claimant, [REDACTED], a total of \$160,000.00. None of this amount should be considered as payment to segregate any condition which may be related to industrial injury. The settlement amount will be paid according to the following periodic payment schedule:

Periodic Payment:

1. An initial payment of \$24,946.98 which is at least twenty-five percent, but not more than six times the average monthly wage. The initial payment will be made within fourteen (14) days after the revocation period has expired.
2. Twenty-one (21) subsequent monthly payments of \$6,236.75, which is at least twenty-five percent (25%), but not more than one hundred and fifty percent (150%) of the state's average monthly wage, beginning the month following the initial payment.
3. The twenty-third (23rd) and final monthly payment in the amount of \$4,081.27 will be paid in the twenty-third (23rd) month. This final payment is at least twenty-five percent (25%), but not more than one hundred fifty percent (150%) of the state's average monthly wage. This will fully satisfy the Department's payment obligation.
4. No interest shall be paid or will be payable on the unpaid balance.
5. No cost of living adjustment will be applied to the unpaid balance.

The Claimant acknowledges that periodic payments cannot be accelerated or deferred. Claimant agrees that should he become indebted to the Department in the future, such future debt may be deducted from any remaining structured settlement payments but in no case will the payment be above the statutory maximum or below the statutory minimum

The parties agree the \$160,000.00 settlement is intended to compensate the Claimant for diminished earning capacity during his remaining life expectancy which is 18.1 years according to the life table published by the Social Security Administration. Pursuant to Section XXI of this contract, Claimant and his attorney have agreed to a 15% contingent fee. After deducting the 15% fee of \$24,000.00 from the gross settlement, the net settlement is \$136,000.00. [REDACTED] life expectancy constitutes a period of 217.2 months or 941.2 weeks and the total sum is intended to compensate him for his lost earning capacity at the rate of \$626.15 per month or about \$144.50 per week. These monthly and weekly compensation figures are based on the net settlement amount after deducting the 15% attorney fee.

In addition to the \$160,000 settlement, [REDACTED] also received an award for permanent impairment equivalent to 2 percent impairment of the right lower extremity in the amount of \$2,176.65. The parties agreed that Claimant may retain this award for permanent

impairment. There were no attorney's fees deducted from the award for permanent impairment.

X. Discharge of Payment

The obligation of the Department to make payments set out in section IX shall be discharged upon the mailing of a valid warrant for the required amount to the last known address as shown in the Department's file. However, if the warrant is lost or otherwise not received, the Department upon prompt notification of non-receipt will reissue the check subject to verification that the warrant has not been negotiated or otherwise cashed.

The Claimant must promptly notify the Department of any address change.

XI. Claim Closure

It is the intent of the parties that with this settlement will close claim [REDACTED]. The Claimant understands that, other than the payments provided in this agreement, he will not receive any other benefits, including medical treatment unless the claim is reopened under section XIV.

The parties understand, acknowledge and agree that this agreement will bind the parties with regard to all aspects of the claim except for medical.

XII. Further Order

The Claimant understands the Department will issue a ministerial order to implement the terms of this agreement including making periodic payments as outlined in section IX and closing claim No. [REDACTED]. The closing order will correct and supersede the order dated July 23, 2012. Further, the parties intend that this closing order will address any unaddressed protests or outstanding appeals by affirming any such order that may exist in claim [REDACTED]. [REDACTED] also received an award for permanent impairment equivalent to 2 percent impairment of the right lower extremity in the amount of \$2,176.65. The parties agreed that Claimant may retain this award for permanent impairment. An order will be issued no later than fourteen (14) days after the agreement is approved by the Board of Industrial Insurance Appeals and the revocation period has expired.

XIII. Future Treatment

The Department acknowledges and agrees that in the future, [REDACTED] is likely to need a surgery related to the December 22, 2009 industrial injury. The Department agrees that if

██████████ treating physician certifies that surgical procedure listed below is medically necessary and appropriate, then the Department will pay for the surgery at the rates set in the Medical Aid Rules and Fee Schedule. ██████████ will not need to show objective worsening of the condition to receive the below listed treatment. The Department will only pay for the medical treatment related to:

- Right knee total replacement.

To obtain coverage, prior to surgery, ██████████ must submit a reopening application with his treating physician's signature indicating that a right total knee replacement is medically necessary and appropriate. ██████████ will not need to establish worsening and the Department will grant the reopening for the sole purpose of providing the right total knee replacement surgery and required follow-up.

██████████ acknowledges that he will not be entitled to receive any further disability benefits during any period of disability for this right total knee replacement. ██████████ also acknowledges that should he need additional treatment other than the right total knee replacement and appropriate follow-up, he will need to apply to reopen claim under Section XIV of this agreement, and he will need to establish that his condition related to the industrial injury of December 22, 2009, objectively worsened.

XIV. Reopening

Pursuant to RCW 51.04.063 and RCW 51.32.160, the Claimant retains the right to file an application to reopen claim ██████████ should his conditions related to his injury objectively worsen. Except for the provisions relating to a future total right knee replacement as specified in Section XIII of this agreement, reopening is not guaranteed and the Department retains the right to deny the aggravation application should it determine there was no objective worsening of the Claimant's conditions. In the event the Department denies the aggravation application, the Claimant may appeal that decision pursuant to RCW 51.52.060.

The Claimant understands that he will be required to demonstrate aggravation of the accepted conditions in claim ██████████ as contemplated by RCW 51.32.160 if he applies to reopen the claim. The Claimant further understands that any reopening will be limited to medical benefits only, and that even if the claim is reopened no further disability benefits will be paid.

For the purpose of reopening only, the parties stipulate the following are the Claimant's objective findings at time of closure:

- A. Date of Closure: Claim ██████████ will occur with this settlement, so the date of closure will be the date this agreement becomes final.

B. Permanent Partial Disability: The Claimant has been rated as having a 2% impairment of the right lower extremity, which he was fully compensated for by this agreement.

According to the American Medical Association's Guides to the Evaluation of Permanent Impairment, Fifth Edition, it is my opinion that the findings correspond most closely to a rating of: two percent (2%) right lower extremity impairment.

Rationale: The right knee permanent impairment rating is based on the diagnosis-based estimates. As per table 17-33 on page 546, a partial medial meniscectomy is equal to two percent (2%) lower extremity impairment. There are no applicable methods of ratable impairment as there is no muscle atrophy, muscle weakness, knee instability, or cartilage interval loss.

C. Physical Findings: On November 2, 2011 Edward I. Dagher, MD (Physical Medicine and Rehabilitation), made the following findings on examination of [REDACTED]

RIGHT KNEE: Well-healed arthroscopic incisions. Negative effusion, negative crepitus, negative joint line tenderness, negative Lachman and McMurray tests. AP stability is 2 to 3 mm. Active range of motion measured with a goniometer is 0 to 134 degrees. Thigh circumference is 48 cm bilaterally, measured 15 cm proximal to the knee joint line.

The medial joint line cartilage interval measured on the digital radiography system was 4.61 mm at the right knee.

XV. Administration of Claim during BIIA Approval Process

The Department agrees to continue to administer claim [REDACTED] and to provide all benefits due up until the date this agreement becomes final. Any unpaid bills for treatment provided under claim [REDACTED] prior to the date of the order implementing this agreement that the claim remain closed should be submitted to the Department within forty-five (45) days of claim closure, but in no case later than one year following the date of the treatment or service.

XVI. Ability to Work

Nothing in this agreement will prevent the Claimant from returning to work full time or part time, paid or unpaid.

XVII. Future claims

The parties understand in the event the Claimant returns to work, and suffers a further industrial injury or occupational disease, the Claimant may file a new claim and receive appropriate benefits under that new claim if the claim is allowed.

XVIII. Parties Understandings

A. Claimant

1. Industrial Insurance Benefits: ██████████ acknowledges, agrees and understands that by entering into a structured settlement agreement that he will receive no other benefits related to claim ██████████ except as outlined in this agreement. He acknowledges that he could have continued to pursue additional benefits under claim ██████████ (benefits such as financial disability payments or additional vocational services), but instead opted to enter into a structured settlement. He understands, acknowledges and agrees that this agreement will bind him to all aspects of the claim except for medical benefits. The Claimant understands his rights under RCW 51.04.063. Finally, the Claimant believes that the agreement is reasonable under the circumstances.
2. Other Benefits Potentially Impacted: ██████████ acknowledges, agrees and understands that by entering into a structured settlement agreement that there is a slight chance that other government benefits that Claimant is receiving, or may be entitled to receive in the future may be impacted.
 - i. Social Security Benefits: ██████████ understands that his social security benefits are unlikely to be impacted as long as the Social Security Administration follows its published rules and policies. ██████████ highest year's wages were approximately \$130,200.00 or \$10,850.00 per month. This makes his 80% ACE figure \$8,680.00. ██████████ unoffset social security rate is \$1,973.00 per month. Since \$1,973.00 plus \$633.14 (██████████ net CRSSA amount prorated over his life expectancy per POMS DI 52150(3)) equals \$2,606.14 and is thus less than ██████████ 80% ACE figure, no offset/reduction in ██████████ social security benefits should result from this CRSSA.
 - ii. Medicare Benefits: ██████████ further understands that because this agreement does not compromise his right to medical treatment under his claim, there should be no impact to his Medicare benefits.

iii. Other Benefits: [REDACTED] is receiving Veterans Administration (VA) benefits. He has confirmed that the payments made pursuant to this agreement will not impact his VA benefits.

3. Understanding and Knowing Agreement: [REDACTED] acknowledges and agrees that he understands and agrees to the terms of this agreement. He is entering this agreement knowingly and willingly. He has not been harassed or coerced to participate in this agreement. He has represented the facts and the law to the Department and to the Employer to the best of his knowledge. He believes that this agreement is reasonable under the circumstances.
4. Revocation: [REDACTED] acknowledges and agrees that he knows that he may revoke his consent to this agreement by providing written notice to the other parties and the Board of Industrial Insurance Appeals as set out in section XXII of this agreement.
5. No Other Employer: [REDACTED] acknowledges and agrees that this agreement does not subject any other employer to any responsibility or burden under any other claim.

B. Department

1. Allowance Order: The Department acknowledges, agrees and understands that this agreement does not set aside or reverse the allowance order dated June 24, 2010.
2. Understanding and Knowing Agreement: The Department acknowledges and agrees that it understands and agrees to the terms of this agreement. It understands, acknowledges and agrees that this agreement will bind it to all aspects of the claim except for medical benefits. The Department is entering this agreement knowingly and willingly. It has not been harassed or coerced to participate in this agreement. It has represented the facts and the law to the Claimant and to the Employer to the best of its knowledge. It believes that this agreement is reasonable under the circumstances.
3. No Other Fund Impacted: The Department represents and warrants that this agreement does not subject any Department funds covered under the Title 51 RCW to any responsibility or burden without prior approval from the director or his designee. The Department further warrants that this agreement has been approved by the director or his designee.

4. Revocation: The Department acknowledges and agrees that it knows that it may revoke consent to this agreement by providing written notice to the other parties and the Board of Industrial Insurance Appeals as set out in section XXII of this agreement.
5. No Other Employer: The Department acknowledges and agrees that this agreement does not subject any other employer to any responsibility or burden under any other claim.

C. Employer

1. Allowance Order: The Employer acknowledges, agrees and understands that this agreement does not set aside or reverse the allowance order dated June 24, 2010.
2. Premium Impact: The Employer acknowledges, agrees and understands that the total payment of \$160,000.00 will be considered a claim cost and will be used per WAC 296-17-855 to determine future experience modification and per WAC 296-17B-400 to determine future retrospective rating adjustments.
3. Understanding and Knowing Agreement: The Employer acknowledges and agrees that it understands and agrees to the terms of this agreement. It understands, acknowledges and agrees that this agreement will bind it to all aspects of the claim except for medical benefits. The Employer is entering this agreement knowingly and willingly. It has not been harassed or coerced to participate in this agreement. It has represented the facts and the law to the Claimant and to the Department to the best of its knowledge. It believes that this agreement is reasonable under the circumstances.
4. Revocation: The Employer acknowledges and agrees that it knows that it may revoke consent to this agreement by providing written notice to the other parties and the Board of Industrial Insurance Appeals as set out in section XXII of this agreement.
5. No Other Employer: The Employer acknowledges and agrees that this agreement does not subject any other employer to any responsibility or burden under any other claim.

XIX. Medicare Coverage

Claimant understands that should CMS (Medicare) find that a Medicare Set-Aside Allocation should have been established and that Medicare's interests were not adequately protected, CMS (Medicare) may require the Claimant to expend the entire settlement amount on Medicare covered expenses related to [REDACTED] injuries before Medicare will provide additional coverage for those injuries. As noted in Section XVII of this agreement, [REDACTED] right to future treatment for his industrial injury is not being compromised by this agreement, therefore [REDACTED] and the Department do not expect that there will be any impact on his Medicare benefits, nor any need for a Medicare Set-Aside. Nevertheless, Claimant voluntarily accepts this risk and waives any and all claims of any nature and/or damages against the Department should Medicare take such action, including but not limited to a Private Cause of Action against the Department under the Medicare Secondary Payer Act (MSP) pursuant to 42 USC § 1395y(b)(3)(A).

The parties acknowledge and warrant that it is not the purpose of this agreement to shift to Medicare, Medicaid or any other government program the responsibility for payment of medical expenses for the treatment of industrial injury or occupational disease related conditions. Instead, this agreement is intended to provide the Claimant with a structured settlement that will foreclose future disability benefits and unrelated medical treatment and expenses.

The Claimant acknowledges that any decision regarding entitlement to Social Security Medicare or Medicare/Medicaid benefits including the amount and the duration of payments and offset reimbursement for prior payments is exclusively within the jurisdiction of the Social Security Administration, the United States Government, and the United States federal courts and is determined by Federal Law and Regulations. As such, the United States Government is not bound by any of the terms of this Structured Settlement Agreement.

To the best of the parties' abilities, they have tried to be clear that this structured settlement agreement covers the medical conditions accepted under claim [REDACTED], specifically the right knee meniscus tear and aggravation of pre-existing right knee osteoarthritis.

If the medical conditions associated with the incident of December 22, 2009 where [REDACTED] fell in a ditch while getting out of the truck, should worsen then the Claimant should apply to have claim [REDACTED] reopened for medical treatment.

Other than the conditions of right knee meniscus tear and aggravation of pre-existing right knee arthritis there are no other medical conditions covered under claim [REDACTED] for the December 22, 2009 industrial injury. Other medical conditions, including left shoulder dislocation, high blood pressure, prostate cancer, and cholecystectomy are not covered by this agreement and the parties make no provision for treatment of these other, unrelated medical conditions.

As part of this settlement, Claimant agrees to hold the Department and Employer harmless and to indemnify it against and from any and all past or future Medicare, Medicare Secondary Payer Recovery Contractor (MSPRC), CMS, collection agency or any other governmental entity's claims, actions, judgments or settlements, arising from the medical conditions and injuries that are subject of this structured settlement agreement. This indemnification includes all penalties, attorneys' fees and costs. The parties have included all conditions potentially related to this claim under this agreement. The claimant understands that he must apply for reopening if any of these conditions worsen before attempting to seek Medicare coverage.

XX. Assignability

All payments will be made to the Claimant or his attorney except in the event of the Claimant's death. The Claimant will not sell, mortgage, encumber or otherwise assign any part of the payments. In the event of Claimant's death prior to final payment, payment will be made in accord with section XXVII.

XXI. Attorney Fees

Each party shall bear all attorney's fees and costs arising from the actions of its own counsel in connection with the administration of claim [REDACTED] and this structured settlement approval process before the Board. This provision is not intended to abrogate any rights the Claimant may have under RCW 51.52.130 to obtain attorney fees in any future superior court appeal regarding this claim.

Pursuant to RCW 51.52.120, Claimant's attorney represents that he/she will receive no more than fifteen percent (15%) of the total payments made under section IX as compensation for work done in connection with this agreement.

XXII. Revocation

Any party may revoke this agreement by providing written notice to the other parties, and to the Board of Industrial Insurance Appeals if the agreement has been submitted to the Board for approval. A party may revoke no later than thirty days (30) after the date the agreement is approved by the Board regardless of the date a party receives the Board's approval of this agreement.

XXIII. Filing for approval

The parties acknowledge that this agreement must be approved by the Board of Industrial Insurance Appeals, and that the Department will be responsible for filing for such approval pursuant to Board rules. The Department will file for approval no later than ten (10) days after receiving signed copies from all parties, and will send notification to all other parties upon filing.

XXIV. Comprehensive Document

In entering into this agreement, the Claimant and the Department acknowledge that they have either relied upon the advice of their attorneys or have had the opportunity to consult an attorney, who are the attorneys of their own choice concerning the legal and income tax consequences of this agreement; that the terms of this agreement have been completely read and explained by their respective attorneys and that the terms of this agreement are fully understood and voluntarily accepted.

The employer has the right to confer with an attorney concerning the consequences of the agreement. Regardless of that choice, the Employer has signed this agreement having fully understood and voluntarily accepted the terms.

The parties agree that this agreement sets forth the full and complete agreement between the parties and that there are not any other agreements, representations or promises, verbal or otherwise, not contained in this written agreement regarding the subject matter of this agreement.

XXV. Warranty of Capacity to Execute Agreement

The parties represent and warrant that no other person or entity has, or has had any interest in the claims, demands, or obligations referred in this agreement except as set forth in this agreement; that Claimant has not sold, assigned, transferred, conveyed or otherwise disposed of any of the benefits, claims, demands or obligations referred to in this agreement.

XXVI. Governing Law

This agreement will be construed and interpreted in accord with the laws of the State of Washington, specifically the Washington Industrial Insurance Act. Pursuant to RCW 51.04.063 the parties acknowledge and agree that if aggrieved by the failure of any other party to comply with the terms of this structured settlement, the aggrieved party has one year from the date of failure to petition to the Board of Industrial Insurance Appeals.

Furthermore, the parties acknowledge and agree that should the Board find a party has failed to comply with this agreement, the Board will impose a penalty of up to twenty-five (25%) percent of the monetary amount unpaid at the time the petition for noncompliance is filed.

The Superior Court of Washington will have no original jurisdiction to hear claims or disputes arising from failure to comply with this agreement, and the parties acknowledge that the Board has exclusive jurisdiction to hear any and all disputes regarding compliance with this agreement.

The Board will also decide any disputes related to attorneys' fees for services related to this structured settlement agreement.

XXVII. Claimant's Beneficiaries

If the Claimant should die prior to receiving any or all of the payments set out in section IX, payment shall be made to such person or entity as shall be designated in writing. If no person or entity is so designated by the Claimant, or if the person is not living at the time of the Claimant's death, such payments shall be made to the Claimant's estate. No such beneficiary designation, nor revocation thereof, shall be effective unless it is in writing and delivered to the Department. The designation must be in a form acceptable to the Department before such payments are made.

XXVIII. Severability

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, or part thereof if such remainder conforms to the terms and requirements of applicable law and the intent of this agreement, and to this end the provision of this agreement are declared to be severable.

XXIX. Best Interests of the Claimant

After considering all the factors outlined above, the Claimant believes that this settlement is in his best interest.