

LIFE CARE
ANALYTICS

METHODOLOGY

Michael A. Upchurch

Michael A. Cohen

Mikel B. Taft



Life Care Analytics (LCA) is a company whose mission is to provide the tools and technologies required to analyze and value complex personal injury claims. Over the past decade, the healthcare industry has effectively utilized advanced analytics to determine items such as the cost of care for patients, quality scores for providers, and the quantification of risk for various medical procedures. The use of analytics has grown in use and has, for the most part, become standard practice for companies considered the best in their field. Unfortunately, the legal industry and the personal injury claims resolution marketplace has largely remained untouched by these powerful analytics technologies that have positively impacted healthcare and other industries. LCA has developed an innovative tool that relies on advanced analytics to provide industry leading analysis on a claim-by-claim basis to help the litigants quantify and transfer risk via a successful settlement.

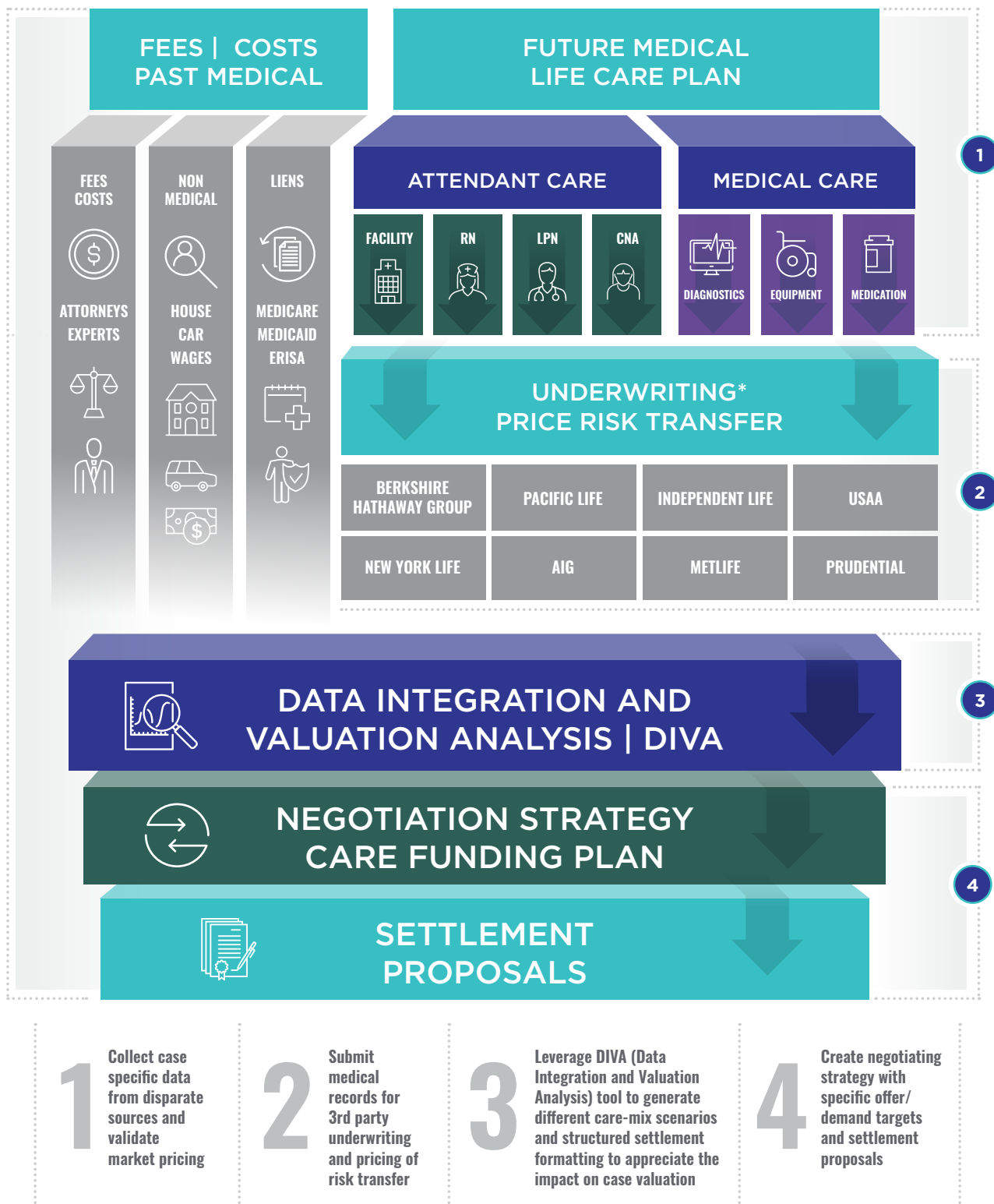
At the center of LCA is a proprietary claims analysis tool named DIVA - Data Integration and Valuation Analysis. As outlined in the Life Care Analytics Process infographic, DIVA takes inputs from disparate parties who are the traditional participants in the litigation process and consolidates this data into a single software application to allow the manipulation of key inputs to determine their impact on the economic value of a claim. The key variables that are the inputs into DIVA are listed below:

- Life Expectancy
- Future Medical Requirements
- Attendant Care Requirements
- Allocation of Care
- Fees/Costs/Past Medical Care
- Underwriting and Risk Transfer

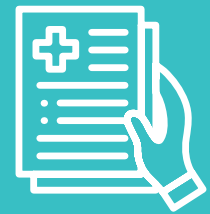
The key to LCA and DIVA is the use and integration of traditional claims valuation tools, experts and risk transfer techniques. For example, the foundation of DIVA is the data derived from the traditional Life Care Plan (LCP). This information is loaded into the system on a line-item by line-item basis. LCA integrates prices from its cost database and when appropriate, validates the cost/need of an item with a third party. Part of the LCA process is to continue to build its cost database by

researching and confirming the local costs for treatment and nursing support or attendant care. This is done by soliciting competitive bids from three different agencies located in the geographic region of the claimant. This step enables LCA to report to all participants in the litigation an unbiased market rate for a specific skill set. Not an inflated/deflated value that is simply used to inflate/deflate the value of a demand/offer.

One of the largest determinants of a claims value for an injured party is the life expectancy of the claimant. This is always a highly contested item in the litigation process because there is a direct correlation between duration and the claim value. LCA addresses this contested issue by partnering with a structured settlement professional who submits the claimant's medical records to all the available life insurance companies who provide structured settlements. Each company then performs an underwriting analysis on the claimant to help determine a rated age. These rated ages play a pivotal role in the analysis of the claim. First, they provide a third-party underwriting review of the life expectancy. Second, if the claimant has a substandard rating (i.e. a higher rated age than actual age) all the parties in the litigation process can then benefit from the improved pricing for the inevitable structured settlement.



*The structured settlement broker(s) of record will submit relevant medical records to each life insurance company to perform their own independent underwriting of each case. These underwriting results will be used to price each structured settlement proposal.



Based on the inputs outlined above, DIVA calculates the needed cash flows to meet the care requirements outlined in the LCP. Once this is known, LCA works with the litigation participants and the structured settlement professional to determine an appropriate format for a structured settlement to fund the future medical expenditures. Typically, the monthly income stream provided by the structured settlement is a life-time payment with an appropriate guarantee period (20 – 30 years) and an annual cost of living adjustment (COLA).

The structured settlement acts as the cornerstone of the LCA methodology. The structured settlement provides a market-based, arms-length commercial valuation of the risk transfer. Most importantly, the structured settlement provides for a series of payments that are income tax free and funded by an annuity issued by a life insurance company. By insisting the structured settlement is competitively priced between all structured settlement providers, LCA can represent to all parties involved, in the litigation and to the court, that the risk transfer has occurred at the best rate available in a competitive market. In order to ensure all of the litigation participants maximize the use of the settlement proceeds, the use and availability of the LCA tool is conditioned upon all participating structured settlement consultants providing a full-market survey of all available structured settlement providers.

To ensure all parties involved are protected and were provided the highest quality deliverable available in the marketplace, both LCA and the partnering structured settlement consultant will provide a written affidavit of the work performed and the results obtained. Included

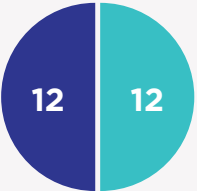
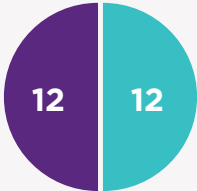
in both affidavits is a summary of the market-based underwriting feedback received from the life insurance companies. This underwriting feedback is the basis of the life expectancy calculations used in the analysis and the structured settlement pricing. A survey demonstrating the differences in the annuity costs by the different providers is included in the structured settlement consultant's affidavit.

The real power of DIVA is to enable the litigation participants to perform an unlimited number of “what if” scenarios. This flexibility can be used to highlight the economic value of genuine differences of opinion between the defendant and plaintiff. The goal is to use LCA in conjunction with a risk transfer tool to format a settlement that is a compromise between all parties. If a settlement cannot be perfected, LCA can assist all parties in valuing the risk/reward of an adverse verdict versus a successful jury result.

In our experience, 85% of a complex claim's value is derived from the future attendant care or facility requirements. This is a direct result of the duration of the claim and hourly expense of an attendant or daily expense of a facility. With DIVA, LCA can adjust both the duration of care (the number of hours of care per day) and the type of care (Registered Nurse, Licensed Practicing Nurse, Certified Nurses Aid) to see the impact on the claim value. The charts below show how the duration of nursing care and type of nursing care can impact the overall valuation:

Attendant Care Risk Transfer Valuation Spectrum

Actual Age: 39
Rated Age: 51

	Plaintiff Demand	Compromise	Defense Offer
			
Cost of Structured Settlements to fund support care:	6,338,855	3,741,363	1,474,984
Format of Structured Settlement	Life & 20	Life & 20	Life & 20
Monthly Benefit	21,900	14,600	7,300
Cost of Living Adjustment	3%	2%	NA

 No Care
  RN - \$50/hr
  LPN \$40/hr
  CNA - \$20 hr

A key deliverable generated through DIVA is a demand/offer illustration (Exhibit I) that provides line-item detail of the payments derived from the proposed settlement proceeds. Furthermore, for the proposed structured settlement it provides the necessary detail on how the cash flows generated from the structured settlement are going to be used to meet the anticipated medical needs of the plaintiff that have been outlined in the Life Care Plan. In the exhibit the cost of the attendant care outlined in Table I is highlighted in yellow.

In addition to the demand/offer illustration a more comprehensive report is generated that contains the following key sections:

- Settlement Proposal
- LCA Affidavit
- Structured Settlement Professional Affidavit
- Future Care Summary
- Itemized Future Care Costs

The intent of this report is to provide all of the detail and supporting documentation for the demand/offer. LCA anticipates that these deliverables will generate additional discovery. This discovery will include depositions for the LCA staff, defense structured settlement consultants and plaintiff structured settlement consultants. The expense of the risk transfer will be the key item litigated.

LCA will also perform a customized case evaluation and deliver a report showing the value of the underlying claim varying the following key variables:

- Duration of care
- Type of care
- Guarantee Period of the structured settlement
- Cost of Living Adjustment for the structured settlement

In the companion paper, *Using Analytics to Negotiate Complex Personal Injury Claims*, key strategies are outlined on how the analytic output from LCA and DIVA can be used to navigate the inevitable divide between a plaintiff's demand and a defendant's offer.



In conclusion, LCA was designed by experienced claims handling and risk management professionals to help quantify risk for a single claim. The intent of LCA is to arm claims handling professionals with the data they need to help them quantify and manage realized risk. We are confident LCA and DIVA will become useful tools in the evaluation of risk and the creation of negotiation strategies moving forward.



Prepared For: John Esquire, Esq.
Date: April 3, 2019

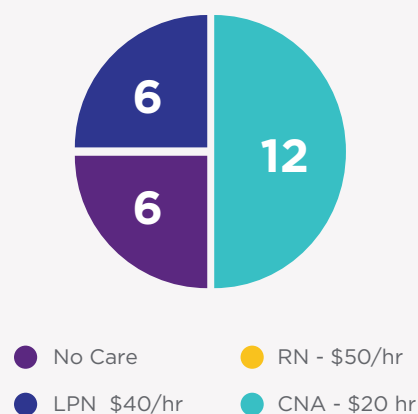
Structure Expert: Frank Jones
Analytics Expert: Michael A. Cohen

JOHN DOE PROPOSED SETTLEMENT BREAKDOWN

Financial Breakdown

*Structured Settlement for Future Care	4,733,800
Cash for Up Front Expenses	500,000
Additional Damages	-
Liens	-
Costs	250,000
Client Total	5,483,800
Attorney Fees	1,662,612
Total Settlement	7,146,412

Daily Care Allocation



**Allocation of Care Projections funded by the Structured Settlement*

Care Category	Cost	Guaranteed Benefits Through Age 59	Expected Benefits Through Age 80
Medical Care	155,663	177,112	456,386
Diagnostic Tests	36,898	41,982	108,180
Therapeutic Evaluations	54,775	62,323	160,595
Outpatient Therapy	85,849	97,679	251,701
Medications	393,936	448,218	1,154,979
Support Care	3,741,363	4,256,899	10,969,276
Bathing/Toileting	2,903	3,303	8,511
Mobility Equipment	6,915	7,867	20,273
Transferring	3,869	4,403	11,345
Housing	-	-	-
Transportation	251,629	286,302	737,749
	4,733,800	5,386,088	13,878,996

Life with Certain Annuity: \$11,172.81 for life payable monthly, guaranteed for 20 year(s), beginning on 07/01/2019, with the last guaranteed payment on 06/01/2039.

Structured Settlement and Illustration Provided by: Independent Life Insurance Company

ABOUT THE AUTHORS



Michael A. Upchurch

Michael Upchurch is a career executive who has focused his efforts on serving the needs of the complex claim's community. Mr. Upchurch is an entrepreneur who serves this community with a passion to improve this marketplace for everyone involved. In addition to being the founder of Life Care Analytics, Mr. Upchurch is the founder of NeuLife Rehabilitation and the founder of Independent Life Insurance Company.

NeuLife Rehabilitation is one of the largest in-patient post-acute rehabilitation facilities focusing on Traumatic Brain Injury (TBI) and Spinal Cord Injury (SCI) in the southeast. NeuLife is a preferred provider of rehabilitation services for many of the largest workers' compensation carriers, the Veterans Administration and many commercial health plans. NeuLife has received recognition for its innovative treatment programs and outcomes. NeuLife is honored to serve the TBI and SCI communities and is often a preferred provider for trauma and LTAC facilities throughout the southeast when these providers are dealing with a complex patient and working through the continuation of care. More information can be found at www.neuliferehab.com.

Independent Life is the first life insurance company exclusively focused on structured settlements. Independent Life's management team has more than 120 years of combined experience in the insurance, structured settlement and investments sectors. In February 2019, Independent Life introduced the industry's first Payee Protection Policy. Independent Life has been trusted by some of the nation's largest Property and Casualty carriers to be a counter-party in a structured settlement. To learn more about Independent Life please visit www.independent.life.



Michael A. Cohen

Mr. Cohen was one of the founding faculty members of Columbia University's graduate level Enterprise Risk Management Program. He developed and taught multiple courses, including: "Strategic Risk Management" and "External Stakeholder Requirements".

For many years, Mr. Cohen was Vice President at A.M. Best Company, where he headed the rating division that analyzed the entire U.S. life insurance industry, evaluating the financial strength, operating performance and business profiles of those companies. He introduced risk management as a core element of A.M. Best's credit analysis and rating process. In addition to these duties, he authored A.M. Best industry publications and research reports, contributed to its information products and developed industry statistical studies.



Mikel B. Taft

Mikel Taft is an operational executive who has focused exclusively on the claims analysis and resolution industry over the past decade while serving at Delta Settlements. During his time there, Mikel specialized in analyzing, valuing and preparing settlement solutions for catastrophic claims. Mikel often focused on the resolution of catastrophic cases and would be brought in by the litigation teams during the negotiation phase to analyze the future care requirements and create comprehensive reports to help bridge the divide with the plaintiff and defense.

Before settlement planning, Mikel was an Executive with the Boy Scouts of America. While at the Boy Scouts, Mikel was recognized nationally, earning multiple awards for recruiting and fundraising throughout the time of the economic crisis. Mikel helped develop the National Council's training for recruitment and fundraising. Mikel attended the University of North Florida, earning a degree in Marketing with a focus in Financial Services.

LIFE CARE ANALYTICS

1301 Riverplace Boulevard, Suite 800

Jacksonville, FL 32207

Telephone (904) 647-1838

Facsimile (904) 212-1312

www.lifecareanalytics.com



**CHANGING HOW FUTURE CARE
IS ANALYZED AND FUNDED**