

MINUTES  
SENATE JUDICIARY I COMMITTEE  
APRIL 6, 1999

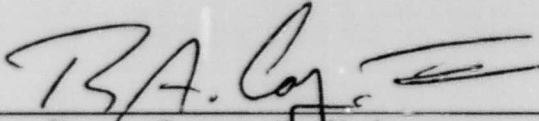
The Senate Judiciary I Committee met on April 6, 1999 at 10:00 a.m. in Room 1027 of the Legislative Building. A majority of members was present.

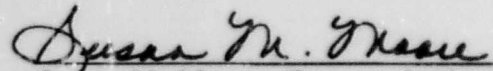
Senator Soles, Acting Chairman, recognized Senator Cooper to explain **Senate Bill 746 - AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT PROTECTION ACT.**

Thomas H. Countee, Jr., Executive Director of the National Spinal Cord Injury Association, Silver Springs, Maryland and Alan Hirsch, Consumer Protection Division of the N. C. Attorney General's office, were recognized to speak on the bill.

Senator Cooper will bring the bill back to Committee for further discussion at the next meeting.

There being no further business, the meeting adjourned.

  
Sen. Roy A. Cooper, II, Chairman

  
Susan M. Moore, Comm. Assistant

Principal Clerk  
Reading Clerk

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**SENATE**  
**NOTICE OF COMMITTEE MEETING**

The Senate Committee on **Judiciary I** will meet at the following time:

**DATE: Tuesday, April 6, 1999**  
**TIME: 10:00 a.m.**  
**ROOM: 1027**

The following bills or resolutions will be considered:

**SB 746 Structured Settlement Protection Act**

**Senator Cooper, Chair**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE DRS3558-LB059(2.19)

Short Title: Structured Settlement Protection Act.

(Public)

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Sponsors: Senator Cooper.

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Referred to:

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- 1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT  
3 PROTECTION ACT.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Chapter 1 of the General Statutes is amended by adding a  
6 new Article to read:  
7 "ARTICLE 44B.  
8 "Structured Settlement Protection Act.  
9 "§ 1-543.10. Title.  
10 This Article may be cited as the North Carolina Structured Settlement Protection  
11 Act.  
12 "§ 1-543.11. Structured settlement payment rights.  
13 No direct or indirect transfer of structured settlement payment rights shall be  
14 effective, and no structured settlement obligor or annuity issuer shall be required to  
15 make any payment directly or indirectly to any transferee of structured settlement  
16 payment rights unless the transfer has been authorized in advance in a final order of  
17 a court of competent jurisdiction or a responsible administrative authority based on  
18 express findings by such court or responsible administrative authority that:  
19 (1) The transfer complies with the requirements of this Article and  
20 will not contravene other applicable law;  
21 (2) Not less than 10 days prior to the date on which the payee first  
22 incurred any obligation with respect to the transfer, the transferee  
23 has provided to the payee a disclosure statement in bold type, no  
24 smaller than 14 point setting forth:

- 1           a.   The amounts and due dates of the structured settlement  
2           payments to be transferred;  
3           b.   The aggregate amount of such payments;  
4           c.   The discounted present value of such payments, together  
5           with the discount rate used in determining such discounted  
6           present value;  
7           d.   The gross amount payable to the payee in exchange for such  
8           payments;  
9           e.   An itemized listing of all brokers' commissions, service  
10          charges, application fees, processing fees, closing costs, filing  
11          fees, administrative fees, legal fees, notary fees and other  
12          commissions, fees, costs, expenses and charges payable by  
13          the payee or deductible from the gross amount otherwise  
14          payable to the payee;  
15          f.   The net amount payable to the payee after deduction of all  
16          commissions, fees, costs, expenses and charges described in  
17          sub-subdivision e. of this paragraph;  
18          g.   The quotient (expressed as a percentage) obtained by  
19          dividing the net payment amount by the discounted present  
20          value of the payments; and  
21          h.   The amount of any penalty and the aggregate amount of any  
22          liquidated damages (inclusive of penalties) payable by the  
23          payee in the event of any breach of the transfer agreement  
24          by the payee;  
25       (3)   The transferee has established that the transfer is necessary to  
26       enable the payee, the payee's dependents, or both, to avoid  
27       imminent financial hardship, and the transfer should not be  
28       expected to subject the payee, the payee's dependents, or both, to  
29       undue financial hardship in the future; provided, however, that if,  
30       at the time the payee and the transferee entered into the transfer  
31       agreement, a federal hardship standard was in effect, then, in lieu  
32       of the foregoing finding, the court or responsible administrative  
33       authority must make an express finding that the transfer qualifies  
34       under such federal hardship standard;  
35       (4)   The payee has received independent professional advice regarding  
36       the legal, tax, and financial implications of the transfer;  
37       (5)   If the transfer would contravene the terms of the structured  
38       settlement:  
39           a.   The transfer has been expressly approved in writing by:  
40                1.   Each interested party; provided, however, that if, at  
41                the time the payee and the transferee entered into the  
42                transfer agreement, a favorable tax determination was  
43                in effect, then the approval of the annuity issuer and  
44                the structured settlement obligor shall not be

- 1                                   required if all other interested parties approve the  
2                                   transfer and waive any and all rights to require that  
3                                   the transferred payments be made to the payee in  
4                                   accordance with the terms of the structured  
5                                   settlement; and  
6                                   2. Any court or government authority, other than the  
7                                   court or responsible administrative authority from  
8                                   which authorization of the transfer is sought under  
9                                   this act, which previously approved the structured  
10                                   settlement; and  
11                                   b. Signed originals of all approvals required under sub-  
12                                   subdivision a. of this subdivision have been filed with the  
13                                   court or responsible administrative authority from which  
14                                   authorization of the transfer is sought under this act, and  
15                                   originals or copies have been furnished to all interested  
16                                   parties; and  
17                                   (6) The transferee has given written notice of the transferee's name,  
18                                   address, and taxpayer identification number to the annuity issuer  
19                                   and the structured settlement obligor and has filed a copy of such  
20                                   notice with the court or responsible administrative authority; and  
21                                   (7) The discount rate used in determining discounted present value of  
22                                   the structured settlement payment rights does not exceed eighteen  
23                                   percent (18%).

24 "§ 1-543.12. Definitions.

25 For purposes of this Article:

- 26                                   (1) 'Annuity issuer' means an insurer that has issued an insurance  
27                                   contract used to fund periodic payments under a structured  
28                                   settlement;  
29                                   (2) 'Applicable law' means:  
30                                   a. The federal laws of the United States;  
31                                   b. The laws of this State, including principles of equity applied  
32                                   in the courts of this State; and  
33                                   c. The laws of any other jurisdiction:  
34                                   1. Which is the domicile of the payee or any other  
35                                   interested party;  
36                                   2. Under whose laws a structured settlement agreement  
37                                   was approved by a court or responsible administrative  
38                                   authority; or  
39                                   3. In whose courts a settled claim was pending when the  
40                                   parties entered into a structured settlement  
41                                   agreement;  
42                                   (3) 'Dependents' include a payee's spouse and minor children and all  
43                                   other family members and other persons for whom the payee is  
44                                   legally obligated to provide support, including alimony;

- 1           (4) 'Discounted present value' means the fair present value of future  
2           payments, as determined by discounting such payments to the  
3           present utilizing the tables adopted in Article 5 of Chapter 8 of the  
4           General Statutes;
- 5           (5) 'Favorable tax determination' means, with respect to a proposed  
6           transfer of structured settlement payment rights, any of the  
7           following authorities that definitely establishes that the federal  
8           income tax treatment of the structured settlement for the parties to  
9           the structured settlement agreement and any qualified assignment  
10           agreement, other than the payee, will not be affected by such  
11           transfer:
- 12           a. A provision of the Internal Revenue Code, United States  
13           Code Title 26, as amended from time to time, or a United  
14           States Treasury regulation adopted pursuant thereto;
- 15           b. A revenue ruling or revenue procedure issued by the  
16           Internal Revenue Service; or
- 17           c. A private letter ruling by the Internal Revenue Service with  
18           respect to such transfer; or
- 19           d. A decision of the United States Supreme Court or a  
20           decision of a lower federal court in which the Internal  
21           Revenue Service has acquiesced;
- 22           (6) 'Federal hardship standard' means a federal standard applicable to  
23           transfers of structured settlement payment rights based on findings  
24           of a court or responsible administrative authority regarding the  
25           payees' needs, as contained in the Internal Revenue Code, United  
26           States Code Title 26, as amended from time to time, or in a United  
27           States Treasury regulation adopted pursuant thereto;
- 28           (7) 'Independent professional advice' means advice of an attorney,  
29           certified public accountant, actuary, or other licensed or registered  
30           professional or financial adviser:
- 31           a. Who is engaged by a payee to render advice concerning the  
32           legal, tax, and financial implications of a transfer of  
33           structured settlement payment rights;
- 34           b. Who is not in any manner affiliated with or compensated by  
35           the transferee of such transfer; and
- 36           c. Whose compensation for rendering such advice is not  
37           affected by whether a transfer occurs or does not occur;
- 38           (8) 'Interested parties' means, with respect to any structured  
39           settlement, the payee, any beneficiary designated under the annuity  
40           contract to receive payments following the payee's death, the  
41           annuity issuer, the structured settlement obligor, and any other  
42           party that has continuing rights or obligations under such  
43           structured settlement;

- 1 (9) 'Payee' means an individual who is receiving tax-free damage  
2 payments under a structured settlement and proposes to make a  
3 transfer of payment rights thereunder;
- 4 (10) 'Qualified assignment agreement' means an agreement providing  
5 for a qualified assignment within the meaning of section 130 of the  
6 Internal Revenue Code, United States Code Title 26, as amended  
7 from time to time;
- 8 (11) 'Responsible administrative authority' means, with respect to a  
9 structured settlement, any government authority vested by law with  
10 exclusive jurisdiction over the settled claim resolved by such  
11 structured settlement;
- 12 (12) 'Settled claim' means the original tort claim or workers'  
13 compensation claim resolved by a structured settlement;
- 14 (13) 'Structured settlement' means an arrangement for periodic  
15 payment of damages for personal injuries established by settlement  
16 or judgment in resolution of a tort claim or for periodic payments  
17 in settlement of a workers' compensation claim;
- 18 (14) 'Structured settlement agreement' means the agreement, judgment,  
19 stipulation, or release embodying the terms of a structured  
20 settlement, including the rights of the payee to receive periodic  
21 payments;
- 22 (15) 'Structured settlement obligor' means, with respect to any  
23 structured settlement, the party that has the continuing periodic  
24 payment obligation to the payee under a structured settlement  
25 agreement or a qualified assignment agreement;
- 26 (16) 'Structured settlement payment rights' means rights to receive  
27 periodic payments (including lump-sum payments) under a  
28 structured settlement, whether from the settlement obligor or the  
29 annuity issuer, where:
- 30 a. The payee is domiciled in this State;  
31 b. The structured settlement agreement was approved by a  
32 court or responsible administrative authority in this State; or  
33 c. The settled claim was pending before the courts of this State  
34 when the parties entered into the structured settlement  
35 agreement;
- 36 (17) 'Transfer' means any sale, assignment, pledge, hypothecation, or  
37 other form of alienation or encumbrance made by a payee for  
38 consideration;
- 39 (18) 'Terms of the structured settlement' include, with respect to any  
40 structured settlement, the terms of the structured settlement  
41 agreement, the annuity contract, any qualified assignment  
42 agreement, and any order or approval of any court or responsible  
43 administrative authority or other government authority authorizing  
44 or approving such structured settlement; and

1           (19) 'Transfer agreement' means the agreement providing for transfer of  
2           structured settlement payment rights from a payee to a transferee.

3 "§ 1-543.13. Jurisdiction.

4     (a) Where the structured settlement agreement was entered into after  
5 commencement of litigation or administrative proceedings in this State, the court or  
6 administrative agency where the action was pending shall have exclusive jurisdiction  
7 over any application for authorization under this Article of a transfer of structured  
8 settlement payment rights.

9     (b) Where the structured settlement agreement was entered into prior to the  
10 commencement of litigation or administrative proceedings, or after the  
11 commencement of litigation outside this State, the Superior Court Division of the  
12 General Court of Justice shall have nonexclusive original jurisdiction over any  
13 application for authorization under this Article of a transfer of structured settlement  
14 payment rights.

15 "§ 1-543.14. Procedure for approval of transfers.

16     (a) Where the structured settlement agreement was entered into after the  
17 commencement of litigation or administrative proceedings in this State, the  
18 application for authorization of a transfer of structured settlement rights shall be filed  
19 with the court or administrative agency where the settled claim was pending as a  
20 motion in the cause.

21     (b) Where the structured settlement agreement was entered into prior to the  
22 commencement of litigation or administrative proceedings, or after the  
23 commencement of litigation or administrative proceedings outside this State, the  
24 application for authorization of a transfer of structured settlement payment rights  
25 shall be filed in the superior court with proper venue pursuant to Article 7 of this  
26 Chapter. The nature of the action shall be a special proceeding governed by the  
27 provisions of Article 33 of this Chapter.

28     (c) Not less than 30 days prior to the scheduled hearing on any application for  
29 authorization of a transfer of structured settlement payment rights under this Article,  
30 the transferee shall file with the proper court or responsible administrative authority  
31 and serve on any other government authority which previously approved the  
32 structured settlement, on all interested parties, and on the Attorney General, a notice  
33 of the proposed transfer and the application for its authorization, including in such  
34 notice:

35           (1) A copy of the transferee's application;

36           (2) A copy of the transfer agreement;

37           (3) A copy of the disclosure statement required under G.S. 1-  
38           543.11(a);

39           (4) Notification that any interested party is entitled to support, oppose,  
40           or otherwise respond to the transferee's application, either in  
41           person or by counsel, by submitting written comments to the court  
42           or responsible administrative authority or by participating in the  
43           hearing; and

1           (5) Notification of the time and place of the hearing and notification  
2           of the manner in which and the time by which written responses to  
3           the application must be filed in order to be considered by the court  
4           or responsible administrative authority.

5           (d) The Attorney General shall have standing to raise, appear, and be heard on  
6           any matter relating to an application for authorization of a transfer of structured  
7           settlement payment rights under this Article.

8           "**§ 1-543.15. No waiver; penalties.**

9           (a) The provisions of this Article may not be waived.

10          (b) Any payee who has transferred structured settlement payment rights to a  
11          transferee without knowledge of the requirements set out in this Article may bring an  
12          action against the transferee to recover actual monetary loss or for damages up to five  
13          thousand dollars (\$5,000) for the violation by the transferee, or bring actions for both.  
14          The payee is entitled to attorneys' fees and costs incurred to enforce this Article. In  
15          addition, the payee shall be entitled to reinstatement of all structured settlement  
16          payment rights lost as a result of violation of this Article by any transferee.

17          (c) No payee who proposes to make a transfer of structured settlement payment  
18          rights shall incur any penalty, forfeit any application fee or other payment, or  
19          otherwise incur any liability to the proposed transferee based on any failure of such  
20          transfer to satisfy the conditions of this Article.

21          "**§ 1-543.16. Construction.**

22          Nothing contained in this Article shall be construed to authorize any transfer of  
23          structured settlement payment rights in contravention of applicable law or to give  
24          effect to any transfer of structured settlement payment rights that is invalid under  
25          applicable law."

26                 Section 2. Article 33 of Chapter 1 of the General Statutes is amended by  
27 adding a new section to read as follows:

28          "**§ 1-394.1. Special proceedings to determine authority to transfer structured**  
29          **settlement payment rights.**

30          When a special proceeding is commenced to obtain authorization for the transfer  
31          of structured settlement payment rights pursuant to Article 44B of this Chapter, the  
32          provisions of this Article apply except that the interested parties shall have 30 days to  
33          appear and answer the petition, and all hearings on such petitions must be conducted  
34          before a superior court judge and all final orders on such petitions must be entered  
35          by a superior court judge."

36                 Section 3. This act shall apply to any transfer of structured settlement  
37 payment rights under a transfer agreement entered into on or after October 1, 1999,  
38 but nothing contained in this act shall imply that any transfer under a transfer  
39 agreement reached prior to such date is effective.



# SENATE BILL 746: Structured Settlement Protection Act

## BILL ANALYSIS

**Committee:** Senate Judiciary I  
**Date:** April 6, 1999  
**Version:** First Edition

**Introduced by:** Sen. Cooper  
**Summary by:** O. Walker Reagan,  
Committee Co-Counsel

**SUMMARY:** *Senate Bill 746 would enact the Structured Settlement Protection Act to establish certain minimal requirements for the transfers or assignment of structured settlement rights to be considered valid and enforceable.*

**CURRENT LAW:** There is no specific statutory law in North Carolina which governs the transfer or assignment of structured settlement proceeds to other third parties. Structured settlement agreements are either contracts between two parties or agreements of the parties recognized by the court and enforced by order of the court as a consent agreement. Assignment of those rights would typically be as a matter of contract.

**BILL ANALYSIS:** Senate Bill 746 would require that an agreement transferring or assigning the rights to receive structured settlement proceeds in the future must be approved by the court or administrative agency authorized to approve the settlement and must meet minimal disclosure requirements as to the effect and costs of the assignment.

Section 1 of the bill creates a new Article 44B in Chapter 1 to be known as the NC Structured Settlement Protection Act. All references are to G.S. 1-543. \_\_.

Section .11 sets out the requirements that must be satisfied before a transfer of structured settlement rights is effective. This section requires that the transfer be approved in advance by the court or responsible administrative authority based upon a judicial or administrative finding that:

1. The transfer complies with the law.
2. The person assigning their rights in the settlement payments (the "payee") has received the statutory disclosures of the costs and effects of the transfer to the person receiving the rights to future payments (the "transferee").
3. The transferee has established that the transfer is necessary for the to avoid an imminent financial hardship and would not subject the payee or the payee's dependents to future financial hardship.
4. The payee has received independent professional advice on the effects of the transfer.
5. If the transfer is contrary to the terms of the structured settlement, all the parties to the settlement and the court that originally approved the settlement have approved the transfer.
6. The transferee has given all relevant tax payer identification information to the person paying the settlement.

# SENATE BILL 746

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7. The discount rate for determining the present value of the payment rights does not exceed 18%.

Section .12 sets out the definitions used in the law including definitions for "dependents", "federal hardship standard", "independent professional advice", and "responsible administrative authority".

Section .13 establishes the court or authority that has jurisdiction to approve these transfers.

Section .14 sets out the procedures for seeking prior approval of a proposed settlement rights transfer. This includes requiring that all relevant documents (specified in the bill) be given at least 30 days prior to a hearing on the proposed transfer approval to the court, all interested parties (defined) and the Attorney General. The Attorney General is authorized to appear and be heard on any application for authorization to transfer structured settlement payments.

Section .15 provides that the provisions of this law may not be waived. It also provides for penalties to any transferee that receives payments under a structured settlement assigned to the transferee in violation of this statute, but this section also protects the payee from any losses arising from an invalid transfer.

Section .16 makes it clear that this act does not affect any other laws that might apply to or affect the transfer of structured settlement rights.

Section 2 of the bill adds a new section to the Special Proceedings statutes to provide that applications for the approval of transfer of structured settlement rights is a special proceeding and is to be heard in Superior Court.

Section 3 makes the bill effective October 1, 1999 and applicable to transfers of rights under transfer agreements entered into on or after that date, but the bill does not imply that any transfer under a transfer agreement reached prior to that date is effective.

S746-SMRU-001



## National Spinal Cord Injury Association

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### STATEMENT

TESTIMONY BY THOMAS H. COUNTEE, JR., ESQ., EXECUTIVE DIRECTOR, THE NATIONAL SPINAL CORD INJURY ASSOCIATION, BEFORE SENATE JUDICIARY COMMITTEE, NORTH CAROLINA STATE LEGISLATURE, TUESDAY, APRIL 6, 1999

Good morning, Chairman Cooper and other Senators.

My name is Thomas H. Countee, Jr., Executive Director of The National Spinal Cord Injury Association (NSCIA), a national non-profit organization, headquartered in Silver Spring, Maryland. NSCIA's North Carolina Chapter is in Winterville. The Association's President is Jack Dahlberg, who is a quadriplegic.

On a personal note, I have close family connections to North Carolina: my maternal forbears lived in Henderson, North Carolina. My parents met and were married in Winston-Salem and I spent a portion of each early childhood summer in that city. Later in my life, my daughter and I summered in Kill Devil Hills on the Outer Banks and I still enjoy deep sea fishing out of Hatteras. I also own property in Charlotte. Forty-one years ago in 1958, I sustained a diving accident on the Chesapeake Bay, rendering me a quadriplegic. I am an attorney and I served 15 months as Legislative Counsel in the Ford White House. It is a pleasure and honor to come to North Carolina to testify on S.

Today, I represent over 5,000 members of the National Spinal Cord Injury Association and thousands of other spinal cord injured persons, many of whom benefit from structured settlements, including several hundred in North Carolina. The National Spinal Cord Injury Association has no business or tax effect stake in the outcome of this proposed legislation, S. However, the Association is deeply interested in the health, safety and welfare of persons with catastrophic, traumatic and/or debilitating injuries, many of whom are Association members and receive structured settlements.

NSCIA is deeply troubled at the emergence of factoring companies that convince injury victims, including persons with disabilities, to sell structured settlement payments for a deeply discounted cash lump sum. Such transactions completely undermine the long-term financial security of a structured settlement and threaten the very livelihood of an otherwise extremely vulnerable population - those of us with disabilities. And the steep financial discounts that disabled Americans often are persuaded to accept would be unacceptable to any fair-minded person.

Factoring companies increasingly prey upon the weakest, most gullible and most vulnerable in our society. I assume many of you have seen the television ads soliciting calls from those who have recently suffered severe injuries. We believe that at present, the emerging "gray market" of factoring companies is largely unregulated, unresponsive to the needs and best interests of recipients of structured settlements and unconscionable in their high pressure marketing practices and unethical legal maneuvers and stratagems such as the use of a confessed judgment against the victim in a distant court to garnish the victim's payments.

One last point, Mr. Chairman, I have come here to let you see the type of catastrophic injury affected by this and to put a human face on this legislation, not as the beneficiary of a structured settlement, but as a leader and advocate for, severely disabled persons who have. In 1982, the intent of Congress, the social purpose if you will, was to encourage those who receive monetary settlements growing out of catastrophic injuries, to accept periodic payments to safeguard the uncertain futures they face. Factoring companies' intent, on the other hand, is simply to cheat severely injured persons out of their money. S. does nothing to help those who have already been taken advantage of, we need this legislation to guide those who may be taken advantage of in the future. You can, and should, stop this outrage. Sound public policy and simple decency would indicate that as legislators, you have no choice but to do the right thing.

For all these reasons, The National Spinal Cord Injury Association respectfully recommends and strongly urges your support of S. , The North Carolina Structural Settlement Act, which would provide needed protection from the predatory practices of these factoring companies.

Thank you for the time and attention you are devoting to this critical issue and the opportunity to appear before you. I will be happy to answer any questions you may have about the Association or our interest in this matter.

# News You Can Use

## Settling for less

*Should accident victims sell their monthly payouts?*

BY MARGARET MANNIX

**O**rion Olson has had his share of hard knocks. When he was 3 years old, a dog bite caused him vision and neurological problems, as well as injuries requiring plastic surgery. In his teens, he dropped out of high school and wound up homeless. But he had hope. On his 18th birthday, the Minneapolis man was to start receiving the first of five periodic payments totaling \$75,000 from a lawsuit stemming from the dog attack. He received the first installment of \$7,500, but the money didn't last long.

So when Olson saw a television ad for a finance company named J. G. Wentworth & Co. that provided cash to accident victims, he saw a way to get his life back on track. He agreed to sell his remaining future payments of \$67,500 to Wentworth for a lump sum of \$16,100. "I needed money," says Olson, now 20 years old. "If I could get the money out like they were saying on TV, I wouldn't have to worry about being on the street anymore." Within six months, however, Olson had spent all the money and was living in a car. He now wishes he had waited for his regular payments.

Olson may be financially unsophisticated, but he is also caught up in a burgeoning, and unregulated, new industry that specializes in converting periodic payments into fast cash. Also known as factoring companies, these firms can be a godsend to accident victims, lottery winners,



**JERRY MAGEE** Mississippi accident victim sold his payments for quick cash. Today he has only regrets.

and others who have guaranteed future incomes but need immediate funds. But like a modern-day Esau trading his inheritance for a bowl of soup, the unwary consumer may be selling future sustenance for cheap. A growing number of federal and state legislators, as well as several attorneys general, contend that factoring companies charge usurious interest rates,

fail to properly disclose terms, and take advantage of desperate people. "It's unconscionable," says Minnesota Attorney General Mike Hatch. "They are really preying upon the vulnerable."

**Frittering away.** Critics further allege that factoring companies undermine the very law that Congress passed to help beneficiaries of large damage awards. In 1982, seeking to prevent accident victims from frittering away large sums intended to provide for them over their lifetimes, Congress instituted tax breaks for those who agreed to receive their money over a period of years. But now, contends Montana Sen. Max Baucus, a sponsor of that legislation, the careful planning that goes into the structuring of these payments "can be unraveled in an instant by a factoring company offering quick cash at a steep discount."

A number of advanced-funding companies compete for their share of future payments that include more than \$5 billion in structured settlements awarded each year. The largest buyer is Wentworth, handling an estimated half of all such transactions. Based in Philadelphia, the firm began by financing nursing homes and long-term-care facilities. In 1992 it started buying

PHOTOGRAPHY BY  
THOMAS W. BROENING FOR USN&WR



**CHRISTOPHER HICKS** Wentworth sued the Oklahoma man for the entire amount of his payments. "They make you think you are doing the right thing . . . , but you are really messing up your life."

settlements that auto-accident victims were owed by the state of New Jersey. Since then, Wentworth has completed more than 15,000 structured-settlement transactions with an approximate total value of \$370 million.

The deals work like this: A structured-settlement recipient who wants to sell, say, \$50,000 in future payments, will not

get a lump sum of \$50,000. That's because, as a result of inflation, money scheduled to be paid years from now is worth less today. Formulas based on such factors as inflation and the date that payments begin are used to determine the "present value" of the future payments. The seller is, in essence, borrowing a lump sum that is paid back with the in-

surance company payments. The interest on the borrowed sum is called the "discount rate."

Wentworth and other advanced-funding companies say they are providing a valuable service because structured settlements have a basic flaw: They are not flexible. Consumer needs change, they note, and a fixed monthly payment does not. Wentworth points to an Ohio woman who sold the company a \$500 portion of her monthly payments for six years when her bills were piling up and her home mortgage was about to be foreclosed. She re-

ceived instant cash of \$21,000, at a discount rate of 15.8 percent. The customer, who did not wish to be identified, says she is grateful to Wentworth for advancing her the money when her insurance company would not. "The insurance companies just don't understand," she says. "When I needed their help, they were not there." Likewise, a New York quadriplegic, who also did not want to be named, says he secured funds from Wentworth at a 12 percent discount rate to expand his own business and, as a result, is more successful than ever. "It was definitely worth it for me," he says.

But other customers are not as satisfied. New York City resident Raymond White lost part of one leg when he was struck by a subway train in 1990. A lawsuit led to a settlement that guaranteed White a monthly payment of \$1,100, with annual cost-of-living increases of 3 percent. In 1996, White, who did not have a job, wanted cash to buy a car and pay medical bills. So he turned to Went-

**RAYMOND WHITE** After losing a leg in a subway accident, the New Yorker was guaranteed \$1,100 every month. He gave up future payments totaling \$198,000 in exchange for \$54,000.

worth, selling portions of his monthly payments for the next 15 years in six different transactions.

Altogether White gave up future payments totaling \$198,000. He received a total of \$54,000 in return, but the money, which he used for living expenses, is now gone. He bought a car, but it has been repossessed. He bought a plot of land in Florida, but lost it to foreclosure. With debts mounting, he now relies partially on public assistance to get by. "Unfortunately I was so overwhelmed with debt and striving for a better life that I went along with it," says White. "In reality, what I was doing was accumulating more debt for myself."

Some Wentworth customers say they might have realized the repercussions of their transactions had the contracts been clearer about the long-term costs. Jerry Magee of Magnolia, Miss., who has filed a class action suit against the company, is one of them. In a mortgage contract, for instance, lending laws require that consumers see their interest rate and the total amount of money they will be paying over the life of the loan. By contrast, Magee's lawyer says, neither the effective interest rate nor the total amount of the transaction was clearly spelled out in the

13-page contract or in the 25 other documents Wentworth required him to sign. Wentworth says it has been revising its documents to make them easier to understand.

**Change of address.** While the factoring transaction itself is complex, the transfer of payments is simple. The structured settlement recipient instructs the insurance company to change his or her address to that of the factoring company. The check remains in the recipient's name, and the factoring company uses a power of attorney, granted by the recipient, to cash it.

This roundabout method is used because insurance companies say structured payments should not be sold. Most settlement contracts

specify that payments cannot be "assigned," and the Internal Revenue Service says that payments "cannot be accelerated, deferred, increased or decreased." Selling payments, the insurance companies say, amounts to accelerating them. And that may threaten the claimant's tax break. Insurance companies say that if their annuitants start selling their payments, the social good that justifies the tax break disappears. Ironically, they make this argument even though some insurance companies themselves are now making counteroffers to factoring companies, accelerating payments to their own claimants. Berkshire Hathaway Life Insurance Co., for example, recently offered a claimant a lump sum of \$59,000, beating Wentworth's offer of \$45,000. The IRS has not formally addressed the tax issues, but the U.S. Department of the Treasury has recommended a tax on factoring transactions to discourage them.

Insurance companies also worry about

having to pay twice. Last year, a judge ruled an insurance company was obligated to pay a workers' compensation recipient his monthly payments because the factoring transaction he entered into was invalid under Florida's workers' compensation statute. For their part, the factoring companies argue that even though the claimants do not own the annuities—



the insurance companies do—the factoring companies can buy the “right to receive” the payments.

Insurance companies are getting wise to these factoring deals—CNA, a Chicago-based insurer, noticed that annuitants from all over the country were changing their addresses to Wentworth’s Philadelphia post office box—and some are trying

to stop the transactions. Some insurance companies, for example, refuse to honor change-of-address requests or redirect the payments back to the annuitant after the deal is done. But redirecting a payment can cause serious consequences for the claimant. In Wentworth’s case, the company has each customer sign a clause called a “confession of judgment,” which

allows the factoring company to sue customers quickly for default when their payments are not received; customers also waive the right to defend themselves.

Christopher Hicks, a 20-year-old accident victim from Oklahoma City, learned the effects of that clause the hard way. In 1997, Hicks signed over to Wentworth half of his \$2,000 monthly payments for the next 32 months and \$1,500 for the 26 months after that. In exchange, Hicks received \$37,500, which he admits he quickly spent on furniture, clothes, and other items. When Wentworth failed to receive a check from the insurance company that pays Hicks the annuity, it secured a judgment against him for the *entire* amount of the deal—\$71,000.

**No clue.** To collect, Wentworth garnished Metropolitan Life, meaning that Metropolitan Life was supposed to start sending Hicks’s monthly checks to Wentworth. It did not—the company won’t say why—and Hicks, who was supposed to be getting \$1,000 back from Wentworth, was left with nothing. “When the money stopped, I had no clue what was going on,” says Hicks, who had to rely on family and friends until the two companies settled their differences in court. Hicks now wishes he had never gotten involved with Wentworth. “They make you think you are doing the right thing in the long run,” says Hicks, “but you are really messing up your life.”

Wentworth makes liberal use of confession-of-judgment clauses even though they are illegal in consumer transactions in the company’s home state of Pennsylvania. The Federal Trade Commission also bans the clauses as an unfair practice in consumer-credit transactions. The clauses *are* allowable in business transactions in Pennsylvania if they are accompanied by a statement of business purpose. So in each case Wentworth certifies that the agreements “were not entered into for family, personal, or household purposes.”

Such language is used in affidavits despite cases like that of Davinia Willis, a 24-year-old resident of Richmond, Calif., who entered into a transaction with Wentworth in 1996 to stop her house from being foreclosed upon and to repair wheelchair ramps—clearly, she says, personal uses. In a class action lawsuit against the company, she cites the confession of judgment as one reason why the contract is “illegal, usurious, and unconscionable.” Wentworth says the clauses are necessary to keep its customers from renegeing on their agreements.

In the end, the controversy over factoring companies comes down to a funda-

mental disagreement over the definition of their business. The factoring companies say they are not subject to usury or consumer-credit disclosure laws because they are not, in fact, lenders. "We don't make loans," declares Andrew Hillman, Wentworth's general counsel. "We buy assets." But some state attorneys general say these transactions differ very little, if at all, from loans and perhaps should be classified as such. That way, says Shirley Sarna, chief of the New York attorney general's consumer fraud and protection bureau, the law could prevent factoring companies from charging discount rates that she says in some cases have exceeded 75 percent. Wentworth says its average rate is 16 percent, and several factoring companies insist their rates would be much lower if insurance companies did not make it expensive for them to complete the deals. "By getting the insurance companies to process the address changes, it would overnight transform our discount rates from high teens to the single digits," says Jeffrey Grieco, managing director of Stone Street Capital, an advanced-funding firm in Bethesda, Md.

Who is right and who is wrong is being hammered out in courtrooms and statehouses across the country. The insurance companies were heartened last summer when a Kentucky judge denied four of Wentworth's garnishment actions, saying the purchase agreements the customers signed were neither valid nor legal. But other courts have ruled differently.

In Illinois, a new state law says that structured settlements can be sold as long as a judge approves the transaction. Wentworth notes that more than 100 such sales have been approved. At the same time, several state attorneys general are examining the factoring industry's practices. "You have got to worry about people who have a debilitating injury," says Joseph Goldberg, senior deputy attorney general for Pennsylvania. "The injury is never going away and they have no real means of income and probably no means of employment. . . . If they give that monthly payment up, it could have serious consequences." Voicing similar concerns, disability groups like the National Spinal Cord Injury Association, which now refuses to accept factoring companies' ad-



**DAVINIA WILLIS** California woman sold her payments to prevent a home foreclosure. She is suing Wentworth claiming "illegal and usurious" terms.

vertisements in its magazine, are warning members about the hazards of cashing out. The association is "deeply concerned about the emergence of companies that purchase payments intended for disabled persons at a drastic discount," says its executive director, Thomas Countee.

While opinions are divided about the validity of factoring transactions, both sides agree that regulation of the secondary market is necessary. As in Illinois, Connecticut and Kentucky have passed laws requiring a judge's approval of advanced-funding deals, as well as fuller disclosure of costs. Faced with mounting criticism, Wentworth this week will announce its pledge to submit every re-

quest for purchase of a settlement to a court for approval. Other states are expected to address the issue this year, and in Congress, Rep. Clay Shaw, a Florida Republican, has reintroduced a measure that would tax

factoring transactions.

The factoring companies respond to all these efforts by also calling for better disclosure from the primary market—the insurance companies, attorneys, and brokers that set up the structured settlements in the first place. Factoring companies argue that structured settlements are not always as generous as they are represented to be. "We challenge insurance companies and their brokers to take the same pledge," said Michael Goodman, Wentworth's executive vice president.

Whatever the outcome of the debate, consumers thinking about selling their future payments are well advised to take a hard look at what they are getting into. ■

VISITOR REGISTRATION SHEET

of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Dave Iann	Smith Aiken
Robert Paschal	Young, Moore & Henderson
Bob Pison	American Council of Life Insurance
Daphne Caseland Beatty	GE Financial Assurance
Dwio Lounna	Hunter & Williams
Susan Valcuni	Nationwide
Alan Miles	Pembly & Dixon LLP
Ray Farmer	American Insurance Association
Sarah Sands	WESR
Charles Cromer	NCATL
Andy Sayer	WISA
Alon Hirsch	Adm. Serv's Office
W. R. McArthur	GENERAL ELECTRIC
Lacius Pullen	A. Horney
Tom Mcginn	Moore & Van Allen
John McWhorter	METS
Bryan Beatty	DO5
Phil Telfer	DO5
Bonnie Moore	Democratic Party
Randy Dyer	NSSTA
Thomas Coyntee, Jr	NAT. Spinal Cord Injury Assn.
GARRETT REEDER	ZDA, PIA
Steve Keene	NCHMS
Jay M. Mays	712

VISITOR REGISTRATION SHEET

of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME FIRM OR STATE AGENCY AND ADDRESS

Sam Johnson	atly
Tommy Davidson	Lobbyist
Harold Webb	Lobbyist
James T. Ransom	DOT
Mah Brown	Capital Group
David Simmons	ZDA, PA
Danny Rogers	NC DOT
Oscar Mitchell	Scenic North Carolina
Bernard Allen	SOB
Tom M. Kalkin	Waco - V. C. Ellis
Andy Rom. NT	N.E.B.M.

MINUTES  
SENATE JUDICIARY I COMMITTEE  
APRIL 8, 1999

The Senate Judiciary I Committee met on April 8, 1999 at 9:30 a.m. in Room 1027 of the Legislative Building. A majority of members was present.

Senator Cooper called the meeting to order and recognized Senator Dannelly to explain **Senate Bill 563 - AN ACT TO AUTHORIZE LOCAL GOVERNMENTS TO USE PHOTOGRAPHIC SPEED-MEASURING SYSTEMS TO ESTABLISH SCHOOL ZONE SPEED LIMIT VIOLATIONS AND TO AUTHORIZE THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION AND THE SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY TO APPROVE STANDARDS FOR THE PHOTOGRAPHIC SPEED-MEASURING SYSTEMS.**

Senator Soles moved to adopt a PCS for Senate Bill 563 for discussion. The motion carried by a majority voice vote.

Jo McCants, Assistant Committee Counsel, was recognized to explain the changes to the original bill.

Senator Albertson moved to give the PCS a favorable report. The motion carried by a majority voice vote.

Senator Soles, Acting Chairman, recognized Senator Cooper to continue the explanation of **Senate Bill 746 - AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT PROTECTION ACT.**

Senator Lucas moved to adopt a PCS for Senate Bill 746 for discussion. The motion carried by a majority voice vote.

Walker Reagan, Committee Counsel, was recognized to explain the PCS.

The following people were recognized to speak on the bill:


Sandy Sands - Lobbyist for the Multi-state Assoc./National Assoc. of Settlement Purchasers

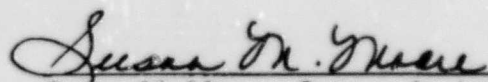
James Terlizzi - Peachtree Sullivan (trade organization)

Cindy & Eddie Biddex - Morganton

Due to time constraints, Senator Cooper will bring the bill back to the Committee for further discussion at the next meeting.

There being no further business, the meeting adjourned.

  
\_\_\_\_\_  
Sen. Roy A. Cooper, III, Chairman

  
\_\_\_\_\_  
Susan M. Moore, Comm. Assistant

Principal Clerk      —  
Reading Clerk        —

**SENATE**  
**NOTICE OF COMMITTEE MEETING**

The Senate Committee on **Judiciary I** will meet at the following time:

**DATE:** Thursday, April 8, 1999  
**TIME:** 9:30 - 11:00 a.m.  
**ROOM:** 1027

The following bills or resolutions will be considered:

SB	172	Possession of Blue Lights Illegal	Rand
SB	563	Charlotte School Zone Speed Cameras	Dannelly
SB	601	DOC Prisoners' Uniforms	Rand
SB	654	Mfg'd. Home Law Restoration	Gulley
SB	711	Cornelius Photo Enforcement	Odom
SB	746	Structured Settlement Protection Act	Cooper

Senator Cooper, Chair

# SENATE JUDICIARY I COMMITTEE

AGENDA - April 8, 1999

SB 172	Possession of Blue Lights Illegal	Rand
SB 563	Charlotte School Zone Speed Cameras	Dannelly
SB 601	DOC Prisoners' Uniforms	Rand
SB 654	Mfg'd. Home Law Restoration	Gulley
SB 711	Cornelius Photo Enforcement	Odom
SB 746	Structured Settlement Protection Act	Cooper

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

I

SENATE BILL 746

Short Title: Structured Settlement Protection Act.

(Public)

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Sponsors: Senators Cooper; Ballance, Foxx, Kinnaird, Martin of Guilford, Miller, Rand, Reeves, and Soles.

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Referred to: Judiciary I.

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April 5, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT  
3 PROTECTION ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 1 of the General Statutes is amended by adding a  
6 new Article to read:

7 "ARTICLE 44B.  
8 "Structured Settlement Protection Act.

9 "§ 1-543.10. Title.

10 This Article may be cited as the North Carolina Structured Settlement Protection  
11 Act.

12 "§ 1-543.11. Structured settlement payment rights.

13 No direct or indirect transfer of structured settlement payment rights shall be  
14 effective, and no structured settlement obligor or annuity issuer shall be required to  
15 make any payment directly or indirectly to any transferee of structured settlement  
16 payment rights unless the transfer has been authorized in advance in a final order of  
17 a court of competent jurisdiction or a responsible administrative authority based on  
18 express findings by such court or responsible administrative authority that:

19 (1) The transfer complies with the requirements of this Article and  
20 will not contravene other applicable law;

21 (2) Not less than 10 days prior to the date on which the payee first  
22 incurred any obligation with respect to the transfer, the transferee

1 has provided to the payee a disclosure statement in bold type, no  
2 smaller than 14 point setting forth:

- 3 a. The amounts and due dates of the structured settlement  
4 payments to be transferred;  
5 b. The aggregate amount of such payments;  
6 c. The discounted present value of such payments, together  
7 with the discount rate used in determining such discounted  
8 present value;  
9 d. The gross amount payable to the payee in exchange for such  
10 payments;  
11 e. An itemized listing of all brokers' commissions, service  
12 charges, application fees, processing fees, closing costs, filing  
13 fees, administrative fees, legal fees, notary fees and other  
14 commissions, fees, costs, expenses and charges payable by  
15 the payee or deductible from the gross amount otherwise  
16 payable to the payee;  
17 f. The net amount payable to the payee after deduction of all  
18 commissions, fees, costs, expenses and charges described in  
19 sub-subdivision e. of this paragraph;  
20 g. The quotient (expressed as a percentage) obtained by  
21 dividing the net payment amount by the discounted present  
22 value of the payments; and  
23 h. The amount of any penalty and the aggregate amount of any  
24 liquidated damages (inclusive of penalties) payable by the  
25 payee in the event of any breach of the transfer agreement  
26 by the payee;

27 (3) The transferee has established that the transfer is necessary to  
28 enable the payee, the payee's dependents, or both, to avoid  
29 imminent financial hardship, and the transfer should not be  
30 expected to subject the payee, the payee's dependents, or both, to  
31 undue financial hardship in the future; provided, however, that if,  
32 at the time the payee and the transferee entered into the transfer  
33 agreement, a federal hardship standard was in effect, then, in lieu  
34 of the foregoing finding, the court or responsible administrative  
35 authority must make an express finding that the transfer qualifies  
36 under such federal hardship standard;

37 (4) The payee has received independent professional advice regarding  
38 the legal, tax, and financial implications of the transfer;

39 (5) If the transfer would contravene the terms of the structured  
40 settlement:

41 a. The transfer has been expressly approved in writing by:

- 42 1. Each interested party; provided, however, that if, at  
43 the time the payee and the transferee entered into the  
44 transfer agreement, a favorable tax determination was

1 in effect, then the approval of the annuity issuer and  
2 the structured settlement obligor shall not be  
3 required if all other interested parties approve the  
4 transfer and waive any and all rights to require that  
5 the transferred payments be made to the payee in  
6 accordance with the terms of the structured  
7 settlement; and

8 2. Any court or government authority, other than the  
9 court or responsible administrative authority from  
10 which authorization of the transfer is sought under  
11 this act, which previously approved the structured  
12 settlement; and

13 b. Signed originals of all approvals required under sub-  
14 subdivision a. of this subdivision have been filed with the  
15 court or responsible administrative authority from which  
16 authorization of the transfer is sought under this act, and  
17 originals or copies have been furnished to all interested  
18 parties; and

19 (6) The transferee has given written notice of the transferee's name,  
20 address, and taxpayer identification number to the annuity issuer  
21 and the structured settlement obligor and has filed a copy of such  
22 notice with the court or responsible administrative authority; and

23 (7) The discount rate used in determining discounted present value of  
24 the structured settlement payment rights does not exceed eighteen  
25 percent (18%).

26 **§ 1-543.12. Definitions.**

27 For purposes of this Article:

28 (1) 'Annuity issuer' means an insurer that has issued an insurance  
29 contract used to fund periodic payments under a structured  
30 settlement;

31 (2) 'Applicable law' means:

32 a. The federal laws of the United States;

33 b. The laws of this State, including principles of equity applied  
34 in the courts of this State; and

35 c. The laws of any other jurisdiction:

36 1. Which is the domicile of the payee or any other  
37 interested party;

38 2. Under whose laws a structured settlement agreement  
39 was approved by a court or responsible administrative  
40 authority; or

41 3. In whose courts a settled claim was pending when the  
42 parties entered into a structured settlement  
43 agreement;

- 1           (3) 'Dependents' include a payee's spouse and minor children and all  
2 other family members and other persons for whom the payee is  
3 legally obligated to provide support, including alimony;
- 4           (4) 'Discounted present value' means the fair present value of future  
5 payments, as determined by discounting such payments to the  
6 present utilizing the tables adopted in Article 5 of Chapter 8 of the  
7 General Statutes;
- 8           (5) 'Favorable tax determination' means, with respect to a proposed  
9 transfer of structured settlement payment rights, any of the  
10 following authorities that definitely establishes that the federal  
11 income tax treatment of the structured settlement for the parties to  
12 the structured settlement agreement and any qualified assignment  
13 agreement, other than the payee, will not be affected by such  
14 transfer:
- 15           a. A provision of the Internal Revenue Code, United States  
16 Code Title 26, as amended from time to time, or a United  
17 States Treasury regulation adopted pursuant thereto;
- 18           b. A revenue ruling or revenue procedure issued by the  
19 Internal Revenue Service; or
- 20           c. A private letter ruling by the Internal Revenue Service with  
21 respect to such transfer; or
- 22           d. A decision of the United States Supreme Court or a  
23 decision of a lower federal court in which the Internal  
24 Revenue Service has acquiesced;
- 25           (6) 'Federal hardship standard' means a federal standard applicable to  
26 transfers of structured settlement payment rights based on findings  
27 of a court or responsible administrative authority regarding the  
28 payees' needs, as contained in the Internal Revenue Code, United  
29 States Code Title 26, as amended from time to time, or in a United  
30 States Treasury regulation adopted pursuant thereto;
- 31           (7) 'Independent professional advice' means advice of an attorney,  
32 certified public accountant, actuary, or other licensed or registered  
33 professional or financial adviser:
- 34           a. Who is engaged by a payee to render advice concerning the  
35 legal, tax, and financial implications of a transfer of  
36 structured settlement payment rights;
- 37           b. Who is not in any manner affiliated with or compensated by  
38 the transferee of such transfer; and
- 39           c. Whose compensation for rendering such advice is not  
40 affected by whether a transfer occurs or does not occur;
- 41           (8) 'Interested parties' means, with respect to any structured  
42 settlement, the payee, any beneficiary designated under the annuity  
43 contract to receive payments following the payee's death, the  
44 annuity issuer, the structured settlement obligor, and any other

- 1                   party that has continuing rights or obligations under such  
2                   structured settlement;
- 3           (9)   'Payee' means an individual who is receiving tax-free damage  
4                   payments under a structured settlement and proposes to make a  
5                   transfer of payment rights thereunder;
- 6           (10) 'Qualified assignment agreement' means an agreement providing  
7                   for a qualified assignment within the meaning of section 130 of the  
8                   Internal Revenue Code, United States Code Title 26, as amended  
9                   from time to time;
- 10          (11) 'Responsible administrative authority' means, with respect to a  
11               structured settlement, any government authority vested by law with  
12               exclusive jurisdiction over the settled claim resolved by such  
13               structured settlement;
- 14          (12) 'Settled claim' means the original tort claim or workers'  
15               compensation claim resolved by a structured settlement;
- 16          (13) 'Structured settlement' means an arrangement for periodic  
17               payment of damages for personal injuries established by settlement  
18               or judgment in resolution of a tort claim or for periodic payments  
19               in settlement of a workers' compensation claim;
- 20          (14) 'Structured settlement agreement' means the agreement, judgment,  
21               stipulation, or release embodying the terms of a structured  
22               settlement, including the rights of the payee to receive periodic  
23               payments;
- 24          (15) 'Structured settlement obligor' means, with respect to any  
25               structured settlement, the party that has the continuing periodic  
26               payment obligation to the payee under a structured settlement  
27               agreement or a qualified assignment agreement;
- 28          (16) 'Structured settlement payment rights' means rights to receive  
29               periodic payments (including lump-sum payments) under a  
30               structured settlement, whether from the settlement obligor or the  
31               annuity issuer, where:
- 32               a.   The payee is domiciled in this State;  
33               b.   The structured settlement agreement was approved by a  
34               court or responsible administrative authority in this State; or  
35               c.   The settled claim was pending before the courts of this State  
36               when the parties entered into the structured settlement  
37               agreement;
- 38          (17) 'Transfer' means any sale, assignment, pledge, hypothecation, or  
39               other form of alienation or encumbrance made by a payee for  
40               consideration;
- 41          (18) 'Terms of the structured settlement' include, with respect to any  
42               structured settlement, the terms of the structured settlement  
43               agreement, the annuity contract, any qualified assignment  
44               agreement, and any order or approval of any court or responsible

1 administrative authority or other government authority authorizing  
2 or approving such structured settlement; and

3 (19) 'Transfer agreement' means the agreement providing for transfer of  
4 structured settlement payment rights from a payee to a transferee.

5 **"§ 1-543.13. Jurisdiction.**

6 (a) Where the structured settlement agreement was entered into after  
7 commencement of litigation or administrative proceedings in this State, the court or  
8 administrative agency where the action was pending shall have exclusive jurisdiction  
9 over any application for authorization under this Article of a transfer of structured  
10 settlement payment rights.

11 (b) Where the structured settlement agreement was entered into prior to the  
12 commencement of litigation or administrative proceedings, or after the  
13 commencement of litigation outside this State, the Superior Court Division of the  
14 General Court of Justice shall have nonexclusive original jurisdiction over any  
15 application for authorization under this Article of a transfer of structured settlement  
16 payment rights.

17 **"§ 1-543.14. Procedure for approval of transfers.**

18 (a) Where the structured settlement agreement was entered into after the  
19 commencement of litigation or administrative proceedings in this State, the  
20 application for authorization of a transfer of structured settlement rights shall be filed  
21 with the court or administrative agency where the settled claim was pending as a  
22 motion in the cause.

23 (b) Where the structured settlement agreement was entered into prior to the  
24 commencement of litigation or administrative proceedings, or after the  
25 commencement of litigation or administrative proceedings outside this State, the  
26 application for authorization of a transfer of structured settlement payment rights  
27 shall be filed in the superior court with proper venue pursuant to Article 7 of this  
28 Chapter. The nature of the action shall be a special proceeding governed by the  
29 provisions of Article 33 of this Chapter.

30 (c) Not less than 30 days prior to the scheduled hearing on any application for  
31 authorization of a transfer of structured settlement payment rights under this Article,  
32 the transferee shall file with the proper court or responsible administrative authority  
33 and serve on any other government authority which previously approved the  
34 structured settlement, on all interested parties, and on the Attorney General, a notice  
35 of the proposed transfer and the application for its authorization, including in such  
36 notice:

- 37 (1) A copy of the transferee's application;  
38 (2) A copy of the transfer agreement;  
39 (3) A copy of the disclosure statement required under G.S. 1-  
40 543.11(a);  
41 (4) Notification that any interested party is entitled to support, oppose,  
42 or otherwise respond to the transferee's application, either in  
43 person or by counsel, by submitting written comments to the court

1 or responsible administrative authority or by participating in the  
2 hearing; and  
3 (5) Notification of the time and place of the hearing and notification  
4 of the manner in which and the time by which written responses to  
5 the application must be filed in order to be considered by the court  
6 or responsible administrative authority.

7 (d) The Attorney General shall have standing to raise, appear, and be heard on  
8 any matter relating to an application for authorization of a transfer of structured  
9 settlement payment rights under this Article.

10 **"§ 1-543.15. No waiver; penalties.**

11 (a) The provisions of this Article may not be waived.

12 (b) Any payee who has transferred structured settlement payment rights to a  
13 transferee without knowledge of the requirements set out in this Article may bring an  
14 action against the transferee to recover actual monetary loss or for damages up to five  
15 thousand dollars (\$5,000) for the violation by the transferee, or bring actions for both.  
16 The payee is entitled to attorneys' fees and costs incurred to enforce this Article. In  
17 addition, the payee shall be entitled to reinstatement of all structured settlement  
18 payment rights lost as a result of violation of this Article by any transferee.

19 (c) No payee who proposes to make a transfer of structured settlement payment  
20 rights shall incur any penalty, forfeit any application fee or other payment, or  
21 otherwise incur any liability to the proposed transferee based on any failure of such  
22 transfer to satisfy the conditions of this Article.

23 **"§ 1-543.16. Construction.**

24 Nothing contained in this Article shall be construed to authorize any transfer of  
25 structured settlement payment rights in contravention of applicable law or to give  
26 effect to any transfer of structured settlement payment rights that is invalid under  
27 applicable law."

28 Section 2. Article 33 of Chapter 1 of the General Statutes is amended by  
29 adding a new section to read as follows:

30 **"§ 1-394.1. Special proceedings to determine authority to transfer structured**  
31 **settlement payment rights.**

32 When a special proceeding is commenced to obtain authorization for the transfer  
33 of structured settlement payment rights pursuant to Article 44B of this Chapter, the  
34 provisions of this Article apply except that the interested parties shall have 30 days to  
35 appear and answer the petition, and all hearings on such petitions must be conducted  
36 before a superior court judge and all final orders on such petitions must be entered  
37 by a superior court judge."

38 Section 3. This act shall apply to any transfer of structured settlement  
39 payment rights under a transfer agreement entered into on or after October 1, 1999,  
40 but nothing contained in this act shall imply that any transfer under a transfer  
41 agreement reached prior to such date is effective.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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S746-CSRU-001  
PROPOSED COMMITTEE SUBSTITUTE  
SENATE BILL 746  
THIS IS A DRAFT 7-APR-99 23:36:37  
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Structured Settlement Protection Act. (Public)

Sponsors:

Referred to:

April 5, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT  
3 PROTECTION ACT.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Chapter 1 of the General Statutes is amended  
6 by adding a new Article to read:  
7 "ARTICLE 40B.  
8 "Structured Settlement Protection Act.  
9 "§ 1-543.10. Title.  
10 This Article may be cited as the North Carolina Structured  
11 Settlement Protection Act.  
12 "§ 1-543.11. Structured settlement payment rights.  
13 No direct or indirect transfer of structured settlement payment  
14 rights shall be effective, and no structured settlement obligor  
15 or annuity issuer shall be required to make any payment directly  
16 or indirectly to any transferee of structured settlement payment  
17 rights unless the transfer has been authorized in advance in a  
18 final order of a court of competent jurisdiction or a responsible  
19 administrative authority based on express findings by such court  
20 or responsible administrative authority that:

- 1           (1) The transfer complies with the requirements of this  
2           Article and will not contravene other applicable  
3           law;  
4           (2) Not less than 10 days prior to the date on which  
5           the payee first incurred any obligation with  
6           respect to the transfer, the transferee has  
7           provided to the payee a disclosure statement in  
8           bold type, no smaller than 14 point setting forth:  
9           a. The amounts and due dates of the structured  
10           settlement payments to be transferred;  
11           b. The aggregate amount of such payments;  
12           c. The discounted present value of such payments;  
13           d. The gross amount payable to the payee in  
14           exchange for such payments;  
15           e. An itemized listing of all brokers'  
16           commissions, service charges, application  
17           fees, processing fees, closing costs, filing  
18           fees, administrative fees, legal fees, notary  
19           fees and other commissions, fees, costs,  
20           expenses and charges payable by the payee or  
21           deductible from the gross amount otherwise  
22           payable to the payee;  
23           f. The net amount payable to the payee after  
24           deduction of all commissions, fees, costs,  
25           expenses and charges described in sub-  
26           subdivision e. of this paragraph;  
27           g. The quotient (expressed as a percentage)  
28           obtained by dividing the net payment amount by  
29           the discounted present value of the payments;  
30           and  
31           h. The amount of any penalty and the aggregate  
32           amount of any liquidated damages (inclusive of  
33           penalties) payable by the payee in the event  
34           of any breach of the transfer agreement by the  
35           payee;  
36           (3) The transferee has established that the transfer is  
37           necessary to enable the payee, the payee's  
38           dependents, or both, to avoid imminent financial  
39           hardship, and the transfer should not be expected  
40           to subject the payee, the payee's dependents, or  
41           both, to undue financial hardship in the future;  
42           provided, however, that if, at the time the payee  
43           and the transferee entered into the transfer  
44           agreement, a federal hardship standard was in

- 1           effect, then, in lieu of the foregoing finding, the  
2           court or responsible administrative authority must  
3           make an express finding that the transfer qualifies  
4           under such federal hardship standard;  
5           (4) The payee has received independent professional  
6           advice regarding the legal, tax, and financial  
7           implications of the transfer;  
8           (5) If the transfer would contravene the terms of the  
9           structured settlement:  
10          a. The transfer has been expressly approved in  
11          writing by:  
12            1. Each interested party; provided, however,  
13            that if, at the time the payee and the  
14            transferee entered into the transfer  
15            agreement, a favorable tax determination  
16            was in effect, then the approval of the  
17            annuity issuer and the structured  
18            settlement obligor shall not be required  
19            if all other interested parties approve  
20            the transfer and waive any and all rights  
21            to require that the transferred payments  
22            be made to the payee in accordance with  
23            the terms of the structured settlement;  
24            and  
25            2. Any court or government authority, other  
26            than the court or responsible  
27            administrative authority from which  
28            authorization of the transfer is sought  
29            under this act, which previously approved  
30            the structured settlement; and  
31          b. Signed originals of all approvals required  
32          under sub-subdivision a. of this subdivision  
33          have been filed with the court or responsible  
34          administrative authority from which  
35          authorization of the transfer is sought under  
36          this act, and originals or copies have been  
37          furnished to all interested parties; and  
38          (6) The transferee has given written notice of the  
39          transferee's name, address, and taxpayer  
40          identification number to the annuity issuer and the  
41          structured settlement obligor and has filed a copy  
42          of such notice with the court or responsible  
43          administrative authority; and

- 1           (7) The discount rate used in determining discounted  
2           present value of the structured settlement payment  
3           rights does not exceed the annual percentage rate  
4           permitted under G.S. 25A-15(b)(4) calculated as if  
5           the net amount payable to the payee, as provided in  
6           sub-subdivision (2)f. of this section, was the  
7           principal of a consumer loan made by the transferee  
8           to the payee, and if the structured settlement  
9           payments to be transferred to the transferee were  
10           the payee's payments of principal plus interest on  
11           such loan.
- 12           (8) The transfer of structured settlement payment  
13           rights is fair and reasonable.

14 "§ 1-543.12. Definitions.

15 For purposes of this Article:

- 16           (1) 'Annuity issuer' means an insurer that has issued  
17           an insurance contract used to fund periodic  
18           payments under a structured settlement;
- 19           (2) 'Applicable law' means:
- 20           a. The federal laws of the United States;  
21           b. The laws of this State, including principles  
22           of equity applied in the courts of this State;  
23           and  
24           c. The laws of any other jurisdiction:
- 25                   1. Which is the domicile of the payee or any  
26                   other interested party;  
27                   2. Under whose laws a structured settlement  
28                   agreement was approved by a court or  
29                   responsible administrative authority; or  
30                   3. In whose courts a settled claim was  
31                   pending when the parties entered into a  
32                   structured settlement agreement;
- 33           (3) 'Dependents' include a payee's spouse and minor  
34           children and all other family members and other  
35           persons for whom the payee is legally obligated to  
36           provide support, including alimony;
- 37           (4) 'Discounted present value' means the fair present  
38           value of future payments, as determined by  
39           discounting such payments to the present utilizing  
40           the tables adopted in Article 5 of Chapter 8 of the  
41           General Statutes;
- 42           (5) 'Favorable tax determination' means, with respect  
43           to a proposed transfer of structured settlement  
44           payment rights, any of the following authorities

1 that definitely establishes that the federal income  
2 tax treatment of the structured settlement for the  
3 parties to the structured settlement agreement and  
4 any qualified assignment agreement, other than the  
5 payee, will not be affected by such transfer:

- 6 a. A provision of the Internal Revenue Code,  
7 United States Code Title 26, as amended from  
8 time to time, or a United States Treasury  
9 regulation adopted pursuant thereto;  
10 b. A revenue ruling or revenue procedure issued  
11 by the Internal Revenue Service; or  
12 c. A private letter ruling by the Internal  
13 Revenue Service with respect to such transfer;  
14 or  
15 d. A decision of the United States Supreme Court  
16 or a decision of a lower federal court in  
17 which the Internal Revenue Service has  
18 acquiesced;

19 (6) 'Federal hardship standard' means a federal  
20 standard applicable to transfers of structured  
21 settlement payment rights based on findings of a  
22 court or responsible administrative authority  
23 regarding the payees' needs, as contained in the  
24 Internal Revenue Code, United States Code Title 26,  
25 as amended from time to time, or in a United States  
26 Treasury regulation adopted pursuant thereto;

27 (7) 'Independent professional advice' means advice of  
28 an attorney, certified public accountant, actuary,  
29 or other licensed or registered professional or  
30 financial adviser:

- 31 a. Who is engaged by a payee to render advice  
32 concerning the legal, tax, and financial  
33 implications of a transfer of structured  
34 settlement payment rights;  
35 b. Who is not in any manner affiliated with or  
36 compensated by the transferee of such  
37 transfer; and  
38 c. Whose compensation for rendering such advice  
39 is not affected by whether a transfer occurs  
40 or does not occur;

41 (8) 'Interested parties' means, with respect to any  
42 structured settlement, the payee, any beneficiary  
43 designated under the annuity contract to receive  
44 payments following the payee's death, the annuity

- 1           issuer, the structured settlement obligor, and any  
2           other party that has continuing rights or  
3           obligations under the terms of the structured  
4           settlement;
- 5           (9) 'Payee' means an individual who is receiving tax-  
6           free damage payments under a structured settlement  
7           and proposes to make a transfer of payment rights  
8           thereunder;
- 9           (10) 'Qualified assignment agreement' means an agreement  
10           providing for a qualified assignment within the  
11           meaning of section 130 of the Internal Revenue  
12           Code, United States Code Title 26, as amended from  
13           time to time;
- 14           (11) 'Responsible administrative authority' means, with  
15           respect to a structured settlement, any government  
16           authority vested by law with exclusive jurisdiction  
17           over the settled claim resolved by such structured  
18           settlement;
- 19           (12) 'Settled claim' means the original tort claim or  
20           workers' compensation claim resolved by a  
21           structured settlement;
- 22           (13) 'Structured settlement' means an arrangement for  
23           periodic payment of damages for personal injuries  
24           established by settlement or judgment in resolution  
25           of a tort claim or for periodic payments in  
26           settlement of a workers' compensation claim;
- 27           (14) 'Structured settlement agreement' means the  
28           agreement, judgment, stipulation, or release  
29           embodying the terms of a structured settlement,  
30           including the rights of the payee to receive  
31           periodic payments;
- 32           (15) 'Structured settlement obligor' means, with respect  
33           to any structured settlement, the party that has  
34           the continuing periodic payment obligation to the  
35           payee under a structured settlement agreement or a  
36           qualified assignment agreement;
- 37           (16) 'Structured settlement payment rights' means rights  
38           to receive periodic payments (including lump-sum  
39           payments) under a structured settlement, whether  
40           from the settlement obligor or the annuity issuer,  
41           where:
- 42           a. The payee is domiciled in this State;

- 1                    b. The structured settlement agreement was  
2                    approved by a court or responsible  
3                    administrative authority in this State; or  
4                    c. The settled claim was pending before the  
5                    courts of this State when the parties entered  
6                    into the structured settlement agreement;  
7                    (17) 'Transfer' means any sale, assignment, pledge,  
8                    hypothecation, or other form of alienation or  
9                    encumbrance made by a payee for consideration;  
10                   (18) 'Terms of the structured settlement' include, with  
11                   respect to any structured settlement, the terms of  
12                   the structured settlement agreement, the annuity  
13                   contract, any qualified assignment agreement, and  
14                   any order or approval of any court or responsible  
15                   administrative authority or other government  
16                   authority authorizing or approving such structured  
17                   settlement; and  
18                   (19) 'Transfer agreement' means the agreement providing  
19                   for transfer of structured settlement payment  
20                   rights from a payee to a transferee.

21 "§ 1-543.13. Jurisdiction.

22                   (a) Where the structured settlement agreement was entered into  
23                   after commencement of litigation or administrative proceedings in  
24                   this State, the court or administrative agency where the action  
25                   was pending shall have exclusive jurisdiction over any  
26                   application for authorization under this Article of a transfer of  
27                   structured settlement payment rights.

28                   (b) Where the structured settlement agreement was entered into  
29                   prior to the commencement of litigation or administrative  
30                   proceedings, or after the commencement of litigation outside this  
31                   State, the Superior Court Division of the General Court of  
32                   Justice shall have nonexclusive original jurisdiction over any  
33                   application for authorization under this Article of a transfer of  
34                   structured settlement payment rights.

35 "§ 1-543.14. Procedure for approval of transfers.

36                   (a) Where the structured settlement agreement was entered into  
37                   after the commencement of litigation or administrative  
38                   proceedings in this State, the application for authorization of a  
39                   transfer of structured settlement rights shall be filed with the  
40                   court or administrative agency where the settled claim was  
41                   pending as a motion in the cause.

42                   (b) Where the structured settlement agreement was entered into  
43                   prior to the commencement of litigation or administrative  
44                   proceedings, or after the commencement of litigation or

1 administrative proceedings outside this State, the application  
2 for authorization of a transfer of structured settlement payment  
3 rights shall be filed in the superior court with proper venue  
4 pursuant to Article 7 of this Chapter. The nature of the action  
5 shall be a special proceeding governed by the provisions of  
6 Article 33 of this Chapter.

7 (c) Not less than 30 days prior to the scheduled hearing on  
8 any application for authorization of a transfer of structured  
9 settlement payment rights under this Article, the transferee  
10 shall file with the proper court or responsible administrative  
11 authority and serve on any other government authority which  
12 previously approved the structured settlement, on all interested  
13 parties as defined in G.S. 1-543.12(8), and on the Attorney  
14 General, a notice of the proposed transfer and the application  
15 for its authorization, including in such notice:

- 16 (1) A copy of the transferee's application;
- 17 (2) A copy of the transfer agreement;
- 18 (3) A copy of the disclosure statement required under  
19 G.S. 1-543.11(a);
- 20 (4) Notification that any interested party is entitled  
21 to support, oppose, or otherwise respond to the  
22 transferee's application, either in person or by  
23 counsel, by submitting written comments to the  
24 court or responsible administrative authority or by  
25 participating in the hearing; and
- 26 (5) Notification of the time and place of the hearing  
27 and notification of the manner in which and the  
28 time by which written responses to the application  
29 must be filed in order to be considered by the  
30 court or responsible administrative authority.

31 (d) The Attorney General shall have standing to raise, appear,  
32 and be heard on any matter relating to an application for  
33 authorization of a transfer of structured settlement payment  
34 rights under this Article.

35 "§ 1-543.15. No waiver; penalties.

36 (a) The provisions of this Article may not be waived.

37 (b) Any payee who has transferred structured settlement  
38 payment rights to a transferee without knowledge of the  
39 requirements set out in this Article may bring an action against  
40 the transferee to recover actual monetary loss or for damages up  
41 to five thousand dollars (\$5,000) for the violation by the  
42 transferee, or bring actions for both. The payee is entitled to  
43 attorneys' fees and costs incurred to enforce this Article. In  
44 addition, all unpaid structured settlement payment rights

1 transferred as a result of a violation of this Article by any  
2 transferee shall be reconveyed to the payee.

3 (c) No payee who proposes to make a transfer of structured  
4 settlement payment rights shall incur any penalty, forfeit any  
5 application fee or other payment, or otherwise incur any  
6 liability to the proposed transferee based on any failure of such  
7 transfer to satisfy the conditions of this Article.

8 "§ 1-543.16. Construction.

9 Nothing contained in this Article shall be construed to  
10 authorize any transfer of structured settlement payment rights in  
11 contravention of applicable law or to give effect to any transfer  
12 of structured settlement payment rights that is invalid under  
13 applicable law."

14 Section 2. Article 33 of Chapter 1 of the General  
15 Statutes is amended by adding a new section to read as follows:

16 "§ 1-394.1. Special proceedings to determine authority to  
17 transfer structured settlement payment rights.

18 When a special proceeding is commenced to obtain authorization  
19 for the transfer of structured settlement payment rights pursuant  
20 to Article 44B of this Chapter, the provisions of this Article  
21 apply except that the interested parties shall have 30 days to  
22 appear and answer the petition, and all hearings on such  
23 petitions must be conducted before a superior court judge and all  
24 final orders on such petitions must be entered by a superior  
25 court judge."

26 Section 3. This act shall apply to any transfer of  
27 structured settlement payment rights under a transfer agreement  
28 entered into on or after October 1, 1999, but nothing contained  
29 in this act shall imply that any transfer under a transfer  
30 agreement reached prior to such date is effective.

## **REAL PEOPLE<sup>5</sup> WHO HAVE IMPROVED THEIR LIVES BY SELLING A PORTION OF THEIR "STRUCTURED" SETTLEMENT...**

**Irene H.** (Prospect, CT, 33) lost her left leg in an auto accident when she was 17. The insurers agreed to a "\$210,000" settlement. No one told her that with most of the money held back for decades, the deal was worth only a fraction of its stated amount. Fifteen years later, Irene's needs changed. A divorced, 33-year-old single mother, she wanted to resume her education. She also needed to purchase a new prosthetic limb. And she didn't want to wait until 1999 to get started. The insurer refused to pay any sooner. Therefore, Irene chose to sell a \$30,000 payment that she was to receive in 1999. With the money she raised, she was able to return to school, satisfy debts, and purchase a new artificial limb, while retaining her right to receive a total of \$150,000 coming due in 2004 and 2009.

Ten years ago, **Anthony D.** (Wallingford, CT, 23) was injured in an accident, leaving him with disfiguring scars. After a five year court battle, he agreed to accept a structured settlement -- 10 annual payments of \$2,295.00 per year and a payment of \$40,000.00 due in 2005. The insurance company called it a "\$63,000" settlement. In fact, the settlement was only worth about \$26,000. That fact was never explained to him. Following the birth of twins, Mr. D's family faced unexpected financial burdens. In 1997, Mr. D lost his job. Although his circumstances had changed, the insurer refused to pay any sooner. He and his wife then decided to sell his remaining settlement payments to satisfy debts and clear up a mortgage default that threatened their family home. Because he was able to sell his settlement payments, Mr. D was able to save his home and return to school where he is now training for a new job.

In 1987, **Robert G.** (Clay City, KY, 50) was injured in a truck accident. He accepted a structured settlement, giving him only \$9,000.00 a year. Ten years later, he had trouble finding work as a driver and needed cash to buy his own truck, but the insurer refused to pay any sooner. Robert G. sold a portion of his settlement payments, using the proceeds to buy a truck and start his own business. As a result, he now makes \$40,000.00 per year driving the truck that he was able to purchase by selling a portion of his future settlement payments.

**Donna K.** (IL, 30) was in an accident when she was only 10. Her case was settled for four annual payments of \$10,000.00 commencing in 1987, monthly payments of \$475 for life guaranteed for 30 years (commencing in 1991), and payments of \$40,000.00 (due in 1999) and \$65,000.00 (due in 2004). Ms. K. later married. Now, she and her husband are gainfully employed and planning a family. They needed cash to buy a home, but the insurer refused to pay any sooner. Therefore, she chose to sell five (5) years worth of monthly payments and the \$40,000.00 payment due in 1999 to raise the cash she needed to buy a home, avoid private mortgage insurance, and make their mortgage payments affordable.

**Gilbert H.** (Chicago, IL, 41) didn't have a lawyer when the insurer talked him into settling his personal injury claim. He agreed to take \$1,400 per month for 21 years. The "present value" of that deal was never disclosed to him. Later, Mr. H. needed cash to expand his auto body shop and comply with new environmental regulations. Banks were unwilling to consider his structured settlement payments as collateral and the insurer refused to pay

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<sup>5</sup> Actual Case Histories. Full names withheld to protect privacy.

any sooner. Therefore, he chose to *sell* some of his future payments for \$60,000, using the money to expand his business, purchase a rental property, pay his daughter's tuition, and purchase health insurance for his family.

**Dale A.** (Chaffee, NY, 33) was injured in a 1984 car accident. His case settled before trial, with the insurer agreeing to provide a life annuity of \$284.98 per month plus \$15,000 over five years starting in 1999, ending with a \$50,000 payment in March 2029. In 1996, as an adult with a growing family, Mr. A. wanted to buy a home and expand his own business, but the insurer refused to pay any sooner. As a self-employed carpenter, he could not qualify for a traditional mortgage and banks wouldn't consider the structured settlement in evaluating his credit. Mr. A. then decided to sell a portion of his settlement payments for cash in order to acquire a home. Mr. A. sold just enough of his future payments (56 monthly payments and one lump sum) to achieve that goal.

Severely injured in a 1986 auto accident, **Edwin S.** (Pulaski, VA, 38) is wheelchair-bound. His settlement entitled him to \$700 per month through 1991, \$800 per month through 1996, \$900 per month through 2001, \$1,000 per month through 2006, \$1,124 per month through 2011, \$2,000 per month for life thereafter, and a \$100,000 payment due in 2011. In 1996, he needed cash to build a wheelchair-accessible home. The insurer was unwilling to pay him any sooner. Therefore, he sold a *portion* of his monthly payments to raise the funds needed to build the wheelchair accessible home, using the balance to start a small business that he now owns and operates.

**Gail A.** (Merrick, NY, 41) suffered herniated discs and shoulder injuries in a 1991 car accident. Payment over time was the only form of settlement offered by the insurer. To avoid a lengthy trial, Ms. A. agreed to settle for \$66,000, plus \$350 per month for 10 years. Most of the \$66,000 was used to pay legal fees and outstanding medical bills. In 1997, Ms. A. found herself in financial difficulties; she had fallen behind on her property taxes. With little access to capital, Ms. A. decided to sell a portion of her settlement proceeds to save her home and pay her bills. She sold half of each monthly annuity payment for 80 months to raise the cash she needed. As a result, she kept her home and paid off other debts.

Seventeen years ago, when **Tarron B.** (Knoxville, TN, 21) was 4 years old, she suffered a broken leg, neck injuries and multiple fractures in an auto accident. Her structured settlement provided annual payments of \$5,000 each commencing in 1995, \$8,000 due in 2002, \$12,000 due in 2007, and \$10,000 due in 2012. Now she is 21 and has recovered. A married woman with two children, both she and her husband work. She wanted a home for her growing family and needed a substantial down payment in order to buy. The insurer refused to pay any sooner. Therefore, Mrs. B. chose to sell the payments due in 2002 through 2012, bought a home and satisfied her outstanding debts.

**Johnell M.** (Pineville, LA, 44) broke his back in a machinery accident. After 2 years of physical therapy and rehabilitation, he settled his claim for \$1416 per month for life (increasing at the rate of 3% per year), plus \$200,000 due in 2002. In 1997, Johnell was to be married. He needed cash to pay off debts and wanted to buy the home he had been renting. Moreover, he wanted to keep his monthly income, but didn't want to wait until 2002 to proceed with his life. In 1997, Mr. Moore sold a fraction of the \$200,000 lump sum due to him in 2002, using the proceeds to pay off his debts and buy a car and a home. By selling a fraction of the lump sum due in 2002, Mr. M was able to keep his monthly income, without putting his wedding on hold until 2002.

**Ruben Z.** (Fontana, CA, 57) was injured on the job. In settlement discussions, the insurer

offered him a choice between \$200,000 in upfront cash or \$400,000 paid over time. He had no lawyer when he settled and the insurer never disclosed the present value of the payments over time. He agreed to take payments over time (\$1,500 per month for life guaranteed for 20 years plus \$2,500 every five years beginning in 1995). Eight years later, he wanted to remodel his home and to buy a new vehicle. The insurer refused to pay any sooner. Accordingly, Mr. Z. chose to sell a portion of his future payments, using the proceeds to remodel his home, buy a new family car, and invest the balance.

Six years ago, **Edward B's** (New Milford, CT, 48) wife was involved in an accident. Neither Edward nor his wife wanted a structured settlement, but the insurance company insisted on making payments over time. Later, Edward B. and his wife divorced. Edward didn't need payments over time, but wanted cash to pay off debts. The insurer refused to pay any sooner. He decided to *sell* a portion of the settlement payments awarded in the divorce, using the proceeds to purchase a car and satisfy outstanding debts.

In 1994 (at the age of 27), **Dwight F.** (Brooklyn, NY, 30) was injured in a motorcycle accident. He agreed to a structured settlement that pays 60 monthly payments of \$3,000.00 through 2002; then 60 monthly payments of \$3,400.00 through 2007; then 60 monthly payments of \$3,800.00 through 2012; 60 monthly payments of \$4,500.00 through 2017; and then 60 monthly payments of \$5,350.00 thereafter for life (with a 3% annual increase every March 1st). In and out of the hospital for a total of ten (10) surgeries, he was unable to work consistently and fell behind on his child support obligations. The insurer refused to pay any sooner. Wanting to provide for his children and satisfy his past due obligations, Mr. F. sold a portion (\$500 per month) of 60 monthly payments in exchange for an immediate lump sum in cash which he used to pay off his child support arrears.

When he was 4, **David C.** (Sandusky, OH, 22) was injured in a car accident. His family agreed to a structured settlement providing for ten years of monthly payments of \$577.00 (commencing in 1994) and a lump sum in the amount of \$25,000 due in 2004. By 1997, Mr. C.'s childhood injuries had healed, but his debts were mounting. The insurer refused to pay any sooner. Wanting to pay those debts and improve his credit, Mr. C chose to sell a *portion* of his monthly payments. By selling a portion of his monthly payments, Mr. C. was able to pay off his high interest loans.

**Sammy C.** (Pelham, AL, 42) lost his left arm in a 1990 machinery accident. He agreed to a structured settlement paying \$700 per month for life, indexed at the rate of 3% per annum. In 1997, Mr. C. wanted to purchase land and install permanent utilities for a home. The insurer refused to pay any sooner. Therefore, he *sold* a portion of some of his monthly payments, raising the cash he needed to achieve his goals.

**John H.** (Hartford, CT, 38) was injured in a 1996 accident. After a two-year court battle, he accepted a structured settlement. No cash settlement was ever offered by the insurers, who insisted upon making payment over time. Wanting to purchase a home, Mr. H. needed cash for a down payment. The insurer refused to pay any sooner. Accordingly, he promptly sold a *portion* of his future settlement payments, using the cash to buy a condominium and pay outstanding debts.

**Joanne Y.** (Vermilion, OH, 53) (a teacher) suffered back and hand injuries in a 1991 accident. She settled her claim in 1993, agreeing to accept \$574 per month for life, with 20 years guaranteed. Ms. Y. chose a structured settlement to augment her retirement income, but later, her plans changed. In 1997, she decided to purchase a home. The

insurer refused to pay any sooner and conventional lenders wouldn't consider her settlement payments as collateral. Therefore, she decided to *sell* five years of monthly payments in exchange for an immediate lump sum in cash. With the proceeds, she paid her debts, made a down payment on a home, and qualified for a conventional mortgage. By selling near-term payments only, Joanne Y. realized her home ownership dream, while keeping future payments to augment her retirement income.

In 1974, **Savane W.** (Fort Wayne, IN, 33) (then 10 years old) lost his legs in a train accident. His family accepted a structured settlement, affording him a lifetime of monthly payments. Twenty-five years later, Mr. W remained homebound and jobless. He wanted to start his own business and replace his aging prosthetic limbs, but lacked the cash to do so. The insurer refused to pay any sooner. Then, he saw a settlement purchaser's advertisement. In three separate transactions, he agreed to sell *portions* of his future payments in exchange for cash, keeping monthly annuity payments in an amount sufficient to meet his living and medical expenses. With the proceeds of his first sale, he paid for the repair of his aging prosthetic limbs; with a second sale, he converted his basement into a small commercial print shop; and when his business grew, he sold another portion of his payments to purchase a handicap-accessible van to handle pick-ups and deliveries. While keeping monthly annuity payments in an amount sufficient to meet living and medical expenses, Mr. W's also has his own business, earning \$25,000.00 in its first year. For Mr. W., being able to sell some of his future settlement payments gave him "the satisfaction of having responsibility and independence."

**Jane L.** (Volutown, CT, 44) was in an accident resulting in neck and upper spine injuries. In 1996, she agreed to settle her claims for ten annual payments of \$8,500 each. In 1997, Ms. L. found herself in a financial bind. The insurer refused to pay any sooner. Therefore, Jane elected to sell \$5,500 of each of the remaining annual payments. With the lump sum she received, Ms. L. was able to pay her bills, save her credit rating, and buy property in Maine.

**Sean W.** (Bethlehem, PA, 25) lost his left eye in an accident. In 1992, he settled his personal jury claim for \$831.68 per month for life. Now he is 25, married, and a father. With a growing family, Mr. W. needed a new vehicle and a home for his family. The insurer refused to pay any sooner and conventional lenders refused to consider his settlement payments in extending credit, but Mr. W. was able *sell* a portion of his future payments to achieve his goals.

**John M.** (Louisville, CT, 24) was injured in an auto accident when he was two. His parents settled the claim for monthly payments of \$350 through 1994; and single payments of \$10,000 in 1994, \$15,000 in 1998, \$20,000 in 2003, \$25,000 in 2008, \$30,000 in 2013, \$35,000 in 2014, and \$40,000 in 2023. The insurance company called the deal a "\$186,000" settlement. Of course, the actual cost of the settlement was closer to \$60,000, something that was never disclosed by the insurers. In 1997, Mr. M. wanted to buy a home and pay outstanding debts. Banks refused to consider the structured settlement in evaluating his credit. The insurer refused to pay any sooner. Without a significant down payment, he could not qualify for a home loan. By selling a *portion* of the future payments due to him under the terms of the settlement, Mr. M. was able to purchase a home and pay off his high interest rate debts.

**Samuel G.** (Monroe, CT, 42) was injured in a 1986 accident. Having no immediate need for funds, he agreed to accept a structured settlement paying him a series of installments over 15 years. Late in 1997, Mr. G. was laid off and his health insurance lapsed. Shortly

thereafter, he broke his jaw and damaged his teeth. Rather than deplete his savings, Mr. G. decided to sell a small portion of his future settlement payments in order to raise the cash to pay for the needed dental work. He has since returned to work.

**Elisha W.** (Quakertown, PA, 20) suffered injuries in an accident when she was a child. Ms. W's parents accepted a structured settlement on her behalf. -- \$252 per month for 12 years, plus \$50,000 due in 2006. Elisha is now a working adult; the small monthly checks merely served as a source of supplemental income. In 1997, she needed cash to purchase a car, pay taxes, and buy a home, but the insurer refused to pay any sooner. Therefore, Ms. W. sold her right to receive the monthly payments, retaining her right to the \$50,000 lump sum. This gave her the cash she needed to achieve her goals -- a home, a new car and no debts, while retaining her rights to the future lump sum.

**Jennifer S.** (Wichita, Kansas) is a single mother in Wichita Kansas was having trouble meeting her monthly expenses. In fact, she was more than \$13,000 in debt and living in a bad section of town with her son when she contacted Peachtree Settlement Funding. After having been refused by the banks and having tried all available alternatives, she refinanced a small portion of her future annuity payments. With a \$20,000 lump sum provided by Peachtree, she was able to pay off all of her debts, purchase a reliable used car and move to a nicer section of town with her son where she is now employed and going to school with the goal of becoming a teacher.

**Angela G.** (Leesville, South Carolina) and her husband, a U.S. Marine, were having trouble making ends meet while living in Southern California. Despite diligent efforts, Mr. and Mrs. G. were forced to file bankruptcy. Just then, their automobile failed them. In need of dependable transportation and without credit because of their bankruptcy filing, the G.s' were almost without alternatives. However, with the help of a settlement purchaser, the G.s' sold a portion of the \$1,700 a month they received in annuity payments. The G.s' now live in a nice home on a 2 acre lot in South Carolina with their daughter Alexis and their 3 month old baby boy, Mason.

**Susan K.** (Tucker, Georgia) decided to sell a small portion of her future structured settlement payments which were the result of a settlement of a personal injury case. With the funds from that refinancing, Susan was able to purchase a large piece of property in the mountains of Tennessee and realized her dream of being a homeowner. She has invited her mother and father to build a house on the property so they can enjoy their retirement years in a relaxed, beautiful and financially secure surroundings.

**Maria M.** (Phoenix, Arizona). After being abandoned by her husband, the mother of 4 was living in a run-down part of town with inadequate facilities for her and her children. She had run up \$9,000 in credit card debt and was earning subsistence level wages in the only job she could get to by public transportation. However, after refinancing a portion of her settlement payments, she was able to clear up her high interest credit card debt, purchase a van to transport her and her kids, put a substantial down payment on a four-bedroom house, and still have money left over for investing. With financial and personal security afforded to her, she was able to look for a new job where she now earns over \$35,000 per year.

**Deborah T.** (Salem, New Jersey) was desirous of helping her elderly parents repair their 200+ year old house located in New Jersey and listed in the New Jersey Historical Registry. By refinancing a portion of her structured settlement payments, Deborah was able to help her parents renovate the home so it is now comfortable, safe and in good repair for another 200 years.

**Deeana T.** (Brandenton Beach, Florida) is single mother of a teenage boy. Deeana owns and runs a small nail care business from which she makes enough money to pay the bills, but not enough to provide for the braces her young son desperately needs or the things he would like prior to starting high school. By refinancing a portion of a future lump sum payment she was entitled to as a result of a structured settlement, Deeana was able to pay for the braces and purchase some new clothing for her son prior to his enrolling in high school. A few months later, Deeana called back and decided to sell another portion of her lump sum payment in order to obtain a down payment for a home. With the money provided in that refinancing transaction, she was able to pay off her high interest credit card bills and put down enough money to purchase a home. Deeana is now a home owner with a happy high school aged son and successful nail care business.

**Destini W.** (Milwaukee, Wisconsin) was cajoled by the insurance industry into accepting a structured settlement. She signed not knowing that she wouldn't be able to readily access the funds if she needed them in the future. In the Summer of 1998, Destini had a unique opportunity to open her own business. However, she needed a \$100,000 in financing. Young and with a limited credit history, no bank would touch her. However, when she contacted Peachtree Settlement Funding, she was able to refinance a portion of her future settlement payments and raise over \$110,000 which she and her mom used to form their own business. Their healthcare services business is now thriving and Ms. Wynn is grateful for the opportunity.

**Kimberly and John J.** (Kansas City, Missouri) have a structured settlement as a result of a medical malpractice claim. John was a manual laborer and the bread winner for the family. However, after the tragic death of one of their children, John became deeply depressed and was unable to maintain his job. As a consequence, they quickly fell behind on their mortgage and were in danger of foreclosure. After contacting a settlement purchaser, the Jeanquart's were immediately advanced enough money to prevent the foreclosure and with the rest of the money from the refinancing of a portion of their structured settlement, they were able to get out of debt. Unfortunately, shortly thereafter, John broke his wrist and was again unable to work. The Jeanquart's again turned to a settlement purchaser and refinanced a small portion of their future payments in order to cover this emergent situation. In short order, they had enough money to pay their bills while John's wrist healed. They even put away some of the money for future emergencies. The Jeanquart's would probably have been homeless absent the option of refinancing a portion of their settlement payments.

**P. Fudge** (San Diego, California) is 18 years old. Trapped in an abusive relationship with her step-father she was desperate to escape. However, with limited resources she needed a small portion of her future payments in order to facilitate her move. After contacting Peachtree Settlement Funding, she was able to monetize a portion her future payments and escape her abusive step-father's grasp. Ms. Fudge is attending a local college and working part time. According to Ms. Fudge, "Without Peachtree, there's no telling what might have happened".

**Cynthia and Edwin B.** (Morganton, North Carolina) received a settlement on behalf of a critically injured child in a medical malpractice case. Unfortunately, not long after the settlement was reached, their child passed away. Both are employed and with a small business to boot, the Biddix's do not rely on the annuity payments at all. In an effort to get over the tragedy and to expand their own business significantly, the Biddixes monetized a portion of the future payments and the Biddixes now operate two retail sites and a small manufacturing facility.

**John B.** (Chesterfield, Virginia). In September, 1988, John B. was injured in an accident. In October, 1988, Mr. B. settled his personal injury case for series of future payments. In November of 1997, however, he realized that the monthly payments he was receiving were merely being spent on miscellaneous expenses and he had nothing to show for them. With a desire to buy a home and start his own business, Mr. B. contacted Peachtree Settlement Funding. After refinancing his settlement and obtaining a lump sum for a portion of his future payments, Mr. B. was able to start a successful towing company and purchase a home. Mr. B. was also able to catch up on all of his outstanding bills and is now a happy home owner and business operator.

**Kimberly F.** (Ocala, Florida) was receiving \$419.00 a month as a result of an accident which occurred on February 7, 1997. Unfortunately, this barely helped her meet her monthly expenses. She was forced to drop out of the University of Georgia as a result of her finances. With the \$17,206.00 she received from refinancing a portion of her future settlement payments, Ms. Freeman was able to satisfy all of her creditors, put a down payment on a home, purchase a reliable used car and re-enroll in college in her new home in Florida.

**Robert C.** (Witter, Arkansas) settled a personal injury claim for incremental lump sums. While fully recovered from his accident, Mr. C. was in the process of building a new home when he ran short of funds. With mounting debts and an unfinished home, Mr. C. turned to a settlement purchaser in order to obtain a portion of his future payments today. With the money provided by the funder, Mr. C. was able to finish his new home and pay off all the debts. He has now realized his dream of living in a brand new home in his home of Witter, Arkansas.

**Karen B.** (McMinnville, Oregon) is entitled to receive settlement payments from a tragic wrongful death accident involving her son. By selling a portion of the settlement payments she was entitled to, Karen was able to achieve her goal of purchasing a new house. While certainly not making up for the tragic loss of her son, Ms. B. is now living in the home she always wanted.

**Billy H.** (Anoka, Minnesota) cares for his mother, a paraplegic, who was injured in a tragic car accident. After years of caring for his mother in a small apartment, Mr. Hopp decided it would be more comfortable for both he and his mother if they lived in a house that was more assessable to the handicapped. Unfortunately, although employed in a good paying job, Mr. H. was unable to save up the down payment for such a home. However, by monetizing a small portion of the annuity payments his mom was entitled to, he and his mother were able to purchase a home which is assessable to the handicapped.

**Norman R.** (Marana, Arizona). Norman's motorcycle and auto rental business was struggling because he did not have enough capital for additional motorcycles, cars and marketing. Mr. R. contacted a settlement purchaser and within 45 days converted a portion of his future payments to a lump sum of cash. With the \$97,142.00 he received, he expanded his business, developed a marketing site on the world wide web, purchased three additional rental cars, 5 additional Harley-Davidson motorcycles and a Dodge truck. As a result of these improvements, Mr. R. monthly profits increased to over \$6,000 and he is currently expanding into a new business opportunity. In his own words, as a result of this refinancing transaction, he is once again "enjoying life."

**Sarah S.** (Bakersfield, California) settled her case in early 1983. The terms of her settlement provided for lump sum payments commencing 10 years later. The payments she was due were as follows: \$25,000 due July 7, 1993, '94, '95, '96, '97; \$75,000 due

on July 7, 2000, \$150,000 due July 7, 2005. A newlywed, Sarah and her husband had gotten themselves into a financial bind. They were 3 months behind on their car and home payments and had medical bills for which they were being dunned. To make matters worse, the structured settlement that she was to receive was from an insolvent company (First Executive Life in rehabilitation). After trying to obtain financing from "everywhere" Sarah contacted a settlement purchaser. By monetizing a portion of her next two lump sum payments, she was able to get the money she needed to catch up on her bills, prevent the foreclosure of her home, pay off her medical bills and other debts and get her and her husband's life back on track. "Now my husband and I don't have to worry about those bills anymore. We can enjoy the finer things in life and each other."

**Jason A.** (Tuckerton, New Jersey) settled a personal injury case in exchange for 4 lump sum payments to be made in the future. Despite being employed and having a fair credit rating, Mr. A. could not afford the home he wanted on his present income. By monetizing his next two lump sum payments, Mr. A. was able to pay up his past debts and put a substantial down payment on the home of his choice thereby lowering his monthly payment to an affordable level. Mr. A. is now a proud homeowner.

**Keith O.** (Zephyrhills, Florida) had settled his personal injury case for a structured settlement paying him \$535.95 per month. Unfortunately, this money was being spent as discretionary income. With a desire to start his own woodworking business, Mr. O. sought the services of a settlement purchaser. In exchange for 60 monthly payments, Mr. O. received \$19,338.00 which he used to purchase the power tools he needed to equip his wood working shop. He is now using them in his own successful woodworking business.

**Lisa S.** (Miami Beach, Florida) lost her left leg at the knee in an automobile accident when she was 18 years old. Despite a college degree in Marketing and a desperate desire to use it and be gainfully employed, Lisa was stuck in the house as her prosthesis no longer fit properly. Despite repeated efforts to get the structured settlement insurance company to give her an advance, she was always rebuffed. Lisa's settlement provided for \$1,000 a month with a 3% annual increase. After contacting a settlement purchasing company, Ms. S. agreed to sell a small portion of her monthly payments in order to provide the \$38,000 she needed for a new prosthesis and automobile to accommodate her situation. When the settlement purchaser checked in with her after the refinancing transaction, Lisa reported that she had a job at a law firm, was studying for her real estate license and was closing on a new condo within the next month.

**Ronald F.** (Cheektowaga, New York). After settling a personal injury case over 14 years ago, Ronald F. was entitled to over 30 years worth of monthly payments. In 1998, with over \$17,000 in back child support debt and a desire to start a business, Mr. F. contacted a settlement purchaser. He refinanced a portion of his future payments and obtained the money he needed to pay off all of his back child support and other debts and invest \$50,000 in a pizzeria. Mr. F. contacted the settlement purchaser who help him the first time again in early 1999 to confide as to how well the pizzeria was doing and he advised that he might wish to refinance another portion of his structured settlement in order to purchase a residential investment property.

**Richard C.** (Manassas, Virginia) a single parent of one daughter, was living in a Section 8 housing unit in Virginia. The environment was not to his liking and he did not feel it a safe environment for his daughter. Over 10 years ago, Mr. C. settled a personal injury case in exchange for 30 years worth of payments in the amount of \$582.00 per month. However, after having to undergo hip surgery in 1998, and concerned about the safety of his daughter, he decided to refinance a portion of his structured settlement payments in

order to purchase a home. Mr. C. sold 60 monthly payments of \$582.00 and received a \$23,651 check from a settlement purchaser. With those funds, he was able to put the down payment on a house in nice neighborhood with good schools. Mr. C. has called the settlement purchaser several times to express his thanks for the new lease on life he received.

**June C. W.** (Ohio) was the victim of an unfortunate medical malpractice claim involving an improper diagnosis with breast cancer and radical mastectomy. Her structured settlement provides for payments of \$500.00 per month for life with 2 lump sum payments; one in the amount of \$25,000 due August 19, 2003 and \$57,000 due in August of 2008. To add insult to injury, June's husband left her not long after the mastectomy. Despite working full-time as a waitress to provide for her family, June was having difficulty making ends meet. Additionally, she had developed a problem with her foot and was uninsured. She approached a settlement purchaser and monetized a small portion of her future payments to pay for the medical treatment she desperately needed on her foot. Sometime thereafter, she and her new husband had some financial difficulties and she again monetized a portion of her future payments to purchase a new vehicle and renovate the home they had purchased. As a result of the flexibility provided by these refinancing transactions, June was able to rebuild her life.

**Marcia G.** is divorced and in her 40's with two adult sons. She is the recipient of a structured settlement funded by Confederation Life (currently in receivership). Despite the tenuous financial condition of the annuity provider, a settlement purchaser was able to provide her the \$12,000 she needed to help her two adult sons out of some immediate financial difficulties and to allow her to invest the balance of the funds in an employer matched mutual fund. This resulted in an instant 100% return on her investment! Marcia was able to do something for her sons and herself by monetizing a portion of her future settlement payments.

**Christopher I.** was 13 when his personal injury case was settled. The settlement provided for a long series of payments in the amount of \$356.25 per month. Now an adult and wishing to better his life, Mr. I. decided to sell a 10 year series of payments in exchange for a \$20,000 lump sum. With the lump sum, he moved to Atlanta, Georgia, changed jobs (more than doubling his income) and purchased a home. Mr. I. has been in touch with the settlement purchaser that helped him in this transaction numerous times since the closing to express his thanks for the opportunity provided.

**Sedia W.** (Hinesville, GA) was injured in a 1985 car accident. Her case settled before trial with the insurer agreeing to provide a life annuity of \$700.00 per month plus \$20,000 every 5 years starting in 1986. 10 years later with a growing family, Sedia wanted to buy a home and expand her own business but the insurer refused to pay any sooner. Since she was self-employed, she couldn't qualify for a traditional mortgage and banks would not consider the structured settlement in evaluating her credit. Mrs. W. then decided to sell a portion of her settlement payments for cash in order to acquire a home. She sold just enough of her future payments (60 monthly payments and one lump sum) to achieve that goal. She is now a happy home owner and business operator.

**Barry P.** (Warwick, NY). Twelve years ago Barry P. was injured in an automobile accident. The accident left him with a broken hip and two broken legs. At the time of the settlement, Barry believed that having the money come to him in spurts would be good for him. As a consequence, he settled for three lump sums due in the years 2000, 2004 and 2008. In late 1998, Barry had the opportunity to go into business for himself with a family member but needed \$100,000 to do so. Unfortunately, he only had \$70,000 of his own.

By monetizing one of his lump sums, Barry was able to acquire the extra \$30,000 he needed to close on this business transaction. Barry business is now booming and he is averaging over \$5,000 a month in profits. He plans to expand from New York into Pennsylvania in the near future.

**John J.** (West Virginia). Mr. John J. of West Virginia settled a personal injury case for a series of annuity payments. Divorced with two children, Mr. J. fell upon hard times when he lost his job. With several thousand dollars in back child support and more mounting, he turned to a settlement purchaser to refinance a portion of his settlement payments. With the lump sum he obtained, he paid off his back child support and put away enough money to cover any future emergency should he lose his job for a short time in the future.

**Duane S.** (Springhill, FL). Mr. and Mrs. Duane S. lost their daughter in a tragic malpractice incident. After several years of litigation, the matter was finally resolved with a structured settlement. Under the terms of that settlement, he and his family would receive monthly checks for life with 20 years guaranteed. However, with the high interest credit card debt that they had accrued, they were unable to get ahead of their bills. By selling a portion of their future payments, Mr. and Mrs. S were able to pay off all of their credit card debts, their home mortgage, their car loan and had enough left over to open their own business. Their family business is thriving and they still receive a portion of the monthly payments from the tragic loss of their daughter.

**Stanley K.** (Hapeville, GA) received a structured settlement as a result of an auto accident which paid him \$250.00 per month. However, that small sum was not helping out with his massive credit card debt. As a consequence, Stanley was spiraling further and further into debt and was going to file bankruptcy until he saw an ad by a settlement purchaser. With the lump sum he obtained by selling his monthly payments, Mr. K was able to pay off all of his debt and rescue his credit from disaster.

**Russell H.** (Chicago, IL). Mr. H. was injured in an auto accident and was awarded \$1,200 per month for 40 years with a 3% cost of living adjustment. Unfortunately, as an adult his family couldn't afford to send him to school and his monthly settlement check was not nearly enough to live on and pay school expenses at the same time. As a consequence, he took a job. However, without formal education, he felt his earnings potential would be limited and he would be trapped. After seeing an advertisement from a settlement purchaser, Mr. H. decided to sell a part of his future payments in exchange for a lump sum. With the advise of a financial advisor, he was able to invest this money and pay for college.

**Tierrany S.** (Shelby, OH) settled a personal injury case which paid her three lump sum payments of \$10,000 each due in the years 2000, 2001 and 2002. Unfortunately, she had to drop out of college because she could not afford the cost. As a newlywed and expecting her first child, she was terribly disappointed at not being able to finish school. By selling just a portion of her first two payments, she was able to get enough money to finish college and buy her husband a small truck which enabled him to get his landscaping business started. Tierrany S. is now a court reporter and her husband is operating their landscaping business.

**Johnny C.** (Arizona) was hurt in an auto accident when he was a minor. After 4 years of litigation with the insurance company, his family finally accepted a structured settlement

on his behalf. With his automobile failing him and poor credit to boot, he could not afford reliable transportation needed to get him back and forth to work. That's when he decided to sell a portion of his future payments to a settlement purchaser in exchange for a \$27,000 lump sum. With that money, he was able to buy a car and put a down payment on a home so that he and his family could move into a safer neighborhood.

**James L.** finally settled his automobile accident in 1998. After years of litigation, he finally settled for \$495.00 per month for life. Unfortunately, during the litigation, he had accumulated medical bills, and his automobile had broke down causing him to lose his job. As a consequence, he decided to sell a portion of his future payments in order to fix his car and get back to work. With that done, he is now gainfully employed once again.

**Steve E.** (North Platte, Nebraska) was injured in a railroad accident leaving him with a badly damaged hip and recurring back pain. His settlement provided for payments of \$3,000 a month and a \$4,000 lump sum every year. Unfortunately, most of this money was used to pay his monthly living expenses. Recently, a doctor advised him that if he could come up with \$12,000 he could have hip replacement surgery and likely rid himself of the pain he had been living with. After calling the insurance company and being told there was nothing he could do, Mr. E. contacted a settlement purchaser and sold approximately 10% of his monthly payments for several years in exchange for a \$12,000 lump sum which paid for his hip replacement surgery. For the first time in more than 10 years, Mr. E. is living without pain.

**Leslie B.** (Florida) settled a personal injury case in exchange for a series of lump sum payments due well in the future. She was also receiving \$1,000 a month from her settlement but that barely covered the expenses of her and her three children after being abandoned by her husband. After contacting a settlement purchaser she was able to sell a portion of her future lump sum payments to purchase a badly needed car, some new furniture and to pay off her debts. Ms. Burdick is now planning to be remarried in the next few months and is debt free.

## WHAT'S THIS FIGHT REALLY ALL ABOUT ?

### If It Is About Protecting North Carolina Consumers:

Why won't the insurance companies sit down and work out a true consumer protection bill ?

Settlement Purchasers have supported and will support a law that provides:

- Full and complete disclosure;
- A five day right of rescission;
- Court orders where the original settlement was court approved;
- Court orders where the purchase price is more than \$100,000. and the transfer is in the best interests of the claimant.
- Court orders if a court or IRS revenue ruling determines that a transfer of structured settlement payments causes a genuine tax liability to the annuity issuer, settlement obligor or claimant.

Why do they insist on absolute veto power over the transaction ?

Why have they picked a standard of review which is so onerous that virtually no one could achieve it ?

- A standard that is higher than that needed to settle the claim of a minor;
- Higher than the standard applied to the adoption or custody of a child.

Why do they point to a federal bill as the stalking horse for the need for S 746/HB 853 when they had the federal bill introduced ?

Why do they insist that the bill apply to non-North Carolina residents ?

Why don't they tell you that Settlement Purchasers have paid millions of dollars in back child support, and state and federal tax liens ?

Why don't they tell you who gets hurt by S 746/HB 853 ?

- Lower income people and minorities who don't have access to other forms of capital get hurt.
- Thousands of employees at hundreds of small businesses throughout the nation get hurt.
- People who won't be able to afford to buy a home, pay for school or improve their lives get hurt.

Why don't they tell you who really gets structured settlement payments ?

- More than 85% of structured settlement recipients are not disabled and are gainfully employed.
- 92% of claimants are "satisfied" or "very satisfied" with the re-financing of their settlement which they accomplished with the help of Settlement Purchasers.
- The average person who re-finances a structured settlement is 33 years old, employed with a household income of nearly \$25,000.
- More than 50% of structured settlements have a present value of \$30,000 or less.

*(Source: Best's Review - November 1998)*

Why do they contend that structured settlements are intended to prevent people from receiving a lump sum when more that 65% of all structured settlements are for lump sums paid at some arbitrary time in the future ?

## If It Is About Taxes:

Why do they hide the fact that opinions have been issued by Morrison & Foerster's national tax office, PriceWaterhouseCoopers, Wolf, Block, Schorr and Solis, the United States Court of Appeals and the IRS itself stating that there is no "tax issue".

Why do they hide the fact that the United States Court of Appeals for the Third Circuit has ruled on this issue ?

"The Haydens would have us conclude that Reliance would retroactively lose this (the § 130) exclusion if Ms. Hayden assigned her right to receive the periodic payments under the settlement agreement... The Hayden's, however, do not cite, and our research has failed to reveal, any support for this novel proposition. We are therefore unpersuaded by the Hayden's theory..."

Why can't they point to a single letter, rule, case or memorandum from any governmental entity which supports their contentions that there may be a tax problem ?

Why don't they tell you that Allstate obtained a ruling from the IRS which allows them to offer lump sums in certain circumstances (IRS PLR 116384-97) ?

Why do they fail to point out that the tax code clearly and unconditionally exempts from income payments received as compensation for personal injuries ?

IRC § 104 (a) (2) exempts from income "the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;"

## So What Is It Really All About:

Its about money !

Structured Settlements save the insurance industry billions of dollars in settlement costs.

- The Travelers Structured Settlements Manual says:

**"The primary objective in expanding the use of structured settlements is to maximize their value as a tool to reduce both claim loss and expense costs."**

**"Essentially, when a claimant has a reduced life expectancy and a substandard age rating has been obtained, the more life contingent benefits provided in the structure offer, the higher the savings on the claim."**

- Ringler Associates, the country's largest structured settlement broker boasts:

**"Initially, the concept was used on large, catastrophic-injury cases. Today, claims as small as \$5,000 are structured."**

Insurers make billions more by investing the lump sum than they would otherwise pay to an injured person and paying that person only a fraction of the interest they earn each year.

The Montgomery County Court in Maryland sure knows it:

Excerpt of transcript Stone Street Capital v. Deborah L. Jackson, Civil No. 176131.

THE COURT: Why is it, by the way, that traditionally these [structured settlement annuity contracts] are non-assignable?

COUNSEL FOR STATE FARM: There are a lot of reasons. One is to protect the victim usually of personal injury. The whole reason for setting up these –

THE COURT: Protect them from what?

COUNSEL FOR STATE FARM: The whole reason for setting up these structured payments is so that they do not get a lump sum; they do not get \$300,000 up front. These people–

THE COURT: No it is not. The reason for setting up these structured payments are so that the insurance companies can settle out cheaper.

COUNSEL FOR STATE FARM: **That is one reason.**

THE COURT: All right, come on–

COUNSEL FOR STATE FARM: I am not going to deny that.

THE COURT: They are not looking out for a plaintiff in a personal injury case. Please.

COUNSEL FOR STATE FARM: **That is one reason that Your Honor has said. It is more cost effective for the insurance company–**

THE COURT: That is the reason. That is the reason.

COUNSEL FOR STATE FARM: Okay.

Its About Their Need to Keep A Secret:

- We demonstrate what the real value of a structured settlement is. This makes the insurers fearful that as injury victims become more educated about present values, they will demand lump sum settlements and hence cost the insurers money.

- They know that the corporate welfare provision of the tax code known as IRC §130 was adopted by Congress to facilitate settlements of catastrophically injured people who are in need of long term care (thalidomide babies and the like).
- They know that they have exploited and corrupted the laudable policy objectives underlying § 130 by settling every slip and fall, fender bender and garden variety tort claim with a structured settlement.
- They fear that if Congress gets wind of what they have been up to Congress may just reform § 130 and hence;
- They fear the light we shed on the market and their practices.

### It's About Their Own Fear of Regulation:

Most insurance policies convey the following rights, but not insurance policies used by structured settlement companies. Most insurance products give you:

- the right to assign the proceeds;
- the right to take out a policy loan;
- the right to take cash out at policy maturity;
- the right to name and change a beneficiary;
- the right of the beneficiary to select a settlement option.

Yet with a structured settlement you get none of these rights !

### It's About Greed:

Insurance carriers want this business for themselves.

- Allstate Insurance Company obtained a ruling from the IRS so that they could offer lump sums to beneficiaries of structured settlements !
- Why don't they tell you that insurance companies buy the bonds we create which are repaid by the settlement payments ?
- The insurance industry knows that the services provided by Settlement Purchasers are valuable and highly sought after. They like the bonds we create and now want to control and monopolize the market for themselves.
- Why don't they mention the fact that S 746/HB 853 will not effect Allstate or any insurance company commutation of a structured settlement ?

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Before you decide just ask yourself - What's it really all about ?

## STRUCTURED SETTLEMENTS & HB 853 CUTTING THROUGH THE DEMAGOGUERY

**Summary:** Structured settlement purchasers provide a valuable service to individuals that originally choose a structured settlement instead of a lump sum and now wish to alter the timing of some or all of their payments. The vast, vast majority of structured settlement recipients are employed and perfectly capable of deciding what is best for them financially. They had the right to choose a lump sum at the time of settlement and should continue to have the right to choose how they get their money. S. 746/HB 853 eliminates citizens' rights to choose what to do with their money.

**Myth:** Structured settlements are used to provide for the long term care of seriously injured people.

**Reality:** Over 85% of structured settlement recipients are gainfully employed or capable of working and do not suffer from a long term disability.

The average size of a structured settlement is only \$75,000. This is hardly enough to provide for the long term care of a critically injured person.

Ringler Associates, the country's largest structured settlement broker boasts:

**"Initially, the concept was used on large, catastrophic-injury cases. Today, claims as small as \$5,000 are structured."**

**Myth:** Structured settlements were intended to prevent people from quickly dissipating their awards.

**Reality:** The vast majority of people had the choice of a lump sum or a structured settlement at the time of settlement and they chose a structured settlement.

S 746/HB 853 takes away freedom of choice. As we are all aware, changing life circumstances alter ones financial needs. The freedom to contract to meet those needs is a fundamental right. Just because a person elected not to take a lump sum at the time of settlement shouldn't mean they are forever restricted from so doing.

**Myth:** Claimants who sell a portion of their settlements squander the money.

**Reality:**

- 34% Use the money to buy or renovate a home
- 31% Pay off existing debts including tax liens and child support obligations<sup>1</sup>
- 14% Pay medical expenses
- 11% Use the funds to open or expand a business.

**Myth:** Settlement Purchasers use high pressure sales tactics and usurious interest rates.

**Reality:** Settlement Purchasers advertise and respond to in-bound phone calls. The claimant initiates the contact and can terminate the contact by simply saying they are not interested.

Settlement Purchasers insist that individuals seek legal and financial counsel before they sign a

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<sup>1</sup> Settlement Purchasers require that tax liens, child support and alimony are paid. As a result, during the last two years over \$9,000,000. in child support, alimony, tax liens and other debts have been paid.

contract. Most contracts for sale of settlement payments contain a 3 day right of rescission and all terms and conditions are fully disclosed in writing.

The discount rates charged by Settlement Purchasers are consistent with the rates of major credit card companies throughout the US and competition is driving discount rates down all the time.

**Myth:** IRC § 130 was adopted to encourage people to accept long term pay-outs of personal injury claims and the Treasury Department has so found.

**Reality:** IRC § 130 was passed at the behest of the insurance industry because it provides them a huge tax benefit. The inclusion of the language regarding "accelerating, deferring, increasing or decreasing" the payments was added solely to protect the claimant from the possibility of "constructive receipt".

Former Assistant Secretary of the Treasury for Tax Policy, John E. Chapoton testified before the US Congress at the time Section 130 was originally passed (1982) and again recently.

"The sale of structured settlement payments by a claimant should have no adverse tax consequences to any party... The notion that a sale by a claimant, many years after the fact, could somehow cause the structured settlement company to lose its original benefit under section 130 (or could somehow cause constructive receipt to be revisited) is nonsensical. *It cannot be a serious assertion.*" (Emphasis added)

- Testimony of John E. Chapoton, Esq., March 18, 1999, United States House of Representatives Ways and Means Subcommittee on Oversight

Chapoton went on to note that

"There is no regulation, ruling, notice, or formal or informal pronouncement which indicates the IRS views the sale of settlement payments as raising tax issues under sections 104 or 130. There is no evidence that the IRS has ever raised this issue in any audit. Only one court case has dealt with this issue. The Third Circuit, in a bankruptcy decision, squarely addressed and rejected the argument that a subsequent assignment would cause a settlement company to retroactively lose the income exclusion provided by section 130. The court went so far as to dismiss the argument as "novel"."

- Testimony of John E. Chapoton, Esq., March 18, 1999, United States House of Representatives Ways and Means Subcommittee on Oversight

**Myth:** Insurance companies wish to protect structured settlement claimants from themselves.

**Reality:** This is a total fallacy. Claimants have complete latitude to accept a lump sum or structured settlement at the outset.

Structured settlements are incredibly profitable for the insurance companies and the brokers that set them up (the NSSTA and its members).

Take it from them - The Travelers Structured Settlements Manual says:

**"The primary objective in expanding the use of structured settlements is to maximize their value as a tool to reduce both claim loss and expense costs."**

**"Essentially, when a claimant has a reduced life expectancy and a substandard age rating has been obtained, the more life contingent benefits provided in the structure offer, the higher the savings on the claim."**

The insurance industry does not like the fact that Settlement Purchasers are educating the public about the "time value of money" (the real value of the settlement they accepted).

*Myth:*

S 746/HB 853's exception for court approved hardships addresses the needs of those who really need access to their money.

**Reality:**

There is no court procedure for obtaining such an order in 46 of the 50 states.

To the extent that a petition can be brought before a court, the bills standard of "extraordinary, unanticipated and imminent" will lead to a disparity of results amongst and between residents of the several states. Moreover the cost of going to court is excessive particularly given the small size of the average transaction (less than \$20,000). Additionally, insurers routinely file 40-50 pages briefs and objections to transfers in the three states that require a court approval.

*Myth:*

Settlement Purchasers oppose regulation.

**Reality:**

The Settlement Purchase industry embraces reasonable regulation and recently sought to introduce such legislation in Illinois which was opposed by the NSSTA and the insurance industry. Settlement Purchasers have and will support reasonable regulation at the federal and state levels.

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## Key Points on the Structured Settlement Bills

- **Private Insurers Should Not Be Able to Veto Court Decisions.** This bill was *supposed* to make it possible for structured settlement claimants to sell some or all of their future payments *IF* a court approved the transaction. In fact, the bill says that a court *cannot* approve a transfer without the written consent of the insurer -- even if a claimant desperately wanted to sell and even if a court found that the claimant needed to sell. **In effect, the bill gives the insurers an absolute veto - even over transactions that the courts would otherwise approve!** The *courts* (not an insurer) should decide whether a sale is in the best interests of a claimant.
- **Sales Shouldn't be Limited to the Desperate and The Needy.** This bill would tell the courts that *only* a claimant facing "imminent financial hardship" could sell. In other words, the richest guy in town *can't* negotiate a sale - even *with* court permission; but the fellow who's desperate - who faces "imminent financial hardship" - can. That's discriminatory and arbitrary (and perhaps backward). The court should be asking, "what is in the best interest of the claimant?"
- **Bank Lending Should Be Excluded.** The bill was supposed to be about unregulated "factoring" transactions, but by its terms, it also covers *loans* and *bank lending*. We already have plenty of regulations dealing with lending by banks and finance companies. This will make it difficult (if not impossible) for banks to make secured loans to people who are getting payments like this over time. And it will make it difficult for personal injury law firms to secure affordable credit.
- **Court Orders should not be required unless the original settlement was court approved.**  
The average transaction is quite small - they average less than \$20,000. In most cases the individual had the choice of accepting a structured settlement and they should not have to go to court now because they have changed their minds.

- **Claimants Deserve These Protections *Whenever Asked to Choose Between Cash and Payment Over Time.*** Whenever a personal injury claimant is asked to choose between upfront cash and payment over time, the claimant should be: (1) advised to consult with a lawyer or other professional advisor; (2) told what they are getting and what they are giving up; and (3) told what the interest rate or discounted value is. The disclosures should be made and claimants advised to consult counsel when they are considering a sale *and when getting into a settlement in the first place.* That's only fair. In its current form, this bill will be seen as a one-sided effort to protect insurance companies at claimants' expense, leaving claimants without any meaningful disclosure requirements or safeguards at the "front-end" -- and no meaningful opportunity to cash out when and if their circumstances later change.
- **The Law Should be Limited to Resident of the State Promulgating the Law.** Court approval is required for any case involving a North Carolina insurer -- even if a Californian has sued a Californian in California, settled in California, and later decides to sell payments to a Californian. Why should North Carolina open its courts to process all of those cases? Does someone expect Californians to bring their applications *under this law* in California courts? How can *one state's legislature* expand the scope of *another state's* courts jurisdiction? It can't be done. The bill only works to the extent that its scope is limited to the residents of the state in which the law is adopted.

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## *understanding structured settlements*

### **What Is A Structured Settlement?**

**A** structured settlement is a financial arrangement that stems from a personal injury or wrongful death claim. Typically, the beneficiary or claimant is paid over a period of years in a series of installments with inflexible payment terms, rather than through a single lump-sum payment. Usually, the settlement takes the form of monthly payments, periodic lump sums, or a combination of the two.

Under the terms of a settlement that qualifies for preferable tax treatment, the claimant cannot access future payments. As a result of this inflexibility, claimants whose life circumstances change often require additional funds from the settlement. To meet this need, a secondary market has emerged. Companies in this market buy the right to receive a portion of the future scheduled payments in exchange for a current lump-sum payment to the claimant.

### **Are Structured Settlements Common?**

**H**istorically, personal injury lawsuits were settled with an upfront, lump-sum payment to the claimant. However, favorable IRS rulings permitted future periodic payments to be received by claimants on a tax-free basis, and this combined with the increasing number and size of jury awards in personal injury cases has led to a growing number of structured settlements. It is estimated that over \$50 billion in structured settlements are currently being paid to injury victims, and approximately \$5 billion in new structured settlements are created each year.

### **Who Receives Structured Settlements?**

**S**tructured settlements were originally intended for use in catastrophic injury cases, where victims suffered long-term disabilities and damages were measured in the millions of dollars. In the early years, a structured settlement provided steady income to those unable to work or care for themselves.

In recent years, however, insurers have used structured settlements in all forms of personal injury cases. Often, claimants are persuaded to accept structured (rather than cash) settlements before they've retained counsel. Also, it has become common for insurers to structure personal injury settlements even where the claim is relatively small and the claimant is perfectly able to work and care for himself or herself. In such cases, structuring settlements has less to do with protecting the victims than enhancing the casualty insurer's return. In many cases, forcing claimants to wait for their money — even when their financial circumstances change — imposes needless hardship.



## understanding structured settlements

**Don't**  
**Settlements**  
**Cost The Same,**  
**Whether Paid In**  
**A Lump Sum**  
**Or Structured**  
**Over Time?**

**N**o. A settlement paid over time costs an insurer much less than a like amount paid in cash upfront. Insurers know that a dollar to be paid in the future costs less than a dollar to be paid today. In short, the net present value of a future (face value) payment stream is significantly less than that future value.

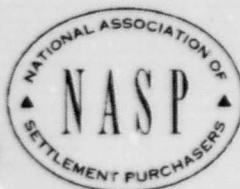
The following is an outline of a typical structured settlement.

Mary settled her personal injury claim on January 1, 1995 in exchange for a promise of payments in the future. These payments will be made at the rate of \$500 per month guaranteed for 20 years (240 months) and 4 lump-sum payments as follows: \$20,000 due Jan. 1, 2000; \$25,000 due Jan. 1, 2005; \$30,000 due Jan 1, 2010 and \$40,000 due Jan 1, 2015. The insurance carrier tells Mary that she is getting a \$235,000 settlement (\$500 x 240 plus the lump sums). However, the carrier doesn't pay \$235,000 because the settlement isn't really that large. The actual value of the settlement is its "present value." Assuming a discount rate of 10% per year, which is in line with the combined rate and fees charged by annuity providers, the entire settlement is really only worth \$85,400.

The further in the future you are scheduled to receive a sum of money the less it is worth today because of inflation and cost of living increases. Thus, no matter what the source, structured settlement payments, lottery prizes or other types of annuity, inflation will make the value of the payments shrink in coming years. Just look at what inflation has done over the past 34 years:

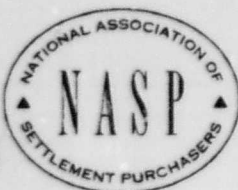
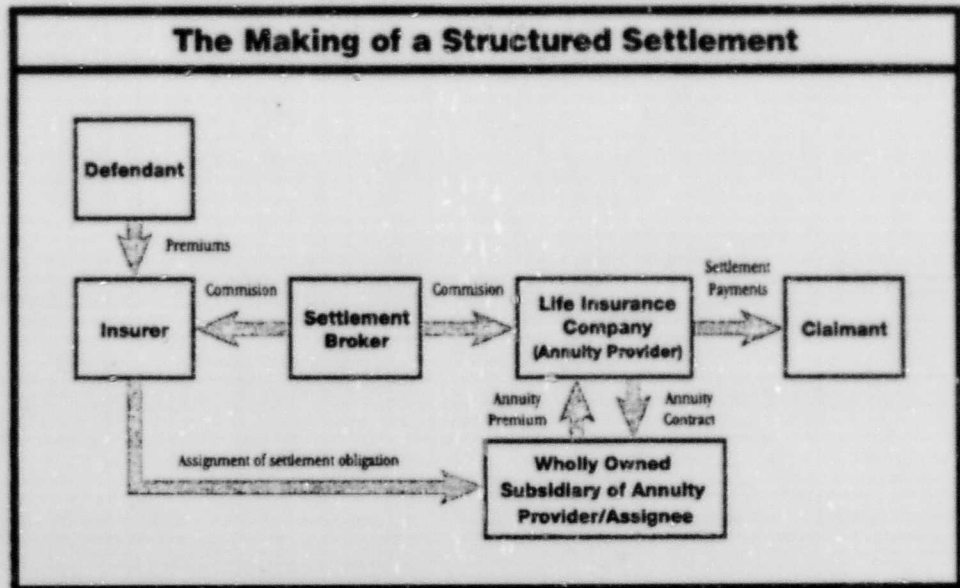
Average Prices	1964	1998
Salary	\$6,080.00	\$35,492
New House	\$13,050.00	\$110,590
New Car	\$3,496.00	\$20,756
Gallon of Gas	\$.30	\$1.03

Moreover, when an insurer is able to delay payment through a structured settlement, it can earn double-digit returns on the money it gets to hold — sometimes for decades. For this reason, structured settlements are often "back-loaded" (see glossary) with the smaller payments made first and the bigger dollar amounts paid out later.



*understanding settlement purchases*

**How Does A  
Structured  
Settlement  
Work?**



## *understanding settlement purchases*

**Who Benefits**

**From**

**Structured**

**Settlements?**

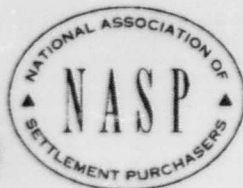
**A**ccident victims **should** be the ones to benefit when a settlement is structured. Unfortunately, that is often not the case. The following are the key players and their specific interest.

**Property & Casualty Insurers:** Consumers who settle personal injury claims are sometimes told that the award must be paid out over time. In substance, they get a take it or leave it offer from the defendant, usually a property & casualty insurer. When presented with a choice of upfront cash or what appears to be a much larger amount paid over time (structured settlement), consumers usually are not provided the information they need to compare the upfront cash offer with the future payments (structured settlement offer). There is certainly no legal requirement that insurers disclose the true present value of their offers, nor is there even a requirement that consumers be told to consult with counsel before making a choice. Under current law, insurers can offer \$100,000 paid in small installments over the course of 30 years and label it a \$100,000 settlement offer. Obviously, insurers hope they can settle their cases cheaply if accident victims believe that they are getting larger awards.

**Settlement Brokers:** A small group of settlement brokers earn commissions on every settlement they structure. These brokerage companies earn tens of millions of dollars every year in setting up structured settlements — without ever disclosing their commissions to the claimants or claimant lawyers. There are no regulations governing settlement brokers beyond that applied to any life insurance agent. In addition, their only training is provided by the trade association (National Structured Settlement Trade Association) set up to perpetuate the growth and increased use of structured settlements.

**Annuity Providers:** Usually an "A" rated U.S. life insurance company, annuity providers agree to make the settlement payments to the claimant in return for a lump-sum cash "premium" from the respective casualty insurer. The provider agrees to make periodic payments to the claimant based on the schedule of payments negotiated by the settlement broker with the claimant. By transferring the payment obligation, the casualty insurer is released from all liability to the claimant. The annuity providers profit by holding and investing the lump-sum premium payment they get from casualty insurers, earning returns well in excess of the amounts paid to the claimants.

**Claimants:** In many cases, settlement structures provide a crucial financial stream to pay for the living and medical expenses of seriously injured tort victims who are unemployable. However, most claimants prefer a lump-sum payment that offers them the flexibility to use in a manner that best fits their individual needs.



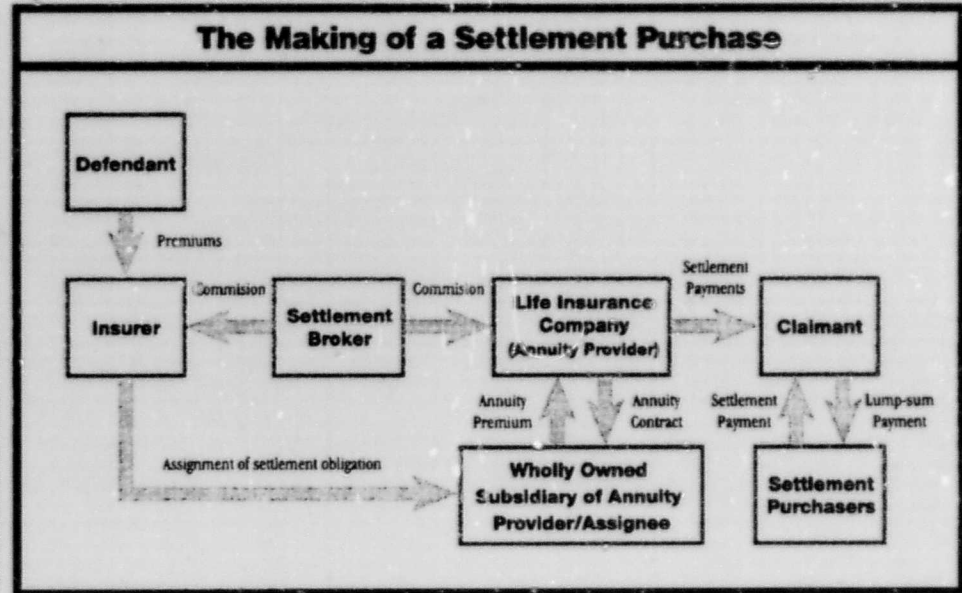
## *understanding settlement purchases*

### **What Role Do Settlement Purchasers Play?**

Tens of thousands of people are now receiving structured settlement payments. Many want to convert their payments to upfront cash, but are impeded by doing so by insurers. That's where settlement purchasing plays a role. The recipient of a structured settlement can sell all or part of his or her future promised payments to a settlement purchaser for a lump-sum payment in cash.

Every year, thousands of people sell part of their long-term personal injury settlement to settlement purchasing companies. The money they receive may be used to improve a home, fund a child's college education, start a small business, pay medical expenses, repay debts, or deal with an unexpected life change such as a divorce or job loss. For those consumers, the ability to sell some or all of their future payments provides flexibility to meet pressing financial needs with money that ultimately belongs to them.

### **How Does The Structured Settlement Process Work?**



**A** structured settlement recipient may need \$15,000 to pay for a prosthetic limb and will choose to sell a portion of his monthly settlement payments in exchange for \$15,000 cash. The purchaser and seller will calculate the number of periodic payments to be exchanged in return for a lump sum of cash. Assuming an agreement is reached, the claimant simply transfers the "right to receive those payments" to the settlement purchasing company in exchange for a lump-sum cash payment.



## *understanding settlement purchases*

### **Does A Settlement Purchase Affect The Insurance Companies Or Others Involved?**

**No.** A claimant sells the rights to receive specific payments, which in no way affects payment of the settlement. The same monthly installments are simply sent to a different address. The timing, frequency and amount of the payments do not change.

Yet, a powerful segment of the insurance industry is fighting to deny this option to claimants through a number of activities:

- ✦ refusing to honor the claimants payment and change of address instructions;
- ✦ refusing to follow court orders directing insurers to honor a purchase agreement;
- ✦ redirecting payments to a claimant's former address to prevent settlement purchasers from receiving payments;
- ✦ sponsoring legislation to ban settlement purchasing or to tax it out of existence.

Ultimately, these tactics are hurting the people who most need help: America's personal injury victims.

### **Why Do Insurers Care If Accident Victims Sell Their Structured Settlements?**

**I**nsurance companies claim that they are trying to protect consumers from "bad deals." Incredibly, insurers now claim to be acting as consumer advocates for personal injury victims. These are the same victims they have opposed in litigation and, in some cases, urged not to seek legal counsel when structuring the original settlement. They claim that settlement purchasers charge too much when they buy a payment stream. This simply is not the case.

On average, the discount rates charged are comparable with credit card interest rates. But, with a definite advantage over credit — once the consumer has traded future payments for upfront cash, nothing more is owed. Also, it is important to remember that these periodic payments are not without risk — recently Executive Life and Confederation Life, two of the largest settlement annuity providers, failed financially affecting thousands of claimants.

Ironically, many of the insurers who oppose structured settlement factoring are themselves affiliated with consumer finance or factoring companies that charge similar interest rates. Additionally, many insurers purchase the securitized portfolios of purchased settlements when they are sold on Wall Street.



**Why Is One  
Segment Of  
The Insurance  
Industry  
Trying To Put  
Settlement  
Purchasers Out  
Of Business?**

**S**ome insurance companies see settlement purchases as a threat to their very lucrative business of structuring settlement obligations that otherwise would have to be paid upfront. They know that settlement purchases highlight the inflexibility of the fixed payment plans that the insurers hope to sell to (or impose upon) future accident victims.

People who decide to sell their settlements at a discount are living proof that the inflexible schedule imposed by structured settlements often fail to meet consumers' changing needs. Through settlement purchases, consumers are learning that the present value of their settlements is a lot less than what they may have been led to believe. No doubt, the insurance industry is concerned that as more and more people (and lawyers) begin to learn how structured settlements really are being used to enrich insurers and their brokers at the expense of accident victims, fewer claimants will agree to accept settlements that are paid over time. Otherwise, they and their attorneys will negotiate much stronger and equitable settlements in the future.

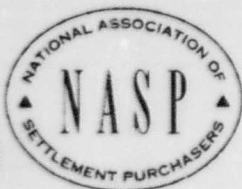
**Is The  
Settlement  
Purchasing  
Industry  
Regulated?**

**S**ettlement purchasing is regulated in some states. In several others, the National Association of Settlement Purchasers (NASP) and its members are working with state legislators to enact new regulatory proposals.

NASP members operate under specific self-regulatory by-laws which prohibit buying settlements from:

- ✦ minors;
- ✦ claimants who have been declared legally incompetent, or guardians (unless under court order);
- ✦ claimants depending on future payments for a medical treatment;
- ✦ claimants who are unemployed or unemployable and whose payments are their only income.

Under NASP's regulatory proposals, all settlement purchase agreements would be subject to these restrictions.



**What Kind Of  
Legislation Is  
The Insurance  
Industry  
Promoting?**

**A** segment of the insurance industry seeks to ban the sale of structured settlement payments. Some of the insurers' legislative proposals would make it illegal for a claimant to sell a structured settlement payment without the insurer's express written consent — even if the sale has been reviewed and approved by a court of relevant jurisdiction. Other proposals would impose punitive taxes on sales transactions.

If this type of legislation is passed, the real losers will be the tens of thousands of personal injury victims who would lose the valuable option of converting inflexible and potentially risky periodic payments to cash

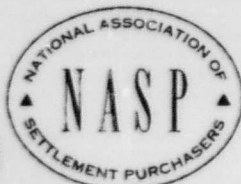
**Where Does  
the National  
Association of  
Settlement  
Purchasers  
(NASP) Stand  
On The Issue?**

**N**ASP believes that consumers ought to have the right to choose whether or not to receive a lump-sum or a structured settlement payment. This choice should always be there, during settlement negotiations and years later. Claimants who decide to receive a structured settlement should have the right to sell that payment, not be forced to continue with inflexible and potentially risky periodic payments that don't meet their needs.

That's why NASP has sponsored legislation which provides major safeguards for consumers and protects their right to make their own financial decisions.

This legislation will better define and regulate the practice of settlement purchasing and that's good news for everyone — consumers, insurance companies and the settlement purchasers. Under this model legislation

- ✦ the claimant must be informed of the present value of any structured settlement;
- ✦ settlement purchase agreements must include a good faith estimate of the net amount payable to the claimant as well as all brokers' commissions, service charges and costs;
- ✦ the claimant must be represented by an attorney during both the creation of the original settlement and during the settlement purchase negotiations;
- ✦ the claimant shall have the absolute and irrevocable right to rescind and cancel the settlement purchase agreement within three days.



**Annuity Provider**

The life insurance company (or casualty insurer) that sends the structured settlement payments to the claimant.

**Back-loading**

In a structured settlement, the practice of paying larger monthly installments later in the settlement. The claimant typically receives smaller payments at first, with the big dollar payments paid out in later years. Back-loading is one way to make a structured settlement appear to be worth more than it really is.

**Claimant**

A person who files a claim as a result of an accident or a personal injury.

**Casualty Insurer**

The company that insures the party being sued, defends the claim and enters into a settlement agreement with the claimant.

**Settlement**

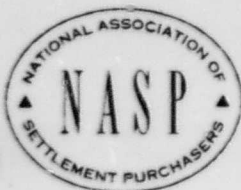
The promise made by the insurer to pay a lump sum or future schedule of payments to an accident victim when a personal injury claim is resolved.

**Settlement Purchase**

The practice of acquiring the right to receive future payments due under a structured settlement in exchange for a lump sum of cash.

**Structured Settlement**

A series of periodic payments made over time in the settlement of a personal injury or wrongful death claim.



### **Facts about Structured Settlements**

- ✦ Each year some 50,000 Americans receive tax-free "structured settlements" for personal injury claims in place of single, lump-sum payments — that's about \$5 billion in structured settlements each year.
- ✦ More than 50% of the structured settlements set up each year have a present value of \$30,000 or less.
- ✦ Over the past 15 years, structured settlements have totaled more than \$50 billion.
- ✦ An average structured settlement continues over a 20-year period and cannot be altered regardless of changes in the recipient's needs or life circumstances. That's where settlement purchasing fits in.

### **Facts about Settlement Purchasers**

- ✦ Settlement purchasers buy the right to receive a specified amount of structured settlement payments in exchange for a lump sum of cash. The rights to specified payments are simply transferred to the settlement purchasing company.
- ✦ For consumers, the ability to sell their future payments provides flexibility. They receive the money they need, when they need it, for any number of reasons: medical emergencies, pay tuition or taxes, start a business, or repay a debt.
- ✦ Eighty-eight percent of settlement purchases are partial purchases. In other words, only a part of the settlement is sold. The claimant retains the balance of periodic payments.

### **Facts about People Selling Their Structured Settlements**

- ✦ The average seller is 33 years old, employed and has an annual household income of nearly \$25,000.
- ✦ Over 85 percent of structured settlement claimants are NOT DISABLED and are gainfully employed.
- ✦ Thirty-four percent of claimants use the money to buy a home; 31 percent pay off existing debts or pay for education; and 16 percent open or expand a business with the money.
- ✦ Ninety-two percent of claimants are "satisfied" or "very satisfied" with the refinancing they were able to accomplish with the help of the settlement purchasing industry.



**Are Structured  
Settlements  
Intended To  
Protect People  
Who Cannot  
Protect  
Themselves?**

**Not anymore.** That may have been the original intent. However, the economic benefits to insurance companies have resulted in a wider use as evidenced by the over \$5 billion in annual premiums generated by such arrangements. Only a tiny fraction of these settlements are for persons who cannot protect themselves. Further, NASP members are in favor of rational regulation to protect such individuals.

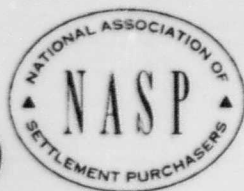
The following facts reflect what NASP believes to be representative of the settlement market today:

- ✦ The average seller is 33 years old, employed and has an annual household income of nearly \$25,000.
- ✦ Over 85 percent of structured settlement claimants are NOT DISABLED and are gainfully employed.
- ✦ Thirty-four percent of claimants use the money to buy a home; 31 percent pay off existing debts or pay for education; and 16 percent open or expand a business with the money.
- ✦ Ninety-two percent of claimants are "satisfied" or "very satisfied" with the refinancing they were able to accomplish with the help of the settlement purchasing industry.

Whatever policy considerations may support structured settlements of personal injury claims in the first instance, no such policy should preclude claimants from revisiting this choice if their circumstances change. The secondary market has evolved to meet the financial and social needs of claimants as their life circumstances change. Settlement purchasers are simply purchasing a portion of the settlement so that a lump sum is available to meet the needs of the claimant.

Moreover, virtually every structured settlement purchase transaction is a "partial purchase," where only a fraction of the settlement has been sold. The claimant retains the balance of the periodic payments.

The assumption that claimants are incapable of making reasoned financial decisions if provided full information is unsupported. The vast majority of claimants are competent to handle their own financial affairs and do so in all other contexts. These individuals understand the need for cash immediately and how much they will "hold in reserve" for the future. In virtually every case, the claimant only sells enough of the future payments due to solve their immediate financial needs.



**No Settlement  
Purchase  
Companies Use  
Inappropriate  
Marketing  
Techniques?**

**No.** Informational advertising and marketing is conducted to let claimants know that there is a choice available. None of the members of NASP make cold-calls to claimants. In virtually every purchase transaction it is the claimant or the claimant's counsel who initiates the contact with the settlement purchase company. The companies follow up on such calls to begin an application process that contains numerous underwriting safeguards for claimants. At the end of the process, claimants are again offered a right to change their mind for any reason at no cost or obligation. Settlement purchase companies' marketing techniques compare favorably to the techniques of the consumer finance industry.

**Are The  
Discount Rates  
For Settlement  
Purchases**

**No.** The discount rate applied in the majority of cases ranges from 18 to 21 percent. These rates compare to those offered in standard credit card borrowing and those offered by consumer finance companies and credit card issuers. Further, one of the factors keeping rates high is the legal impediments raised by opponents of structured settlement purchases in various state legislatures and court proceedings. Creating a framework of legal and financial predictability is the surest way to bring rates down.

**Too High?**

The evolution of the lottery purchasing industry serves as a powerful example. Almost 20 states now permit the free assignability of lottery annuities. Prior to the enactment of legislation explicitly authorizing such transactions, discount rates were typically in the high teens. As soon as legal uncertainties were removed, rates fell to single digits. Similarly, a bankrupt state insurance pool in New Jersey deferred payments of personal injury awards and attorney fees. The purchase of these obligations started at high rates (25-30%). After the state established a procedure for processing assignments and assured investors that properly assigned claims would be paid directly, rates dropped to 10-12%.

If Congress or state legislators are concerned that current rates are too high, they should note that the imposition of any new taxes would increase the discount rate and would be counterproductive.

The surest way to increase the amounts provided to the intended beneficiaries is to require adequate consumer protection in all phases of the structured settlement, including the original structured settlement and the subsequent transfer of payment rights. Beneficiaries should be informed of the values and settlement options at the time of the original settlement so that they are less likely to be lulled into settlements that do not meet their needs and put at the mercy of unscrupulous refinance companies. As with the lottery example, consumer protection should include required cooperation between the companies making the settlement payment and any companies involved in transfer of payment rights.



**Will A Sale In  
The Secondary  
Market Expose  
Claimants To  
Additional  
Taxes?**

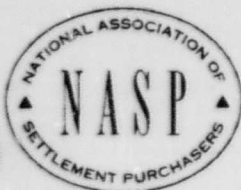
**NASP believes not.** The federal tax rules reflect Congressional recognition that in order to receive periodic settlement payments as tax-free damages, a recipient must not be in constructive receipt of the annuity contract or the value of the contract. Ownership of the contract that backs the settlement is vested not in the individual, but in an insurance company or affiliate. Sale of structured settlement payments raises no constructive receipt problems and should not result in taxable income to claimants as they are simply receiving personal injury damages that are excludable from income. The settlement purchase companies are seeking confirmation of these conclusions from the Internal Revenue Service and have invited structured settlement providers to join in this effort.

**Do Settlement  
Purchase  
Companies  
Support  
Consumer  
Protection?**

**Yes.** Settlement purchase companies strongly support and are actively seeking consumer protection legislation to regulate structured settlements and secondary market transactions. Indeed, member companies have been actively working through NASP at the state level to pass comprehensive legislation to protect the interests of personal injury victims at the time of settlement and, subsequently, should they sell a portion of their settlement. The association is working with a number of state legislatures, which are presently debating the adoption of NASP's model legislation.

Interestingly, the Joint Committee on Taxation in its analytical description of the proposed new excise tax noted that it "could also be argued that it is not the function of the tax law to prevent injured persons or their legal representatives from transferring rights to payment. Arguably, consumer protection and similar regulation is more properly the role of States than the Federal government." The Joint Committee further notes that "on the other hand, the tax law already provides an incentive for structured settlement arrangements, and if practices have evolved that are inconsistent with its purpose, addressing them should be viewed as proper."

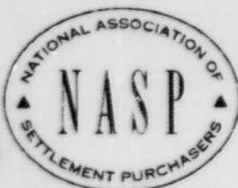
NASP would welcome adoption of standards to assure the adequate disclosure of the present value, fees, and commissions, both at the time that structured settlements are established and at the time of secondary purchase. NASP offers its model legislation as the best method for making this consumer protection standard a part of federal or state law.



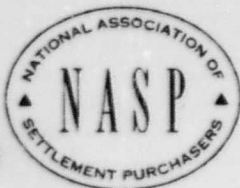
## *tax policy statement*

NASP **strongly opposes** any tax on the purchase of a structured settlement arrangement. New taxes would limit the freedom of individuals to arrange their financial affairs as they choose, while achieving no tax revenue generation as purchasers would leave the marketplace. Any tax proposal is based on several erroneous assumptions. In fact, it would:

- ✦ **Penalize those who can least afford it.** The majority of structured settlement purchases are from individuals receiving small periodic streams not arising out of catastrophic injury. These individuals will be forced to bear legal fees or a punitive tax to receive lump sums.
- ✦ **Eliminate consumer choice.** The average length of a structured settlement is 20 years, during which time situations arise that can create an immediate need for cash, often unanticipated at the time the structured settlement was established. Individuals should be able to access their settlement as life circumstances change, enabling them to among other things:
  - meet educational or medical needs
  - start a business;
  - pay off debts;
  - offset a job change, divorce, death, or serious illness; or
  - pass assets to children and spouses and avoid estate tax and probate problems.
- ✦ **Deny access to financing sources.** Individuals who access structured settlements payment streams are often those without access to credit. Imposition of any tax will eliminate this financing source for those most in need of capital.
- ✦ **Punish rather than protect consumers.** People who receive structured settlements and then later sell them deserve full and complete disclosure in order to make informed choices. Settlement purchase companies that are members of NASP have urged state legislatures and Congress to consider real consumer protection throughout the structured settlement process. NASP believes that consumer protection should be provided both at the time structured settlements are established and at the time of secondary purchase. A punitive tax is no substitute for information and free choice.



- ✦ **Impose an unfunded state mandate and needless additional burden on State Courts.** A large majority of all structured settlements are developed without a court proceeding. The Administration proposal mandates a special court procedure in order to avoid the new tax in cases of life or death. This new procedure does not exist in any state currently and, in essence, would be a new unfunded mandate.
  
- ✦ **Represent inappropriate intrusion into an industry dispute.** A few companies in the insurance industry fear that a vibrant secondary market where individuals can chose to liquidate a portion of their structured settlement payments may cause claimants or plaintiff attorneys to reconsider the wisdom of putting clients in structured settlements in the first place or make them much more knowledgeable about the net present value of the settlement offer they are considering.

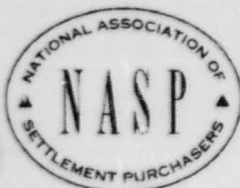


It wasn't until Tennessee resident **Tarron B.** (Knoxville, TN, 21) needed a down payment for a home that she considered a relatively new option for raising cash. Seventeen years ago, when Tarron was four years old, she suffered a broken leg, neck injuries and multiple fractures in an auto accident, and since then she has been paid annual payments. She decided to sell her payments to a company that specializes in "settlement purchasing" in exchange for cash. Today, Tarron is a proud homeowner. Following are others like Tarron, for whom settlement purchasing has meant all the difference in the world.

**Dwight F.** (Brooklyn, NY, 30) had been in and out of the hospital for a total of ten surgeries because of injuries he suffered in a motorcycle accident. Since he was unable to work consistently he fell behind on his child support obligations. Wanting to provide for his children and satisfy his past due obligations, he sold a portion of his monthly payments. By selling a portion of his monthly payments, Dwight was able to provide for his children and pay off his high interest loans.

In 1974, **Savane W.** (Fort Wayne, IN, 33) lost his legs in a train accident when he was 10 years old. His family accepted a structured settlement, affording him a lifetime of monthly payments. Twenty-five years later, Savane remained homebound and jobless. He wanted to start his own business and replace his aging prosthetic limbs, but lacked the cash to do so. The insurer refused to pay any sooner. In three separate transactions, he agreed to sell portions of his future payments in exchange for cash, keeping monthly annuity payments in an amount sufficient to meet his living and medical expenses. With the proceeds of his first sale, he paid for the repair of his aging prosthetic limbs; with a second sale, he converted his basement into a small commercial print shop; and when his business grew, he sold another portion of his payments to purchase a handicap-accessible van to handle pick-ups and deliveries.

After losing her leg in an auto accident, 17 year-old **Irene H.** (Prospect, CT, 33) agreed to a \$210,000 structured settlement that would be paid in monthly installments over time. Fifteen years later, Irene's needs changed. In order to support her family, the single mother wanted to go back to school. She also needed a new prosthetic limb. But, under her current settlement plan, she wouldn't receive the money until 1999. With nowhere else to turn, Irene decided on a settlement purchase, selling a portion of her future payments for a lump sum of cash. Today, Irene has returned to school, satisfied debts and purchased a new artificial limb.



In 1987, **Robert G.** (Clay City, KY, 50) was injured in a truck accident and received a \$9,000 a year structured settlement. Ten years later, Robert was without a job, and wanted to start his own business. All he needed was a new truck, but he didn't have enough money to buy one. Unable to convince his insurance company to advance his settlement payments, Robert sold a portion of his future payments to a settlement purchasing company in exchange for the cash he needed for the truck. Robert now owns his own business, and makes \$40,000 per year driving the truck he bought through settlement purchasing.

The double burden of newborn twins and the loss of his job left **Anthony D.** (Wallingford, CT, 28) with large debts and a mortgage default that threatened his family home. Anthony wanted to use money from the remaining payments of a structured settlement he had received ten years ago because of an accident. Even though his insurance company refused to provide him with the money from future payments, Anthony was able to use the money to save his home. He simply sold his remaining payments to a company specializing in settlement purchasing. Today, Anthony not only has a home, but he has used the remaining money to return to school where he is now training for a new job.

**Gilbert H.** (Chicago, IL, 41) needed cash to expand his auto body shop and buy equipment which complied with new environmental regulations. Injured on the job several years prior, Gilbert had been receiving monthly payments as settlement for his claim. Despite the steady stream of income, banks would not accept these payments as collateral for a loan. Gilbert sold a portion of his future payments to a settlement purchasing company. Today, Gilbert H. was able to expand his business, purchase a rental property, pay his daughter's tuition, and purchase health insurance for his family.

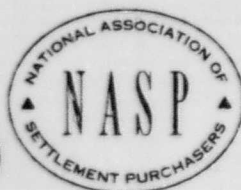
As a teenager, **Dale A.** (Chaffee, NY, 33) had been injured in a car accident. Since then, he has received monthly payments from an insurance company as part of his structured settlement. Recently, however, Dale needed money to purchase a home. By selling a portion of his future settlements, Dale was able to close the sale and is now the proud owner of a new home.



In 1996, **Edwin S.** (Pulaski, VA, 38) needed cash to build a wheelchair-accessible home. He had been severely injured in an auto accident ten years earlier and has been in a wheelchair ever since. His insurer would not pay him any of the monthly payments he receives as part of his accident settlement, and Edwin was certain he would not be able to secure the funds for the home. With the help of settlement purchasing, however, Edwin built the house and used with the balance to start a small business.

Settlement purchasing provided **Gail A.** (Merrick, NY, 41) with the money she needed to pay her property taxes, save her home, and resolve her other debts. Gail had received the structured settlement from a car accident that caused her to suffer from a herniated disc and shoulder injuries. Gail had hoped to convince her insurance company to provide her an advance on the monthly payments, but when they said no, she turned to settlement purchasing as the solution to her financial difficulties.

**Johnell M.** (Pineville, LA, 44) broke his back in a machinery accident. After 2 years of physical therapy and rehabilitation, he agreed to a structured settlement of monthly payments for life. Johnell's marriage proposal in 1997 put an unexpected burden on his finances. He needed cash to pay off his debts and to buy the home he was currently renting. In order to do this under his structured payments, Johnell would have had to wait nearly five years to get married. Unwilling to postpone his marriage, Johnell sold a fraction of his settlement, using the money to pay off his debts and buy a car and a home.



## *consumer bill of rights*

- 1.** You have the right to know the exact amount you are to receive in exchange for your transfer of payment rights;
- 2.** You have the right to know the discount rate applied to your transaction;
- 3.** You have the right to consult with your counsel of choice at any time regarding your transaction;
- 4.** You have the right to know the exact amount of all commissions, fees and other charges to be incurred by you in connection with your transaction;
- 5.** You have the right to cancel your agreement to transfer your payment rights for any reason within three (3) business days of the date you receive payment;
- 6.** You have the right to know about any penalty provisions, including claims for liquidated damages, in the event of a breach by you of your transfer agreement;
- 7.** You have the right to choose whether or not to transfer your payment rights at any time.

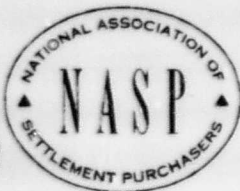


## *NASP code of ethics*

**Be it resolved, that the NASP shall adopt a code of ethics for its members.**

**All members shall:**

- ✦ observe high standards of commercial honor and just and equitable principles of trade;
- ✦ comply with all laws governing the member's operations, and shall conduct its business so that the member deserves and receives recognition as a good and law abiding citizen;
- ✦ be accurate and complete in its contract negotiations with prospective customers;
- ✦ not engage in any unfair methods of competition, and
- ✦ not take any unfair advantage of a prospective customer, and shall insure that the prospective customer is legally capable of entering into the transaction contemplated.



Visit the NASP

website at

[www.thenasp.org](http://www.thenasp.org)

## **Facts about the National Association of Settlement Purchasers**

- ✦ NASP is a non-profit trade association formed in 1996 by settlement purchasing companies to promote the industry and establish ethical and professional standards of conduct for the industry.
- ✦ NASP members support regulations to define our industry's services and scope, instill consumer confidence, and validate our products.
- ✦ NASP has developed model legislation which provides major safeguards for consumers and is encouraging states to adopt these or similar regulations into law.
- ✦ NASP has specific guidelines governing the sale of settlements. Member companies will not buy from:
  - minors, people who have been legally declared incompetent, or guardians (unless under court order);
  - people who have been legally declared incompetent or guardians (unless under court orders);
  - people who depend on future payments for a medical treatment;
  - the unemployed or unemployable whose payments are their only income.

## **NASP Mission Statement**

Under the terms of its bylaws, NASP's mission is to:

- ✦ establish procedures for protecting its members against fraud;
- ✦ establish ethical and professional standards of conduct for the industry;
- ✦ increase awareness of the industry and its services;
- ✦ represent and coordinate the industry in matters of legislative and legal importance;
- ✦ serve as the voice of the industry;
- ✦ gather and maintain statistical information about the industry;
- ✦ gather and disseminate information of general importance to its members;
- ✦ educate structured settlement recipients, their attorneys or representatives, purchasers, and brokers about acceptable industry transaction methodologies and risks including a better understanding of customer needs, underwriting standards, proper legal processes and procedures for securing a transaction, and legal and information materials available to participate in the industry.



## How Insurers Abuse Structured Settlements

The attached are examples of structured settlements. These examples show how, when they are being set up, the insurance industry abuses them and how the true economics of a structured settlement are buried, hidden and obscured to make them seem more appealing to the plaintiff lawyer and his client<sup>1</sup>.

### Exhibit: Explanation/Comments:

1. Examples of actual insurance company settlement documents showing the amount they paid for the annuity and the future value of the settlement. This is why structured settlements "seem" like a great deal for the claimant when they are really a great deal for the insurer.
2. Attorney accidentally took his fee on the future value of the settlement.
3. Christy's proposal states that the value of the settlement is \$222,000. In fact discounted at 10% it is really worth only \$140,000 an overstatement of more than 58% !
4. The proposal for Rose states that the value of \$630.89 per month for 240 months is \$151,413. Discounted to present value at 10% per annum it is only worth \$63,000 - an overstatement of the value of more than 140% !!
5. The Mr. & Mrs. Gibbons settlement proposal says that they are guaranteed \$830,000. However, the real economic value of the guaranteed portion of the settlement is half that amount !!!
6. This settlement agreement wrongly set forth the settlement values suggesting that the client is settling for over \$413,000 when in fact the settlement is a mere \$129,000.  
  
The settlement foisted on this 19 year old accident victim tells her the settlement is worth \$1,594,918 when in fact, it is only worth \$341,166 in present value - this settlement proposal overstates the true value of the settlement by an astounding 367.4 % !!!
8. The settlement proposal for Kimberly sets out the actual cost of the annuities being purchased. With this information we can see that the yield she is receiving on the annuities purchased is a miserly 3.452% for the monthly annuity and 4.253% for the one paying the lump sum whereas, in 1993, United States Treasury Bonds were yielding over 7%.
9. Here again, due to lack of information, the attorney over-charged his client by taking a fee on the entire future value of the settlement.
10. This comparison is so utterly misleading and incorrect as to need almost no commentary. First, yields on U.S. Treasury securities at the time (7/'93) were over 7%. Thus, the annual payment would have been closer to \$46,800. Second, the tax code specifically allows one to fund a structured settlement with U.S. Govt. securities - thus there would be no taxes due ! Third, A U.S. Govt. bond is risk free whereas, an a commercial annuity has default risk (see First Executive Life, Mutual Benefit Life, Confederation Life, etc.).
11. As a result of the death of her father, a structured settlement was used to provide for the care of Bobbyjo Plank (12 years old at the time). It provides her monthly payments of \$2,250. However, they don't start until 43 years later !!! The true value of this settlement discounted at a mere 5% is less than \$64,000. How, pray tell, was this structured settlement designed to care for her ???

More examples available upon request.

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<sup>1</sup> Over 20% of all structured settlements involve clients with no attorney representation !

United Pacific Life Insurance Company  
One Penn Center  
Philadelphia, PA 19103

Quote Date : 08/25/1992  
Quote Id :

Structured Settlement Illustration

Benefit Cost Summary for DONALD CRAWFORD

Sex: Male ✓ DOP: 01/23/1942 ✓  
Age: 51 Rated Age: 51  
Owner's State : OH, 0.00% Tax

Purchase Date : 09/06/1992 ✓  
Rate Series : U036  
Effective Date : 08/25/1992

Benefit Type and Duration	Amount and Mode	Premium Incl 0.00% Tax
Certain with Life	11/01/1992-10/01/2022 (30 yrs 0 mos)	\$125 M \$19,758
		\$19,758
	Case Fee.....	\$300
	Total Cost .....	\$20,058

\* This is an illustration only and is subject to approval by United Pacific Life Insurance Company. Actual rates used will be those in effect on the date premium is received. United Pacific Life Insurance Company will not be bound by any improper quote.

Prepared by : Structured Benefits

UPL03



**Reliance**

**STRUCTURED SETTLEMENT NOTICE**

Claim Number 030-77-04392		Policy Number WC 5747431		Handling Claim Office Code 127	
Claim Caption Claimant: Donald Crawford vs. Insured: Central Kentucky Sup					
Technician Last Name: Mellott		Initial: K		Work Station Number 5-90	
Date of Loss 08, 10, 76		Date Reported to Reliance 08, 16, 76		Date Settled 08, 25, 92	
Broker Name Structured Benefits, Inc				Broker Code 04	
Life Company Name United Pacific Life				Life Company Code 01	
Cash Payment \$ 20,000-		Annuity Premium + \$ 20,058.00		Total Settlement Cost = \$ 40,058.00	
Reserves at Settlement (Gross, All Subfiles Settled) \$ 173,926.00		Projected Payout \$ 176,926.00		Last Settlement Demand \$ NA	
Rate <input checked="" type="checkbox"/> Standard <input type="checkbox"/> Substandard		Assignment Taken <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Suit Filed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Date of Last Expected Payment 11, 01, 2017		Original Documents Attached <input type="checkbox"/> Annuity <input type="checkbox"/> Assignment (if any)		Claimant Attorney <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Today's Date 11, 1, 2017		Signed			

LC-6678 Ed. 7/89

WHITE—H.O. Claims

YELLOW—Claims Finance/Systems

PINK—Claim File



**APPLICATION  
SINGLE PREMIUM  
IMMEDIATE ANNUITY**

ATL  
SAFECO LIFE INSURANCE COMPANY  
SAFECO PLAZA  
SEATTLE, WASHINGTON 98165

**Proposed Annuitant**

(a) Perry G. Abernathy  
 (b) 2569 Carter's Gin Road  
 (c) Toney, AL 35773  
 (d) Date of Birth 03 / 25 / 59  Female  Male  
 (e) Social Security No.: 421-92-2512

**2. Joint Annuitant (if any)**

(a) \_\_\_\_\_  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_  
 (d) Date of Birth / /  Female  Male  
 (e) Social Security No.: \_\_\_\_\_  
 (f) Relationship to Proposed Annuitant \_\_\_\_\_

**Owner, if Other Than Proposed Annuitant, is:**

(a) Aetna Casualty & Surety Co.  
 (b) P.O. Box 30109  
 (c) Tampa, FL 33630  
 (d) Owner is  Individual  Corporation  Partnership  Trustee

**4. Plan Applied for**

(describe benefits to be paid and dates to commence, attach an additional sheet if more space is required.)

\$1,870.00 per month for 120 months guaranteed beginning on 3-2-2020.

5.  Check if additional sheet is attached.

**6. Beneficiary**

The Estate of Perry G. Abernathy

First Middle Last Relationship

7. Do you intend the replacement or change of any of your existing life insurance or annuity policies in connection with this application for an annuity?  
 Yes  No

For Home Office Use Only

**Note: It is essential that an authentic record of annuitant's birth be submitted prior to the first annuity payment: A birth certificate, if available; otherwise a certified copy of church or baptismal record, or certified copy of family record, such as reference to annuitant in family Bible.**

I (We) represent that the statements and answers recorded on this application are full, complete and true, to the best of my (our) knowledge and belief, and shall form a part of the annuity contract issued hereon, and my (our) acceptance of such annuity shall constitute my (our) ratification of any additions, corrections or changes made in the space provided "For Home Office Use Only." The owner of this annuity will be the applicant. Application is made with the knowledge and consent of the proposed annuitant. I (We) agree that any annuity contract issued upon this application shall be considered a contract of the State in which this application is signed by the applicant and its terms shall be construed in accordance with the laws of that State.

**Agent:** To the best of your knowledge, does the annuity applied for replace any other annuity or life insurance presently in force?  Yes  No

Robert D. Reid, CLU  
 Signature of Agent

Tampa, FL 3/9 19 90  
 Dated At (City, State) On (Month Day)  
[Signature]  
 Signature of Applicant  
mgr  
 Title

Structured Benefits of FL, Inc. 10-96-0668 x  
 Agency Tampa, FL Stat # 3/9/90  
 Dated At (City, State) On (Month Day)

**Exhibit 1** If applicant is corporation or partnership, a corporate officer other than proposed annuitant must sign and state title.

*Safeco*  
*3/85*

#9/ATU

To: Benefits Planning Structured Settlements - Home Office, D309

Date 3-5-90 - Connie

From: Stacy Bair  
WINGHAM

CID Claim  
 PFSD Claim

Telephone No. 205-882-0711

CLAIMANT Perry G Abernathy DATE OF ACCIDENT 10-1-86

*57-128*

(If multiple files - list each file number and amount to be charged to each claim)

CLAIM FILE NUMBER <small>UNIT/PORT. CODE-CL. SERIAL NO.-SUFS</small>	INSURED	POLICY NUMBER <small>OFF. CODE-SYMB.-SERIAL NO.-SUFS</small>	POLICY EFFECTIVE DATE <small>MM DD YY</small>	ANNUITY PREMIUM <small>(Exclude prior paid advances, loans, front money and lump sum. Allow for fees)</small>
<u>H764243935</u> <u>RG</u>	<u>Ashburn &amp; Gray</u>	<u>76CD863946</u> <u>CCA</u>	<u>7-1-86</u>	\$ <u>14,107</u>
			<u>due to rate change</u>	\$ <u>13,376</u>

CLAIMANT'S SETTLEMENT (Attach Birth Certificate for each payee receiving a life income or deferred payments based on age. Use additional forms for multiple payees.)

55# 421-72-2512

PAYEE'S COMPLETE NAME <u>Perry G. Abernathy</u>	PAYEE'S DATE OF BIRTH <u>3-25-59</u>
PAYEE'S MAILING ADDRESS (Include zip code) <u>3569 Carter's Gin Road</u> <u>Toney, AL</u> <u>35773</u> <small>ZIP CODE</small>	ACCOUNT NUMBER (If sending payment to a bank, payee's account number is required)

DESCRIPTION OF SETTLEMENT-STRUCTURED PORTION ONLY (Example: \$5K monthly for life; guaranteed 240 months): <u>1,870 per month for 120 months certain</u>	STARTING DATE FOR PAYMENT <u>3-2-2020</u>

STRUCTURED ATTORNEY'S FEES

ATTORNEY'S COMPLETE NAME	ATTORNEY'S DATE OF BIRTH
ATTORNEY'S MAILING ADDRESS (Include zip code)	
DESCRIPTION OF SETTLEMENT (Example: \$10,000 per year for 7 years):	STARTING DATE FOR PAYMENT



STRUCTURED SETTLEMENT PAYMENT TRANSMITTAL

Dep. 8/25

SBFIL  
Safeco

ACIT

CHICAGO  
(PLEASE PRINT OR TYPE)  
OFFICE

To: Benefits Planning/Structured Settlements - Home Office, D309

Date 8-17-87

Lisa Hildabrand  CIP Claim  
 PFSD Claim

Telephone No. (312) 971-5280

CLAIMANT Shamina ABDULLAH		DATE OF ACCIDENT 9-5-86		ANNUITY PREMIUM (Exclude prior paid advances, liens, front money, and lump sum Attorney Fees) \$ 6,048	
<i>(if multiple files - list each file number and amount to be charged to each claim)</i>					
CLAIM FILE NUMBER UNIT/OFF. CODE-CEL-SERIAL NO.-SUFX C208AU73458 93RG	INSURED Karim Abdullah	POLICY NUMBER OFF. CODE-SYMB.-SERIAL NO.-SUFX 20884191762 79PCI	POLICY EFFECTIVE DATE MM DD YY 4-28-86		\$
					\$

CLAIMANT'S SETTLEMENT (Attach Birth Certificate for each payee receiving a life income or deferred payments based on age. Use additional forms for multiple payees.)

PAYEE'S COMPLETE NAME SHAMINA ABDULLAH		PAYEE'S DATE OF BIRTH 6-17-80
PAYEE'S MAILING ADDRESS (include zip code)		ACCOUNT NUMBER (if sending payment to a bank, payee's account number is required)
DESCRIPTION OF SETTLEMENT-STRUCTURED PORTION ONLY (Example: \$500 monthly for life; guaranteed 240 months.)		STARTING DATE FOR PAYMENT
\$ 4,000	45	6-17-98
\$ 4,000		99
\$ 4,000		00
\$ 5,000		01

STRUCTURED ATTORNEY'S FEES

ATTORNEY'S COMPLETE NAME	ATTORNEY'S DATE OF BIRTH
ATTORNEY'S MAILING ADDRESS (include zip code)	OK CB 8-19-87
DESCRIPTION OF SETTLEMENT (Example: \$10,000 per year for 7 years.)	STARTING DATE FOR PAYMENT



1. Proposed Annuitant

(a) Shamina Abdullah  
First Middle Last

(b) \_\_\_\_\_  
No. Street

(c) \_\_\_\_\_  
City and State ZIP Code

(d) Date of Birth 6 / 17 / 80  Female  Male  
M D Y

(e) Social Security No.: \_\_\_\_\_

2. Joint Annuitant (if any)

(a) \_\_\_\_\_  
First Middle Last

(b) \_\_\_\_\_  
No. Street

(c) \_\_\_\_\_  
City and State ZIP Code

(d) Date of Birth \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  Female  Male  
M D Y

(e) Social Security No.: \_\_\_\_\_

(f) Relationship to Proposed Annuitant \_\_\_\_\_

3. Owner, If Other Than Proposed Annuitant, is:

(a) Aetna Casualty & Surety Company  
First Middle Last

(b) P.O. Box 30109  
No. Street

(c) Tampa, Florida 33630  
City and State ZIP Code

(d) Owner is  Individual  Corporation  Partnership  
 Trustee

4. Plan Applied for

(describe benefits to be paid and dates to commence, attach an additional sheet if more space is required.)

4,000 lump sum to be paid on 6/17/98  
 4,000 lump sum to be paid on 6/17/99  
 4,000 lump sum to be paid on 6/17/00  
 5,000 lump sum to be paid on 6/17/01

5.  Check if additional sheet is attached.

6. Beneficiary

The Estate of Shamina Abdullah

First Middle Last Relationship

7. Do you intend the replacement or change of any of your existing life insurance or annuity policies in connection with this application for an annuity?  
 Yes  No

For Home Office Use Only

**Note: It is essential that an authentic record of annuitant's birth be submitted prior to the first annuity payment: A birth certificate, if available; otherwise a certified copy of church or baptismal record, or certified copy of family record, such as reference to annuitant in family Bible.**

I (We) represent that the statements and answers recorded on this application are full, complete and true, to the best of my (our) knowledge and belief, and shall form a part of the annuity contract issued hereon, and my (our) acceptance of such annuity shall constitute my (our) ratification of any additions, corrections or changes made in the space provided "For Home Office Use Only." The owner of this annuity will be the applicant. Application is made with the knowledge and consent of the proposed annuitant. I (We) agree that any annuity contract issued upon this application shall be considered a contract of the State in which this application is signed by the applicant and its terms shall be construed in accordance with the laws of that State.

**Agent:** To the best of your knowledge, does the annuity applied for replace any other annuity or life insurance presently in force?  Yes  No

X \_\_\_\_\_  
 Signature of Agent

Structured Benefits of Florida, Inc. 10-96-0668

Agency Tampa, Florida Stat # \_\_\_\_\_  
 Dated At (City, State) August 20, 1987 On (Month Day)

LU 350 2/84

Tampa, Florida August 20 1987  
 Dated At (City, State) On (Month Day)

X \_\_\_\_\_  
 Signature of Applicant

X \_\_\_\_\_  
 Title

\* If applicant is corporation or partnership, a corporate officer other than proposed annuitant must sign and state title.

ADDENDUM

ANNUITANT - Christopher Ryan Grey

\* Make check payable to Richard Grey, Guardian of Christopher Grey

Benefit Plan:

\$10,000 lump sum guaranteed to be paid on 3/31/1996

\$10,000 lump sum guaranteed to be paid on 3/31/1998

\$350.00 per month for 60 months guaranteed beginning on 3/31/1998.

\$10,000 lump sum guaranteed to be paid on 3/31/2000.

\$10,000 lump sum guaranteed to be paid on 3/31/2002.

\$12,000 lump sum guaranteed to be paid on 3/31/2004.

\$15,000 lump sum guaranteed to be paid on 3/31/2006.

\$18,000 lump sum guaranteed to be paid on 3/31/2008.

\$20,000 lump sum guaranteed to be paid on 3/31/2010.

\$20,000 lump sum guaranteed to be paid on 3/31/2015.



STRUCTURED SETTLEMENT PAYMENT TRANSMITTAL

AE/ATL

(PLEASE PRINT OR TYPE)

Faxed 4:30 5/1/89

Safeco *date* 5/5/89

To: Benefits Planning/Structured Settlements - Home Office, D309

Date 5-2-89 - *correct*

From: Bill Rogers  
Tampa

CID Claim  
 PFSD Claim

Telephone No. 813.287-7246

CLAIMANT Christopher Swan Gray DATE OF ACCIDENT 7-25-88

(If multiple files - list each file number and amount to be charged to each claim)

ANNUITY PREMIUM  
(Exclude prior paid advances, liens, front money, and lump sum Attorney Fees)

CLAIM FILE NUMBER <small>UNIT/OFF. CODE-ECL-SERIAL NO.-SUFF.</small>	INSURED	POLICY NUMBER <small>OFF. CODE-SYMB.-SERIAL NO.-SUFF.</small>	POLICY EFFECTIVE DATE <small>MM DD YY</small>	ANNUITY PREMIUM
W223HLB-279446 AG	David F. Taylor	22350 1789 1402 AUS	3-26-88 3-26-89	\$ 39,859
				\$
				\$

CLAIMANT'S SETTLEMENT (Attach Birth Certificate for each payee receiving a life income or deferred payments based on age. Use additional forms for multiple payees.)

PAYEE'S COMPLETE NAME: Richard ~~Swan~~ Gray, Guardian of Christopher Gray  
 PAYEE'S DATE OF BIRTH: 3-31-80  
 PAYEE'S MAILING ADDRESS (include zip code): 3010 Cedar Wood Village Ln. Pensacola, FL 32514  
 ACCOUNT NUMBER (if sending payment to a bank, payee's account number is required):

DESCRIPTION OF SETTLEMENT - STRUCTURED PORTION ONLY (Example: \$500 monthly for life, guaranteed 240 months...)	STARTING DATE FOR PAYMENT
\$10,000 4/5	3/31/96
\$10,000 4/5	3/31/98
\$10,000 4/5	3/31/2000
\$10,000 4/5	3/31/2002
\$350 per month for 60 mos. Certain	3/31/1998
\$12,000 4/5	3/31/2004
\$15,000 4/5	3/31/2006
\$18,000 4/5	3/31/2008
\$20,000 4/5	3/31/2010
\$20,000 4/5	3/31/2015

STRUCTURED ATTORNEY'S FEES

ATTORNEY'S COMPLETE NAME: \_\_\_\_\_ ATTORNEY'S DATE OF BIRTH: \_\_\_\_\_  
 ATTORNEY'S MAILING ADDRESS (include zip code): \_\_\_\_\_  
 DESCRIPTION OF SETTLEMENT (Example: \$10,000 paid over 7 years...): \_\_\_\_\_ STARTING DATE FOR PAYMENT: \_\_\_\_\_

ADDENDUM

(Teddie Jean Gryczkowski)

Plan Applied For:

\$1,000.00 Per month guaranteed for 480 months and life thereafter beginning 6-1-84.

\$22,000 Lump sum guaranteed to be paid on 6-1-89.

\$40,000 Lump sum guaranteed to be paid on 6-1-94.

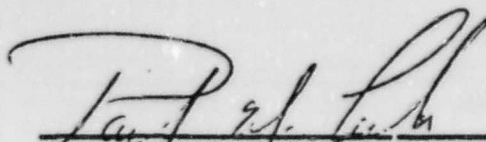
\$74,000 Lump sum guaranteed to be paid on 6-1-99.

\$119,000 Lump sum guaranteed to be paid on 6-1-2004.

\$185,000 Lump sum guaranteed to be paid on 6-1-2009.

\$255,000 Lump sum guaranteed to be paid on 6-1-2014.

\$300,000 Lump sum guaranteed to be paid on 6-1-2019.

  
\_\_\_\_\_  
Signature of Applicant  
Director-Claim Department

A. (R)



STRUCTURED SETTLEMENT PAYMENT TRANSMITTAL

(PLEASE PRINT OR TYPE)

To: Benefits Planning/Structured Settlements - Home Office, D309

Date 4/6/84

R. FOG LIL, No. JERSEY (WEILL)  CIB Claim  PFSD Claim

Telephone No. (201) 285,5870

CLAIMANT TEDDIE JEAN GRYZCKOWSKI DATE OF ACCIDENT 12/22/80

/// Multiple files - list each file number and amount to be charged to each claim

CLAIM FILE NUMBER <small>UNIT, OFF. CODE, CCL, SERIAL NO., SUFF.</small>	INSURED	POLICY NUMBER <small>OFF. CODE, SYMB., SERIAL NO., SUFF.</small>	POLICY EFFECTIVE DATE <small>MM DD YY</small>	ANNUITY PREMIUM <small>(Exclude prior paid advances, loans, front money, and lump sum Attorney Fees)</small>
<u>R38AA 7251229R6</u>	<u>JOHN HENDERSON</u>	<u>38 SR 6369555.PCA</u>	<u>8/20/80</u>	<u>\$232,819</u>
				<u>\$ (circled)</u>
				<u>\$ (circled)</u>

CLAIMANT'S SETTLEMENT (Attach Birth Certificate for each payee receiving a life income or deferred payments based on age. Use additional forms for multiple payees.)

PAYEE'S COMPLETE NAME	PAYEE'S DATE OF BIRTH
<u>TEDDIE JEAN GRYZCKOWSKI</u>	<u>1/29/61</u>
PAYEE'S MAILING ADDRESS (include zip code) <u>4 CHERYL COURT PISCATAWAY, N.J. 08854</u>	
ACCOUNT NUMBER (if sending payment to a bank, payee's account number is required)	
DESCRIPTION OF SETTLEMENT-STRUCTURED PORTION ONLY (Example: \$300 monthly for life, guaranteed 24 months)	STARTING DATE FOR PAYMENT
<u>\$1000.00</u> ✓ <u>40CC</u> <u>(107,671)</u>	<u>6/1/84</u>
<u>\$22,000</u> ✓ <u>(5605)</u>	<u>6/1/89</u>
<u>\$40,000</u> ✓ <u>(304)</u>	<u>6/1/94</u>
<u>\$74,000</u> ✓ <u>(166)</u>	<u>6/1/99</u>
<u>\$119,000</u> ✓ <u>(104)</u>	<u>6/1/2004</u>
<u>\$185,000</u> ✓ <u>(65)</u>	<u>6/1/2009</u>
<u>\$255,000</u> ✓ <u>(47)</u>	<u>6/1/2014</u>
<u>\$360,000</u> ✓ <u>(34)</u>	<u>6/1/2019</u>

STRUCTURED ATTORNEY'S FEES

ATTORNEY'S COMPLETE NAME	ATTORNEY'S DATE OF BIRTH
<u>RICHARD C. SWARBARICK</u>	<u>5/24/27</u>
ATTORNEY'S MAILING ADDRESS (include zip code) <u>344 HOSE LANE PISCATAWAY, NJ 08854</u>	
DESCRIPTION OF SETTLEMENT (Example: \$10,000 per year for 7 years)	STARTING DATE OF PAYMENT
<u>\$845.60</u> ✓ <u>60C</u> <u>(47,017)</u>	<u>6/1/84</u>

CONTRACT DATA

PAYMENT SCHEDULE

ANNUITY AMOUNT

May 1, 1992	\$15,000.00
May 1, 1995	\$20,000.00
May 1, 2000	\$30,000.00
May 1, 2005	\$50,000.00
May 1, 2010	\$263,000.00

DEATH BENEFIT AT DEATH OF OWNER

The greater of: (a) the Single Premium; or (b) 93% of the Single Premium increased with interest at the rate of 10% per year, compounded each year, from the Contract Date to the Date of Death.

*****			
* CONTRACT NUMBER	K0286301	10/13/1988	CONTRACT DATE
* ANNUITANT	Michael Grossman	Male	SEX
* COMMENCEMENT DATE	5/1/1992	18	ISSUE AGE
* PERIOD CERTAIN	19 Years	Valuable Consideration	SINGLE PREMIUM
* OWNER, OWNER'S DESIGNEE, * PAYEE & CONTINGENT PAYEE		As provided in the application unless otherwise designated by Endorsement or Rider.	
*****			



STRUCTURED SETTLEMENT PAYMENT TRANSMITTAL

(PLEASE PRINT OR TYPE)

UPL  
AETNA

DEP 10/14/88  
10/11/88

To: Benefits Planning/Structured Settlements-Home Office, D309

Date

LEIGH PRESUTTI  
DETROIT

CID Claim  
 PFSD Claim

Telephone No. 313 637-6098

CLAIMANT		DATE OF ACCIDENT		ANNUITY PREMIUM (Exclude prior paid advances, liens, front money, and lump sum Attorney Fees)
MICHAEL GROSSMAN		11/29/84		
CLAIM FILE NUMBER				
UNIT/OFF. CODE-CCL-SERIAL NO.-SUFF.	INSURED	POLICY NUMBER OFF. CODE-SYMB.-SERIAL NO.-SUFF.	POLICY EFFECTIVE DATE MM DD YY	
H205HCB538 0919RG	GORDON SCOVEL	2055H122153 32PCA	7/27/84	\$ 79,927.22
				\$
				\$

CLAIMANT'S SETTLEMENT (Attach Birth Certificate for each payee receiving a life income or deferred payments based on age. Use additional forms for multiple payees.)

PAYEE'S COMPLETE NAME		PAYEE'S DATE OF BIRTH	
MICHAEL GROSSMAN		5/1/70	
PAYEE'S MAILING ADDRESS (Include zip code)		ACCOUNT NUMBER (If sending payment to a bank, payee's account number is required)	
		ZIP CODE	
DESCRIPTION OF SETTLEMENT-STRUCTURED PORTION ONLY (Example: \$900 monthly for life, guaranteed 240 months.)			STARTING DATE FOR PAYMENT
15000 LS			5/1/92
20000 LS			5/1/95
30000 LS			5/1/00
50000 LS			5/1/05
263,000 LS			5/1/10

STRUCTURED ATTORNEY'S FEES

ATTORNEY'S COMPLETE NAME		ATTORNEY'S DATE OF BIRTH	
ATTORNEY'S MAILING ADDRESS (Include zip code)			
DESCRIPTION OF SETTLEMENT (Example: \$10,000 per year for 7 years.)			STARTING DATE FOR PAYMENT

Exhibit 1

SPECIFICATIONS

Annuitant: Bruce Grosvenor  
(Measured Life)

Contract No. WS 12774 - 2

Date of Issue: June 1, 1982

First Payment Date: June 1, 2002

Owner: The Aetna Casualty And Surety Co.

Stated Annuity Payment Option: Pay in one lump sum the amount of \$75,236.00 on June 1, 2002

Amount of Annuity Payment: \$75,236.00

This Amount of Annuity

Payment is the paid-up annuity due on the above First Payment Date.

THERE ARE NO CASH SURRENDER BENEFITS.

THERE ARE NO DEATH BENEFITS PRIOR TO THE FIRST PAYMENT DATE.

Guaranteed Number of Payments (if any): 1

Guaranteed Interest Rate (Prior to First Payment Date): 10.61%

Frequency of Payment (if other than monthly): One lump sum payment

Amount of Single Premium: \$9,999.92

Deduction From Premium — The amount of the Premium applied will be the Premium received minus a deduction for premium taxes, if any.

This Contract is a legal contract between the Owner and Aetna.

READ THIS CONTRACT CAREFULLY. This Contract sets forth, in detail, all of the rights and obligations of both you and Aetna. IT IS THEREFORE IMPORTANT THAT YOU READ THIS CONTRACT CAREFULLY.

*DM*  
8-11-82

1  
SPECIFICATIONS

Annuitant: Michael Phillip Grey  
(Measured Life)

Contract No. WS 11018

Date of Issue: June 17, 1981

First Payment Date: June 17, 1996

Owner: The Aetna Casualty and Surety Co.

Stated Annuity Payment Option: Pay in one lump sum the amount of \$25,000.00 on June 17, 1996.

Amount of Annuity Payment: \$25,000.00

This Amount of Annuity

Payment is the paid-up annuity due on the above First Payment Date.

THERE ARE NO CASH SURRENDER BENEFITS.

THERE ARE NO DEATH BENEFITS PRIOR TO THE FIRST PAYMENT DATE.

Guaranteed Number of Payments (if any): 1

Guaranteed Interest Rate (Prior to First Payment Date): 11.03%

Frequency of Payment (if other than monthly): one lump sum payment

Amount of Single Premium: \$5,200.63

Deduction From Premium — The amount of the Premium applied will be the Premium received minus a deduction for premium taxes, if any.

This Contract is a legal contract between the Owner and Aetna.

READ THIS CONTRACT CAREFULLY. This Contract sets forth, in detail, all of the rights and obligations of both you and Aetna. IT IS THEREFORE IMPORTANT THAT YOU READ THIS CONTRACT CAREFULLY.

SPECIFICATIONS

Annuitant: Michael Phillip Grey  
(Measured Life)

Contract No. WS 11018

Date of Issue: June 17, 1981

First Payment Date: June 17, 1991

Owner: The Aetna Casualty and Surety Co.

Stated Annuity Payment Option: Pay in one lump sum the amount of \$15,000.00  
on June 17, 1991.

Amount of Annuity Payment: \$15,000.00

This Amount of Annuity

Payment is the paid-up annuity due on the above First Payment Date.

THERE ARE NO CASH SURRENDER BENEFITS.

THERE ARE NO DEATH BENEFITS PRIOR TO THE FIRST PAYMENT DATE.

Guaranteed Number of Payments (if any): 1

Guaranteed Interest Rate (Prior to First Payment Date): 12.10%

Frequency of Payment (if other than monthly): one lump sum payment

Amount of Single Premium: \$4,785.47

Deduction From Premium — The amount of the Premium applied will be the Premium received minus a deduction for premium taxes, if any.

This Contract is a legal contract between the Owner and Aetna.

READ THIS CONTRACT CAREFULLY. This Contract sets forth, in detail, all of the rights and obligations of both you and Aetna. IT IS THEREFORE IMPORTANT THAT YOU READ THIS CONTRACT CAREFULLY.

RE: Accident of: 4-11-92

DISTRIBUTION STATEMENT

Amount of Settlement; Cash received \$200,000.00  
Present value of Structured Settlement at \$550.00  
per month for 15 years 115,000.00  
Less Attorney's fees: \$315,000.00  
126,000.00 ✓  
Less Structured settlement to be paid to client  
in future \$189,000.00  
CASH AVAILABLE 115,000.00  
\$ 74,000.00

LESS COSTS ADVANCED:

Photos & Film \$ 9.88  
InfoCopy 45.10  
Sparrow Investigations 798.55  
Sparrow Investigations 200.00  
Clerk of the Circuit Court 200.00  
Broward Sheriff's Office 13.00  
Sheriff of Dade County 26.00  
InfoCopy 14.52  
Dr. Marc Hammerman (conference) 100.00  
Clerk of the Circuit Court 2.00  
Broward Process Servers 25.00  
Broward Medical Examiner 8.00  
John Camino 8.00  
Internal Revenue Service 12.75  
Verbatim Reporting Service 135.00  
Clerk of the Circuit Court 1.00  
Broward Process Servers 20.00  
Hill & Neale 44.00  
Lauderdale Reporting Service 175.50  
Dr. Marc Hammerman (conference) 200.00  
Dr. Marc Hammerman (records) 107.00  
Dr. Michael Margaretten 65.00  
Davie Police Dept. Records 28.50  
Guy E. Von Wiegand 50.00  
Cash (Conf. with Ofc. Kiso) 50.00  
Broward Process Servers 40.00  
Clerk of the Circuit Court 4.00  
MRC-Humana Hospital Bennett 6.00  
MRC-Humana Hospital Bennett 6.00  
Rush Messenger Service 19.75  
Affordable Copy Service 129.21  
Dr. Michael Margaretten 300.00  
Clerk of the Circuit Court 1.00  
Broward Process Servers 20.00  
Dr. William Fogarty 8.00  
Southeastern University 200.00  
Dr. Marc Hammerman \$100.00  
Broward Process Servers 25.00  
Clerk of the Circuit Court 1.00  
Officer Holden - Davie Police Dept. 10.00  
Guy E. Von Wiegand 60.00  
Lauderdale Reporting Service 150.75\*\* ✓  
Memorial Hospital 67.00\*\* ✓  
Barnett, Hill, Barnard & Neale 41.75\*\* ✓  
Mechanical Consulting & Services 372.50\*\* ✓  
Mediation, Inc. 299.50\*\* ✓  
Lauderdale Reporting Service 90.00\*\* ✓  
Miscellaneous Costs:  
including long distance  
telephone, postage, photo-  
copying, etc., to 1-22-93 362.80

3631.56 ✓  
\$ 4,653.06

Settlement Proposal for CHRISTY  
 DATE OF BIRTH: 01-13-1976  
 Funding Date: 10-14-1994

Item	Guaranteed	Expected
-----	-----	-----
\$500.00 monthly beginning 11-14-1994 through 10-14-1999. 60 Payments guaranteed.	\$ 30,000.00	\$ 30,000.00
Lump sum: \$5,000.00 on 01-13-00	\$ 5,000.00	\$ 5,000.00
Lump sum: \$10,000.00 on 01-13-02	\$ 10,000.00	\$ 10,000.00
Lump sum: \$10,000.00 on 01-13-07	\$ 10,000.00	\$ 10,000.00
Lump sum: \$15,000.00 on 09-11-09	\$ 15,000.00	\$ 15,000.00
\$8000.00 annually beginning 09-11-2011 through 09-11-2014 4 payments guaranteed.	\$ 32,000.00	\$ 32,000.00
Lump sum: \$25,000.00 on 01-13-17	\$ 25,000.00	\$ 25,000.00
Up Front Cash:	\$ 95,000.00	\$ 95,000.00
Totals:	\$222,000.00	\$222,000.00

Prepared 10-06-1994, 12:19 p.m.

## Present Value Calculation for: Christy

Compound Period ..... : Monthly  
 Nominal Annual Rate .... : 9.569 %  
 Effective Annual Rate ... : 10.000 %  
 Periodic Rate ..... : 0.7974 %  
 Daily Rate ..... : 0.02622 %

## CASH FLOW DATA

Event	Start Date	Amount	Number	Period	End Date
1 Loan	10/14/1994	140,308.23	1		
2 Payment	11/14/1994	95,000.00	1		
3 Payment	11/14/1994	500.00	60	Monthly	10/14/1999
4 Payment	01/13/2000	5,000.00	1		
5 Payment	01/13/2002	10,000.00	1		
6 Payment	01/13/2007	10,000.00	1		
7 Payment	01/13/2009	10,000.00	1		
8 Payment	09/11/2011	8,000.00	4	Annual	09/11/2014
9 Payment	01/13/2017	25,000.00	1		

## AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1994 Totals	96,000.00	1,485.07	94,514.93	45,793.30
1995 Totals	6,000.00	4,309.06	1,690.94	44,102.36
1996 Totals	6,000.00	4,139.98	1,860.02	42,242.34
1997 Totals	6,000.00	3,953.97	2,046.03	40,196.31
1998 Totals	6,000.00	3,749.37	2,250.63	37,945.68
1999 Totals	5,000.00	2,953.47	2,046.53	35,899.15
2000 Totals	5,000.00	861.68	4,138.32	31,760.83
2002 Totals	10,000.00	6,669.78	3,330.22	28,430.61
2007 Totals	10,000.00	17,357.18	7,357.18	35,787.79
2009 Totals	10,000.00	7,515.44	2,484.56	33,303.23
2011 Totals	8,000.00	9,621.43	1,621.43	34,924.66
2012 Totals	8,000.00	3,492.47	4,507.53	30,417.13
2013 Totals	8,000.00	3,041.71	4,958.29	25,458.84

red for: ROSE  
number: 20-2333-823  
sal number: 01

Requested by: BRUCE  
Office name:  
Location code: 117  
Date prepared: 03-21-9

PROPOSAL NOT VALID AFTER 04-30-95

Schedule of Annuity Payments

Segment 1

Total  
Payments

240 PAYMENTS OF \$630.89 PAYABLE  
MONTHLY WITH THE FIRST PAYMENT ON  
JANUARY 1, 1996, AND THE FINAL  
PAYMENT ON DECEMBER 1, 2015.

\$151,413.60

Annuity Total	<u>\$151,413.60</u>
Previous Amount Paid	\$110,000.00
Grand Total	\$261,413.60

## Present Value Calculation for: Rose

Compound Period ..... : Monthly  
 Nominal Annual Rate .... : 9.569 %  
 Effective Annual Rate ... : 10.000 %  
 Periodic Rate ..... : 0.7974 %  
 Daily Rate ..... : 0.02622 %

## CASH FLOW DATA

Event	Start Date	Amount	Number Period	End Date
1 Loan	03/21/1995	63,028.27	1	
2 Payment	01/01/1996	630.89	240 Monthly	12/01/2015

## AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1995 Totals	0.00	0.00	0.00	63,028.27
1996 Totals	7,570.68	10,723.13	3,152.45-	66,180.72
1997 Totals	7,570.68	6,277.06	1,293.62	64,887.10
1998 Totals	7,570.68	6,147.68	1,423.00	63,464.10
1999 Totals	7,570.68	6,005.39	1,565.29	61,898.81
2000 Totals	7,570.68	5,848.87	1,721.81	60,177.00
2001 Totals	7,570.68	5,676.69	1,893.99	58,283.01
2002 Totals	7,570.68	5,487.29	2,083.39	56,199.62
2003 Totals	7,570.68	5,278.95	2,291.73	53,907.89
2004 Totals	7,570.68	5,049.78	2,520.90	51,386.99
2005 Totals	7,570.68	4,797.69	2,772.99	48,614.00
2006 Totals	7,570.68	4,520.38	3,050.30	45,563.70
2007 Totals	7,570.68	4,215.34	3,355.34	42,208.36
2008 Totals	7,570.68	3,879.83	3,690.85	38,517.51
2009 Totals	7,570.68	3,510.72	4,059.96	34,457.55
2010 Totals	7,570.68	3,104.74	4,465.94	29,991.61

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SETTLEMENT ANNUITY  
PACKAGE ILLUSTRATIONS  
FOR MR. & MRS. GIBSON

May 4, 1993  
Page 3 of 4

DESCRIPTION OF BENEFITS	YIELD*	GUARANTY**
ILLUSTRATION NO. 3		
Up Front Bonus	\$152,000	\$152,000
Joint Life Annuity with 20 years payments guaranteed in the event of the premature death of both annuitants, providing \$2,200 per month level income, first payment commencing on 08/15/91, with 100% of the income continuing to the survivor	\$976,800	\$528,000
Lump Sum Payments for MR. & MRS. GIBSON:		
\$ 10,000 on 07/15/98	\$10,000	\$10,000
\$ 20,000 on 07/15/03	\$20,000	\$20,000
\$ 40,000 on 07/15/08	\$40,000	\$40,000
\$ 80,000 on 08/15/13	\$80,000	\$80,000
	<u>\$150,000</u>	<u>\$150,000</u>
<b>TOTAL SETTLEMENT PACKAGE</b>	<b>\$1,278,800</b>	<b>\$830,000</b>

\* Yield figures are based on life expectancy to 80 years.

\*\* Portion of the annuity guaranteed in the event of premature death.

THE  
COMPANY

## Present Value Calculation for: Gibbons

Compound Period ..... : Monthly

Nominal Annual Rate .... : 9.569 %  
 Effective Annual Rate ... : 10.000 %  
 Periodic Rate ..... : 0.7974 %  
 Daily Rate ..... : 0.02622 %

## CASH FLOW DATA

Event	Start Date	Amount	Number	Period	End Date
1 Loan	05/04/1993	416,553.66	1		
2 Payment	05/04/1993	152,000.00	1		
3 Payment	08/25/1993	2,200.00	60	Monthly	07/25/1998
4 Payment	07/25/1998	10,000.00	1		
5 Payment	08/25/1998	2,200.00	60	Monthly	07/25/2003
6 Payment	07/25/2003	20,000.00	1		
7 Payment	08/25/2003	2,200.00	60	Monthly	07/25/2008
8 Payment	07/25/2008	40,000.00	1		
9 Payment	08/25/2008	2,200.00	60	Monthly	07/25/2013
10 Payment	07/25/2013	80,000.00	1		

## AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1993 Totals	163,000.00	16,488.04	146,511.96	270,041.70
1994 Totals	26,400.00	25,814.97	585.03	269,456.67
1995 Totals	26,400.00	25,756.49	643.51	268,813.16
1996 Totals	26,400.00	25,692.13	707.87	268,105.29
1997 Totals	26,400.00	25,621.36	778.64	267,326.65
1998 Totals	36,400.00	25,138.37	11,261.63	256,065.02
1999 Totals	26,400.00	24,417.33	1,982.67	254,082.35
2000 Totals	26,400.00	24,219.04	2,180.96	251,901.39
2001 Totals	26,400.00	24,000.95	2,399.05	249,502.34
2002 Totals	26,400.00	23,761.05	2,638.95	246,863.39
2003 Totals	46,400.00	22,686.93	23,713.07	223,150.32
2004 Totals	26,400.00	21,125.86	5,274.14	217,876.18



## Present Value Calculation for: Unnamed

Compound Period ..... : Monthly

Nominal Annual Rate .... : 9.569 %  
 Effective Annual Rate ... : 10.000 %  
 Periodic Rate ..... : 0.7974 %  
 Daily Rate ..... : 0.02622 %

## CASH FLOW DATA

Event	Start Date	Amount	Number	Period	End Date
1 Loan	05/01/1986	129,178.56	1		
2 Payment	05/01/1986	37,893.00	1		
3 Payment	11/28/1990	700.00	60	Monthly	10/28/1995
4 Payment	11/28/1995	1,100.00	60	Monthly	10/28/2000
5 Payment	11/28/2000	2,500.00	60	Monthly	10/28/2005
6 Payment	11/28/2007	100,000.00	1		

## AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1986 Totals	37,893.00	0.00	37,893.00	91,285.56
1990 Totals	1,400.00	51,001.31	49,601.31-	140,886.87
1991 Totals	8,400.00	13,710.31	5,310.31-	146,197.18
1992 Totals	8,400.00	14,241.34	5,841.34-	152,038.52
1993 Totals	8,400.00	14,825.48	6,425.48-	158,464.00
1994 Totals	8,400.00	15,468.04	7,068.04-	165,532.04
1995 Totals	9,800.00	16,169.27	6,369.27-	171,901.31
1996 Totals	16,800.00	16,433.39	366.61	171,534.70
1997 Totals	16,800.00	16,396.72	403.28	171,131.42
1998 Totals	16,800.00	16,356.38	443.62	170,687.80
1999 Totals	16,800.00	16,312.04	487.96	170,199.84
2000 Totals	19,000.00	16,254.48	2,745.52	167,454.32
2001 Totals	30,000.00	15,394.11	14,605.89	152,848.43
2002 Totals	30,000.00	13,933.51	16,066.49	136,781.94

HUVER & ASSOCIATES, INC.  
Proposed Structured Settlement  
December 28, 1990

Claimant:  
Life Expectancy: 64  
Proposed Purchase Date: 01/15/1991

Age: 19  
Birth Date: 08/04/1971

GUARANTEED  
TOTAL PAYMENTS

FRONT MONEY	\$184,918.00
Payments of \$500 monthly, for a period certain of 2 years, 6 months starting 02/15/1991 through 07/15/1993	\$15,000.00
Payment on 08/01/1991	\$10,000.00
Payment on 08/01/1992	\$10,000.00
Payment on 08/01/1993	\$25,000.00
Payment on 02/15/1997	\$25,000.00
Payment on 02/15/1999	\$25,000.00
Payment on 02/15/2002	\$25,000.00
Payment on 02/15/2004	\$25,000.00
Payment on 02/15/2007	\$50,000.00
Payment on 02/15/2009	\$50,000.00
Payment on 02/15/2012	\$50,000.00
Payment on 02/15/2017	\$100,000.00
Payment on 02/15/2022	\$250,000.00
Payment on 02/15/2027	\$250,000.00
Payment on 02/15/2032	\$250,000.00
Payment on 02/15/2037	\$250,000.00
-----	
	\$1,594,918.00

NOTE: Rates shown are guaranteed for 10 days  
from the date of this proposal

## Present Value Calculation for: Huver &amp; Associates Proposal

Compound Period ..... : Monthly

Nominal Annual Rate .... : 9.569 %  
 Effective Annual Rate ... : 10.000 %  
 Periodic Rate ..... : 0.7974 %  
 Daily Rate ..... : 0.02622 %

## CASH FLOW DATA

Event	Start Date	Amount	Number	Period	End Date
1 Loan	01/15/1991	341,166.56	1		
2 Payment	01/15/1991	184,918.00	1		
3 Payment	02/15/1991	500.00	6	Monthly	07/15/1991
4 Payment	08/01/1991	10,000.00	1		
5 Payment	08/15/1991	500.00	12	Monthly	07/15/1992
6 Payment	08/01/1992	10,000.00	1		
7 Payment	08/15/1992	500.00	12	Monthly	07/15/1993
8 Payment	08/01/1993	25,000.00	1		
9 Payment	02/15/1997	25,000.00	1		
10 Payment	02/15/1999	25,000.00	1		
11 Payment	02/15/2002	25,000.00	1		
12 Payment	02/15/2004	25,000.00	1		
13 Payment	02/15/2007	50,000.00	1		
14 Payment	02/15/2009	50,000.00	1		
15 Payment	02/15/2012	50,000.00	1		
16 Payment	02/15/2017	100,000.00	1		
17 Payment	02/15/2022	250,000.00	1		
18 Payment	02/15/2027	250,000.00	1		
19 Payment	02/15/2032	250,000.00	1		
20 Payment	02/15/2037	250,000.00	1		

## AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1991 Totals	200,418.00	13,707.96	186,710.04	154,456.52
1992 Totals	16,000.00	14,842.60	1,157.40	153,299.12
1993 Totals	28,500.00	9,385.91	19,114.09	134,185.03
1997 Totals	25,000.00	53,820.04	28,820.04-	163,005.07
1999 Totals	25,000.00	34,231.07	9,231.07-	172,236.14
2002 Totals	25,000.00	57,010.17	32,010.17-	204,246.31
2004 Totals	25,000.00	42,891.73	17,891.73-	222,138.04

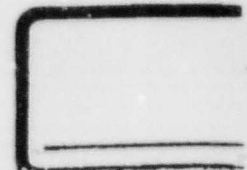
SETTLEMENT PROPOSAL  
for  
Kimberly  
DOB: 04/13/1976  
Claim No.

BENEFIT	COST	GUARANTEED PAYOUT	EXPECTED PAYOUT
<u>PAYABLE TO KIMBERLY</u>			
\$50,000 paid at time of settlement	\$ 50,000	\$ 50,000	\$ 50,000
\$1,523 paid monthly, guaranteed for 25 years certain & LIFE, beginning 1 month from purchase of annuity	\$ 327,733	\$ 436,900	\$1,304,892
\$50,000 paid in 5 years	\$ 40,600	\$ 50,000	\$ 50,000
<u>ATTORNEY FEES</u>			
\$209,167 paid at time of settlement	\$ 209,167	\$ 209,167	\$ 209,167
<b>TOTALS</b>	<b>\$ 627,500</b>	<b>\$ 796,067</b>	<b>\$1,614,059</b>

Total settlement cost:	\$627,500
Less 1/3 for attorney fees	-209,167
	-----
	\$418,333
Less cash to Kimberly	50,000
	-----
Annuity cost	\$368,333

Prepared by:

SETTLEMENT SERVICES INC.  
800/397-5636  
815/961-3099



Kimberly Monthly Annuity  
The Real Value of the Guaranteed Payout of the Annuity

Compound Period .....: Monthly

Nominal Annual Rate ... : 3.399 %  
Effective Annual Rate .. : 3.452 %  
Periodic Rate ..... : 0.2832 %  
Daily Rate ..... : 0.00931 %

CASH FLOW DATA

Event	Start Date	Amount	Number Period	End Date
1 Loan	08/17/1993	327,733.00	1	
2 Payment	09/17/1993	1,623.00	300 Monthly	08/17/2018

AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1993 Totals	6,492.00	3,701.33	2,790.67	324,942.33
1994 Totals	19,476.00	10,912.01	8,563.99	316,378.34
1995 Totals	19,476.00	10,616.35	8,859.65	307,518.69
1996 Totals	19,476.00	10,310.47	9,165.53	298,353.16
1997 Totals	19,476.00	9,994.05	9,481.95	288,871.21
1998 Totals	19,476.00	9,666.69	9,809.31	279,061.90
1999 Totals	19,476.00	9,328.04	10,147.96	268,913.94
2000 Totals	19,476.00	8,977.70	10,498.30	258,415.64
2001 Totals	19,476.00	8,615.26	10,860.74	247,554.90
2002 Totals	19,476.00	8,240.29	11,235.71	236,319.19
2003 Totals	19,476.00	7,852.38	11,623.62	224,695.57
2004 Totals	19,476.00	7,451.08	12,024.92	212,670.65
2005 Totals	19,476.00	7,035.95	12,440.05	200,230.60
2006 Totals	19,476.00	6,606.46	12,869.54	187,361.06
2007 Totals	19,476.00	6,162.14	13,313.86	174,047.20
2008 Totals	19,476.00	5,702.51	13,773.49	160,273.71

Kimberly \$50,000 Lump Sum Annuity Payment  
 The Real Value of the Guaranteed Payout of the Annuity

Compound Period .....: Monthly

Nominal Annual Rate ... : 4.172 %  
 Effective Annual Rate .. : 4.253 %  
 Periodic Rate ..... : 0.3477 %  
 Daily Rate ..... : 0.01143 %

CASH FLOW DATA

Event	Start Date	Amount	Number Period	End Date
1 Loan	08/17/1993	40,600.00	1	
2 Payment	08/17/1998	50,000.00	1	

AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1993 Totals	0.00	0.00	0.00	40,600.00
1998 Totals	50,000.00	9,400.00	40,600.00	0.00
Grand Totals	50,000.00	9,400.00	40,600.00	0.00

SETTLEMENT STATEMENT

DEBRA . . . . . v. . . . . CONCRETE

1.	TOTAL SETTLEMENT: (*110,000.00 cash; balance in payments as specified in settlement agreement and release)	\$200,000.00*
2.	LESS ATTORNEY'S FEES (1/3)	<u>66,666.66</u>
	NET TO CLIENT BEFORE PAYMENTS (present cash; balance in deferred payments)	\$43,333.34
3.	EXPENSES PAID BY CHENEY & CHENEY:	
	(a) Gottschalk Engineering	\$10,379.34
	(b) J. Waters Investigations	275.00
	(c) Ann Rewis, Court Reporter	571.00
	(d) Legal Research Associates	147.55
	(e) Wendell Smith	308.00
	(f) Zorn Aerial Photo	150.00
	(g) Kent, Vadnais & Wood	168.00
	(h) Betty D. Smith, Court Reporter	1,413.10
	(i) Brown Reporting	309.40
	(j) Coastal Reporting	107.65
	(k) Massey Logging	200.00
	(l) Gillis & Phillips Investigations	1,220.20
	(m) Professional Reporters	252.00
	(n) The Tattnall Bank, car payments	400.00
	(o) out of pocket expenses (medical reports, filing fees, postage, copies, long distance, etc.)	<u>2,545.23</u>
	TOTAL	\$18,446.47
4.	TOTAL PAYMENTS BY OR ON BEHALF OF CLIENT:	
	(a) Dr. Snowdy	605.00
	(b) Neurological Institute of Savannah	380.00
	(c) The Tattnall Bank (payoff)	18,457.02
	(d) Collins Mobile Homes (down payment)	5,000.00
	(e) Hugh S. Geiger, M.D.	1,675.00
	(f) & expenses (this represents \$5,330.15 in expenses that are being written off by & )	<u>13,116.32</u>
	TOTAL PAYMENTS	\$39,233.34
4.	NET TO CLIENT:	\$ 4,100.00

**ANNUITY vs: LUMP SUM INVESTMENT**

Date: 7/30/93

Investment: \$650,000

Taxable Rate: 5.78% for 10 years in a U.S. TREASURY BOND

Non-Taxable Rate: 5.05% for 10 years in a AAA MUNICIPAL BOND

Federal Tax Bracket: 28%

	U.S. TREASURY BOND	AAA MUNICIPAL BOND	SETTLEMENT ANNUITY
Annual Payment:	37,570	32,825	36,438
Investment Term:	<u>x 10 yrs</u>	<u>x 10 yrs</u>	<u>x 10 yrs</u>
Investment Yield:	375,700	328,250	364,380
Federal Tax Bracket:	<u>x 28%</u>	<u>x 0%</u>	<u>x 0%</u>
Federal Tax Due:	105,196	0	0
After Tax Proceeds:	270,504	328,250	364,380
Net Investment Yield:	270,504	328,850	364,380
Return of Principal:	<u>650,000</u>	<u>650,000</u>	<u>650,000</u>
Total Proceeds:	920,504	978,250	1,014,380
Return Comparison to Annuity:	-10.2%	-3.69%	

Please note that the U.S. Treasury Bond and AAA Municipal Bond proceeds do not take into account any Management Fees.

Annuitant BOBBYJO LYNN PLANK  
Contract Number AAS85799  
Contract Date JUNE 13, 1989  
  
Premium \$1.00 and other  
valuable consideration  
  
Date of Birth OCTOBER 18, 1977  
Sex FEMALE

---

Schedule of Benefits

Amount	Due Dates
\$2,250.00	On OCTOBER 18, 2032 and on the 18th day of each following month as long as the annuitant is alive. In no event shall there be fewer than 240 payments.
\$2,500.00	OCTOBER 18, 1995
\$5,000.00	OCTOBER 18, 1998
\$10,000.00	OCTOBER 18, 2002
\$25,000.00	OCTOBER 18, 2012
\$35,000.00	OCTOBER 18, 2022

COPY

Bobbyjo Lynn Plank

Compound Period ..... : Monthly

Nominal Annual Rate .... : 5.000 %  
 Effective Annual Rate ... : 5.116 %  
 Periodic Rate ..... : 0.4167 %  
 Daily Rate ..... : 0.01370 %

## CASH FLOW DATA

Event	Start Date	Amount	Number	Period	End Date
1 Loan	06/13/1989	63,892.64	1		
2 Payment	10/18/1995	2,500.00	1		
3 Payment	10/18/1998	5,000.00	1		
4 Payment	10/18/2002	10,000.00	1		
5 Payment	10/18/2012	25,000.00	1		
6 Payment	10/18/2022	35,000.00	1		
7 Payment	10/18/2032	2,250.00	240	Monthly	09/18/2052

## AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
1989 Totals	0.00	0.00	0.00	63,892.64
1995 Totals	2,500.00	23,805.23	21,305.23-	85,197.87
1998 Totals	5,000.00	13,757.09	8,757.09-	93,954.96
2002 Totals	10,000.00	20,754.21	10,754.21-	104,709.17
2012 Totals	25,000.00	67,747.83	42,747.83-	147,457.00
2022 Totals	35,000.00	95,406.08	60,406.08-	207,863.08
2032 Totals	6,750.00	137,320.10	130,570.10-	338,433.18
2033 Totals	27,000.00	16,687.44	10,312.56	328,120.62
2034 Totals	27,000.00	16,159.86	10,840.14	317,280.48
2035 Totals	27,000.00	15,605.24	11,394.76	305,885.72
2036 Totals	27,000.00	15,022.26	11,977.74	293,907.98
2037 Totals	27,000.00	14,409.46	12,590.54	281,317.44
2038 Totals	27,000.00	13,765.32	13,234.68	268,082.76
2039 Totals	27,000.00	13,088.20	13,911.80	254,170.96

## What are Structured Settlements Really About ???

On August 12, 1998, a hearing was held in the Circuit Court for Montgomery County, Maryland in the matter of Stone Street Capital v. Deborah L. Jackson, Civil No. 176131. In this hearing, Counsel for State Farm Insurance company discussed the reasons for pursuing structured settlements in personal injury case. Following is an excerpt from the transcript on this hearing:

- THE COURT: Why is it, by the way, that traditionally these [structured settlement annuity contracts] are non-assignable?
- COUNSEL FOR STATE FARM: There are a lot of reason. One is to protect the victim usually of personal injury. The whole reason for setting up these –
- THE COURT: Protect them from what?
- COUNSEL FOR STATE FARM: The whole reason for setting up these structured payments is so that they do not get a lump sum; they do not get \$300,000 up front. These people–
- THE COURT: **No it is not. The reason for setting up these structured payments are so that the insurance companies can settle out cheaper.**
- COUNSEL FOR STATE FARM: **That is one reason.**
- THE COURT: All right, come on–
- COUNSEL FOR STATE FARM: I am not going to deny that.
- THE COURT: They are not looking out for a plaintiff in a personal injury case. Please.
- COUNSEL FOR STATE FARM: **That is one reason that Your Honor has said. It is more cost effective for the insurance company–**
- THE COURT: **That is the reason. That is the reason.**
- COUNSEL FOR STATE FARM: **Okay.**

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Vote No on HR 4314

## SUMMARY

### **Class action suit encapsioned:**

**Lisa M. McComber, on behalf of herself and all others  
similarly situated v. Travelers Property Casualty Corp., et al.  
**Docket Number 398CV01060 (WWE)****

The named plaintiff, a resident of Connecticut, entered into a structured settlement on March 20, 1998 with Travelers Property Casualty Corp providing for a 30 year annuity funded by Travelers Life Insurance Company. The plaintiff has made several allegations on behalf of herself and all persons who entered into structured settlements with Travelers Property Casualty Corp ("TPC") and its predecessors from 1982 to the present. This class action suit alleges that:

TPC engaged in (a) the illegal solicitation and sale of life insurance without a license and (b) an illegal rebating/kickback scheme between its wholly owned subsidiary Salomon Smith Barney Holdings, Inc. (and its subsidiary SBHU Life Agency of Ohio, Inc.) and the following insurance brokers: *Ringler Associates, Inc., Wells and Associates*, Travelers Life and Annuity Company and others not yet identified.

TPC provided its more than 5,000 claims adjusters with encouragement, training, key documentation, "specialized" software and other resources to help them facilitate the conversion of claims into annuitized structured settlements. The claims adjusters used the resources, expertise and guidance to sell life insurance without a license.

TPC directed its annuity business to designated brokers to which TPC enjoyed either an affiliation or a secret and illegal relationship, and these brokers rebated/kickbacked 50% of their commissions to TPC in exchange for (a) the business and (b) continued business from TPC and its affiliates.

The kickbacks resulted in TPC receiving millions in illegal commissions and the claimants receiving less than they should have.

TPC and its affiliates engaged in a systematic coverup of the wrongdoing both internally and in connection with various mergers and acquisitions involving TPC and its affiliates.

This suit was filed on June 5, 1998 in the United States District Court, District of Connecticut and is presently pending.

A second suit, alleging similar claims against the same and additional defendants, has been filed by a different plaintiff also in the United States District Court, District of Connecticut.

Additional information can be obtained by contacting Ralph M. Stone, Esq. at Shalov, Stone & Bonner at (212) 268-2727.

## **The Insurers' Professed Concern About "Adverse Tax Consequences" Is a Pretext.**

### **In Reality, The Insurers Just Don't Want People to Know That Settlement Payments Over Time are Worth a Lot Less Than Advertised.**

The insurers have suggested that the purchase of structured settlement payments might result in the loss of certain tax benefits under Internal Revenue Code section 130 to the party making payments to the claimant (the "structured settlement company"). In fact, there should be no adverse tax consequences to a structured settlement company. The "tax" issue is a pretext.

The real issue here is that the insurers just don't want people to know that the settlement payments they make over time are worth a lot less than they advertised them to be. Section 130 of the Internal Revenue Code requires that structured settlement payments not be "accelerated, deferred, increased, or decreased" by the recipient, language commonly mirrored in the settlement agreements themselves. That language does not prohibit the recipient from selling structured settlement payments, nor does it prohibit using the right to receive such payments as collateral for a loan.

In the sixteen years that section 130 has been in existence, the Internal Revenue Service has never ruled that the purchase of structured settlement payments or the pledge of such payments for a loan would result in the loss of tax benefits to the structured settlement company making the payments. We are unaware of any tax audit in which the IRS has ever raised this tax issue. In the only reported court case on the issue, the U.S. Court of Appeals for the Third Circuit held specifically that there would not be a loss of tax benefits from the purchase of structured settlement payments. The court found no support for "this novel proposition." *Western United Life Assurance Company v. Hayden*, 64 F.3d 833 (3d Cir. 1995). Indeed, the IRS has recently ruled that a cash-out of structured settlement payments by a structured settlement company is permissible and would not trigger adverse tax consequences.

It would be unprecedented, to say the least, if a third party (in this case, the claimant) could undo the tax consequences for a company making the payments, many years after the settlement was finalized. We are unaware of any other provision in the Internal Revenue Code that gives an unrelated third party the ability, long after the fact, to increase the tax liability of another company.

Most tellingly, it is important to examine the behavior of the various structured settlement companies the companies now making the structured settlement payments to determine whether they really view third-party purchases of structured settlement payment streams as a significant tax risk for them. Public accounting rules require companies that consider themselves to have a material risk of a tax liability to either create a reserve against that liability or report it in their financial statements. Failure to do so is a clear violation of accounting standards. Therefore, if a company now making structured settlement payments considered claimants' sale of those payments as something that is likely to cause the companies to risk the loss of tax benefits under section 130, that conclusion must be reflected in their (the companies') financial statements. We are unaware of any instance in which they (the insurers or their structured settlement company affiliates) have done so. One can only conclude, therefore, that the insurance companies (and their structured settlement company affiliates) themselves have never really considered this so-called risk to be material.

How can the insurers ask this Legislature to severely restrict their claimants' property rights (the claimants' right to sell, pledge, or dispose of their property - in this case, their right to receive structured settlement payments—on the basis of a hypothetical risk that the insurers themselves do not consider material?

# News You Can Use

## Settling for less

*Should accident victims sell their monthly payouts?*

BY MARGARET MANNIX

**O**lson Olson has had his share of hard knocks. When he was 3 years old, a dog bite caused him vision and neurological problems, as well as injuries requiring plastic surgery. In his teens, he dropped out of high school and wound up homeless. But he had hope. On his 18th birthday, the Minneapolis man was to start receiving the first of five periodic payments totaling \$75,000 from a lawsuit stemming from the dog attack. He received the first installment of \$7,500, but the money didn't last long.

So when Olson saw a television ad for a finance company named J. G. Wentworth & Co. that provided cash to accident victims, he saw a way to get his life back on track. He agreed to sell his remaining future payments of \$67,500 to Wentworth for a lump sum of \$16,100. "I needed money," says Olson, now 20 years old. "If I could get the money out like they were saying on TV, I wouldn't have to worry about being on the street anymore." Within six months, however, Olson had spent all the money and was living in a car. He now wishes he had waited for his regular payments.

Olson may be financially unsophisticated, but he is also caught up in a burgeoning, and unregulated, new industry that specializes in converting periodic payments into fast cash. Also known as factoring companies, these firms can be a godsend to accident victims, lottery winners,



**JERRY MAGEE** Mississippi accident victim sold his payments for quick cash. Today he has only regrets.

and others who have guaranteed future incomes but need immediate funds. But like a modern-day Esau trading his inheritance for a bowl of soup, the unwary consumer may be selling future sustenance for cheap. A growing number of federal and state legislators, as well as several attorneys general, contend that factoring companies charge usurious interest rates,

fail to properly disclose terms, and take advantage of desperate people. "It's unconscionable," says Minnesota Attorney General Mike Hatch. "They are really preying upon the vulnerable."

Frittering away. Critics further allege that factoring companies undermine the very law that Congress passed to help beneficiaries of large damage awards. In 1982, seeking to prevent accident victims from frittering away large sums intended to provide for them over their lifetimes, Congress instituted tax breaks for those who agreed to receive their money over a period of years. But now, contends Montana Sen. Max Baucus, a sponsor of that legislation, the careful planning that goes into the structuring of these payments "can be unraveled in an instant by a factoring company offering quick cash at a steep discount."

A number of advanced-funding companies compete for their share of future payments that include more than \$5 billion in structured settlements awarded each year. The largest buyer is Wentworth, handling an estimated half of all such transactions. Based in Philadelphia, the firm began by financing nursing homes and long-term-care facilities. In 1992 it started buying

PHOTOGRAPHY BY  
THOMAS W. BROENING FOR USN&WR



**CHRISTOPHER HICKS** Wentworth sued the Oklahoma man for the entire amount of his payments. "They make you think you are doing the right thing . . . , but you are really messing up your life."

settlements that auto-accident victims were owed by the state of New Jersey. Since then, Wentworth has completed more than 15,000 structured-settlement transactions with an approximate total value of \$370 million.

The deals work like this: A structured-settlement recipient who wants to sell, say, \$50,000 in future payments, will not

get a lump sum of \$50,000. That's because, as a result of inflation, money scheduled to be paid years from now is worth less today. Formulas based on such factors as inflation and the date that payments begin are used to determine the "present value" of the future payments. The seller is, in essence, borrowing a lump sum that is paid back with the in-

surance company payments. The interest on the borrowed sum is called the "discount rate."

Wentworth and other advanced-funding companies say they are providing a valuable service because structured settlements have a basic flaw: They are not flexible. Consumer needs change, they note, and a fixed monthly payment does not. Wentworth points to an Ohio woman who sold the company a \$500 portion of her monthly payments for six years when her bills were piling up and her home mortgage was about to be foreclosed. She re-

and instant cash of \$21,000, at a discount rate of 15.8 percent. The customer, who did not wish to be identified, says she is grateful to Wentworth for advancing her the money when her insurance company would not. "The insurance companies just don't understand," she says. "When I needed their help, they were not there." Likewise, a New York quadriplegic, who also did not want to be named, says he secured funds from Wentworth at a 12 percent discount rate to expand his own business and, as a result, is more successful than ever. "It was definitely worth it for me," he says.

But other customers are not as satisfied. New York City resident Raymond White lost part of one leg when he was struck by a subway train in 1990. A lawsuit led to a settlement that guaranteed White a monthly payment of \$1,100, with annual cost-of-living increases of 3 percent. In 1996, White, who did not have a job, wanted cash to buy a car and pay medical bills. So he turned to Went-

worth, selling portions of his monthly payments for the next 15 years in six different transactions.

**RAYMOND WHITE** After losing a leg in a subway accident, the New Yorker was guaranteed \$1,100 every month. He gave up future payments totaling \$198,000 in exchange for \$54,000.

worth, selling portions of his monthly payments for the next 15 years in six different transactions. Altogether White gave up future payments totaling \$198,000. He received a total of \$54,000 in return, but the money, which he used for living expenses, is now gone. He bought a car, but it has been repossessed. He bought a plot of land in Florida, but lost it to foreclosure. With debts mounting, he now relies partially on public assistance to get by. "Unfortunately I was so overwhelmed with debt and striving for a better life that I went along with it," says White. "In reality, what I was doing was accumulating more debt for myself."

Some Wentworth customers say they might have realized the repercussions of their transactions had the contracts been clearer about the long-term costs. Jerry Magee of Magnolia, Miss., who has filed a class action suit against the company, is one of them. In a mortgage contract, for instance, lending laws require that consumers see their interest rate and the total amount of money they will be paying over the life of the loan. By contrast, Magee's lawyer says, neither the effective interest rate nor the total amount of the transaction was clearly spelled out in the

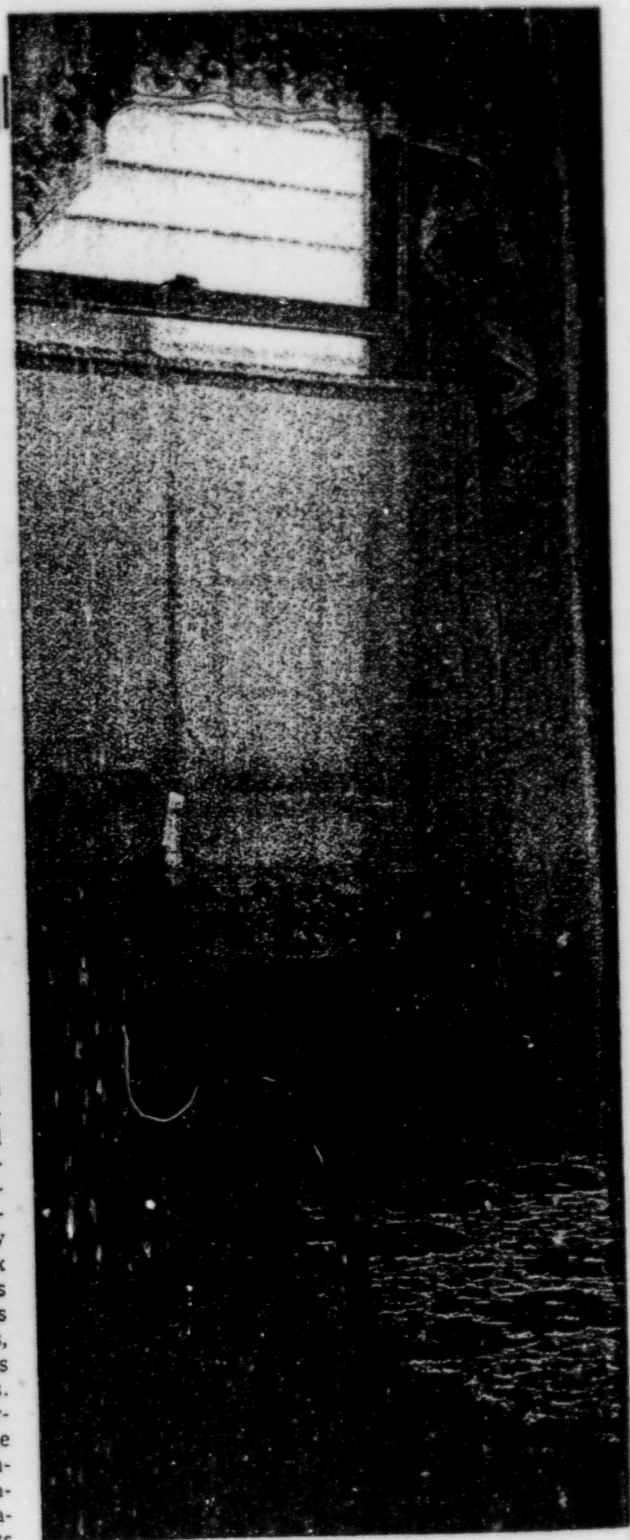
13-page contract or in the 25 other documents Wentworth required him to sign. Wentworth says it has been revising its documents to make them easier to understand. **Change of address.** While the factoring transaction itself is complex, the transfer of payments is simple. The structured settlement recipient instructs the insurance company to change his or her address to that of the factoring company. The check remains in the recipient's name, and the factoring company uses a power of attorney, granted by the recipient, to cash it.

This roundabout method is used because insurance companies say structured payments should not be sold. Most settlement contracts

specify that payment cannot be "assigned," and the Internal Revenue Service says that payments "cannot be accelerated, deferred, increased or decreased." Selling payments, the insurance companies say, amounts to accelerating them. And that may threaten the claimant's tax break. Insurance companies say that if their annuitants start selling their payments, the social good that justifies the tax break disappears. Ironically, they make this argument even though some insurance companies themselves are now making counteroffers to factoring companies, "accelerating payments to their own claimants. Berkshire Hathaway Life Insurance Co., for example, recently offered a claimant a lump sum of \$59,000, beating Wentworth's offer of \$45,000. The IRS has not formally addressed the tax issues, but the U.S. Department of the Treasury has recommended a tax on factoring transactions to discourage them.

Insurance companies also worry about

having to pay twice. Last year, a judge ruled an insurance company was obligated to pay a workers' compensation recipient his monthly payments because the factoring transaction he entered into was invalid under Florida's workers' compensation statute. For their part, the factoring companies argue that even though the claimants do not own the annuities—





the insurance companies do—the factoring companies can buy the “right to receive” the payments.

Insurance companies are getting wise to these factoring deals—CNA, a Chicago-based insurer, noticed that annuitants from all over the country were changing their addresses to Wentworth’s Philadelphia post office box—and some are trying

to stop the transactions. Some insurance companies, for example, refuse to honor change-of-address requests or redirect the payments back to the annuitant after the deal is done. But redirecting a payment can cause serious consequences for the claimant. In Wentworth’s case, the company has each customer sign a clause called a “confession of judgment,” which

allows the factoring company to sue customers quickly for default when their payments are not received; customers also waive the right to defend themselves.

Christopher Hicks, a 20-year-old accident victim from Oklahoma City, learned the effects of that clause the hard way. In 1997, Hicks signed over to Wentworth half of his \$2,000 monthly payments for the next 32 months and \$1,500 for the 26 months after that. In exchange, Hicks received \$37,500, which he admits he quickly spent on furniture, clothes, and other items. When Wentworth failed to receive a check from the insurance company that pays Hicks the annuity, it secured a judgment against him for the *entire* amount of the deal—\$71,000.

**No clue.** To collect, Wentworth garnished Metropolitan Life, meaning that Metropolitan Life was supposed to start sending Hicks’s monthly checks to Wentworth. It did not—the company won’t say why—and Hicks, who was supposed to be getting \$1,000 back from Wentworth, was left with nothing. “When the money stopped, I had no clue what was going on,” says Hicks, who had to rely on family and friends until the two companies settled their differences in court. Hicks now wishes he had never gotten involved with Wentworth. “They make you think you are doing the right thing in the long run,” says Hicks, “but you are really messing up your life.”

Wentworth makes liberal use of confession-of-judgment clauses even though they are illegal in consumer transactions in the company’s home state of Pennsylvania. The Federal Trade Commission also bans the clauses as an unfair practice in consumer-credit transactions. The clauses *are* allowable in business transactions in Pennsylvania if they are accompanied by a statement of business purpose. So in each case Wentworth certifies that the agreements “were not entered into for family, personal, or household purposes.”

Such language is used in affidavits despite cases like that of Davinia Willis, a 24-year-old resident of Richmond, Calif., who entered into a transaction with Wentworth in 1996 to stop her house from being foreclosed upon and to repair wheelchair ramps—clearly, she says, personal uses. In a class action lawsuit against the company, she cites the confession of judgment as one reason why the contract is “illegal, usurious, and unconscionable.” Wentworth says the clauses are necessary to keep its customers from reneging on their agreements.

In the end, the controversy over factoring companies comes down to a funda-

al disagreement over the definition of their business. The factoring companies say they are not subject to usury or consumer-credit disclosure laws because they are not, in fact, lenders. "We don't make loans," declares Andrew Hillman, Wentworth's general counsel. "We buy assets." But some state attorneys general say these transactions differ very little, if at all, from loans and perhaps should be classified as such. That way, says Shirley Sarna, chief of the New York attorney general's consumer fraud and protection bureau, the law could prevent factoring companies from charging discount rates that she says in some cases have exceeded 75 percent. Wentworth says its average rate is 16 percent, and several factoring companies insist their rates would be much lower if insurance companies did not make it expensive for them to complete the deals. "By getting the insurance companies to process the address changes, it would overnight transform our discount rates from the teens to the single digits," says Jeffrey Grieco, managing director of Stone Street Capital, an advanced-funding firm in Bethesda, Md.

Who is right and who is wrong is being hammered out in courtrooms and statehouses across the country. The insurance companies were heartened last summer when a Kentucky judge denied four of Wentworth's garnishment actions, saying the purchase agreements the customers signed were neither valid nor legal. But other courts have ruled differently.

In Illinois, a new state law says that structured settlements can be sold as long as a judge approves the transaction. Wentworth notes that more than 100 such sales have been approved. At the same time, several state attorneys general are examining the factoring industry's practices. "You have got to worry about people who have a debilitating injury," says Joseph Goldberg, senior deputy attorney general for Pennsylvania. "The injury is never going away and they have no real means of income and probably no means of employment. . . . If they give that monthly payment up, it could have serious consequences." Voicing similar concerns, disability groups like the National Spinal Cord Injury Association, which now refuses to accept factoring companies' ad-



**DAVINIA WILLIS** California woman sold her payments to prevent a home foreclosure. She is suing Wentworth claiming "illegal and usurious" terms.

vertisements in its magazine, are warning members about the hazards of cashing out. The association is "deeply concerned about the emergence of companies that purchase payments intended for disabled persons at a drastic discount," says its executive director, Thomas Countee.

While opinions are divided about the validity of factoring transactions, both sides agree that regulation of the secondary market is necessary. As in Illinois, Connecticut and Kentucky have passed laws requiring a judge's approval of advanced-funding deals, as well as fuller disclosure of costs. Faced with mounting criticism, Wentworth this week will announce its pledge to submit every re-

quest for purchase of a settlement to a court for approval. Other states are expected to address the issue this year, and in Congress, Rep. Clay Shaw, a Florida Republican, has reintroduced a measure that would tax

factoring transactions.

The factoring companies respond to all these efforts by also calling for better disclosure from the primary market—the insurance companies, attorneys, and brokers that set up the structured settlements in the first place. Factoring companies argue that structured settlements are not always as generous as they are represented to be. "We challenge insurance companies and their brokers to take the same pledge," said Michael Goodman, Wentworth's executive vice president.

Whatever the outcome of the debate, consumers thinking about selling their future payments are well advised to take a hard look at what they are getting into. ■

## DISCOUNTS CHARGED TO STRUCTURED SETTLEMENT RECIPIENTS IN FACTORING TRANSACTIONS

The accompanying table illustrates the discounts charged by factoring companies in a series of factoring transactions in which the settlement recipients have transferred or agreed to transfer future payments in exchange for immediate lump sums.

All of the transaction information in the table is taken from publicly available pleadings filed in federal and state courts in connection with confessions of judgment, garnishments, interpleader actions and other litigation arising from factoring transactions. Because factoring transactions are unregulated and are not publicly reported in any fashion, pleadings filed by factoring companies and other parties represent the best publicly available source of information about individual factoring transactions. The present values and the discount rate figures (*i.e.*, the mortgage-equivalent rates and internal rates of return) have been computed by professional actuaries.

In most cases the factoring transactions listed in the table were completed. In a few cases the transactions have become the subject of litigation (*e.g.*, declaratory judgment actions and proceedings for advance approval of factoring transactions under state statutes designed to protect structured settlements) prior to completion.

The material in the table can be illustrated by the following explanation of the factoring transaction entered into by payee Isaac Major, shown on p. 4: In early 1997, Major entered into a factoring agreement under which he agreed to sell 60 future structured settlement payments of \$730 per month. Thus, Major sold the factoring company future payments in the aggregate amount of 60 times \$730, or \$43,800. In exchange for these future payments, the factoring company, J.G. Wentworth, agreed to make an immediate lump sum payment of \$20,000. At the time of this transaction, the 60 future payments had a present value of \$36,521.58. (This was the value of the future payments as discounted back to the time of the transaction, using the "applicable federal rate" published by the Internal Revenue Service for purposes of determining the present value of future annuity payments.) The \$20,000 contract price represented 55% of the present value of the 60 future payments.

Expressed as an annual rate of interest, the discount charged by a factoring company can be presented in either of two related ways: (i) as a nominal or "mortgage-equivalent" annual rate computed in the same fashion as the nominal rate on a conventional mortgage loan (*i.e.*, twelve times the monthly rate at which interest accrues and is paid), or (ii) as a "true" annual interest rate representing the factoring company's internal rate of return on its investment. For Major's factoring transaction the mortgage-equivalent rate was 35.0 percent (annually), and the internal rate of return on the factoring company's \$20,000 investment was 41.2 percent (annually).

In many cases the effective discount rate paid by a settlement recipient may exceed the rate set forth in the table, because a broker's commission, an attorney's fee or other transaction charge may have been deducted from the stated contract price in computing the amount actually paid to the settlement recipient. From the information available in court files NSSTA has no means of determining the amounts of these deductions.

For some payees who have entered into multiple factoring transactions the table includes data for two or more transactions. Some payees with transactions listed in the table may have entered into additional transactions that are not listed in the table, because the available court records do not clearly indicate the terms of those additional transactions.

DISCOUNTS CHARGED TO SETTLE RECIPIENTS IN FACTORING TRANSACTIONS

Payee's Name and State(s) of Residence	Factored Payments		Applicable Federal Rate Used to Compute Present Value <sup>1</sup>	Present Value of Factored Payments <sup>2</sup>	Contract Price for Factored Payments <sup>3</sup>	Contract Price as Percent of Present Value	Discount Rate Charged by Factoring Company		Factoring Company
	Amount	No. Interval					Mortgage-Equivalent Rate <sup>4</sup> (Annual)	Internal Rate of Return <sup>5</sup> (Annual)	
Allen, Michael LO	\$618.24/mo.	37 9/01-9/04	7.8%	\$14,599	\$8,754.90	60%	16.2%	17.5%	Windsor-Thomas
Alsbrook, Anita KY	\$250/mo. \$200/mo.	119 12/06-11/16	7.6%	\$21,081 \$8,614	\$7,755.04 \$1,800.00	37% 21%	37.5% 19.3%	44.6% 21.1%	Wentworth
Beam, Suzette IA	\$100,000.00 \$350.00	1 3/00 30 9/97-2/00	8.2%	\$79,796 \$9668	\$47,024.24 \$7,162.00	59% 74%	26.6% 36.9%	30.1% 43.8%	Wentworth
Becker, Donald IA, FL	\$2300/yr.	4 3/99-3/02	7.8%	\$7,326	\$4,319.81	59%	26.1%	29.5%	Western/Met. Mortgage
Berghman, Earle FL, NH	\$500.00/mo. \$25,000.00	37 1 5/96-5/99 5/99	6.6%	\$37,209	\$25,500.25	69%	22.8%	25.3%	Wentworth
Bolden, James CT	\$1,000/mo. \$15,000.00 \$19,500.00 \$40,000.00	120 1 1 1 11/96-10/06 11/98 11/03 11/08	8.0% 7.6%	\$82,897 \$43,837	\$55,000.00 \$24,980.00	66% 57%	17.5% 17.2%	19.3% 18.6%	Settlement Capital/Wentworth
Brubaker, J. Clause- CO	\$1,000.00/mo. \$1,100.00/mo.	9 26 6/97-2/98 3/98-4/00	7.8%	\$33,389	\$23,384.27	70%	32.1%	37.3%	Wentworth
Byrd, Randy TN	\$756.65/mo.	60 6/96-5/01	8.0%	\$37,604	19,306.00	51%	41.7%	50.7%	Wentworth

Payee's Name and State(s) of Residence	Factored Payments			Aggregate Amount of Factored Payments	Annual Rate Used to Compute Present Value <sup>1</sup>	Present Value of Factored Payments	Contract Price for Factored Payments <sup>2</sup>	Contract Price as a Percent of Present Value	Discount Rate Charged by Factoring Company		Factoring Company
	Amount	No.	Interval						Mortgage-Equivalent Rate <sup>3</sup> (Annual)	Internal Rate of Return <sup>4</sup> (Annual)	
Campbell, Richard NC	\$800.00/mo.	35	3/97-1/00	\$28,000.00	7.4%	\$25,125	\$19,200.00	76%	26.2%	29.6%	Wentworth
Chavis, Hartman TN, SC	\$1611/mo.	35	4/96-2/99	\$56,385.00	6.8%	\$50,893	\$37,000.00	73%	28.8%	32.9%	Wentworth
Cook, Melissa CA	\$4,328.25/yr. \$4,616.80 \$7,213.75	2 1 1	6/97-6/98 6/99 6/03	\$20,487.05	7.6%	\$16,379	\$9,000.00	55%	34.6%	40.5%	Wentworth
Cox, Thomas MD	\$20,000 \$35,000	1 1	4/98 4/03	\$55,000	7.4%	\$37,449	\$18,500	49%	22.3%	24.7%	Stone Street
Davis, Eulysses GA	\$400.00/mo.	120	12/97-11/07	\$48,000.00	7.4%	\$34,210	\$16,000.00	47%	28.1%	32.0%	Windsor-Thomas
Dosch, Nicole MN	\$4,422.43/yr.	10	3/98-3/07	\$44,224.30	8.2%	\$29,000	\$13,000	44%	29.4%	33.7%	Wentworth
Dowling, John MI	\$445.83/mo. \$468.12/mo.* *Increasing 5% per year, compounded annually	8 112	3/97-10/97 11/97-2/07	\$68,414.00	7.6%	\$46,958	\$22,000.00	47%	26.1%	29.4%	Wentworth
Flora, Antoine	\$8,000.00 \$8,000.00 \$8,000.00 \$300.00/mo.	1 1 1 35	8/98 8/99 8/00 2/98-12/00	\$34,500.00	7.2%	\$30,389	\$25,240.37	82%	20.4%	22.4%	Wentworth
Getchell, Wayne ME	\$800.00/mo. \$17,500.00 \$25,000.00	109 1 1	3/98-3/07 4/01 4/06	\$129,700.00	7.2%	\$91,626	\$46,000.00	50%	23.6%	26.3%	Windsor-Thomas

Payee's Name and State(s) of Residence	Factored Payments			Aggregate Amount of Factored Payments	Annual Rate Used to Compute Present Value <sup>1</sup>	Present Value of Factored Payments	Contract Price for Factored Payments <sup>2</sup>	Contract Price as a Percent of Present Value	Discount Rate Charged by Factoring Company		Factoring Company
	Amount	No.	Interval						Mortgage-Equivalent Rate <sup>3</sup> (Annual)	Internal Rate of Return <sup>4</sup> (Annual)	
Guthrie, Rick FL	\$583/mo.*	120	5/96-4/06	\$69,960.00	7.0%	\$48,600	\$18,000.00	37.0%	37.0%	44.0%	Wentworth
	*Life-contingent										
Hicks, Christopher OK	\$1,000/mo.	32	5/97-12/99	\$71,500	7.8%	\$58,227	\$37,500.00	64%	26.2%	29.6%	Wentworth
	\$1,500 mo.	26	1/00-2/02								
Holland, Ralph NC	\$198/mo.	16	11/1/97-2/1/99	\$13,068.00	7.6%	\$7512	\$5165.89	69%	13.7%	14.6%	Wentworth
	\$9,900	1	7/5/08								
Jones, Cynthia	\$543.73/mo.	48	5/97-4/01	\$26,099.04	7.8%	\$22,475	14,508.00	65%	32.5%	37.8%	Wentworth
	\$300.00/mo.	60	5/01-4/06	\$18,000.00	7.8%	\$11,218	3,387.00	30%	27.7%	31.5%	Wentworth
Jones, Richard MO	\$1,000.00/mo.	120	4/1/97-3/1/07	\$120,000.00	7.8%	\$84,143	\$39,311.34	47%	28.7%	32.8%	Wentworth
	\$543.73/mo.	36	6/97-5/03	\$39,074.28	8.2%	\$30,080	16,746.00	56%	30.8%	35.6%	Wentworth
Jones, Sylvia	\$325.00/mo.	60	7/00-6/05								
	\$20,000/yr.	2	4/97-4/98	\$40,000.00	6.6%	\$36,167	\$23,500.00	65%	35.0%	41.2%	Wentworth
Kekuewa, Sargundy HI	\$10,000	1	8/02	\$55,000.00	8.2%	\$21,579	\$ 6,500.00	30%	19.5%	21.4%	Wentworth
	\$20,000	1	8/07								
	\$25,000	1	8/12								
Keller, Michael WI	\$500.00/mo.	94	12/97-9/05	\$47,000.00	7.2%	\$36,248	\$22,412.00	62%	22.2%	24.6%	Windsor-Thomas
Lorah, Wade VA, NC	\$11,000.00	1	7/97	\$86,400.00	8.0%	\$76,269	\$55,343.00	73%	28.0%	31.9%	Wentworth
	\$11,000.00	1	7/98								
	\$64,400.00	1	7/98								
Lovin, Kenneth VA	\$1,000/mo.	111	6/96-8/05	\$141,000.00	7.6%	\$102,029	\$59,500.00	58%	22.0%	24.3%	Wentworth
	\$5,000	1	10/96								
	\$25,000	1	10/01								

Payee's Name and State(s) of Residence	Factored Payments		Aggregate Amount of Factored Payments	Rate Used to Compute Present Value <sup>1</sup>	Present Value of Factored Payments	Contract Price for Factored Payments <sup>1</sup>	Contract Price as Percent of Present Value	Discount Rate Charged by Factoring Company		Factoring Company
	Amount	No. Interval						Mortgage-Equivalent Rate <sup>3</sup> (Annual)	Internal Rate of Return <sup>4</sup> (Annual)	
Lynch, James KA	\$250.00/mo.	116	\$368,000.00	7.6%	\$97,324	\$31,650.00	33%	17.6%	19.1%	Windsor-Thomas
	\$15,000.00	1								
	\$25,000.00	1								
	\$40,000.00	1								
	\$50,000.00	1								
	\$85,000.00	1								
	\$124,000.00	1								
Mackey, Tonya MI	\$478.73/mo.	36	\$17,234.28	7.6%	\$15,432	9,937.13	64%	40.3%	48.6%	Wentworth
	\$400.00/mo.	48	\$19,200	8.0%	\$16,364	\$9,125.00	56%	40.5%	48.9%	Wentworth
Major, Isaac MI	\$730/mo.	60	\$43,800.00	7.4%	\$36,522	\$20,000	55%	35.0%	41.2%	Wentworth
	\$500.00/mo.	85	\$82,500.00	7.6%	\$57,412	\$34,632.00	60%	19%	20.8%	Windsor-Thomas
McCollum, Odessa	\$425.00/mo.	36	\$15,300.00	8.2%	\$13,629	7,886.00	58%	51.6%	65.8%	Wentworth
	\$20,000.00	1	\$20,000.00	7.4%	\$17,976	\$8,400.00	47%	59.4%	78.6%	Windsor-Thomas
Peters, John TN	\$274.34/mo.	77	\$21,124.18	7.8%	\$16,711	\$7,660.00	46%	39.4%	47.3%	Singer

Payee's Name and State(s) of Residence	Factored Payments			Aggregate Amount of Factored Payments	Applicable Rate Used to Compute Present Value <sup>1</sup>	Present Value of Factored Payments	Contract Price for Factored Payments <sup>2</sup>	Contract Price as Percent of Present Value	Discount Rate Charged by Factoring Company		Factoring Company
	Amount	No.	Interval						Mortgage-Equivalent Rate <sup>3</sup> (Annual)	Internal Rate of Return <sup>4</sup> (Annual)	
Phelps, Kimberly MN	\$425.79/mo.	10	6/97-3/98	\$88,891.62	7.8%	\$61,988	\$36,448.72	59%	26.1%	29.5%	Wentworth
	\$468.56/mo.	12	4/98-3/99								
	\$512.62/mo.	12	4/99-3/00								
	\$558.00/mo.	12	4/00-3/01								
	\$604.74/mo.	12	4/01-3/02								
	\$652.88/mo.	12	4/02-3/03								
\$702.47/mo.	12	4/03-3/04									
\$753.54/mo.	12	4/04-3/05									
\$33,600	1	3/00									
Presley, Rosemary GA	\$500.00/mo.	201	10/95-6/12	\$128,312.63	7.6%	\$76,369	\$42,256.00	55%	18.4%	20.0%	Windsor-Thomaa
	\$6,749.87	1	8/97								
	\$8,297.73	1	1/00								
	\$12,765.03	1	1/05								
Pridemore, Dean PA, MI, OH	\$2,370/mo.	87	12/96-2/04 <sup>5</sup>	\$206,190.00	8.0%	\$156,508	\$91,780.00	59%	25.4%	28.6%	Wentworth
	\$500/mo.	47	4/97-2/01								
Pridgen, Samuel NC	\$10,000	1	3/98	\$48,500.00	7.8%	\$40,677	\$27,600.00	66%	27.4%	31.1%	Wentworth
	\$15,000	1	3/01								
	\$249.58/mo.	48	8/97-7/01								
Purdie, Henry AL	\$400/mo.	51	3/97-5/01	\$11,979.84	3.2%	\$10,174	\$5,850.00	57%	38.8%	46.5%	Wentworth
	\$500/mo.	60	6/01-5/05								
	\$750/mo.	9	6/06-2/97								
Ramos, Roberts NY	\$392.00/semi-mo.	100	10/97-11/15/01	\$57,150.00	7.6%	\$39,162	\$19,600.00	50%	24.2%	27.1%	Wentworth
	\$801/mo.	60	11/95-10/00								
Rich, Timothy TN	\$392.00/semi-mo.	100	10/97-11/15/01	\$39,200.00	7.6%	\$33,636	\$20,600.00	61%	34.3%	40.3%	Windsor-Thomaa
	\$801/mo.	60	11/95-10/00								
Roberts, Donald MS	\$556.10/mo.	23	9/97-7/99	\$48,060.00	7.6%	\$40,115	\$25,250.00	63%	28.9%	33.1%	Western/Me t. Mortgage
\$556.10/mo.	23	9/97-7/99									
Romano-Jackman, Cheryl MN	\$556.10/mo.	23	9/97-7/99	\$13,020.30	7.8%	\$11,788	\$8,291.06	70%	35.7%	42.1%	Wentworth
\$556.10/mo.	23	9/97-7/99									

Payee's Name and State(s) of Residence	Factored Payments		Aggregate Amount of Factored Payments	Applicable Federal Rate Used to Compute Present Value <sup>1</sup>	Present Value of Factored Payments	Contract Price for Factored Payments <sup>2</sup>	Contract Price as a Percent of Present Value	Discount Rate Charged by Factoring Company		Factoring Company
	Amount	No. Interval						Mortgage-Equivalent Rate <sup>3</sup> (Annual)	Internal Rate of Return <sup>4</sup> (Annual)	
Severson, Peter WI IL	\$17,720.00	1 3/00	\$68,160.00	7.6%	\$33,865	\$13,700.00	40%	18.6%	20.3%	Windsor-Thomas
	\$22,720.00	1 3/05								
	\$27,720.00	1 3/10								
Smith, Kimberly IL	\$500.00/mo.	60 4/97-3/02	\$40,000.00	7.8%	\$34,707	\$29,158.00	84%	17.9%	19.4%	Wentworth
	\$10,000.00	1 9/97								
	\$20,000.00 \$350.00/mo. \$17,500.00	1 9/02 65 4/02-8/07 1 9/07	\$60,250.00	8.0%	\$34,386	\$ 5,000.00	15%	37.8%	45.1%	
Stanley, Brian TX	\$607.00/mo.	60 9/97-8/02	\$36,420.00	7.6%	\$30,399	\$18,075.49	59%	31.9%	37.0%	Wentworth
Stinette, Acysha NY	\$35,000	1 10/98	\$35,000.00	8.2%	\$29,508	\$18,000.00	61%	31.1%	35.9%	Wentworth
Tarp, Melissa CA	\$553/mo.	120 5/96-4/06	\$66,360.00	7.0%	\$48,089	\$23,000.00	48%	26.8%	30.3%	Wentworth
	\$553/mo.	60 5/06-4/11	\$33,180.00	7.6%	\$13,397	\$ 1,700.00	13%	24.5%	27.5%	
Turner, William CA	\$675.50	1 4/01	\$35,675.50	8.2%	\$21,623	\$14,177.00	66%	16.1%	17.3%	Windsor-Thomas
	\$1,000.00/mo.	32 5/01-12/03								
Vnuk, Daniel MN	\$440.00/mo.	36 3/97-2/00	\$19,840.00	7.6%	\$18,044	\$12,000.00	67%	43.8%	53.7%	Wentworth
	\$4,000	1 8/97								
White, Raymond NY	\$500.00/mo.	36 8/96-7/99	\$18,000.00	8.2%	\$15,945.00	\$9,500.00	62%	43.1%	52.7%	Wentworth

<sup>1</sup> The present value of factored payments is computed in each case using the "applicable federal rate" for determining the present value of an annuity, as published by the Internal Revenue Service ("IRS") for the month of the factoring transaction.

<sup>2</sup> The contract price is the amount of the payment by the factoring company (net of any "underwriting," "administration" or other fees deducted by the factoring company) as identified in the court filing which are the source for this table.

The page equivalent rate is the nominal annual rate of interest that the payee would have received if, in lieu of "selling" the factored payments and receiving the indicated net price, the payee had obtained a loan in the same amount and had used the factored payments to pay off the loan in equal monthly installments equivalent to monthly payments of \$730.00 each and received a contract price of \$20,000.00. If L had instead obtained a loan for \$20,000.00, payable in 60 equal monthly installments of \$730.00, the nominal annual interest rate on that loan (i.e., twelve times the rate at which interest accrues and is paid each month) would have been 35%.

The internal rate of return is the annual rate at which the factored payments must be discounted (assuming monthly compounding) in order for their discounted present value to equal the contract price paid by the factoring company. Viewed from a different perspective, the internal rate of return is the factoring company's pre-tax return when it invests the contract price and collects the factored payments.

The Purchase Agreement in this case indicates that the factored payments were to end on April 14, 2004 -- two months after the 87th payment.

March, 1999

*Summary of Tonya Mangum Case\**

- In January, 1996, Tonya Mangum of Durham, North Carolina, entered into a structured settlement of a lawsuit growing out of an automobile accident in 1991. The settlement provided for an immediate cash payment of \$100,000, plus monthly annuity payments of \$750.00.
- In March, 1998, Ms. Mangum entered into a factoring transaction under which Settlement Funding L.L.C. (d/b/a Peachtree Settlement Funding), a Georgia-based factoring company, agreed to purchase \$350.00 of each of the monthly annuity payments for the ensuing seven years. The aggregate (undiscounted) amount of the payments purchased by Peachtree was \$29,400. Peachtree paid \$13,756. Peachtree's discount amounts to a mortgage-equivalent interest rate of 25.21% per year.
- The Peachtree questionnaires signed by Ms. Mangum indicate that at the time of her factoring transaction she was disabled and was unable to work because of back problems. She had one child and stated that her annual income, apart from her monthly annuity payments, consisted of social security benefits of \$11,400.
- In September, 1998, Peachtree sued Ms. Mangum in state court in New Jersey. In November, 1998, Peachtree obtained a default judgment against Ms. Mangum in the amount of \$33,333.44.

\* The National Structured Settlement Trade Association ("NSSTA") has compiled this and other, similar summaries of structured settlement factoring transactions from the information contained in the pleadings filed in lawsuits that have arisen from those transactions. In most cases the lawsuits are collection actions brought by factoring companies against their own customers. The source for this summary is the pleadings filed in Settlement Funding L.L.C. v. Tonya Mangum, Union Cty., N.J. Sup. Ct. Docket No. UNN-L4963-98. Copies of the pleadings are available through NSSTA.

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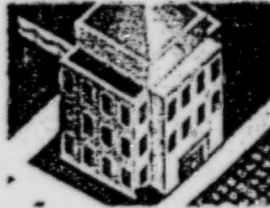
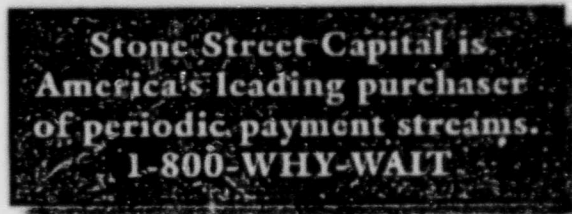
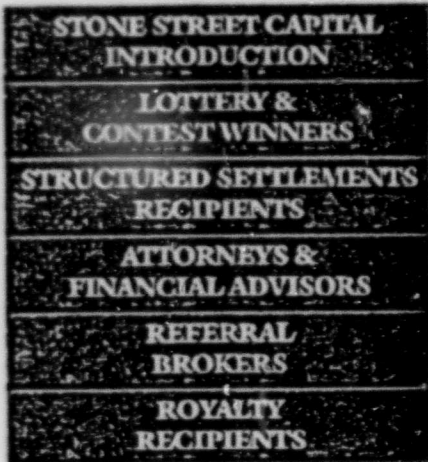
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At the present time, because of changes in the governments position on assignability, it may not be possible to locate an underwriter for military retirement or VA disability deals. Virtually all the main stream funders have terminated servicing these types of income streams. However, recently IFS was successful in placing a limited number of these deals, and we are presently evaluating similar deals with our underwriters on an individual basis.

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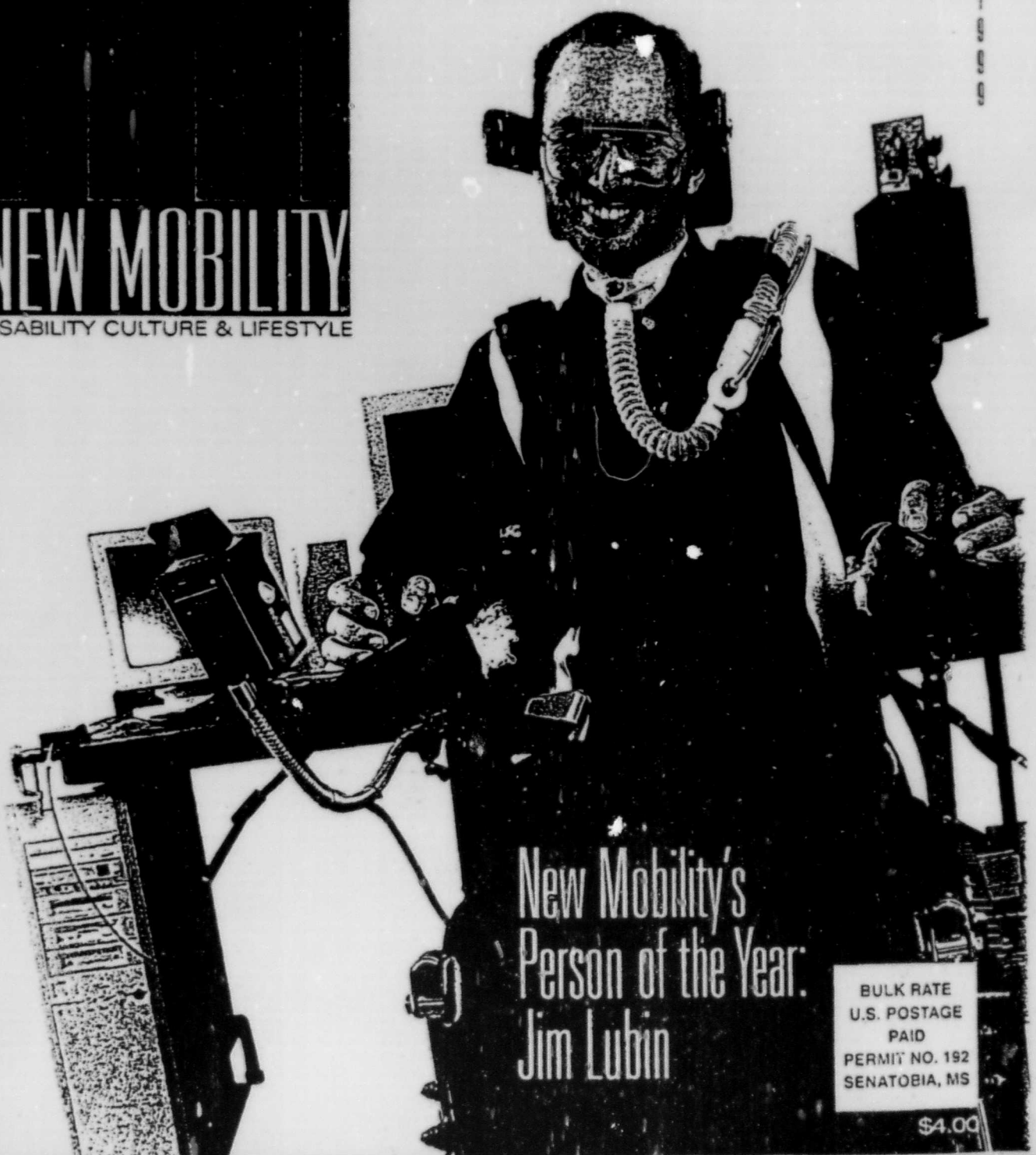


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# Structured Settlements Work

BY KEITH D. LEMONS, ESQ.

## But Beware of Offers to Cash them Out

A few years ago, Greta Resch\* was seriously injured in an auto accident. I represented her, and secured a settlement of \$430,000. Greta took almost all of it in cash because she was convinced she could handle this money wisely. Recently, she was sued for a \$1,900 credit card balance that she was unable to pay. A lifetime of security had dwindled to nothing.

As a plaintiff's attorney for 20 years, I've learned that becoming disabled is difficult, and that achieving financial independence is even tougher. But it's nothing short of tragic when funds from a settlement disappear because an injured person cannot handle large sums of money.

For that reason, I urge my clients to take their settlements in a way that guarantees their long-term financial security. Very often, this requires what is known as a "structured settlement."

Recognized and encouraged by Congress since 1982, structured settlements are similar to annuities. They provide guaranteed tax-free payments in a way that is carefully designed to meet a person's long-term needs. The tax-free status generally makes structured settlements more valuable over time than single, lump-sum settlements.

Mary Leigh Martin was seriously injured in 1993, and I helped her secure a large settlement. However, Mary took only \$100,000 in immediate cash. The rest was a struc-

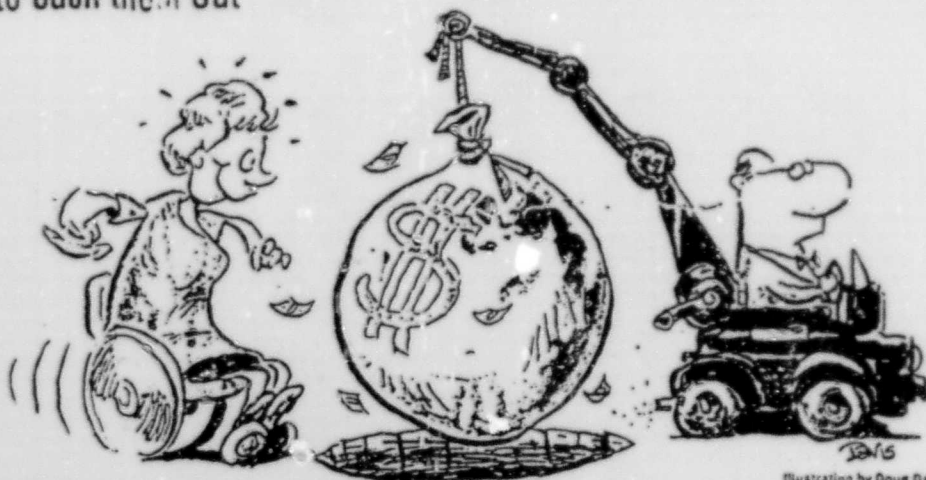


Illustration by Doug Davis

ured settlement that would pay her \$1.6 million over the next 34 years. It is a virtual certainty that Mary could not have realized that sort of gain by investing on her own.

Why did I advise her not to take the money in a lump sum? Because it is my experience that, with few exceptions, injured people receiving large cash settlements lose the money quickly—often spending between \$120,000 and \$150,000 per year. I wish I was exaggerating, but I am not. This phenomenon is not a function of education, intelligence, race or any other factor I can pinpoint other than the frailty of human nature.

For Mary, even a structured settlement was not enough protection. A few months ago, she informed me that she had already spent the \$100,000 cash settlement. She then showed me a contract in which she had sold portions of her structured settlement for the next nine years in exchange for cash. That cash, too, is gone, and Mary now has to wait eight years for her next pay-

ment. Worse, she received only about half of what her payments were worth.

What Mary encountered is known in the trade as the "gray market." Gray market companies use phone banks and advertising campaigns to induce settlement recipients to sell their future payments for discounted upfront cash. The potential profits for gray market companies are huge—injured people have been convinced to sell years of payments for as little as 30 cents on the dollar.

Chris Melnick is another example. When he was 13, he became paraplegic in a swimming pool accident. In a court-approved structured settlement, he received a lump sum of about \$850,000 and monthly payments of about \$2,000. Three months after he turned 18, Chris signed a contract with a gray market company, agreeing to sell \$71,000 of future payments for \$37,500. A few months later, the company claimed Chris had defaulted, and it filed a

civil claim for the payments plus legal expenses. The court ruled in favor of the company.

Throughout the country, the gray market is endangering the financial security of disabled Americans. And those who sell their structured settlement payments to gray market buyers are, in my opinion, literally selling their futures.

Very few people, injured or not, get that one shot in life to meet their financial needs for life. To take advantage of this opportunity, it is vitally important to remember one's long-term needs. In spite of gray market operators, a balanced structured settlement—and a commitment to live within its terms—can do just that.

Disability is a painful disruption of life, but structured settlements can help return stability. Isn't that what justice is all about? ML

\*All names have been changed for privacy.

Keith D. Lemons is the senior partner of Keith D. Lemons & Associates, a litigation law firm based in Fort Worth, Texas.



# NATIONAL ORGANIZATION ON DISABILITY

910 Sixteenth Street, NW, Washington, DC 20006

February 19, 1999

The Honorable William Roth  
104 Hart Senate Office Building  
United States Senate  
Washington, D.C. 20510

Re: Statement of Support for HR 263, The Structured Settlement Protection Act

Dear Mr. Chairman:

The National Organization on Disability (N.O.D.) promotes the full and equal participation of America's 54 million men, women and children with disabilities in all aspects of life. N.O.D. was founded in 1982 at the conclusion of the United Nations International Year of Disabled Persons. N.O.D. is the only national disability network organization concerned with all disabilities, all age groups and all disability issues.

I write to you to express N.O.D.'s strong support for HR 263, The Structured Settlement Protection Act. Congress created structured settlements to provide long-term financial security for victims of serious injuries, many of whom are permanently disabled. Structured settlements meet the victims' ongoing expenses for medical care, living needs, and family support, and serve the public good by ensuring that victims don't dissipate their settlements and wind up on public assistance.

For these reasons we are extremely troubled at the emergence of factoring companies that convince injury victims, including persons with disabilities, to sell structured settlement payments for a deeply discounted cash lump sum. Such transactions completely undermine the long-term financial security of a structured settlement and threaten the very livelihood of an otherwise extremely vulnerable population - those of us with disabilities. And the steep financial discounts that disabled Americans often are persuaded to accept would be unacceptable to any fair minded person.

We are heartened that several state attorneys general are looking into this issue. Several legislatures are also considering bills to curb these purchases of future structured settlement payments by factoring companies.

There needs to be a strong federal law to protect the disabled from this nationwide problem which jeopardizes the long-term financial security of these injured victims and their families. N.O.D. therefore strongly supports HR 263 and urges you to give it your prompt attention before it results in the further disablement of our nation's disabled. Thank you very much, Mr. Roth, for your consideration.

Sincerely,

Alan A. Reich  
President

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Sen. Major R. Owens, NY  
Sen. John E. Porter, IL  
Rep. Henry Waxman, CA

November 1, 1998

## RECENT COMMENTS REGARDING STRUCTURED SETTLEMENTS AND STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

### Senator John Chafee:

*Structured settlements were developed because of the pitfalls associated with the traditional lump sum form of recovery in serious personal injury cases, where all too often a lump sum meant to last for decades or even a lifetime swiftly eroded away. Structured settlements have proven to be a very valuable tool. They provide long-term financial security in the form of an assured stream of payments to persons suffering serious, often profoundly disabling, physical injuries. These payments enable the recipients to meet ongoing medical and basic living expenses without having to resort to the social safety net. . . .*

*I am very concerned that in recent months there has been sharp growth in so-called structured settlement factoring transactions. In these transactions, companies induce injured victims to sell off future structured settlement payments for a steeply-discounted lump sum, thereby unraveling the structured settlement and the crucial long-term financial security that it provides to the injured victim. These factoring company purchases directly contravene the intent and policy of Congress in enacting the special structured settlement tax rules. [144 Cong. Rec. S11340 (October 2, 1998).]*

### Senator Max Baucus:

*Over the almost two decades since we enacted these tax rules [Internal Revenue Code Sections 104(a)(2) and 130], structured settlements have proven to be a very effective means of providing long-term financial protection to persons with serious, long-term physical injuries through an assured stream of payments designed to meet the victim's ongoing expenses for medical care, living and family support. Structured settlements are voluntary agreements reached between the parties that are negotiated by counsel and tailored to meet the specific medical and living needs of the victim and his or her family, often with the aid of economic experts. . . .*

*I now find that this careful planning and long-term financial security for the victim and his or her family can be unraveled in an instant by a factoring company offering quick cash at a steep discount. What happens next month or next year when the lump sum from the*

*factoring company is gone, and the stream of payments for future financial support is no longer coming in? These structured settlement factoring transactions place the injured victim in the very predicament that the structured settlement was intended to avoid. [144 Cong. Rec. S11499-500 (October 5, 1998).]*

**Representative E. Clay Shaw, Jr.:**

*As long-time supporters of structured settlements and the congressional policy underlying such settlements, we have grave concerns that these factoring transactions directly undermine the policy of the structured settlement tax rules. The Treasury Department shares these concerns. [144 Cong. Rec. E1420 ([daily ed.] (July 24, 1998).]*

**United States Department of the Treasury:**

*Congress enacted favorable tax rules intended to encourage the use of structured settlements -- and conditioned such tax treatment on the injured person's inability to accelerate, defer, increase or decrease the periodic payments -- because recipients of structured settlements are less likely than recipients of lump sum awards to consume their awards too quickly and require public assistance . . .*

*These "factoring" transactions directly undermine the Congressional objective to create an incentive for injured persons to receive periodic payment as settlements of personal injury claims. [General Explanations of the Administration's Revenue Proposals, Fiscal Year 1999 Budget of the United States Government, February, 1998.]*

**Illinois Representative David Leitch:**

*I'm just very concerned about the people who are being victimized by these people who are taking a very, very deep discount in these settlement amounts, and who are then left penniless without resources in the future. [Illinois House Debate Transcript, April 10, 1997.]*

**Thomas H. Countee, Jr., Executive Director of the National Spinal Cord Injury Association:**

*Over the past 16 years, structured settlements have proven to be an ideal method for insuring that persons with disabilities, particularly minors, are not tempted to squander resources designed to last years or even a lifetime.*

*This is why the National Spinal Cord Injury Association is so deeply concerned about the emergence of companies that purchase payments intended for disabled persons at drastic discount. This strikes at the heart of the security Congress intended when it created structured settlements. The practice of buying the payments of injured parties in exchange for only 50 or 60 cents per present-value dollar strikes me as abusive and inappropriate. [September 8, 1998 Letter to Sen. William Roth.]*

**Editorial: "Settlements Should Last":**

*[E]ven if the lump sum paid to the claimant [by a factoring company] is not quickly squandered on some form of immediate gratification, it is certain to disappear more quickly than the original benefit. That can put claimants between a rock and a hard place: They likely still have sizable expenses but no source of adequate income to cover them. . . .*

*Where does that leave them -- especially if circumstances of their claim have left them unable to earn a living? In all likelihood, at the doorstep of the taxpayer who finances Medicare, Medicaid and public assistance programs. [Business Insurance, August 10, 1998.]*

**Chicago Trial Lawyer Robert A. Clifford:**

*I represent many people who are hurt or disabled through no fault of their own.*

*They are victimized once in an accident. The greater tragedy for them can come later when they are victimized again, this time by slick discounters.*

*Other than the initial injury, I can't think of anything worse. ["Stream of payments shields some injury victims from unwise decisions, maximizes compensation," Chicago Daily Law Bulletin, April 25, 1998.]*

VISITOR REGISTRATION SHEET

Name of Committee

J-1

Date  
4-8-99

VISITORS: Please sign below and return to Committee Clerk.

①

NAME

FIRM OR STATE AGENCY AND ADDRESS of 2

DAVID McARTHUR	GENERAL ELECTRIC COMPANY
Eddie Biddix	
Cynthia Biddix	
JASON RAODES	
Sam Sands	WCSR
James Terlizzi	NATI. ASSOC. settlement purchasers
Amby Elbe	NRMA
Fran Preston	NRMA
Porter	Paine & Associates
Kristin David	Legislative Intern
Charles Croner	ncratl
Dave Horne	Smith Helms
Amy Jo Baum	NCMS
Phil Telfer	AGO
Larry Jax	OTD
Lynn Bonner	NFO
Elizabeth Kunikolan	NCAFL
Bob [unclear]	NCAFL
Michael [unclear]	Private Citizen
John McMiller	Maning Fulton + Skene PA
Chris Sinclair	McMaf. Hrs

VISITOR REGISTRATION SHEET

Name of Committee

J-1

Date

4-8-99

VISITORS: Please sign below and return to Committee Clerk.

(2)

NAME

FIRM OR STATE AGENCY AND ADDRESS

82

David Lowman	Huntton & Williams, Richmond Va
Randy Dyer	Nat. Structural Set. Assn, Wash. DC
Joseph Valawani	Nationwide
Raphne Beatty	GE Financial Assurance
Robert Paschel	Young, Moore & Henderson
Gregory Teece	Moore & Van Allen
Mike James	ACBPA
Amy Fullbright	Huntton & Williams
Alan Miles	Bouly & Brown LLP

MINUTES  
SENATE JUDICIARY I COMMITTEE  
APRIL 13, 1999

The Senate Judiciary I Committee met on April 13, 1999 at 9:30 a.m. in Room 1027 of the Legislative Building. A majority of members was present.

Senator Cooper called the meeting to order and recognized Senator Hartsell to explain **Senate Bill 245 - AN ACT TO ENACT REVISED ARTICLE 5 OF THE UNIFORM COMMERCIAL CODE AND CONFORMING AND MISCELLANEOUS AMENDMENTS TO THE UNIFORM COMMERCIAL CODE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.**

Senator Hartsell moved to adopt a Proposed Committee Substitute to Senate Bill 245 for discussion. The motion carried by a majority voice vote.

Professor Caroline N. Brown - UNC School of Law - was recognized to speak on the bill.

Senator Hartsell moved to amend the Proposed Committee Substitute on Page 10, Line 3. The motion carried by a majority voice vote. (Amendment is attached.)

John Loughridge, Jr. - Wachovia Bank, Winston-Salem, N. C. - was recognized to speak on the bill.

Senator Hartsell moved to give the Proposed Committee Substitute to Senate Bill 245 a favorable report as amended and roll it into a new Committee Substitute. The motion carried by a majority voice vote.

Senator Hartsell was recognized to explain **Senate Bill 246 - AN ACT TO CLARIFY AND REVISE THE PROCEDURES GOVERNING APPEALS OR TRANSFERS FROM CLERKS OF SUPERIOR COURT TO THE TRIAL COURTS AND TO MAKE CONFORMING AND CLARIFYING AMENDMENTS TO OTHER RELATED SECTIONS OF THE GENERAL STATUTES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.**

Senator Hartsell moved to adopt a Proposed Committee Substitute to Senate Bill 246 for discussion. The motion carried by a majority voice vote.

Jim Drennan - Institute of Government - was recognized to explain the details of the Proposed Committee Substitute.

Jim Carr - Clerk of Court, Durham County - was recognized to answer questions from the Committee.

Joan Branson - Institute of Government - was recognized to answer questions from the Committee.

Senator Rand moved to amend the Proposed Committee Substitute on Page 4, Line 22. The motion carried by a majority voice vote. (Amendment attached.)

Senator Hartsell moved to give the Proposed Committee Substitute to Senate Bill 246 a favorable report as amended and roll it into a new Committee Substitute. The motion carried by a majority voice vote.

Senator Rand was recognized to explain **Senate Bill 601 - AN ACT TO PROVIDE THAT THE SECRETARY OF CORRECTION HAS SOLE AUTHORITY TO DESIGNATE THE UNIFORMS WORN BY INMATES CONFINED IN THE DIVISION OF PRISONS.**

Senator Rand moved to adopt a Proposed Committee Substitute to Senate Bill 601 for discussion. The motion carried by a majority voice vote.

Senator Gulley moved to give the Proposed Committee Substitute to Senate Bill 601 a favorable report. The motion carried by a majority voice vote.

Senator Rand was recognized to explain **Senate Bill 172 - AN ACT TO MAKE THE POSSESSION OF BLUE LIGHTS ILLEGAL.**

Senator Rand moved to reconsider the vote by which Senate Committee Substitute Bill 172 was given a favorable report (March 11, 1999 meeting). The motion carried by a majority voice vote.

Senator Rand moved to adopt a Proposed Committee Substitute to Senate Committee Substitute Bill 172 for discussion. The motion carried by a majority voice vote.

Senator Clodfelter moved to give the new Committee Substitute for Senate Bill 172 a favorable report. The motion carried by a majority voice vote.

Senator Carpenter was recognized to explain **Senate Bill 170 - AN ACT TO ESTABLISH A LIMIT ON THE TIME A PERSON CAN BE IMPRISONED FOR CIVIL CONTEMPT AND TO RAISE THE STANDARD OF PROOF IN PROCEEDINGS FOR CIVIL CONTEMPT.**

Senator Carpenter moved to adopt a Proposed Committee Substitute to Senate Bill 170 for discussion. The motion carried by a majority voice vote.

Senator Clodfelter, Chairman of the Subcommittee, was recognized to explain the Proposed Committee Substitute.

Senator Soles moved to amend the Proposed Committee Substitute on Page 2, Line 45. The motion carried by a majority voice vote. (Amendment #1 attached.)

Senator Rand moved to amend the Proposed Committee Substitute on Page 2, Line 23. The motion carried by a majority voice vote. (Amendment #2 attached.)

Senator Carpenter moved to give the Proposed Committee Substitute to Senate Bill 170 a favorable report as amended and roll it into a new Committee Substitute. The motion carried by a majority voice vote.

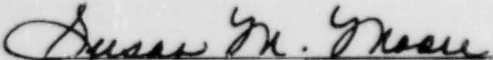
Senator Soles, as Acting Chairman, recognized Senator Cooper to continue the discussion of the Proposed Committee Substitute to **Senate Bill 746 - AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT PROTECTION ACT.**

David Lowman, with Hunton & Williams, Attorneys at Law, was recognized to answer questions from the Committee.

Senator Cooper moved to give the Proposed Committee Substitute to Senate Bill 746 a favorable report. The motion carried by a majority voice vote.

There being no further business, the meeting adjourned.

  
Sen. Roy A. Cooper, III, Chairman

  
Susan M. Moore, Comm. Assistant

Principal Clerk  
Reading Clerk

—  
—

**SENATE**  
**NOTICE OF COMMITTEE MEETING**

The Senate Committee on **Judiciary I** will meet at the following time:

**DATE:** Tuesday, April 13, 1999  
**TIME:** 9:30 - 11:00 a.m.  
**ROOM:** 1027

The following bills or resolutions will be considered:

SB 170	Restructure Civil Contempt	Carpenter
SB 172	Possession of Blue Lights Illegal	Rand
SB 176	Salyer/Forfeiture of Property Rights	Hartsell
SB 245	Letters of Credit UCC Rewrite	Hartsell
SB 246	Appeal or Transfer from Clerk	Hartsell
SB 601	DOC Prisoners' Uniforms	Rand
SB 746	Structured Settlement Protection Act	Cooper

Senator Cooper, Chair

# SENATE JUDICIARY I COMMITTEE

AGENDA - April 13, 1999

SB 170	Restructure Civil Contempt	Carpenter
SB 172	Possession of Blue Lights Illegal	Rand
SB 176	Slayer/Forfeiture of Property Rights	Hartsell
SB 245	Letters of Credit UCC Rewrite	Hartsell
SB 246	Appeal or Transfer from Clerk	Hartsell
SB 601	DOC Prisoners' Uniforms	Rand
SB 746	Structured Settlement Protection Act	Cooper

NORTH CAROLINA GENERAL ASSEMBLY  
SENATE

JUDICIARY I COMMITTEE REPORT  
Sen. Roy A. Cooper, III, Chair

REVISED REPORT

Wednesday, April 21, 1999

SEN. COOPER,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B. 769 Amend Larceny of Ginseng  
Sequential Referral: None  
Recommended Referral: None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL**

S.B. 297 Various Limited Partnership Law Changes  
Draft Number: PCS 7663  
Sequential Referral: None  
Recommended Referral: None  
Long Title Amended: Yes

S.B. 746 Structured Settlement Protection Act  
Draft Number: PCS 1707  
Sequential Referral: None  
Recommended Referral: None  
Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comment: Will have Senator Cooper sign

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 746

Short Title: Structured Settlement Protection Act.

(Public)

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Sponsors: Senators Cooper; Ballance, Foxx, Kinnaird, Martin of Guilford, Miller, Rand, Reeves, and Soles.

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Referred to: Judiciary I.

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April 5, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT  
3 PROTECTION ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 1 of the General Statutes is amended by adding a  
6 new Article to read:

7 "ARTICLE 44B.  
8 "Structured Settlement Protection Act.

9 "§ 1-543.10. Title.

10 This Article may be cited as the North Carolina Structured Settlement Protection  
11 Act.

12 "§ 1-543.11. Structured settlement payment rights.

13 No direct or indirect transfer of structured settlement payment rights shall be  
14 effective, and no structured settlement obligor or annuity issuer shall be required to  
15 make any payment directly or indirectly to any transferee of structured settlement  
16 payment rights unless the transfer has been authorized in advance in a final order of  
17 a court of competent jurisdiction or a responsible administrative authority based on  
18 express findings by such court or responsible administrative authority that:

19 (1) The transfer complies with the requirements of this Article and  
20 will not contravene other applicable law;

21 (2) Not less than 10 days prior to the date on which the payee first  
22 incurred any obligation with respect to the transfer, the transferee

1 has provided to the payee a disclosure statement in bold type, no  
2 smaller than 14 point setting forth:

3 a. The amounts and due dates of the structured settlement  
4 payments to be transferred;

5 b. The aggregate amount of such payments;

6 c. The discounted present value of such payments, together  
7 with the discount rate used in determining such discounted  
8 present value;

9 d. The gross amount payable to the payee in exchange for such  
10 payments;

11 e. An itemized listing of all brokers' commissions, service  
12 charges, application fees, processing fees, closing costs, filing  
13 fees, administrative fees, legal fees, notary fees and other  
14 commissions, fees, costs, expenses and charges payable by  
15 the payee or deductible from the gross amount otherwise  
16 payable to the payee;

17 f. The net amount payable to the payee after deduction of all  
18 commissions, fees, costs, expenses and charges described in  
19 sub-subdivision e. of this paragraph;

20 g. The quotient (expressed as a percentage) obtained by  
21 dividing the net payment amount by the discounted present  
22 value of the payments; and

23 h. The amount of any penalty and the aggregate amount of any  
24 liquidated damages (inclusive of penalties) payable by the  
25 payee in the event of any breach of the transfer agreement  
26 by the payee;

27 (3) The transferee has established that the transfer is necessary to  
28 enable the payee, the payee's dependents, or both, to avoid  
29 imminent financial hardship, and the transfer should not be  
30 expected to subject the payee, the payee's dependents, or both, to  
31 undue financial hardship in the future; provided, however, that if,  
32 at the time the payee and the transferee entered into the transfer  
33 agreement, a federal hardship standard was in effect, then, in lieu  
34 of the foregoing finding, the court or responsible administrative  
35 authority must make an express finding that the transfer qualifies  
36 under such federal hardship standard;

37 (4) The payee has received independent professional advice regarding  
38 the legal, tax, and financial implications of the transfer;

39 (5) If the transfer would contravene the terms of the structured  
40 settlement:

41 a. The transfer has been expressly approved in writing by:

42 1. Each interested party; provided, however, that if, at  
43 the time the payee and the transferee entered into the  
44 transfer agreement, a favorable tax determination was

- 1                   in effect, then the approval of the annuity issuer and  
2                   the structured settlement obligor shall not be  
3                   required if all other interested parties approve the  
4                   transfer and waive any and all rights to require that  
5                   the transferred payments be made to the payee in  
6                   accordance with the terms of the structured  
7                   settlement; and  
8                   2.   Any court or government authority, other than the  
9                   court or responsible administrative authority from  
10                   which authorization of the transfer is sought under  
11                   this act, which previously approved the structured  
12                   settlement; and  
13                   b.   Signed originals of all approvals required under sub-  
14                   subdivision a. of this subdivision have been filed with the  
15                   court or responsible administrative authority from which  
16                   authorization of the transfer is sought under this act, and  
17                   originals or copies have been furnished to all interested  
18                   parties; and  
19                   (6)   The transferee has given written notice of the transferee's name,  
20                   address, and taxpayer identification number to the annuity issuer  
21                   and the structured settlement obligor and has filed a copy of such  
22                   notice with the court or responsible administrative authority; and  
23                   (7)   The discount rate used in determining discounted present value of  
24                   the structured settlement payment rights does not exceed eighteen  
25                   percent (18%).

26   "§ 1-543.12. Definitions.

27   For purposes of this Article:

- 28                   (1)   'Annuity issuer' means an insurer that has issued an insurance  
29                   contract used to fund periodic payments under a structured  
30                   settlement;  
31                   (2)   'Applicable law' means:  
32                   a.   The federal laws of the United States;  
33                   b.   The laws of this State, including principles of equity applied  
34                   in the courts of this State; and  
35                   c.   The laws of any other jurisdiction:  
36                   1.   Which is the domicile of the payee or any other  
37                   interested party;  
38                   2.   Under whose laws a structured settlement agreement  
39                   was approved by a court or responsible administrative  
40                   authority; or  
41                   3.   In whose courts a settled claim was pending when the  
42                   parties entered into a structured settlement  
43                   agreement;

- 1           (3) 'Dependents' include a payee's spouse and minor children and all  
2 other family members and other persons for whom the payee is  
3 legally obligated to provide support, including alimony;
- 4           (4) 'Discounted present value' means the fair present value of future  
5 payments, as determined by discounting such payments to the  
6 present utilizing the tables adopted in Article 5 of Chapter 8 of the  
7 General Statutes;
- 8           (5) 'Favorable tax determination' means, with respect to a proposed  
9 transfer of structured settlement payment rights, any of the  
10 following authorities that definitely establishes that the federal  
11 income tax treatment of the structured settlement for the parties to  
12 the structured settlement agreement and any qualified assignment  
13 agreement, other than the payee, will not be affected by such  
14 transfer:
- 15           a. A provision of the Internal Revenue Code, United States  
16 Code Title 26, as amended from time to time, or a United  
17 States Treasury regulation adopted pursuant thereto;
- 18           b. A revenue ruling or revenue procedure issued by the  
19 Internal Revenue Service; or
- 20           c. A private letter ruling by the Internal Revenue Service with  
21 respect to such transfer; or
- 22           d. A decision of the United States Supreme Court or a  
23 decision of a lower federal court in which the Internal  
24 Revenue Service has acquiesced;
- 25           (6) 'Federal hardship standard' means a federal standard applicable to  
26 transfers of structured settlement payment rights based on findings  
27 of a court or responsible administrative authority regarding the  
28 payees' needs, as contained in the Internal Revenue Code, United  
29 States Code Title 26, as amended from time to time, or in a United  
30 States Treasury regulation adopted pursuant thereto;
- 31           (7) 'Independent professional advice' means advice of an attorney,  
32 certified public accountant, actuary, or other licensed or registered  
33 professional or financial adviser:
- 34           a. Who is engaged by a payee to render advice concerning the  
35 legal, tax, and financial implications of a transfer of  
36 structured settlement payment rights;
- 37           b. Who is not in any manner affiliated with or compensated by  
38 the transferee of such transfer; and
- 39           c. Whose compensation for rendering such advice is not  
40 affected by whether a transfer occurs or does not occur;
- 41           (8) 'Interested parties' means, with respect to any structured  
42 settlement, the payee, any beneficiary designated under the annuity  
43 contract to receive payments following the payee's death, the  
44 annuity issuer, the structured settlement obligor, and any other

- 1           party that has continuing rights or obligations under such  
2           structured settlement;
- 3           (9) 'Payee' means an individual who is receiving tax-free damage  
4           payments under a structured settlement and proposes to make a  
5           transfer of payment rights thereunder;
- 6           (10) 'Qualified assignment agreement' means an agreement providing  
7           for a qualified assignment within the meaning of section 130 of the  
8           Internal Revenue Code, United States Code Title 26, as amended  
9           from time to time;
- 10          (11) 'Responsible administrative authority' means, with respect to a  
11          structured settlement, any government authority vested by law with  
12          exclusive jurisdiction over the settled claim resolved by such  
13          structured settlement;
- 14          (12) 'Settled claim' means the original tort claim or workers'  
15          compensation claim resolved by a structured settlement;
- 16          (13) 'Structured settlement' means an arrangement for periodic  
17          payment of damages for personal injuries established by settlement  
18          or judgment in resolution of a tort claim or for periodic payments  
19          in settlement of a workers' compensation claim;
- 20          (14) 'Structured settlement agreement' means the agreement, judgment,  
21          stipulation, or release embodying the terms of a structured  
22          settlement, including the rights of the payee to receive periodic  
23          payments;
- 24          (15) 'Structured settlement obligor' means, with respect to any  
25          structured settlement, the party that has the continuing periodic  
26          payment obligation to the payee under a structured settlement  
27          agreement or a qualified assignment agreement;
- 28          (16) 'Structured settlement payment rights' means rights to receive  
29          periodic payments (including lump-sum payments) under a  
30          structured settlement, whether from the settlement obligor or the  
31          annuity issuer, where:
- 32                a. The payee is domiciled in this State;  
33                b. The structured settlement agreement was approved by a  
34                court or responsible administrative authority in this State; or  
35                c. The settled claim was pending before the courts of this State  
36                when the parties entered into the structured settlement  
37                agreement;
- 38          (17) 'Transfer' means any sale, assignment, pledge, hypothecation, or  
39          other form of alienation or encumbrance made by a payee for  
40          consideration;
- 41          (18) 'Terms of the structured settlement' include, with respect to any  
42          structured settlement, the terms of the structured settlement  
43          agreement, the annuity contract, any qualified assignment  
44          agreement, and any order or approval of any court or responsible

1 administrative authority or other government authority authorizing  
2 or approving such structured settlement; and

3 (19) 'Transfer agreement' means the agreement providing for transfer of  
4 structured settlement payment rights from a payee to a transferee.

5 **"§ 1-543.13. Jurisdiction.**

6 (a) Where the structured settlement agreement was entered into after  
7 commencement of litigation or administrative proceedings in this State, the court or  
8 administrative agency where the action was pending shall have exclusive jurisdiction  
9 over any application for authorization under this Article of a transfer of structured  
10 settlement payment rights.

11 (b) Where the structured settlement agreement was entered into prior to the  
12 commencement of litigation or administrative proceedings, or after the  
13 commencement of litigation outside this State, the Superior Court Division of the  
14 General Court of Justice shall have nonexclusive original jurisdiction over any  
15 application for authorization under this Article of a transfer of structured settlement  
16 payment rights.

17 **"§ 1-543.14. Procedure for approval of transfers.**

18 (a) Where the structured settlement agreement was entered into after the  
19 commencement of litigation or administrative proceedings in this State, the  
20 application for authorization of a transfer of structured settlement rights shall be filed  
21 with the court or administrative agency where the settled claim was pending as a  
22 motion in the cause.

23 (b) Where the structured settlement agreement was entered into prior to the  
24 commencement of litigation or administrative proceedings, or after the  
25 commencement of litigation or administrative proceedings outside this State, the  
26 application for authorization of a transfer of structured settlement payment rights  
27 shall be filed in the superior court with proper venue pursuant to Article 7 of this  
28 Chapter. The nature of the action shall be a special proceeding governed by the  
29 provisions of Article 33 of this Chapter.

30 (c) Not less than 30 days prior to the scheduled hearing on any application for  
31 authorization of a transfer of structured settlement payment rights under this Article,  
32 the transferee shall file with the proper court or responsible administrative authority  
33 and serve on any other government authority which previously approved the  
34 structured settlement, on all interested parties, and on the Attorney General, a notice  
35 of the proposed transfer and the application for its authorization, including in such  
36 notice:

- 37 (1) A copy of the transferee's application;  
38 (2) A copy of the transfer agreement;  
39 (3) A copy of the disclosure statement required under G.S. 1-  
40 543.11(a);  
41 (4) Notification that any interested party is entitled to support, oppose,  
42 or otherwise respond to the transferee's application, either in  
43 person or by counsel, by submitting written comments to the court

1 or responsible administrative authority or by participating in the  
2 hearing; and

3 (5) Notification of the time and place of the hearing and notification  
4 of the manner in which and the time by which written responses to  
5 the application must be filed in order to be considered by the court  
6 or responsible administrative authority.

7 (d) The Attorney General shall have standing to raise, appear, and be heard on  
8 any matter relating to an application for authorization of a transfer of structured  
9 settlement payment rights under this Article.

10 **"§ 1-543.15. No waiver; penalties.**

11 (a) The provisions of this Article may not be waived.

12 (b) Any payee who has transferred structured settlement payment rights to a  
13 transferee without knowledge of the requirements set out in this Article may bring an  
14 action against the transferee to recover actual monetary loss or for damages up to five  
15 thousand dollars (\$5,000) for the violation by the transferee, or bring actions for both.  
16 The payee is entitled to attorneys' fees and costs incurred to enforce this Article. In  
17 addition, the payee shall be entitled to reinstatement of all structured settlement  
18 payment rights lost as a result of violation of this Article by any transferee.

19 (c) No payee who proposes to make a transfer of structured settlement payment  
20 rights shall incur any penalty, forfeit any application fee or other payment, or  
21 otherwise incur any liability to the proposed transferee based on any failure of such  
22 transfer to satisfy the conditions of this Article.

23 **"§ 1-543.16. Construction.**

24 Nothing contained in this Article shall be construed to authorize any transfer of  
25 structured settlement payment rights in contravention of applicable law or to give  
26 effect to any transfer of structured settlement payment rights that is invalid under  
27 applicable law."

28 Section 2. Article 33 of Chapter 1 of the General Statutes is amended by  
29 adding a new section to read as follows:

30 **"§ 1-394.1. Special proceedings to determine authority to transfer structured**  
31 **settlement payment rights.**

32 When a special proceeding is commenced to obtain authorization for the transfer  
33 of structured settlement payment rights pursuant to Article 44B of this Chapter, the  
34 provisions of this Article apply except that the interested parties shall have 30 days to  
35 appear and answer the petition, and all hearings on such petitions must be conducted  
36 before a superior court judge and all final orders on such petitions must be entered  
37 by a superior court judge."

38 Section 3. This act shall apply to any transfer of structured settlement  
39 payment rights under a transfer agreement entered into on or after October 1, 1999,  
40 but nothing contained in this act shall imply that any transfer under a transfer  
41 agreement reached prior to such date is effective.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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S746-CSRU-001  
PROPOSED COMMITTEE SUBSTITUTE  
SENATE BILL 746  
THIS IS A DRAFT 7-APR-99 23:36:37  
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Structured Settlement Protection Act. (Public)

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Sponsors:

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Referred to:

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April 5, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE NORTH CAROLINA STRUCTURED SETTLEMENT  
3 PROTECTION ACT.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. Chapter 1 of the General Statutes is amended  
6 by adding a new Article to read:  
7 "ARTICLE 44B.  
8 "Structured Settlement Protection Act.  
9 "§ 1-543.10. Title.  
10 This Article may be cited as the North Carolina Structured  
11 Settlement Protection Act.  
12 "§ 1-543.11. Structured settlement payment rights.  
13 No direct or indirect transfer of structured settlement payment  
14 rights shall be effective, and no structured settlement obligor  
15 or annuity issuer shall be required to make any payment directly  
16 or indirectly to any transferee of structured settlement payment  
17 rights unless the transfer has been authorized in advance in a  
18 final order of a court of competent jurisdiction or a responsible  
19 administrative authority based on express findings by such court  
20 or responsible administrative authority that:

- 1           (1) The transfer complies with the requirements of this  
2           Article and will not contravene other applicable  
3           law;  
4           (2) Not less than 10 days prior to the date on which  
5           the payee first incurred any obligation with  
6           respect to the transfer, the transferee has  
7           provided to the payee a disclosure statement in  
8           bold type, no smaller than 14 point setting forth:  
9           a. The amounts and due dates of the structured  
10           settlement payments to be transferred;  
11           b. The aggregate amount of such payments;  
12           c. The discounted present value of such payments;  
13           d. The gross amount payable to the payee in  
14           exchange for such payments;  
15           e. An itemized listing of all brokers'  
16           commissions, service charges, application  
17           fees, processing fees, closing costs, filing  
18           fees, administrative fees, legal fees, notary  
19           fees and other commissions, fees, costs,  
20           expenses and charges payable by the payee or  
21           deductible from the gross amount otherwise  
22           payable to the payee;  
23           f. The net amount payable to the payee after  
24           deduction of all commissions, fees, costs,  
25           expenses and charges described in sub-  
26           subdivision e. of this paragraph;  
27           g. The quotient (expressed as a percentage)  
28           obtained by dividing the net payment amount by  
29           the discounted present value of the payments;  
30           and  
31           h. The amount of any penalty and the aggregate  
32           amount of any liquidated damages (inclusive of  
33           penalties) payable by the payee in the event  
34           of any breach of the transfer agreement by the  
35           payee;  
36           (3) The transferee has established that the transfer is  
37           necessary to enable the payee, the payee's  
38           dependents, or both, to avoid imminent financial  
39           hardship, and the transfer should not be expected  
40           to subject the payee, the payee's dependents, or  
41           both, to undue financial hardship in the future;  
42           provided, however, that if, at the time the payee  
43           and the transferee entered into the transfer  
44           agreement, a federal hardship standard was in

- 1 effect, then, in lieu of the foregoing finding, the  
2 court or responsible administrative authority must  
3 make an express finding that the transfer qualifies  
4 under such federal hardship standard;
- 5 (4) The payee has received independent professional  
6 advice regarding the legal, tax, and financial  
7 implications of the transfer;
- 8 (5) If the transfer would contravene the terms of the  
9 structured settlement:
- 10 a. The transfer has been expressly approved in  
11 writing by:
- 12 1. Each interested party; provided, however,  
13 that if, at the time the payee and the  
14 transferee entered into the transfer  
15 agreement, a favorable tax determination  
16 was in effect, then the approval of the  
17 annuity issuer and the structured  
18 settlement obligor shall not be required  
19 if all other interested parties approve  
20 the transfer and waive any and all rights  
21 to require that the transferred payments  
22 be made to the payee in accordance with  
23 the terms of the structured settlement;  
24 and
- 25 2. Any court or government authority, other  
26 than the court or responsible  
27 administrative authority from which  
28 authorization of the transfer is sought  
29 under this act, which previously approved  
30 the structured settlement; and
- 31 b. Signed originals of all approvals required  
32 under sub-subdivision a. of this subdivision  
33 have been filed with the court or responsible  
34 administrative authority from which  
35 authorization of the transfer is sought under  
36 this act, and originals or copies have been  
37 furnished to all interested parties; and
- 38 (6) The transferee has given written notice of the  
39 transferee's name, address, and taxpayer  
40 identification number to the annuity issuer and the  
41 structured settlement obligor and has filed a copy  
42 of such notice with the court or responsible  
43 administrative authority; and

1           (7) The discount rate used in determining discounted  
2           present value of the structured settlement payment  
3           rights does not exceed the annual percentage rate  
4           permitted under G.S. 25A-15(b)(4) calculated as if  
5           the net amount payable to the payee, as provided in  
6           sub-subdivision (2)f. of this section, was the  
7           principal of a consumer loan made by the transferee  
8           to the payee, and if the structured settlement  
9           payments to be transferred to the transferee were  
10           the payee's payments of principal plus interest on  
11           such loan.

12           (8) The transfer of structured settlement payment  
13           rights is fair and reasonable.

14 "§ 1-543.12. Definitions.

15 For purposes of this Article:

16           (1) 'Annuity issuer' means an insurer that has issued  
17           an insurance contract used to fund periodic  
18           payments under a structured settlement;

19           (2) 'Applicable law' means:

20           a. The federal laws of the United States;

21           b. The laws of this State, including principles  
22           of equity applied in the courts of this State;  
23           and

24           c. The laws of any other jurisdiction:

25           1. Which is the domicile of the payee or any  
26           other interested party;

27           2. Under whose laws a structured settlement  
28           agreement was approved by a court or  
29           responsible administrative authority; or

30           3. In whose courts a settled claim was  
31           pending when the parties entered into a  
32           structured settlement agreement;

33           (3) 'Dependents' include a payee's spouse and minor  
34           children and all other family members and other  
35           persons for whom the payee is legally obligated to  
36           provide support, including alimony;

37           (4) 'Discounted present value' means the fair present  
38           value of future payments, as determined by  
39           discounting such payments to the present utilizing  
40           the tables adopted in Article 5 of Chapter 8 of the  
41           General Statutes;

42           (5) 'Favorable tax determination' means, with respect  
43           to a proposed transfer of structured settlement  
44           payment rights, any of the following authorities

1 that definitely establishes that the federal income  
2 tax treatment of the structured settlement for the  
3 parties to the structured settlement agreement and  
4 any qualified assignment agreement, other than the  
5 payee, will not be affected by such transfer:

- 6 a. A provision of the Internal Revenue Code,  
7 United States Code Title 26, as amended from  
8 time to time, or a United States Treasury  
9 regulation adopted pursuant thereto;  
10 b. A revenue ruling or revenue procedure issued  
11 by the Internal Revenue Service; or  
12 c. A private letter ruling by the Internal  
13 Revenue Service with respect to such transfer;  
14 or  
15 d. A decision of the United States Supreme Court  
16 or a decision of a lower federal court in  
17 which the Internal Revenue Service has  
18 acquiesced;

19 (6) 'Federal hardship standard' means a federal  
20 standard applicable to transfers of structured  
21 settlement payment rights based on findings of a  
22 court or responsible administrative authority  
23 regarding the payees' needs, as contained in the  
24 Internal Revenue Code, United States Code Title 26,  
25 as amended from time to time, or in a United States  
26 Treasury regulation adopted pursuant thereto;

27 (7) 'Independent professional advice' means advice of  
28 an attorney, certified public accountant, actuary,  
29 or other licensed or registered professional or  
30 financial adviser:

- 31 a. Who is engaged by a payee to render advice  
32 concerning the legal, tax, and financial  
33 implications of a transfer of structured  
34 settlement payment rights;  
35 b. Who is not in any manner affiliated with or  
36 compensated by the transferee of such  
37 transfer; and  
38 c. Whose compensation for rendering such advice  
39 is not affected by whether a transfer occurs  
40 or does not occur;

41 (8) 'Interested parties' means, with respect to any  
42 structured settlement, the payee, any beneficiary  
43 designated under the annuity contract to receive  
44 payments following the payee's death, the annuity

- 1           issuer, the structured settlement obligor, and any  
2           other party that has continuing rights or  
3           obligations under the terms of the structured  
4           settlement;  
5       (9)   'Payee' means an individual who is receiving tax-  
6           free damage payments under a structured settlement  
7           and proposes to make a transfer of payment rights  
8           thereunder;  
9       (10) 'Qualified assignment agreement' means an agreement  
10           providing for a qualified assignment within the  
11           meaning of section 130 of the Internal Revenue  
12           Code, United States Code Title 26, as amended from  
13           time to time;  
14       (11) 'Responsible administrative authority' means, with  
15           respect to a structured settlement, any government  
16           authority vested by law with exclusive jurisdiction  
17           over the settled claim resolved by such structured  
18           settlement;  
19       (12) 'Settled claim' means the original tort claim or  
20           workers' compensation claim resolved by a  
21           structured settlement;  
22       (13) 'Structured settlement' means an arrangement for  
23           periodic payment of damages for personal injuries  
24           established by settlement or judgment in resolution  
25           of a tort claim or for periodic payments in  
26           settlement of a workers' compensation claim;  
27       (14) 'Structured settlement agreement' means the  
28           agreement, judgment, stipulation, or release  
29           embodying the terms of a structured settlement,  
30           including the rights of the payee to receive  
31           periodic payments;  
32       (15) 'Structured settlement obligor' means, with respect  
33           to any structured settlement, the party that has  
34           the continuing periodic payment obligation to the  
35           payee under a structured settlement agreement or a  
36           qualified assignment agreement;  
37       (16) 'Structured settlement payment rights' means rights  
38           to receive periodic payments (including lump-sum  
39           payments) under a structured settlement, whether  
40           from the settlement obligor or the annuity issuer,  
41           where:  
42           a.   The payee is domiciled in this State;

- 1           b. The structured settlement agreement was  
2           approved by a court or responsible  
3           administrative authority in this State; or  
4           c. The settled claim was pending before the  
5           courts of this State when the parties entered  
6           into the structured settlement agreement;  
7           (17) 'Transfer' means any sale, assignment, pledge,  
8           hypothecation, or other form of alienation or  
9           encumbrance made by a payee for consideration;  
10          (18) 'Terms of the structured settlement' include, with  
11          respect to any structured settlement, the terms of  
12          the structured settlement agreement, the annuity  
13          contract, any qualified assignment agreement, and  
14          any order or approval of any court or responsible  
15          administrative authority or other government  
16          authority authorizing or approving such structured  
17          settlement; and  
18          (19) 'Transfer agreement' means the agreement providing  
19          for transfer of structured settlement payment  
20          rights from a payee to a transferee.

21 "§ 1-543.13. Jurisdiction.

22       (a) Where the structured settlement agreement was entered into  
23       after commencement of litigation or administrative proceedings in  
24       this State, the court or administrative agency where the action  
25       was pending shall have exclusive jurisdiction over any  
26       application for authorization under this Article of a transfer of  
27       structured settlement payment rights.

28       (b) Where the structured settlement agreement was entered into  
29       prior to the commencement of litigation or administrative  
30       proceedings, or after the commencement of litigation outside this  
31       State, the Superior Court Division of the General Court of  
32       Justice shall have nonexclusive original jurisdiction over any  
33       application for authorization under this Article of a transfer of  
34       structured settlement payment rights.

35 "§ 1-543.14. Procedure for approval of transfers.

36       (a) Where the structured settlement agreement was entered into  
37       after the commencement of litigation or administrative  
38       proceedings in this State, the application for authorization of a  
39       transfer of structured settlement rights shall be filed with the  
40       court or administrative agency where the settled claim was  
41       pending as a motion in the cause.

42       (b) Where the structured settlement agreement was entered into  
43       prior to the commencement of litigation or administrative  
44       proceedings, or after the commencement of litigation or

1 administrative proceedings outside this State, the application  
2 for authorization of a transfer of structured settlement payment  
3 rights shall be filed in the superior court with proper venue  
4 pursuant to Article 7 of this Chapter. The nature of the action  
5 shall be a special proceeding goverred by the provisions of  
6 Article 33 of this Chapter.

7 (c) Not less than 30 days prior to the scheduled hearing on  
8 any application for authorization of a transfer of structured  
9 settlement payment rights under this Article, the transferee  
10 shall file with the proper court or responsible administrative  
11 authority and serve on any other government authority which  
12 previously approved the structured settlement, on all interested  
13 parties as defined in G.S. 1-543.12(8), and on the Attorney  
14 General, a notice of the proposed transfer and the application  
15 for its authorization, including in such notice:

- 16 (1) A copy of the transferee's application;
- 17 (2) A copy of the transfer agreement;
- 18 (3) A copy of the disclosure statement required under  
19 G.S. 1-543.11(a);
- 20 (4) Notification that any interested party is entitled  
21 to support, oppose, or otherwise respond to the  
22 transferee's application, either in person or by  
23 counsel, by submitting written comments to the  
24 court or responsible administrative authority or by  
25 participating in the hearing; and
- 26 (5) Notification of the time and place of the hearing  
27 and notification of the manner in which and the  
28 time by which written responses to the application  
29 must be filed in order to be considered by the  
30 court or responsible administrative authority.

31 (d) The Attorney General shall have standing to raise, appear,  
32 and be heard on any matter relating to an application for  
33 authorization of a transfer of structured settlement payment  
34 rights under this Article.

35 "§ 1-543.15. No waiver; penalties.

36 (a) The provisions of this Article may not be waived.

37 (b) Any payee who has transferred structured settlement  
38 payment rights to a transferee without knowledge of the  
39 requirements set out in this Article may bring an action against  
40 the transferee to recover actual monetary loss or for damages up  
41 to five thousand dollars (\$5,000) for the violation by the  
42 transferee, or bring actions for both. The payee is entitled to  
43 attorneys' fees and costs incurred to enforce this Article. In  
44 addition, all unpaid structured settlement payment rights

1 transferred as a result of a violation of this Article by any  
2 transferee shall be reconveyed to the payee.

3 (c) No payee who proposes to make a transfer of structured  
4 settlement payment rights shall incur any penalty, forfeit any  
5 application fee or other payment, or otherwise incur any  
6 liability to the proposed transferee based on any failure of such  
7 transfer to satisfy the conditions of this Article.

8 "§ 1-543.16. Construction.

9 Nothing contained in this Article shall be construed to  
10 authorize any transfer of structured settlement payment rights in  
11 contravention of applicable law or to give effect to any transfer  
12 of structured settlement payment rights that is invalid under  
13 applicable law."

14 Section 2. Article 33 of Chapter 1 of the General  
15 Statutes is amended by adding a new section to read as follows:

16 "§ 1-394.1. Special proceedings to determine authority to  
17 transfer structured settlement payment rights.

18 When a special proceeding is commenced to obtain authorization  
19 for the transfer of structured settlement payment rights pursuant  
20 to Article 44B of this Chapter, the provisions of this Article  
21 apply except that the interested parties shall have 30 days to  
22 appear and answer the petition, and all hearings on such  
23 petitions must be conducted before a superior court judge and all  
24 final orders on such petitions must be entered by a superior  
25 court judge."

26 Section 3. This act shall apply to any transfer of  
27 structured settlement payment rights under a transfer agreement  
28 entered into on or after October 1, 1999, but nothing contained  
29 in this act shall imply that any transfer under a transfer  
30 agreement reached prior to such date is effective.

VISITOR REGISTRATION SHEET

Name of Committee

J-1

Date

4-13-99

VISITORS: Please sign below and return to Committee Clerk.

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Andee Malloy	Saint Augustine's College 1315 O. Wood Ave
Julian Maman	OAH
Sandy Smith	WCSR
DAVID LAWREN	Hunter Williams
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Marian Dudd	League of Women Voters NC
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DeK Taylor	NCATL
Roz Savitt	NC Child Care Coalition
Don H	Smith A
J. Hartwell	NC Bar Association
Joh. Polivants	ATST

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Name of Committee

J-I

Date

4-13-99

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Rob Christensen	N+C
Samar Chann	EGHS
Bernard Allen	SOS
David Simmons	ZDA, PA
Webb Hill	NC Bar Association
Robert Glover	Auto Dealers
Harold Webb	" "
GERRY HANCOCK	EGHS
Bradley H.	Bank & Assoc
Wm. M. Smith	Local Citizens Council
Alison Niles	Bank & Assoc LLP
[Signature]	WDC
[Signature]	DC