The National Consumer League's Position Paper:

Structured Settlements

August 2026

NATIONAL CONSUMERS LEAGUE

The National Consumers League mission is to educate and advocate on behalf of people with personal injury legal settlements to help ensure their long-term financial security. NCL has partnered with nationally recognized consumer advocate Suze Orman to highlight the critical importance of smart and comprehensive settlement planning for injured people.

Suze Orman has stated, *"At your greatest time of need, not only if you're the one who has suffered and you're the one who is injured, and the one to be taken care of with your family, and if you think that when you are at the most emotional low and physical low of your life and if you think you have what it takes to handle that which can literally keep you going for the rest of your lives, I'm here to tell you that YOU DO NOT. So let somebody help you. Let us help you. Let us protect you. And let us make sure that everything works financially speaking simply by doing that which would protect you, which is a structured settlement."*

NCL Applauds Warren Buffett's Statement in Support of Structured Settlements: Warren Buffett's annual meeting has become one of the financial highlights for investors each year as tens of thousands attend in Omaha and millions watch online. Recently, he highlighted the important work of trial attorneys and the necessity for them to protect their client's financial recovery. Mr. Buffett also emphasized the need for attorneys to offer their clients the option to structure a portion of their settlement. There are many significant advantages to a personal injury claimant placing all or a portion of their legal settlement proceeds in a structured settlement, rather than accepting the entire settlement as a lump sum.

Warren Buffett, Chairman of Berkshire Hathaway recently stated: *"Anyone settling a personal injury claim should seriously consider a structured settlement as part of their plan for financial recovery. Structured settlements can stretch settlement funds by providing tax-free payments for lost income, medical bills, or other future needs, which delivers tremendous long-term security for injured people and their families. Berkshire Hathaway is proud to be a leading provider of structured settlement annuities."*

What do Warren Buffett and Suze Orman know about structured settlements:

- A structured settlement of a physical injury or workers' compensation claim is tax-free.
- A structured settlement can provide regular monthly, quarterly, bi-annual or annual payments as well as intermittent lump sums (for example, to pay for a first house).
- A structured settlement can provide life contingent income (income that cannot be outlived).
- A structured settlement has a fixed rate of return. When markets crash, structured settlements maintain their secure value.
- Most traditional investments have ongoing overhead costs, including management and administrative fees. Structured settlements do not.
- A structured settlement protects settlement proceeds from being spent too quickly.

Structured Settlements: NCL has partnered with the American Association of People with Disabilities (AAPD) and the National Structured Settlements Trade Association (NSSTA) to promote legislation to protect personal injury settlements with Members of Congress on Capitol Hill. NCL has worked to enact State Structured Settlement Protection Acts in states all across the Nation. NCL worked directly with the Maryland State Attorney General to pass the Nation's strongest and most effective SSPA and worked with the Washington, DC City Council to pass the first Structured Settlement Protection Act in the Nation's Capital.

NCL Position Paper: Structured Settlements: Structured settlements enable seriously injured people and their families to live with economic security, dignity, independence, and freedom from reliance on government. Structured settlements constitute a private sector funding alternative to taxpayer-financed assistance programs to meet the ongoing, long-term medical and basic living needs of seriously injured persons and their families, providing long-term financial security through an assured stream of payments tailored to the injured person's needs throughout his or her lifetime. Thus, structured settlements enable seriously injured people to live with dignity and financial independence, free from reliance on government programs and interference. [Click here to read the full NCL position paper.]

[NCL PTSD Issue Paper:] Money Damages Recovered on Account of Post-Traumatic Stress Disorder Should Be Excluded from Gross Income Under IRC Section 104(a)(2). Twenty Members on the House Ways and Means Committee have written to Treasury Secretary Yellen and the IRS Commissioner to request that the Internal Revenue Service (IRS) issue a revenue ruling clarifying that Post-Traumatic Stress Disorder (PTSD) and its related damages are physical injuries or sickness and excludable under Section 104(a)(2) of the Internal Revenue Code. PTSD was not recognized as a mental disorder by the American Psychiatric Association until 1980 but has been recognized as an illness affecting soldiers since the Civil War. Not limited to soldiers, it affects men, women and children, soldiers and civilians alike, and left untreated, can result in permanent physical and cognitive disabilities and even death.

Under the current Tax Code, Section 104(a)(2) only provides tax-exempt recoveries to victims of physical injuries or sickness. To distinguish physical injuries from purely emotional distress type injuries, Congress amended Section 104(a)(2) of the Internal Revenue Code to require that for tax exemption, injuries or sickness must be physical in nature. The IRS later interpreted this to require the demonstration of some sort of observable harm. At the time, medical science was not sufficiently advanced to identify the structural damage done to the brain by PTSD. This remains the standard today. [Click here to read the full PTSD Issue Paper.]

[NCL Position Paper: Just the Facts about Structured Settlements Versus Factoring:] Structured settlements are a proven way for an injured party to receive compensation in a physical injury case. A structured settlement is a stream of periodic payments paid to an injured party through the purchase of an annuity (fixed and determinable) issued directly by a highly rated life insurance company. Structured settlements provide physical injury victims with financial security through guaranteed long-term, income tax-free payments. Settlements designed to meet the needs of individual injury victims and their families are negotiated between claimants (or their guardians or other authorized representatives) and defendants (or their insurers) through their respective attorneys, each with the assistance of licensed brokers specially appointed by the life insurance companies.

[NCL Promotes Fair Consumer Protections Against Factoring Abuses:] Sally Greenberg, NCL President stated, "All of us, structured settlement consultants, attorneys, judges, and consumer advocates and leaders in the disability rights community, have a shared responsibility to help protect injured persons and people with disabilities from abusive and misleading financial practices." Structured settlements provide periodic payments over a long period of time and thereby provide personal injury claimants with long-term financial security. The "factoring" of structured settlement payments, where finance companies purchase structured settlement payment streams at a discount, is problematic for several reasons including that these "factoring companies" pressure claimants to sell when there is no genuine need to sell, and because these factoring companies typically charge high discount rates and thereby pay only small amounts of money in exchange for large amounts of future payments. There are rare circumstances where a claimant may have a need to unwind a structured settlement, and if those circumstances present themselves, the key to a successful transaction is a fair and reasonable discount rate, and of course other fair and reasonable terms. Unfortunately, most factoring transactions do not meet this standard.

[NCL Supports Enactment of Structured Settlement Protection Acts in All 50 States and the District of Columbia:] New Hampshire now joins all 50 states and the District of Columbia with the recent enactment of the new NH Structured Settlements Protection Act. This is a major milestone achievement that would never have happened without the tireless leadership and support of the National Consumers League. Thanks to NCL, all 50 states and DC now have SSPA legal protections for people with structured settlements. This SSPA work has been accomplished state by state, starting in 1997 in Illinois with the steadfast commitment of consumer advocates, disability organization leaders and structured settlement industry leaders who made this happen. NCL remains the most influential association dedicated to protecting the rights of people with structured settlements.

NCL Successfully Led the Fight for the Enactment of the Maryland Structured Settlements Protection Act: Working with Maryland Attorney General Brian Frosh, Maryland State Court Officials and Maryland State Legislative Leaders, NCL helped produce the most effective consumer protections in the Nation against factoring abuses. The Maryland Court of Appeals gave final approval to extensive new Rules of Practice and Procedure that apply to all Maryland SSPA petitions. The new rules, which have the force of law, were developed on an accelerated schedule in response to the Washington Post exposé on factoring of lead poisoning settlements. Important highlights of Maryland Rules of Procedure Title 15, Chapter 1300 (Structured Settlement Transfers), Rules 15-1301 through 15-1307. Effective January 1, 2016, include:

- Mandate that any SSPA petition involving a Maryland resident payee be filed in the Circuit Court for the county in which the payee resides.
- Prohibit action on an SSPA petition in the absence of a hearing.
- Require personal attendance at the hearing by the payee (unless the payee's attendance is excused for good cause), the payee's independent professional advisor and the petitioner or an officer or employee who can testify for the petitioner
- Require that any petition under the Maryland SSPA include the following information:
  - A copy of the payee's structured settlement agreement, a copy of annuity that funds the settlement (or, if an annuity is not available, a document from the annuity issuer or settlement obligor evidencing the annuity payments) and a copy of any court order approving the settlement.
  - Detailed written consent of the payee.
  - A detailed affidavit of the independent professional advisor who has advised the payee.
  - Salient information about the petitioner, including whether it is registered to do business in Maryland.
  - Information about prior transfers and attempted transfers involving the payee's payment rights.
  - A statement whether "to the best of the petitioner's knowledge…the structured settlement arose from a) a claim of lead poisoning, or b) any other claim in which an allegation was made in a court record of a mental or cognitive impairment on the part of the payee.

NCL Leadership Secures Passage of the First Ever Structured Settlements Protection Act in the District of Columbia: In 2018, NCL led the fight for passage of the DC Structured Settlements Protection Act. Thanks to NCL's leadership, the DC Council Judiciary Committee and the full Council of the District of Columbia voted unanimously to support passage of the new DC Structured Settlements Protection Act of 2018. The District of Columbia joined the 50 states that have enacted such important legislation to enhance the protection of consumers who depend on structured settlements resulting from personal injuries. It is NCL's mission to ensure the rights of injured parties with respect to their structured settlements. The provisions included in the District of Columbia's new SSPA are extremely beneficial to the long-term financial security of people with structured settlement annuities. The new measures provide meaningful court protection, among other safeguards, for DC residents who might be contacted by factoring companies offering to buy out their annuities for pennies on the dollar. The Act assures that DC courts will have full information with which to make decisions on whether a proposed transfer is in the best interests of a given payee and their dependents.

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