

TABLE OF CONTENTS

CHAPTER 1

Introduction and History

§ 1.01	Structured Settlement and Periodic Payment	
	Defined	1-4
	[1] Lump Sum v. Periodic Payment	1-4
	[2] Periodic Payment vs. Structured Settlement vs. Personal Injury Settlement Planning	1-5
	[3] Varieties of Structured Settlement Arrangements	1-8
	[4] Guidelines for the Use of Structured Settlements	1-10.1
	[a] Particular Claimants	1-10.2
	[b] Type of Injury	1-10.3
	[c] Type of Claimant	1-10.4
	[d] Predictable Stream of Obligations	1-10.4
	[e] Amount of Settlement	1-10.5
	[f] Caveat Regarding Workers' Compensation Claims	1-10.6
§ 1.02	History of Structured Settlements and Periodic Payment Judgments	1-11
	[1] Common Law Reliance on Lump Sum Payment	1-11
	[2] Single Recovery Rule and Structured Settlements	1-12
	[3] Precedents for Periodic Payment of Damages	1-13
	[a] Statutory Exceptions	1-13
	[i] Alimony and Child Support	1-14
	[ii] Workers' Compensation	1-14
	[iii] Medicare Set-Aside Arrangements	1-15
	[iv] No-Fault Automobile Insurance	1-15

STRUCTURED SETTLEMENTS

	[v]	Medical Malpractice	1-16
	[vi]	Childhood Vaccination Cases	1-16
	[vii]	Personal Injury Claims Generally	1-17
	[viii]	Minors and Incompetents	1-18
	[b]	Judicial Exceptions	1-20
[4]		Early Use of Structured Settlements	1-21
[5]		Historical Trends and Transitions	1-23
	[a]	Premium Growth	1-23
	[b]	Interest Rates	1-24
	[c]	Primary Market Participants	1-25
	[d]	Shift in Control	1-26
	[e]	Settlement Planning	1-27
	[f]	Secondary Market	1-28
	[g]	Expanding WCMSA Submarket	1-29
	[h]	Expanding Non-Qualified Structured Settlement Applications	1-31
[6]		Legislative History	1-32
	[a]	Federal Legislation	1-32
	[i]	Periodic Payment Settlement Act of 1982	1-32
	[ii]	Medicare Secondary Payer Act	1-32
	[iii]	National Childhood Vaccine Injury Act	1-33
	[iv]	Omnibus Budget Reconciliation Act of 1993 (OBRA 1993)	1-34
	[v]	Internal Revenue Code 468B	1-34
	[vi]	TAMRA	1-35
	[vii]	Small Business Jobs Protection Act of 1996	1-35
	[viii]	Taxpayer Relief Act of 1997	1-36
	[ix]	Internal Revenue Code 5891	1-36
	[x]	American Jobs Creation Act of 2004	1-37
	[xi]	ABLE Act	1-37
	[xiii]	Tax Cuts and Jobs Act of 2017	1-38
	[b]	State Legislation	1-39
	[i]	Periodic Payment of Judgment Statutes	1-39
	[ii]	Structured Settlement Protection Statutes	1-40
[7]		Significant Historical Developments	1-40

TABLE OF CONTENTS

	[8] Summary of the U.S. Structured Settlement Experience	1-56.2
§ 1.03	Expanding Use of Structured Settlements	1-57
	[1] The Structured Settlement Market	1-57
	[a] Size and Growth.	1-57
	[b] Professional Stakeholders.	1-65
	[c] Professional Associations.	1-66
	[d] Market Surveys.	1-67
	[2] Structured Settlement Law	1-69
	[3] Public Policy	1-69
	[a] Sources for Structured Settlement Public Policy	1-69
	[b] Lump Sum Dissipation	1-69
	[c] Benefits to Parties	1-71
	[d] Benefits to Society.	1-73
	[e] Periodic Payment of Judgments	1-75
	[f] Public Policy Issues	1-75
	[4] Standards and Practices	1-76
	[a] Business Models.	1-76
	[i] Claim Management Model.	1-77
	[ii] Settlement Planning Model.	1-77
	[b] Business Participants	1-78
	[i] Consultants	1-78
	[ii] Product Providers	1-78
	[c] Industry Standards	1-79
	[i] Vocabulary	1-79
	[ii] Qualifications	1-80
	[iii] Products.	1-81
	[iv] Funding Methods	1-81
	[v] Documentation	1-81
	[vi] Agent Compensation	1-82
	[d] Business Practices	1-82
	[i] In General.	1-82
	[ii] Structured Settlement Practice Standards	1-83
§ 1.04	Advantages and Disadvantages of Structured Settlements	1-91
	[1] Introduction	1-91
	[2] Advantages to Claimant.	1-91
	[a] Lifetime Payment.	1-91
	[b] Financial Management.	1-91
	[c] Tax-Free Income or Tax Deferral	1-93
	[d] Settlement.	1-94
	[e] Increasing Benefits.	1-94
	[f] Workers Compensation MSAs.	1-95
	[g] Preserving Government Benefits and Potential Exemptions	1-95

STRUCTURED SETTLEMENTS

	[3]	Disadvantages to Claimant	1-96
		[a] Creditor Risk	1-96
		[b] Factoring	1-97
		[c] Inflation	1-98
		[d] Lack of Liquidity	1-98
		[e] Misperception of Amount of Award	1-99
		[f] Low Interest Rates	1-100
	[4]	Advantages and Disadvantages to Plaintiff's Attorney	1-100
	[5]	Advantages and Disadvantages to Defendant and Insurer	1-102
	[6]	Advantages and Disadvantages to Defense Attorney	1-105
§ 1.05		Use of Structured Settlements Outside the United States	1-106
	[1]	Canada	1-106
	[2]	United Kingdom	1-109
	[3]	Continental Europe	1-115
	[4]	Australia and New Zealand	1-115
	[5]	Other Countries	1-117
§ 1.06		Impact on Tort System	1-119

CHAPTER 2**Taxation of Damages Received by Claimant**

§ 2.01		Whether and When Settlement and Judgment Proceeds Are Taxable	2-4
§ 2.02		History of the Statutory Exclusion	2-6.7
§ 2.03		Scope of the Exclusion	2-15
	[1]	“Damages (Other Than Punitive Damages) Received . . . On Account of Personal Physical Injuries or Physical Sickness”	2-15
	[2]	Damages “Received . . . as Periodic Payments”	2-17
		[a] “Receipt” of Damages	2-17
		[i] Actual Receipt	2-17
		[ii] Constructive Receipt	2-18.5
		[b] Statutory History	2-18.12
		[i] Tax Definitions for “Periodic Payment” and “Structured Settlements”	2-18.12
		[ii] Legislative History of the Periodic Payment Settlement Act of 1982	2-18.13

TABLE OF CONTENTS

xv

	[iii]	Tax Rulings Codified by the Periodic Payment Settlement Act of 1982	2-19
	[iv]	Limited Repeal of the “General Creditor” Rule by the Technical and Miscellaneous Revenue Act of 1988	2-20
	[v]	Conclusions.	2-23
	[3]	Nonexclusion of Damages Due to Prior Medical Deductions	2-26
	[4]	Other Exempt Recoveries	2-27
	[5]	Practice Tips for Minimizing the Risk of an IRS Settlement Challenge	2-28
§ 2.04		Deduction of Expenses.	2-31
	[1]	Attorney Fees and Other Costs of Litigation.	2-31
	[2]	Medical Expenses.	2-32.1
	[a]	Award Does Not Include Periodic Payments	2-32.4
	[b]	Award Includes Periodic Payments	2-32.5
§ 2.05		Tax Consequences of Damage Awards as to a Decedent’s Estate	2-33
	[1]	History of the U.S. Estate Tax	2-33
	[1A]	Tax Consequences Compared: Proceeds from Wrongful Death and Survival Actions vs. Proceeds from Causes of Action That Arise Before the Injured Person’s Death.	2-36
	[a]	Wrongful Death and Survival Actions	2-36
	[i]	Proceeds from Wrongful Death and Survival Actions Are Not Subject to Estate Taxation.	2-36
	[ii]	Income Tax Consequences of Proceeds from Wrongful Death and Survival Actions Are Determined Pursuant to Code Section 104(a)(2)	2-37
	[b]	Personal Injury Causes of Action in Which the Decedent Had an Interest Prior to Death.	2-38

STRUCTURED SETTLEMENTS

	[i]	Proceeds from Injury Claims Which the Decedent Had Prior to Death Are Subject to Estate Taxation	2-38
	[ii]	Income Tax Consequences of Proceeds from Injury Claims Which the Decedent Had Prior to Death Are Determined Pursuant to Code Sections 104(a)(2) and 691	2-38
[2]		Statutory Grounds for Estate Tax Inclusion of Periodic Payments	2-39
	[a]	Code Section 2033	2-39
	[b]	Code Section 2039	2-40
	[c]	Code Section 2041	2-40
[3]		Valuation of the Right to Receive Periodic Payments	2-41
	[a]	Valuation Formulas for Purposes of Code Section 2031	2-41
	[b]	The Right to Receive Periodic Payments Differs from Ownership of a Commercial Annuity	2-42
	[c]	Alternative Valuation Formulas Which May Apply to Periodic Payments	2-43
	[i]	Cost of a Commercial Annuity	2-43
	[ii]	Discounting to Present Value at 120% of the Federal Interest Rate	2-43
	[iii]	Willing Buyer/Willing Seller	2-46
[4]		Planning Considerations	2-46
	[a]	Estate Planning Generally	2-46
	[b]	A Red Flag—Large Payout with Long Term Certain	2-47
	[c]	Avoiding Estate Tax Inclusion of Periodic Payments	2-48
	[d]	Annuity Commutation Provisions	2-49
	[e]	Liquidations	2-49
[5]		Payment of an Estate Tax Liability	2-49
	[a]	Request for Extension to Pay Estate Tax	2-49
	[b]	Life Insurance Proceeds	2-50
	[c]	Liquidating Structured Settlement Rights	2-50

CHAPTER 3

Financing Options for Structured Settlements and Periodic Payment Judgments

§ 3.01	Introduction	3-8
§ 3.02	The Periodic Payment Obligation	3-12
	[1] No Obligation	3-12
	[2] Assumption of Obligation	3-15
	[a] Mortality Risk	3-15
	[b] Reinvestment Risk	3-16
	[c] Insolvency Risk	3-16
	[d] Morbidity Risk	3-17
	[e] Inflation Risk	3-17
	[f] Post-Settlement Events Arising From Claimant’s Side	3-18
	[3] Transfer of Obligation	3-18
	[a] Transfer of Obligation Defined	3-18
	[b] Method Recommended for Transfer of Obligation	3-19
	[c] Method Not Recommended for Transfer of Obligation	3-19
§ 3.03	Periodic Payment Financing Options	3-21
§ 3.04	Internal Financing	3-22
	[1] Internal Financing of the Duty to Make Periodic Payments Defined	3-22
	[2] Contractual Rights and Duties	3-22
§ 3.05	Annuity Financing	3-23
	[1] Annuity Financing of the Duty to Make Periodic Payments Defined	3-23
	[2] Contractual Rights and Duties	3-23
	[3] Legal Interests in the Annuity Contract	3-25
	[a] Annuitant	3-25
	[b] Owner	3-25
	[c] Payee	3-26
	[d] Beneficiary	3-26
	[4] Settlement Annuities	3-28
	[a] Fixed Annuities	3-28
	[b] Other Types of Settlement Annuities	3-29
	[c] Immediate v. Deferred Annuity	3-30
	[d] Life Annuity	3-30
	[e] Period Certain Annuity	3-30
	[f] Life Annuity with a Period Certain	3-30
	[g] Installment Refund Annuity	3-30
	[h] Increasing Payment Annuity	3-31

STRUCTURED SETTLEMENTS

	[i]	Step Annuity	3-31
	[j]	Deferred Lump Sums	3-31
	[k]	Survivorship Annuity	3-31
	[l]	Temporary Life Annuity	3-31
	[m]	Cash Refund Annuity	3-31
[5]		Standard Age Ratings	3-32
[6]		Substandard Age Ratings	3-32
	[a]	Substandard Age Rating Defined	3-32
	[b]	Medical Conditions Likely to Qualify for a Substandard Age Rating	3-35
	[c]	Information Needed by the Annuity Issuer	3-39
	[i]	Information Necessary for Determination of Life Expectancy (LE)	3-39
	[ii]	Medical Information Necessary for Specific Medical Histories	3-41
[7]		Annuity Pricing and Price Changes	3-44
	[a]	Pricing Is Related to Investment Yield	3-44
	[b]	Changes in Annuity Pricing	3-46
	[c]	Settlement Annuity Mortality	3-46
[8]		Assessment of Premium Taxes	3-47
	[a]	States Which Levy a Premium Tax	3-47
	[b]	Criteria for Determining Whether a Premium Tax Is Levied	3-47
	[i]	State Where Annuitant Resides	3-48
	[ii]	State Where Owner Resides	3-48
	[iii]	State Where Annuity Application Is Executed	3-48
[9]		Life Insurance Insolvencies	3-48
[10]		Life and Health Insurance Guaranty Associations	3-52
	[a]	What are Life and Health Insurance Guaranty Associations ("GAs")?	3-52
	[b]	What Happens If a Life Insurance Company That Has Issued Structured Settlement Annuities Goes Out of Business?	3-53

TABLE OF CONTENTS

	[c]	Are Payment Obligations Under Structured Settlement Annuities Treated Any Differently Than Payment Obligations Under Other Types of Annuities Issued by Life Insurance Companies?...	3-53
	[d]	Determining Which GA(s) Provide Coverage for Any Given Structured Settlement Annuity, and Coverage to Whom?.....	3-54
	[e]	What Coverage Limits Apply Under Each of the Various GAs?.....	3-55
	[f]	How Do the Various GAs Coordinate Their Efforts in the Event of an Insolvency Involving Multiple States?.....	3-56
	[g]	Why Are GAs and the Consumer Protections They Provide Often Overlooked When Selecting Among Life Insurance Companies for Purchase of Structured Settlement Annuities?	3-57
	[11]	First Executive Corporation and the Executive Life Insurance Companies	3-58
	[12]	Executive Life Insurance Company of California Insolvency.....	3-69
	[13]	Executive Life Insurance Company of New York Insolvency	3-76
	[14]	Other Life Insurance Insolvencies Involving Structured Settlements	3-96
§ 3.06		Qualified Assignments	3-99
	[1]	Qualified Assignment of the Duty to Make Periodic Payments Defined	3-101
	[2]	Contractual Rights and Duties.....	3-102
	[2A]	Assignment of Rights vs. Delegation of Duties	3-102
	[3]	Compliance with Statutory Requirements...	3-104
	[a]	Underlying Claim Must Involve Physical Injury or Physical Sickness.....	3-105
	[b]	Periodic Payments Must Be Excludable by the Recipient.	3-105
	[c]	Assignor Must Be a Party to the Suit or Agreement Which Gives Rise to the Periodic Payment Obligation.....	3-106

STRUCTURED SETTLEMENTS

	[d]	Periodic Payments Must Be Fixed and Determinable as to Amount and Time of Payment	3-107
	[e]	Periodic Payments Cannot Be Accelerated, Deferred, Increased, or Decreased by the Recipient	3-109
	[f]	Assignment Company's Obligation Must Be No Greater Than That of the Assignor	3-110
	[g]	Assignment Company Must Purchase a Qualified Funding Asset.	3-110
	[4]	U.S. Government Bond Funds	3-111
	[5]	Qualified Assignment as a Secured Transaction.	3-120
	[a]	Security Interests in Annuity Contracts.	3-121
	[b]	Security Interests in U.S. Government Obligations	3-123
	[6]	Qualified Assignment from a Section 468B Fund	3-123
	[7]	Qualified Assignment from Offshore Company	3-124
§ 3.06A		Non-Qualified Assignment	3-126
§ 3.07		Periodic Payment Reinsurance with Transfer of the Duty to Make Periodic Payments	3-134
	[1]	Indemnity Reinsurance.	3-134
	[a]	Indemnity Reinsurance of the Duty to Make Periodic Payments Defined	3-134
	[b]	Contractual Rights and Duties.	3-134
	[2]	Periodic Payment Reinsurance with Transfer of the Duty to Make Periodic Payments	3-136
	[a]	Periodic Payment Reinsurance with Transfer of the Duty to Make Periodic Payments Defined	3-136
	[b]	Contractual Rights and Duties.	3-140
	[c]	Transfer of the Duty to Make Periodic Payments Other Than Section 104(a)(2) Payments by Assumption Reinsurance	3-141
	[d]	Advantages and Disadvantages of Using Periodic Payment Reinsurance to Transfer the Duty to Make Periodic Payments in Comparison to Using Annuity-Funded Qualified Assignments to Achieve Transfer of That Duty.	3-142

TABLE OF CONTENTS

§ 3.07A	Settlement Trusts	3-143
	[1] Introduction	3-143
	[2] Fiduciary Duty and the UPIA	3-143
	[3] Types of Settlement Trusts	3-145
	[a] Qualified Government Bond Trust	3-145
	[i] Introduction	3-145
	[ii] Risk of Misappropriation of Trust Assets— <i>Stanwich</i> and <i>SBU</i>	3-145
	[b] Reversionary Grantor Trust	3-147
	[c] Settlement Preservation Trusts	3-147
	[d] Special Needs Trusts	3-147
	[e] Medicare Set-Aside Trusts	3-147
	[f] Section 468B Settlement Funds	3-148
	[g] Trust to Avoid Plaintiff’s Tax on Legal Fees	3-148
	[4] Selecting a Settlement Trustee	3-148
§ 3.08	Reversionary Grantor Trust	3-151
	[1] Reversionary Grantor Trust Defined	3-151
	[2] Rights, Duties, and Powers	3-151
§ 3.08A	Supplemental Needs or Special Needs Trusts	3-153
	[1] Supplemental Needs or Special Needs Trust Defined	3-153
	[2] Characteristics of a Supplemental Needs or Special Needs Trust	3-155
§ 3.08B	Qualified Settlement Funds Under Section 468B	3-160
	[1] What Are Qualified Settlement Funds?	3-160
	[2] Statutory and Regulatory Background	3-161
	[3] When and Why Are Qualified Settlement Funds Used?	3-164
	[4] What Are the Mechanics of Setting Up and Operating a Qualified Settlement Fund?	3-166
	[a] Creating the Qualified Settlement Fund	3-166
	[i] Motion for Order to Approve Establishing a Fund	3-166
	[ii] Motion for Order to Appoint Administer and to Establish Terms of Administration	3-167
	[iii] Notice of Administrator’s Acceptance of Appointment	3-167
	[b] Administering the Qualified Settlement Fund	3-167

STRUCTURED SETTLEMENTS

	[i]	Motion for Order to Approve Defendants' Settlement with Fund	3-167
	[ii]	Distribution of Attorney Fees	3-168
	[iii]	Administrator's Declaration of Supporting Materials	3-168
	[iv]	Administrator Signs Settlement Agreements with All Claimants	3-168
	[v]	Motion for Order to Approve Distributions to Certify Settlement Agreements, and to Authorize Disbursements of Proceeds	3-168
	[c]	Terminating the Qualified Settlement Fund	3-169
[5]		Practice Pointers for Courts, Litigators and Fund Administrators	3-169
	[a]	Petitions to Establish a Qualified Settlement Fund	3-170
	[b]	Selection of a Fund Administrator	3-170
	[i]	Choosing the Fund Administrator	3-170
	[ii]	Duties to the Supervising Authority	3-170
	[iii]	Fiduciary Duties	3-171
	[iv]	Investment and Accounting Duties	3-171
	[v]	Negotiating Duties	3-171
	[vi]	Advising as to Forms of Distribution	3-171
	[c]	Terms of Fund Administration	3-172
	[i]	Restrictions on Handling Fund Proceeds	3-172
	[ii]	Compensation of the Fund Administrator	3-172
	[iii]	Subrogation and Reimbursement Claims	3-173
	[iv]	Disagreement as to Allocation of Settlement Shares	3-173
	[d]	Taxation of Funds	3-173
	[e]	Petitions for Distribution of Fund Proceeds	3-174
	[f]	Single Claimant Funds—and Other Issues Requiring Legal Advice	3-174

TABLE OF CONTENTS

	[g]	Choice of Forum for Qualified Settlement Fund When One or More Claimants Against the Fund Is a Protected Person.	3-179
	[i]	Consolidate Probate Proceedings in the Court Where the Complaint Is Filed and the Qualified Settlement Fund Is or Will Be Established . . .	3-179
	[ii]	Maintain Probate Proceedings Separate from the Court Where the Complaint Is Filed and the Qualified Settlement Fund Is or Will Be Established	3-180
	[iii]	Establish the Qualified Settlement Fund in the Court Having Jurisdiction Over the Protected Person’s Affairs.	3-181
§ 3.09		Surety Bonds and Other Financial Guarantees.	3-182
	[1]	“Surety” Which Is Not a Surety	3-182
	[2]	Surety Within Same Economic Family as Assignee	3-182
§ 3.10		Other Financing Vehicles	3-184
	[1]	Introduction	3-184
	[2]	Personal Injury Settlement Planning	3-184
	[3]	State Funds and Statutes	3-186
	[4]	Life Insurance.	3-187
	[5]	Retained Asset Accounts	3-187
	[6]	Variable Annuities	3-189
	[7]	Indexed Annuities.	3-192
	[7A]	Market-Based Programs.	3-194
	[8]	Commutation Riders	3-195
	[9]	Medical Cost Products.	3-198
	[10]	Previously-Transferred Structured Settlement Payment Rights	3-199
	[a]	Factoring of Structured Settlement Payment Rights—in General.	3-199

STRUCTURED SETTLEMENTS

[b]	Downstream Markets for Previously-Transferred Structured Settlement Payment Rights Factored Payment Rights	3-202
[i]	Downstream Investors Other Than Injury Claimants	3-202
[ii]	Injury Claimants Who Settle with Deferred Damage Payments Funded by Previously- Transferred Structured Settlement Payment Rights	3-203
[iii]	Injury Claimants Who Settle with Lump Sum Damages That Are Invested to Produce a Fixed Income Stream Funded by Previously-Transferred Structured Settlement Payment Rights	3-204
[11]	Conclusion	3-213

CHAPTER 4**Role and Responsibilities of Defense Counsel
in Structured Settlements**

§ 4.01	Why the Nature of the Settlement Matters to the Defense	4-3
[1]	Effect of Periodic Payments on the Defense	4-3
[2]	Structured Settlement Participants	4-4
[3]	Basic Structured Settlement Questions for Defendants	4-6
[4]	Structured Settlement Value Metrics and Industry Surveys	4-6
§ 4.02	Insurance Policy Issues	4-10.2
[1]	Control of Decisions	4-10.2
[2]	Policy Limits	4-10.5
§ 4.03	Financial Impact on Defense Participants	4-15
[1]	1099 Reporting of Settlements and Payments to Attorneys	4-15
[1A]	Taxable Self-Insured Defendants	4-16
[2]	Nontaxable Self-Insured Defendants	4-18

TABLE OF CONTENTS

	[3] Liability Insurers	4-19
	[a] Regulation.	4-19
	[b] Accounting	4-21
	[c] Taxation	4-26
	[d] Related Party Transactions.	4-26
§ 4.04	Privacy.	4-28
§ 4.04A	NAIC Revised Suitability in Annuity Transactions Model Regulation	4-32
§ 4.05	Defendant Disclosure Issues.	4-37
	[1] Introduction	4-37
	[2] State Structured Settlement Protection Statutes	4-37
	[3] Product Disclosures and Representations. . .	4-38
	[a] Introduction.	4-38
	[b] Cost or Value	4-39
	[c] NAIC Annuity Disclosure Model Regulation.	4-40
	[d] Compensation	4-42
	[e] “Guaranteed” Payments	4-42.1
	[i] “Guaranteed Payments” vs. Payments To Be Made for a “Term Certain”	4-42.1
	[ii] Guaranteed Payments Under State Life and Health Guaranty Associations (“GAs”).	4-42.3
	[f] Dissipation Studies.	4-42.3
	[g] Public Assistance	4-42.4
	[h] Annuity Ownership and Rights	4-42.5
	[i] Taxation	4-42.5
	[j] Financial Condition	4-42.6
	[4] Conflicts of Interest	4-42.9
	[5] Medicaid/Medicare Disclosures.	4-42.9
	[6] Security Law Issues	4-42.10
	[7] Class Action Lawsuits v. Defendants.	4-42.16
	[a] <i>Macomber v. Travelers</i>	4-42.16
	[b] <i>Spencer v. Hartford</i>	4-42.18
	[c] <i>Ezell v. Lexington Insurance Company</i> (and Other Insurers of the AIG Group)	4-42.21
	[8] Meeting Professional Responsibilities.	4-42.23
§ 4.06	Drafting of Settlement Documents.	4-42.25
	[1] Ultimate Responsibility for the Settlement Documents	4-42.25
	[2] Release for All but the Obligor.	4-45
	[3] Definition of Roles and Obligations.	4-46.1

	[4]	Court Approval	4-50
	[5]	Sealing of Court File	4-52
§ 4.07		Multiple Defendants	4-53
	[1]	Management by the Defense	4-53
	[2]	Options for Defense Participants	4-54
	[3]	The Importance of Clear Drafting of Settlement Documents	4-55

CHAPTER 5

Role and Responsibilities of Plaintiff's Counsel in Structured Settlements

§ 5.01		Why the Nature of a Settlement Matters to the Plaintiff's Attorney	5-4
	[1]	Effect of Structured Settlements on the Role of the Plaintiff's Attorney	5-4
		[a] Ethical Considerations	5-6
		[b] Legal Malpractice and Structured Settlements	5-8
		[c] Compensating a Structured Settlement Consultant	5-19
	[2]	Assistance Available to Plaintiffs and Their Attorneys	5-22
		[a] Getting Off on the Right Foot: Knowing What Should Be Included—and Excluded—from the Attorney's Scope of Representation	5-22
		[b] Getting Help from Settlement Consultants	5-23
		[c] Getting Help from Tax Specialists	5-25
		[d] Getting Help from Lien Resolution Specialists	5-26
	[3]	Checklist	5-28
	[4]	Plaintiff Attorney Surveys	5-29
§ 5.02		Comparing Lump Sum and Structured Settlements	5-31
	[1]	Many Different Criteria are Appropriate for Decision Making	5-31
	[2]	Financial Criteria	5-33
		[a] Cost to the Defense	5-33
		[b] Benefit to the Claimant	5-33
		[i] Net Yield	5-33
		[ii] Equivalent Yield	5-35

TABLE OF CONTENTS

xxvii

	[3]	Comparing Settlement Alternatives	5-36
	[4]	Interrelationship with Government Benefits	5-37
	[a]	Social Security Disability Payments	5-38
	[b]	Supplemental Security Income	5-38
	[c]	Aid to Families with Dependent Children	5-38
	[d]	Medicare and Medicaid	5-39
	[e]	ABLE Accounts	5-39
	[f]	Planning a Strategy	5-40
	[5]	Ability to Liquidate a Structured Settlement.	5-43
	[6]	The Special Case of Minors and Incompetents	5-44
	[7]	Efforts to Get a Lump Sum and Then Structure It	5-48
§ 5.03		Using a Qualified Assignment to Make the Plaintiff a Secured Creditor	5-49
	[1]	Deciding Whether and How to Grant Secured Creditor Rights	5-49
	[2]	Impact of Article 9 of Uniform Commercial Code	5-50
	[a]	Article 9 Prior to Its 1999 Revision	5-51
	[b]	1999 Revision of Article 9	5-52
	[3]	Methods of Securing the Transaction	5-53
	[a]	Methods to Avoid	5-53
	[b]	Methods to Use	5-54
	[i]	Pledges	5-54
	[ii]	Guarantees.	5-55
	[iii]	Surety Bonds	5-56
	[iv]	Capital Maintenance Agreement	5-57
	[v]	Other Methods	5-58
	[4]	Security Interests in Annuity Contracts	5-58
	[5]	Security Interests in U.S. Government Obligations	5-58.1
§ 5.04		Addressing the Risk of Nonpayment to a Claimant	5-58.3
	[1]	Protecting the Claimant	5-58.3
	[a]	Legislative and Regulatory Role	5-58.3
	[b]	Attorney’s Role.	5-58.5
	[2]	Creditor Rights Against the Obligor	5-58.5
	[a]	“General Creditor” Rule	5-58.5

STRUCTURED SETTLEMENTS

	[i]	Judicial Liens	5-58.6
	[ii]	Irrevocable Payees	5-58.6
	[b]	Insolvency of Obligor	5-58.7
	[i]	Insurance Company as Obligor	5-58.7
	[ii]	Non-Insurance Company as Obligor	5-58.15
[3]		Other Rights and Remedies for Collecting Periodic Payments	5-58.19
	[a]	Rights Against Additional Obligors, Guarantors, or Sureties	5-58.20
	[b]	Rights Against the Provider of Structured Settlement Financing	5-58.21
	[i]	Annuity Issuer	5-58.21
	[ii]	Liability Reinsurer	5-58.22
	[c]	Rights Against an Insurance Guaranty Association	5-58.23
	[i]	Guaranty Associations Covering Liability Insurers	5-58.23
	[ii]	Guaranty Associations Covering Life Insurers	5-58.24
[4]		Evaluating the Obligor and Others Involved in Making Periodic Payments	5-58.26
	[a]	Evaluating the Strength of Insurance Companies— Risk-Based Capital Analysis Overview	5-58.27
	[b]	Evaluating the Strength of Insurance Companies— The Rating Agencies	5-58.27
	[c]	Evaluating the Strength of Insurance Companies—NRSRO Ratings	5-61
	[d]	Evaluating the Strength of Non-Insurance Companies	5-63
[5]		Obtaining Representations from the Defense	5-63
§ 5.05		Controlling Decision Making About Structured Settlements	5-65
	[1]	Control Issues	5-65
	[a]	Settlement or Trial	5-65
	[b]	The Type of Settlement	5-65
	[c]	Qualified Assignments	5-66
	[d]	Funding	5-66
	[e]	Payments and Payees	5-67

TABLE OF CONTENTS

xxix

	[2] How Plaintiffs Can Increase Control	5-69
	[a] Involving a Plaintiff’s Consultant	5-69
	[b] Section 468B Funds	5-71
	[c] Trusts	5-72
	[3] Privacy	5-73
§ 5.06	Drafting Settlement Documents	5-75
	[1] Ultimate Responsibility for Certain Aspects of Settlement Documents	5-75
	[2] Definitions of Payees	5-75
	[3] Other Matters of Plaintiff’s Concern	5-77
	[4] Addressing Subrogation Rights	5-80
§ 5.07	Attorney Compensation	5-83
	[1] Determining the Amount of a Contingent Fee	5-83
	[a] The Requirement of a Communication	5-83
	[b] Amount of the Fee	5-83
	[i] Establishing the Attorney Fee When the Cost of the Periodic Payments Are Unknown and Issues Attendant	5-84
	[ii] Obstacles to Establishing Present Value	5-85
	[iii] Methods of Establishing Present Value	5-86
	[iv] Sample Language for Fee Agreement	5-89
	[v] Disclosure of Cost	5-91
	[vi] Avoiding Conflicts	5-92
	[vii] Avoiding Jail	5-94
	[c] Timing of the Fee	5-95
	[2] Deferred Compensation of Attorney Fees	5-96
	[a] Tax Considerations	5-96
	[i] The Early Years of Attorney Fee Structured Settlements and the IRS Opposition	5-96
	[ii] The Post- <i>Childs</i> Years	5-101
	[iii] New Deferral Products and Pushing the Bounds of the <i>Childs</i> Decision	5-104
	[iv] IRS 2022 GLAM	5-105
	[b] Nontax Considerations	5-107
	[3] Products Available to Attorneys	5-107

STRUCTURED SETTLEMENTS

CHAPTER 6

Case Preparation

§ 6.01	Increased Need for Information about the Claimant	6-3
§ 6.02	Structured Settlement Consultants	6-4
	[1] Roles and Responsibilities of Consultants	6-4
	[a] Product Sales	6-4
	[b] Other Services	6-12
	[i] Cost and Benefit Analysis	6-12
	[ii] Evaluation of Damages	6-12
	[iii] Negotiation Assistance	6-13
	[iv] Judicial Review of Proposed Structured Settlement Plans	6-13
	[v] Government Benefits	6-13
	[vi] Expert Testimony	6-14
	[vii] Verdict Analysis	6-14
	[viii] Sample Closing Documentation	6-14
	[ix] Settlement Transfers	6-14.1
	[c] Structured Settlement Product Suitability	6-14.1
	[i] Introduction	6-14.1
	[ii] Historical Structured Settlement Product Standards.	6-14.2
	[iii] NAIC Model Annuity Suitability Regulation.	6-14.5
	[iv] Professional Association Product Suitability Guidance	6-14.8
	[v] Settlement Planning Product Suitability Standards	6-14.10
	[2] Selecting Structured Settlement Consultants	6-14.12
	[a] Introduction	6-14.12
	[b] Professional Trade Associations	6-14.12
	[i] National Structured Settlement Trade Association (NSSTA).	6-14.12
	[ii] The Society of Settlement Planners (SSP)	6-14.13
	[iii] The American Association of Settlement Consultants (AASC).	6-14.14

TABLE OF CONTENTS

	[iv] Other Professional Trade	
	Associations	6-14.14
	[c] Selection Criteria	6-14.14
[3]	Business Practices of Consultants	6-14.17
	[a] Introduction.	6-14.17
	[b] Laws and Regulations	6-14.17
	[c] Industry Ethics and Practice	
	Standards	6-14.20
	[d] Issues.	6-14.22
	[i] Anti-Competitive Practices	6-14.22
	[ii] Commission Agreements	
	and Disputes	6-14.22
	[iii] Privacy	6-14.24
	[iv] Representations and	
	Disclosures	6-14.25
	[v] Conflicts of Interest	
§ 6.03	Evaluation and Argumentation of Damages	6-14.26
	[1] Determinants of Future Loss	6-14.28
	[a] Future Medical Expenses	6-14.28
	[i] Duration of Loss	6-14.28
	[ii] Medical Expense Base	6-14.28
	[iii] Medical Expense Growth	
	Rate	6-14.29
	[b] Future Lost Earnings	6-14.32
	[i] Duration of Loss	6-14.32
	[ii] Lost Earning Base	6-14.32
	[iii] Earnings Growth Rate	6-14.32
	[c] Future Expenses—	
	All Components	6-14.34
	[2] Present Value of Future Loss	6-14.35
	[a] Discount Rate	6-14.35
	[b] Inflation	6-14.36
	[c] Income Tax	6-14.36
§ 6.04	Sample Evaluation of Damages	6-15
	[1] Hypothetical Claim for Brain-Damaged	
	Child	6-15
	[2] Purpose of Evaluation	6-15
	[3] Findings of Economic Loss	6-15
	[4] Comparison of Key Assumptions	6-15
	[5] Effect of Alternative Assumptions	6-17
	[6] Application of Periodic Payment	6-18
	[a] Schedule of Benefits	6-18
	[b] Cost of Benefits	6-18
§ 6.05	Discovery Issues	6-22
	[1] Scope of Discovery	6-22
	[2] Potential Bars to Discovery	6-22

STRUCTURED SETTLEMENTS

	[a]	Work Product Protection	6-23
		[i] Protection is Qualified	6-23
		[ii] Protection Does Not Include Facts	6-23
		[iii] Protection is Strengthened by Involvement of Counsel . . .	6-23
		[iv] Protection May be Weakened by Involvement of a Testifying Expert	6-24
	[b]	Consulting Expert Protection	6-24
	[3]	Direct Discovery from a Settlement Consultant	6-25
		[a] Discovery of the Consulting Expert's Identity	6-25
		[b] Subpoena <i>Duces Tecum</i>	6-26
	[4]	Data Privacy	6-26
§ 6.06		Using a Checklist	6-31
	[1]	Contents of Checklist	6-31
	[2]	Checklist of Documents	6-35

CHAPTER 7**Case Negotiation**

§ 7.01		Introduction	7-3
§ 7.02		Guidelines for Negotiating Structured Settlements	7-5
	[1]	Initial Case Review	7-5
		[a] Statutory Requirements and Limitations	7-5
		[b] Reviewing Information Checklists	7-7
		[c] Obtaining Preliminary Quotes	7-7
	[2]	Assemble Supporting Materials	7-8
		[a] Tax Materials	7-8
		[b] Financial Materials	7-8
		[c] Offer Materials	7-8
		[d] Economic Materials	7-9
		[e] Settlement Documentation Forms	7-9
	[3]	Determine Each Participant's Position on Use of Periodic Payment	7-9
		[a] Inquiries by Plaintiff's Attorney	7-9
		[b] Inquiries by Defense Counsel	7-10.1
	[4]	Identify Specific Objectives for Each Negotiating Session	7-11

TABLE OF CONTENTS

xxxiii

	[5]	Making an Offer.	7-12
		[a] Describe a Rationale	7-12
		[b] State Terms With Precision	7-12
		[i] Timing of Periodic Payments.	7-13
		[ii] Certain v. Life Contingent Payments.	7-13
		[iii] Increase Factors	7-14
		[iv] Choice of Obligor.	7-14
		[v] Expiration of Offer.	7-14
		[c] Reduce All Offers to Writing	7-15
	[6]	Analyzing an Offer	7-16
		[a] Wait for a Complete Response to Each Prior Offer	7-17
		[b] Determine the Cost of Each Element.	7-17
		[c] Compare Price Differentials.	7-18
		[d] Set-Offs, Public Benefits, and Other Matters	7-19
	[7]	Concluding a Negotiation	7-20
		[a] Provide a Written Confirmation	7-21
		[b] Review Documentation	7-21
		[c] Review Tax and Financing Issues	7-22
		[d] Obtain Third Party Approvals	7-23
§ 7.03		Defense Strategies.	7-24
	[1]	Evaluate and Confirm the Role of Structured Settlements.	7-24
	[2]	Define a Negotiation Strategy.	7-25
	[3]	Establish Value by Reference to Claimant’s Economic Needs	7-25
	[4]	Negotiate Benefits, Not Cost.	7-26
	[5]	Make Only One Offer at a Time.	7-26
	[6]	Condition Any Structured Settlement Offer or Counter Offer on the Client’s Preferred Method of Financing.	7-27
	[7]	Condition the Offer on Confidentiality From Third Parties.	7-27
	[8]	Make All Mandatory Disclosures	7-28
	[9]	Life Company Approved Lists	7-28
§ 7.04		Claimant’s Strategies	7-30
	[1]	Determine Whether Structured Settlement is Appropriate	7-30
	[2]	Determine Defendants’ Structured Settlement Policy and Strategy.	7-30
	[3]	Identify and Retain Structured Settlement Experts.	7-30

STRUCTURED SETTLEMENTS

	[4]	Use a Period Certain That Approximates the Claimant's Life Expectancy	7-30.1
	[5]	Negotiate Benefits Separately for Each Claimant	7-30.1
	[6]	Consider Alternatives to Big Balloon Payments With Long Deferrals	7-30.1
	[7]	Evaluate Attendance by a Claimant	7-30.2
	[8]	Ask the Defense to Unbundle the Financing	7-30.2
	[9]	Utilize QSFs When Appropriate	7-30.2
§ 7.05	Other	Issues	7-30.4
	[1]	Liens on Amounts Recoverable by Claimant	7-30.4
	[2]	Bad Faith	7-33
	[3]	Offers of Judgment	7-35
	[4]	Post-Judgment Settlements	7-35
	[5]	Disclosure of Cost	7-35
	[6]	Attorney Fees	7-36
		[a] Sequence of Negotiation of the Fee	7-36
		[b] Amount of the Fee	7-36
		[c] Timing of the Fee	7-36
	[7]	Structured Settlement Compensation	7-37
	[8]	Representations Regarding Taxation and Financing	7-37
	[9]	Complex Litigation	7-38
		[a] Treatment of Partial Periodic Payment Settlements	7-38
		[b] Settlement Funds	7-39
	[10]	The Court's Role	7-40
	[11]	"Approved Annuity Provider Lists"	7-42
§ 7.06		Negotiation Checklist	7-44

CHAPTER 8**Case Closing**

§ 8.01		Introduction	8-2
§ 8.02		Administrative Steps in Closing	8-3
	[1]	Defense Counsel Gives Notification of Settlement or Judgment	8-3
	[2]	Consultant Confirms a Financing Commitment	8-3
	[3]	Obtaining Court Approval	8-4

TABLE OF CONTENTS

xxxv

	[4] Defense Team Submits All Closing Materials to Consultant	8-12
	[5] Consultant Obtains Financing and Sends Evidence to Defense Team.....	8-13
§ 8.03	Closing Documentation.....	8-14
	[1] Need for Careful Drafting.....	8-14
	[2] Settlement Agreement	8-17
	[3] Supplemental Schedule	8-25
	[4] Annuity Contract	8-25
	[5] Qualified Assignment.....	8-28
	[6] Advisory Disclosure.....	8-29
	[7] Surety Bond and Guarantees.....	8-30
	[8] Commutation Rider	8-31
	[9] Indemnity Reinsurance.....	8-31
	[10] Assumption Reinsurance	8-32
	[11] Reversionary Grantor Trust.....	8-32
	[12] Special Needs Trust.....	8-33
	[13] Medicare Secondary Payer Issues.....	8-35
§ 8.04	Issues Arising After Closing of the Case	8-36
	[1] Claimant’s Divorce.....	8-36
	[a] Periodic Payments as Marital Property	8-36
	[b] Periodic Payments as Separate Property	8-37
	[c] Periodic Payments as a Mix of Marital and Separate Property....	8-38.1
	[d] Child Support.....	8-42
	[2] Claimant’s Indebtedness.....	8-43
	[a] Bankruptcy	8-43
	[b] Assignment of Future Payment Rights	8-54
	[c] Garnishment of Damage Payments	8-55
	[3] Claimant’s Death	8-56
	[4] Attempts to Set Aside Settlement Agreement Because of Adverse Tax Impact.....	8-62
	[5] Overpayment	8-63
	[6] General Releases in Structured Settlements May Not Bar Fraud in the Inducement Claims.....	8-63
§ 8.05	Settlement Hearing	8-64
§ 8.06	What Judges Need to Know Before Approving a Structured Settlement Plan	8-67
	[1] The Problem: Inadequate Judicial Review of Settlement Plans for Protected Persons	8-67

STRUCTURED SETTLEMENTS

[2]	Proposed Solution: Using a Checklist to Inform Judicial Review of a Proposed Settlement Plan, and Mandating Key Disclosures from Its Proponents	8-68
[a]	Using a Sample Checklist	8-69
[b]	Mandating Key Disclosures	8-79

CHAPTER 9**Uniform Periodic Payment of Judgments Act**

§ 9.01	History of the Uniform Act	9-5
[1]	The National Conference of Commissioners on Uniform State Laws	9-5
[2]	The Model Act	9-5
[3]	The Uniform Act	9-6
§ 9.02	Summary of the Uniform Act	9-8
[1]	Scope of the Act	9-8
[2]	Election for the Act to Apply	9-8
[3]	Required Damages Findings	9-10
[4]	Determining the Form of the Judgment	9-13
[a]	Step One: Apply Any Rules of Law, Other Than Setoff or Credit, That Increase or Reduce the Recovery	9-13
[b]	Step Two: Account for Any Lump-Sum Setoff or Credit	9-13
[c]	Step Three: Account for Any Periodic-Payment Setoff or Credit	9-14
[d]	Step Four: Specify Attorney's Fees and Litigation Expenses	9-15
[e]	Step Five: Adjust the Periodic Payments as Necessary to Provide Funds to Pay Any Attorney's Fees and Litigation Expenses Owed in Lump Sum	9-15
[f]	Step Six: Adjust the Periodic Payments as Necessary to Pay Anything Else Owed in Lump Sum	9-16
[g]	Step Seven: Specify All Lump Sums and Periodic Payments in the Judgment	9-16

TABLE OF CONTENTS

xxxvii

[h] No Interest on Periodic Payments 9-17

[i] Step Eight: Describe the Qualified Funding Plan in the Judgment 9-18

[5] Effect of Death. 9-18

[6] Funding the Judgment 9-19

[a] Qualified Funding Plans 9-19

[i] Defendant Is the Obligor 9-19

[ii] Defendant’s Liability Insurer Is the Obligor 9-21

[iii] Assignee Is the Obligor 9-21

[iv] Reinsurer Is the Obligor. 9-22

[v] Agreement of the Parties. 9-23

[b] Time Limit for Providing Funding. 9-23

[c] More Than One Defendant Liable 9-23

[d] Liability Insurer’s Obligation. 9-23

[e] Inability to Fund. 9-24

[7] Bonding the Judgment on Appeal. 9-25

[8] Satisfaction of Judgment 9-25

[9] Assignment and Exemption of Periodic Payments 9-26

[10] Arbitrations and Settlement Agreements 9-27

[11] Duties of the Insurance Commissioner. 9-27

[12] Effective Date of the Act. 9-28

§ 9.03 Analysis and Evaluation of the Uniform Act 9-29

[1] Scope of the Act 9-29

[a] Limited to Bodily Injury 9-29

[b] Limited to Future Economic Damages. 9-29

[2] Election for the Act to Apply 9-30

[a] \$100,000 Threshold 9-30

[b] Essentially Mandatory 9-31

[3] Required Damages Findings 9-32

[a] Inflation Is Key 9-32

[b] Special Verdict Defines the Periodic-Payment Schedule. 9-33

[c] Special Verdict Increases the Complexity of the Jury’s Task 9-33

[d] No Need to Determine Life Expectancy for Lifetime Medical Expenses 9-34

STRUCTURED SETTLEMENTS

	[4]	Determining the Form of the Judgment	9-35
		[a] For Any Given Verdict There Is But One Possible Periodic-Payment Judgment.	9-35
		[b] Present Value Equals Cost of Funding.	9-36
		[c] No Interest on Periodic Payments.	9-37
	[5]	Effect of Death.	9-37
	[6]	Funding the Judgment	9-38
		[a] Regulation of Participants in Funding Plans.	9-38
		[b] Provision for Secured-Creditor Status	9-39
		[c] Flexibility in Funding	9-40
		[d] Future Insolvency Not Addressed.	9-41
	[7]	Liability Insurer's Obligation	9-41
	[8]	Assignment and Garnishment	9-42
	[9]	Judicial Receptivity to the Uniform Act	9-42
§ 9.04		Hypothetical Applications of the Uniform Act.	9-45
	[1]	Assumptions Underlying Three Hypothetical Cases	9-45
	[2]	First Scenario: Adjustment of Verdict for One-Third Lump-Sum Attorney's Fee	9-46
		[a] Case 1	9-46
		[i] Calculation of Fee	9-46
		[ii] Source of Funds to Pay Fee.	9-46
		[iii] Judgment.	9-46
		[b] Case 2	9-46
		[i] Calculation of Fee	9-46
		[ii] Source of Funds to Pay Fee.	9-46
		[iii] Judgment.	9-47
		[c] Case 3	9-47
		[i] Calculation of Fee	9-47
		[ii] Source of Funds to Pay Fee.	9-47
		[iii] Judgment.	9-47
	[3]	Second Scenario: Adjustment of Verdict for (1) Prior Settlement of \$300,000 in Cash and (2) One-Third Attorney's Fee	9-48

TABLE OF CONTENTS

xxxix

	[a]	Case 1	9-48
		[i] Settlement Setoff	9-48
		[ii] Calculation of Fee	9-48
		[iii] Source of Funds to Pay Fee	9-48
		[iv] Judgment	9-48
	[b]	Case 2	9-49
		[i] Settlement Setoff	9-49
		[ii] Calculation of Fee	9-49
		[iii] Source of Funds to Pay Fee	9-49
		[iv] Judgment	9-50
	[c]	Case 3	9-50
		[i] Settlement Setoff	9-50
		[ii] Calculation of Fee	9-50
		[iii] Source of Funds to Pay Fee	9-50
		[iv] Judgment	9-50
[4]		Third Scenario: Adjustment of Verdict for (1) Prior Settlement of \$300,000 in Cash and Periodic Payments That Cost \$400,000 and (2) One-Third Attorney’s Fee	9-51
	[a]	Case 1	9-51
		[i] Settlement Setoff for \$300,000 in Cash	9-51
		[ii] Settlement Setoff for Periodic Payments That Cost \$400,000	9-51
		[iii] Calculation of Fee	9-51
		[iv] Source of Funds to Pay Fee	9-51
		[v] Judgment	9-51
	[b]	Case 2	9-52
		[i] Settlement Setoff for \$300,000 in Cash	9-52
		[ii] Settlement Setoff for Periodic Payments That Cost \$400,000	9-52
		[iii] Calculation of Fee	9-52
		[iv] Source of Funds to Pay Fee	9-52
		[v] Judgment	9-53
	[c]	Case 3	9-53
		[i] Settlement Setoff for \$300,000 in Cash	9-53
		[ii] Settlement Setoff for Periodic Payments That Cost \$400,000	9-53

STRUCTURED SETTLEMENTS

	[iii] Calculation of Fee	9-54
	[iv] Source of Funds to Pay Fee.	9-54
	[v] Judgment.	9-54
[5]	Hypothetical Case in the Commissioners’ Comment to the Uniform Act.	9-55

CHAPTER 10

**Survey of State Statutes
Periodic Payment Judgments**

§ 10.01	Introduction	10-2
§ 10.02	Damages Subject to Periodic Payment	10-7
	[1] Injuries Covered by State Statutes	10-7
	[2] Threshold Amounts	10-10
	[3] Damages Which May Be Paid Periodically	10-11
	[4] Applicability to Torts Prior to Statute’s Passage	10-14.1
	[5] Arbitration	10-14.1
§ 10.03	Roles of Parties, Judge and Jury	10-15
	[1] Optional Periodic Payments	10-15
	[2] Judge’s Discretion to Order Periodic Payments	10-17
	[3] Role of the Jury	10-22.1
	[4] Determination of Damages	10-25
§ 10.04	Form of the Periodic Payment Judgment	10-27
	[1] Essential Terms of the Judgment	10-27
	[2] Assurance of Payment	10-30
	[3] Availability of Adjustments	10-34
	[4] Reversions and Beneficiaries.	10-37
§ 10.05	Treatment of Attorney Fees	10-39
§ 10.06	Constitutionality of State Statutes Authorizing Periodic Payment Judgments	10-42.2
	[1] Constitutionality of Statutes Singling Out Medical Malpractice Cases	10-42.2
	[2] Constitutionality of Statutes Generally Authorizing Periodic Payment of Judgments.	10-50

CHAPTER 11

**Procedure for Fashioning
a Periodic Payment Judgment**

§ 11.01	The Request for a Periodic Payment Judgment	11-2
	[1] Initial Pleadings	11-2
	[2] Pre-Trial Motion	11-3
	[3] Post-Verdict Motion	11-4
§ 11.02	Discovery	11-5
§ 11.03	Itemized Verdicts	11-7
	[1] Needed Elements	11-7
	[2] Alternatives	11-13
§ 11.04	Presentation of Damages	11-14.1
	[1] Generally	11-14.1
	[2] Plaintiff's Presentation	11-14.1
	[3] Defense Presentation	11-14.3
	[4] Annuity Testimony	11-14.4
§ 11.05	Post-Verdict Events	11-15
	[1] Translating the Verdict's Numbers into a Judgment	11-16
	[2] Offsets and Other Reductions	11-19
	[3] Attorney Fees	11-19
	[a] Amount of the Fee	11-20
	[b] Allocating Fees Among Portions of the Judgment	11-23
	[c] Timing of Fee Receipt	11-24
	[4] The Periodic Payment Plan	11-26
	[a] Who Will Pay?	11-26
	[b] Assurances that Future Payments Will Be Made	11-28
	[c] Modifications and Reversionary Rights	11-28.2
	[5] Post-Verdict Hearing	11-28.3
	[6] An Example of a Verdict Translated into a Periodic Payment Judgment	11-28.5
	[7] Interest	11-28.8
§ 11.06	Appeals	11-29
§ 11.07	Conclusions	11-33

CHAPTER 12

Annuity Testimony

§ 12.01	Introduction	12-2
§ 12.02	Use of Annuity Testimony	12-5
	[1] The Economics of Present Cash Value	12-5
	[2] Annuity Testimony As An Alternative Method of Present Value Calculation	12-7
	[3] “Annuitist” Defined	12-8
§ 12.03	Standards of Review	12-9
	[1] Trial Court Discretion	12-9
	[2] Misleading, Confusing, or Prejudicial Nature of Evidence v. Its Probative Value	12-9
	[3] Statutes or Rules Requiring or Permitting Use of Annuity Testimony	12-10
	[a] Specific Evidentiary Rules	12-10
	[b] Periodic Payment Judgment Statutes	12-10
§ 12.04	Distinguishing Types of Annuity Testimony	12-12
	[1] Annuity Tables or Neutral Figures	12-12
	[2] Single v. Multiple Quotes as Indication of Market Rate	12-13
	[3] Economist Testifying About Annuity Prices	12-15
§ 12.05	Objections to Annuity Testimony	12-16
	[1] Hearsay	12-16
	[2] Quote Expiration	12-17
	[3] Rated Age v. Life Expectancy	12-17
	[4] Risk Allocation	12-18
	[a] Tort Victim is Entitled to Risk-Free Discount Rate	12-18
	[b] Risk of Default	12-19
	[c] Risks of Inflation and Consumption	12-19
	[5] Future Medical Expenses	12-20
	[6] Possible Affiliation with Defendant’s Insurer	12-21
	[7] Double Discounting	12-22
	[8] Failure to Identify the Annuitist as an Expert	12-22
§ 12.06	Strengths of Annuity Testimony	12-23
	[1] Present Value Calculation in Real World Terms	12-23

TABLE OF CONTENTS

xliii

[2] Risk of Life Expectancy is Transferred
to the Annuity Issuer 12-23

CHAPTER 13

Periodic Payments in Environmental Cases

§ 13.01 Introduction 13-1
§ 13.02 Environmental Personal Injury
 Claims 13-2
§ 13.03 Superfund Cases 13-4
§ 13.04 Resolving Environmental Claims With
 Section 468B Qualified Settlement Funds 13-7
§ 13.05 Caveat on Use of Section 468B in
 Environmental Settlements with a Remote
 Obligation 13-11

CHAPTER 14

Structuring Workers' Compensation Claims

§ 14.01 Nature of Workers' Compensation Laws 14-2
§ 14.02 Statutory Benefits 14-3
§ 14.03 Funding Workers' Compensation
 Benefits 14-4
§ 14.04 Tax Treatment of Benefits 14-5
§ 14.05 Claim Financing Techniques 14-7
 [1] Compromise Settlements and
 Redemptions 14-7
 [2] Financing of Statutory Obligations 14-8.1
 [a] Accounting Issues 14-8.1
 [b] Economic Results 14-12
 [3] Post-Settlement Treatment of Benefits 14-14
§ 14.06 Workers Compensation Medicare
 Set-Aside Arrangements 14-19
 [1] Introduction 14-19
 [2] WCMSA Metrics 14-22
 [3] Structured Settlement WCMSA
 Cost Advantage 14-23
 [4] CMS WCMSA Reference
 Guide Overview 14-25

CHAPTER 15

Government Benefits and Structured Settlements

§ 15.01	Introduction.....	15-4
§ 15.02	Social Security	15-7
	[1] History of Disability Programs	15-7
	[a] Traditional Sources of Economic Security.....	15-7
	[b] Formal Systems of Economic Security.....	15-7
	[i] English Poor Laws.....	15-7
	[ii] Colonial America	15-7
	[iii] Civil War Pensions.....	15-7
	[iv] Corporate Pensions.....	15-8
	[v] State Old-Age Pensions.....	15-8
	[vi] Demographic Changes.....	15-8
	[vii] Social Insurance Movement...	15-8
	[2] Social Security Act	15-8
	[a] Original Enactment and Expansion.....	15-8
	[b] Major Provisions	15-9
	[c] Program Growth.....	15-9
	[3] The Social Security Administration	15-9
	[4] Social Security Benefits for People with Disabilities.....	15-10
	[a] Definition of “Disability”	15-10
	[b] Social Security Disability Insurance (SSDI).....	15-11
	[i] Introduction.....	15-11
	[ii] Eligibility	15-11
	[iii] Benefits.....	15-11
	[iv] SSD, Medicare and Workers Compensation.....	15-12
	[v] Disabled Adult Children’s Benefits.....	15-12
	[c] Supplemental Security Income (SSI)	15-13
	[i] Introduction.....	15-13
	[ii] Eligibility Requirements.....	15-13
	[iii] Benefits.....	15-15
	[iv] SSI and Structured Settlements	15-15
§ 15.03	Medicare	15-17
	[1] Introduction	15-17

TABLE OF CONTENTS

	[2]	Medicare Secondary Payer Act	15-18
	[3]	Medicare, Medicaid and SCHIP Extension Act of 2007	15-18
	[4]	SMART Act of 2012	15-20
	[5]	Loper Bright Enterprises et al. v. Raimondo, Secretary of Commerce, et al.	15-21
	[6]	Medicare Conditional Payments	15-23
	[7]	Medicare Conditional Payment Process	15-24
	[a]	Steps in Medicare’s MSP Conditional Payment Recovery Process	15-25
	[b]	Responsibilities of Claim Participants in Medicare’s MSP Conditional Payment Recovery Process	15-28
	[8]	Medicare Set-Aside Arrangements	15-29
	[a]	Introduction.	15-29
	[b]	Workers Compensation MSAs.	15-30
	[c]	Liability MSAs.	15-32
§ 15.04		Medicaid	15-36
	[1]	Introduction	15-36
	[2]	Medicaid Omnibus Reconciliation Budget Act	15-37
	[3]	Deficit Reduction Act of 2005	15-37
	[a]	Annuity Rules Under the DRA.	15-38
	[i]	Lack of Guidance as to Applicability of DRA Annuity Rules to Structured Settlements and Special Needs Trusts.	15-38
	[ii]	The Role of Annuities in Preserving Medicaid Eligibility	15-39
	[iii]	The Requirement of Disclosure.	15-39
	[iv]	“Safe Harbor” Annuity Rules.	15-39
	[b]	Annuity and/or Structured Settlement Design	15-41
	[c]	Pre-DRA Annuity Purchases	15-43
	[4]	Structured Settlement DRA Issues	15-43
	[5]	Regulation.	15-44
	[a]	Social Security Administration (SSA)	15-44

STRUCTURED SETTLEMENTS

	[b]	Centers for Medicare and Medicaid Services (CMS)	15-44
	[c]	State Medicaid Agencies	15-45
[6]		Medicaid Liens	15-45
[7]		Special Needs Trusts	15-47
	[a]	Introduction	15-47
	[b]	Self-Settled Special Needs Trusts	15-48
	[i]	Definition and General Requirements	15-48
	[ii]	Availability of Assets	15-49
	[iii]	Transfer Rules	15-49
	[iv]	Disbursement Rules	15-50
	[v]	Payback Rules	15-50
	[c]	Pooled Trusts	15-50
[8]		Structured Settlement Rules for Special Needs Trusts	15-54
	[a]	Definitions	15-54
	[b]	Social Security Administration Rules	15-55
	[c]	Centers for Medicare and Medicaid Services Rules	15-56
	[i]	Deficit Reduction Act	15-56
	[ii]	Secondary Market	15-56
§ 15.05		ABLE Accounts	15-58
	[1]	Introduction	15-58
	[2]	Federal Law	15-59
	[a]	The Federal ABLE Act	15-59
	[b]	Federal Requirements for Qualified ABLE Programs	15-62
	[i]	Requirements Under the ABLE Act and Code § 529A	15-62
	[ii]	IRS ABLE Regulations	15-63
	[c]	Response by Affected Federal Agencies	15-65
	[i]	Social Security Administration	15-65
	[ii]	Centers for Medicare and Medicaid Services (CMS)	15-69
	[iii]	U.S. Department of Agriculture	15-69
	[iv]	U.S. Department of Housing and Urban Development (HUD)	15-69

TABLE OF CONTENTS

[d] Additional Federal and State Benefits 15-70

[3] State ABLE Programs 15-70

[4] ABLE Accounts in Practice 15-71

 [a] ABLE Statistics 15-71

 [b] Eligibility for an ABLE Account 15-72

 [c] Use of an ABLE Account 15-73

 [d] Management of ABLE Accounts 15-78.2

[5] Comparison of Special Needs Trusts (SNTs) and ABLE Accounts 15-78.2

 [a] Similarities Between SNTs and ABLE Accounts 15-78.2

 [b] Differences Between SNTs and ABLE Accounts 15-78.3

[6] Using Structured Settlements to Fund ABLE Accounts 15-78.7

 [a] Indirect Funding via an SNT or Pooled Trust 15-78.7

 [b] Thoughts on Direct Funding of ABLE Accounts from a Structured Settlement 15-78.7

 [c] Thoughts on Solving the Problem of Using Structured Settlements for Direct Funding of ABLE Accounts 15-78.9

§ 15.06 Veterans Benefits 15-78.10

§ 15.07 Federally Assisted Housing 15-81

 [1] Section 202 Program 15-81

 [2] Section 8 Rental Assistance 15-81

§ 15.08 Patient Protection and Affordable Care Act 15-82

CHAPTER 16

Transfers of Structured Settlement Payment Rights

§ 16.01 Introduction 16-4

 [1] Background 16-4

 [2] Definitions 16-5

 [3] Public Policy 16-6

 [4] Consumer Financial Protection Bureau (“CFPB”) 16-8

 [a] Enforcement Activities by the CFPB 16-8.1

STRUCTURED SETTLEMENTS

		[b] CFPB “Warning” on Factoring	16-11
	[5]	Other Government Actions Against/Inquiries Into Factoring Company Business Practices.	16-11
	[6]	Purpose of Chapter	16-12
§ 16.02		History of Structured Settlement Transfers. . . .	16-12.1
	[1]	Origin and Participants	16-12.1
	[2]	Business Practices and Issues	16-12.2
		[a] In General.	16-12.2
		[b] Contract Rights v. Annuity Rights	16-12.8
		[c] Anti-Assignment language.	16-12.9
		[d] Validity of Assignments.	16-17
		[e] UCC Article 9	16-18.3
		[f] <i>Restatement (Second) of Contracts</i>	16-22
		[g] Taxation Issues	16-24
		[h] Fixed v. Life Contingent Payments	16-26
		[i] Purchase v. Loan	16-26.2
§ 16.03	IRC §	5891	16-27
	[1]	Introduction	16-27
	[2]	Summary of Act.	16-28
		[a] Imposition of Tax.	16-28
		[b] Exception for Certain Approved Transactions	16-28
		[i] In General.	16-28
		[ii] Qualified Order.	16-29
		[iii] Applicable State Statute.	16-29
		[iv] Applicable State Court.	16-29
		[v] Qualified Order as Dispositive	16-29
	[c]	Definitions	16-30
		[i] Structured Settlement	16-30
		[ii] Structured Settlement Payment Rights	16-31
		[iii] Structured Settlement Factoring Transaction.	16-31
		[iv] Factoring Discount.	16-31
		[v] Responsible Administrative Authority.	16-32
		[vi] State.	16-32
	[d]	Coordination with Other Provisions.	16-32
		[i] In General.	16-32

TABLE OF CONTENTS

	[ii]	No Withholding of Tax	16-33
	[iii]	Effective Dates	16-33
[3]		Analysis of IRC § 5891.	16-34
	[a]	In General.	16-34
	[i]	Public Policy.	16-34
	[ii]	Effect on Structured Settlement Industry	16-34
	[iii]	Structured Settlement Factoring Transactions	16-35
	[b]	Imposition of Tax.	16-36
	[c]	Approved Transactions.	16-36
	[d]	Definitions	16-38
	[i]	Structured Settlement	16-38
	[ii]	Structured Settlement Payment Rights	16-39
	[iii]	Structured Settlement Factoring Transaction.	16-39
	[iv]	Factoring Discount	16-40
	[v]	Responsible Administrative Authority.	16-41
	[e]	Related Tax Provisions.	16-41
	[f]	Impact of IRC § 5891	16-42
	[i]	Claimants and Their Attorneys	16-42
	[ii]	State Legislatures	16-43
	[iii]	State Judges	16-44
	[iv]	Transfer Companies	16-45
	[v]	Defendants and Their Attorneys	16-45
	[vi]	Annuity Providers.	16-46
	[vii]	Structured Settlement Industry.	16-46
	[viii]	Critics and Alternatives	16-46.1
§ 16.04		Structured Settlement Protection Acts (SSPAs)	16-47
	[1]	Legislative Recognition of the Need for SSPAs.	16-47
	[2]	Model Legislation	16-49
	[3]	How the SSPAs Work	16-50
	[a]	Required Disclosures	16-50
	[b]	Court Approval.	16-51
	[c]	Procedural Requirements	16-52
	[d]	Supplemental Protections.	16-53
	[4]	Procedure for Seeking Court Approval	16-56
	[a]	Where to File the Transfer Application.	16-56

STRUCTURED SETTLEMENTS

	[b] Contents of the Transfer	
	Application	16-58
	[i] Application for Approval of Transfer	16-58
	[ii] Transfer Agreement	16-58.1
	[iii] Disclosure Statement	16-58.1
	[iv] Notice to Interested Parties	16-58.1
	[v] Listing of the Payee's Dependents	16-59
	[vi] Full Details of Underlying Structured Settlement Documentation	16-59
	[5] Opposed v. Unopposed Applications	16-62
	[a] Unopposed Applications	16-62
	[b] Objections Based on Contractual Anti-Assignment Provisions, Including Choice of Law Considerations	16-62
	[c] Objections Based on Other Grounds	16-66
	[6] Transfers v. Commutations	16-66
	[7] Proceedings	16-68
	[8] Post-Transfer Matters	16-69
§ 16.05	Judicial Review of Transfer Applications	16-72
	[1] Role of the Court as Gatekeeper	16-72
	[2] Identifying the Applicable SSPA(s)	16-74
	[3] Conduct of Proceedings	16-75
	[a] Importance of Conducting a Hearing	16-75
	[b] Importance of Questioning the Payee	16-76
	[c] Importance of Questioning the Applicant's Counsel	16-76.1
	[d] Burden of Proof	16-76.1
	[4] Issues the Court Is Required to Address	16-76.1
	[a] Payee's Best Interest	16-76.1
	[b] Compliance with SSPA Requirements	16-91
	[i] Notice Requirements	16-91
	[ii] Other Objective Requirements	16-92
	[c] Noncontravention of Applicable Law	16-94

TABLE OF CONTENTS

	[i]	Proscription of Split Payments Under Some SSPAs.....	16-94
	[ii]	Workers' Compensation Laws	16-95
	[iii]	Tort Reform Statutes	16-97
	[iv]	Court Orders Approving Settlements	16-97
	[v]	Contractual Anti-Assignment Restrictions.....	16-98
	[vi]	Arbitration Clauses.....	16-100
	[vii]	Sovereign Immunity.....	16-102
	[d]	Independent Professional Advice....	16-102
	[5]	Conflicting Interests in Payment Rights....	16-104
	[6]	Legal Effects of an Approved Transfer....	16-105
§ 16.06		Restrictions on Factoring Imposed in Court Orders Approving a Structured Settlement Affecting the Interests of a Minor or Other Protected Person.....	16-107
§ 16.07		Determining Whether the Excise Tax on Transferee Applies Under IRC § 5891 ...	16-109
§ 16.08		Recycling and Securitization of Structured Settlement Payment Rights	16-113
Index		I-1

APPENDICES

(Available online at

<https://www.lawjournalpress.com/cd/134767>)

Appendix A:	Federal Tax Materials
Appendix A(1):	Internal Revenue Code § 104
Appendix A(2):	Treasury Regulation § 1.104-1
Appendix A(3):	Internal Revenue Code § 130
Appendix A(4):	Internal Revenue Code § 468B
Appendix A(5):	Treasury Regulations §§ 1.468B and 1.468B-1 through B-5
Appendix A(6):	Revenue Procedure 93-34
Appendix A(7):	Internal Revenue Code Section 5891
Appendix A(8):	Technical Explanation of the Victims of Terrorism Tax Relief Act of 2001
Appendix B:	Uniform Periodic Payment of Judgments Act
Appendix C:	State Periodic Payment of Judgments Act
Appendix C(1):	State Periodic Payment Acts
Appendix C(2):	Summary of Provisions of State Periodic Payment Acts
Appendix C(3):	Text of Selected State Periodic Payment Acts
Appendix C(4):	Sample Jury Verdict Forms and Special Interrogatories
Appendix C(4) Form 1:	RESERVED
Appendix C(4) Form 2:	Long Form of Itemized Verdict
Appendix C(4) Form 3:	Special Verdict Form (Devised by Florida Legislative Panel)
Appendix C(4) Form 4:	Special Verdict Form (Returned by Jury IN National Bank of Commerce v. HCA Health Services of Midwest)
Appendix C(4) Form 5:	Special Interrogatories for Use in Applicable Cases
Appendix D:	State Structured Settlement Protection Acts (SSPAs)
Appendix D(1):	Model SSPA
Appendix D(2):	Listing of SSPAs
Appendix E:	Structured Settlement-Related Amendments to Revised UCC Article 9
Appendix E(1):	Listing of State Amendments
Appendix F:	Structured Settlement Forms
Appendix F(1):	Qualified Assignment with Annuity Funding

TABLE OF CONTENTS

liii

Appendix F(1)(a):	Qualified Assignment
Appendix F(1)(a)(i):	Notes on Use of Qualified Assignment Agreement
Appendix F(1)(a)(ii):	(NSSTA) Model Qualified Assignment Agreement
Appendix F(1)(a)(iii):	(NSSTA) Annotated Model Qualified Assignment Agreement
Appendix F(1)(b):	Qualified Assignment and Release
Appendix F(1)(b)(i):	Notes on Use of Qualified Assignment Agreement and Release Agreement
Appendix F(1)(b)(ii):	(NSSTA) Model Qualified Assignment and Release Agreement
Appendix F(1)(b)(iii):	(NSSTA) Annotated Model Qualified Assignment and Release Agreement
Appendix F(1)(c):	Qualified Assignment, Release and Pledge
Appendix F(1)(c)(i):	Notes on Use of Pledge Agreement
Appendix F(1)(d):	Supplemental Forms and Materials
Appendix F(1)(d)(i):	Commutation Rider and Related Language for Settlement Agreement and Qualified Assignment
Appendix F(2)(a):	Settlement Agreement and Release
Appendix F(2)(b):	Annuity Contract
Appendix F(2)(c):	For Settlement Agreement—Alternative Language for Qualified Assignment
Appendix F(2)(d):	Advisory Disclosure
Appendix F(3):	Irrevocable Reversionary <i>Inter Vivos</i> Medical Trust
Appendix F(4):	Assumption Reinsurance:
Appendix F(4)(a):	Notes on Use of Assumption Reinsurance
Appendix F(5)(a):	Petition to Approve QSF
Appendix F(5)(b):	Conditional Release of Transferors
Appendix F(5)(c):	Release of QSF
Appendix G:	Individual Special Needs Trust (Intended to Qualify for the Medicaid Exclusion Under 42 U.S.C. § 1396p(d)(4)(A))
Appendix G(1):	Notes on Use of (d)(4)(A) Trusts
Appendix G(2):	Sample Utah-Specific (d)(4)(A) Trust
Appendix H:	Pooled Income Special Needs Trust (Intended to Qualify for the Medicaid Exclusion Under 42 U.S.C. § 1396(d)(4)(C))
Appendix H(1):	Notes on Use of (d)(4)(C) Pooled Trusts
Appendix H(3):	Utah-Specific (d)(4)(C) Pooled Trust
Appendix H(3)(a):	Master Pooled Trust

Appendix H(3)(b):	Joinder Agreement for Master Pooled Trust
Appendix H(3)(c):	Addendum to Joinder Agreement (Determines Third-Party or Self-Settled Option)
Appendix I:	Ethics and Professional Responsibility Standards
Appendix I(1):	National Structured Settlement Trade Association Statement of Ethics and Professional Responsibility
Appendix I(2):	Society of Settlement Planners Standards of Professional Conduct for Settlement Planners
Appendix I(3):	Settlement Planning Practice Standards Overview
Appendix J:	Transfer of Structured Settlement Payment Rights
Appendix J(1):	Transfer Application
Appendix J(2):	Transfer Agreement
Appendix J(3):	Disclosure Statement
Appendix J(4):	Notice to Interested Parties
Appendix J(5):	Order Approving Transfer
Appendix K:	Life and Health Guaranty Associations
Appendix K(1):	Model Act
Appendix K(2):	State Statutes
Appendix K(3):	Proceedings Citations
Appendix K(4):	Coverage Limits Under the Enabling Statute for Each U.S. Life & Health Insurance Guaranty Association (“GA”)
Appendix L:	Post-Assessment Property and Liability Insurance Guaranty Association
Appendix L(1):	Model Act
Appendix L(2):	State Positions
Appendix L(3):	Legislative History
Appendix L(4):	Case Law
Appendix M:	Insurers Rehabilitation and Liquidation Model Act
Appendix M(1):	Model Act
Appendix M(2):	State Positions
Appendix M(3):	Legislative History
Appendix N:	Risk-Based Capital for Insurers Model Act: State Positions
Appendix O:	Workers Compensation
Appendix O(1):	Benefits that May be Resolved Under Statute by Lump Sum: State Positions

TABLE OF CONTENTS

iv

Appendix O(2):	Valuation of Lump Sum Settlements: State Positions
Appendix O(3):	Use of Structured Settlements: State Positions
Appendix P:	Forms Needed by Plaintiff Attorneys
Appendix P(1):	Contingent Fee Agreement
Appendix P(3):	Forms for Requesting Medical Records
Appendix P(3)(a):	Authorization to Release Health Information (HIPAA Compliant)
Appendix P(3)(b):	Authorization to Release Confidential Information (HIPAA Compliant, Includ- ing as to Federal Regulations Governing Drug Abuse Patient Records)
Appendix P(3)(c):	HIPAA Compliance Policy
Appendix Q:	Disclosure Forms
Appendix Q(1):	Claimant's Consultant Sample Structured Settlement Disclosure Statement
Appendix Q(2):	Defendant's Sample Structured Settlement Disclosure Statement
Appendix R:	Liability Insurer Structured Settlement Statements
Appendix R(1):	Sample Liability Insurer Structured Settlement Mission Statement
Appendix R(2):	Sample Liability Insurer Structured Settlement Disclosure Statement
Appendix S:	Medicare Set-Aside Trust
Appendix S(1):	Glossary: Terms Relating to Transfers of Structured Settlement Payment Rights