



Structured Settlements 101



**EPS Settlements Group**  
*The Structured Settlements Company<sup>SM</sup>*

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EAST VALLEY BAR ASSOCIATION  
BY: LORI SHIPLEY

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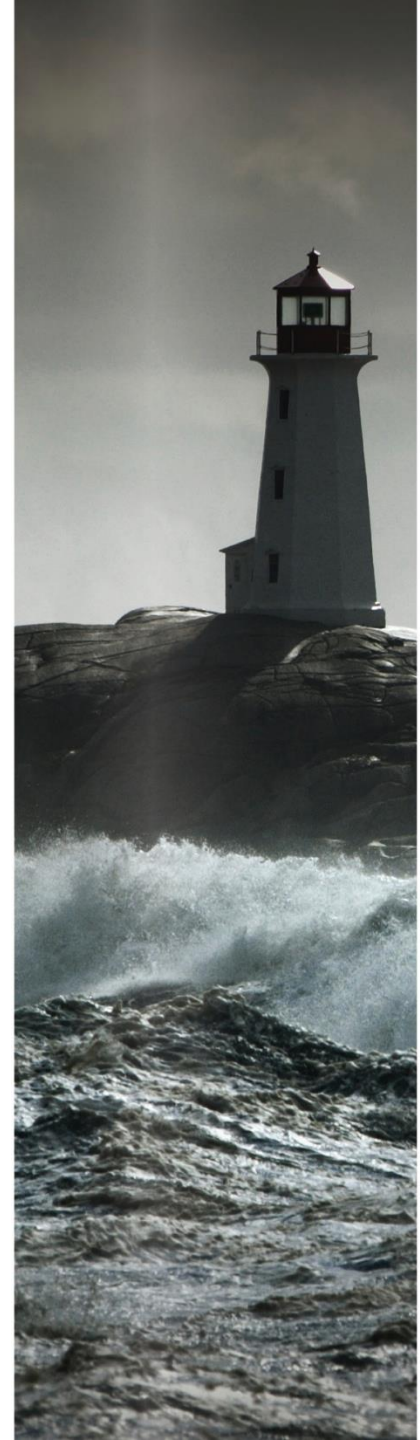


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# SEGMENT 1- The Basics

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# Definition

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What is a structured settlement?

A structured settlement is a contract in which a life insurance company agrees to make certain payments in the future to the injured party in exchange for a sum certain today. Must be a personal, physical, injury.

# Tax-Free Growth

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- A structured settlement is a “what you see is what you get” plan.
- An injured party knows right up front how much the money will grow.
- All of the growth is tax-free.

# 26 U.S. Code § 104 - Compensation for injuries or sickness

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**(a) IN GENERAL** Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, **gross income does not include:**

**(2)** 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;

# 26 U.S. Code § 130 - Certain personal injury liability assignments

**(a) IN GENERAL** Any amount received for agreeing to a qualified assignment shall not be included in gross income to the extent that such amount does not exceed the aggregate cost of any qualified funding assets.

**(c) QUALIFIED ASSIGNMENT** For purposes of this section, the term “qualified assignment” means any assignment of a liability to make **periodic payments** as damages (whether by suit or agreement), or as compensation under any workmen’s compensation act, on account of personal injury or sickness (**in a case involving physical injury or physical sickness**)—

**(1)** if the assignee assumes such liability from a person who is a party to the suit or agreement, or the workmen’s compensation claim, and

**(2) if –**

**(A)** such periodic payments are **fixed and determinable** as to amount and time of payment,

**(B)** such periodic payments **cannot be accelerated, deferred, increased, or decreased by the recipient of such payments,**

**(C)** the assignee’s obligation on account of the personal injuries or sickness is no greater than the obligation of the person who assigned the liability, and

**(D)** such periodic payments are excludable from the gross income of the recipient under paragraph (1) or (2) of section 104(a).

# Rates, Ratings and Rated Ages

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- **Rates:** Prices charged by the life insurance company for a certain benefit stream.
- **Ratings:** Issued by companies such as A.M. Best, Standard and Poor and Moody's.
- **Rated Ages:** Substandard ages which can decrease cost.



# Example

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Janey Doe

Date of Birth: December 10, 2007 (9 yo)

Total Settlement: \$50,000

Attorney's Fees: \$15,000

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## SETTLEMENT PROPOSAL

Janey Doe

Date of Birth: December 10, 2007

<b>Proposal 1 - College Tuition Assistance</b>	<b>Cost</b>	<b>Guaranteed Benefits</b>
<b><u>Cash for Attorney's Fees</u></b>		
\$15,000.00 immediate cash payment.	\$15,000.00	\$15,000.00
<b><u>College Tuition Assistance for Four Years</u></b>		
\$11,921.10 annually, guaranteed 4 years, beginning July 1, 2026.	\$34,750.00	\$47,684.40
Assignment Fee:	\$250.00	
<b>TOTAL</b>	<b>\$50,000.00</b>	<b>\$62,684.40</b>

# Example 2

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Jeff Smith

Date of Birth: January 9, 1961 (56 yo)

Total Settlement: \$150,000

Attorney's Fees: \$ 50,000

Rated Age: 65 yo

# Without Rated Age

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## SETTLEMENT PROPOSAL

Jeff Smith

Date of Birth: January 9, 1961

<b>Proposal 1 - Lifetime Retirement Income</b>	<b>Cost</b>	<b>Guaranteed Benefits</b>	<b>Projected Benefits</b>
<b><u>Attorney's Fees</u></b>			
\$50,000.00 immediate cash payment including attorney's fees.	\$50,000.00	\$50,000.00	\$50,000.00
<b><u>Lifetime Income beg at age 65</u></b>			
\$767.67 monthly for the life of Jeff Smith, guaranteed 15years, beginning at age 65 (1/9/2026).	\$99,700.00	\$138,180.60	\$156,604.68
Assignment Fee:	\$300.00		
<b>TOTAL</b>	<b>\$150,000.00</b>	<b>\$188,180.60</b>	<b>\$206,604.68</b>

# With Rated Age

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## SETTLEMENT PROPOSAL

Jeff Smith

Date of Birth: January 9, 1961

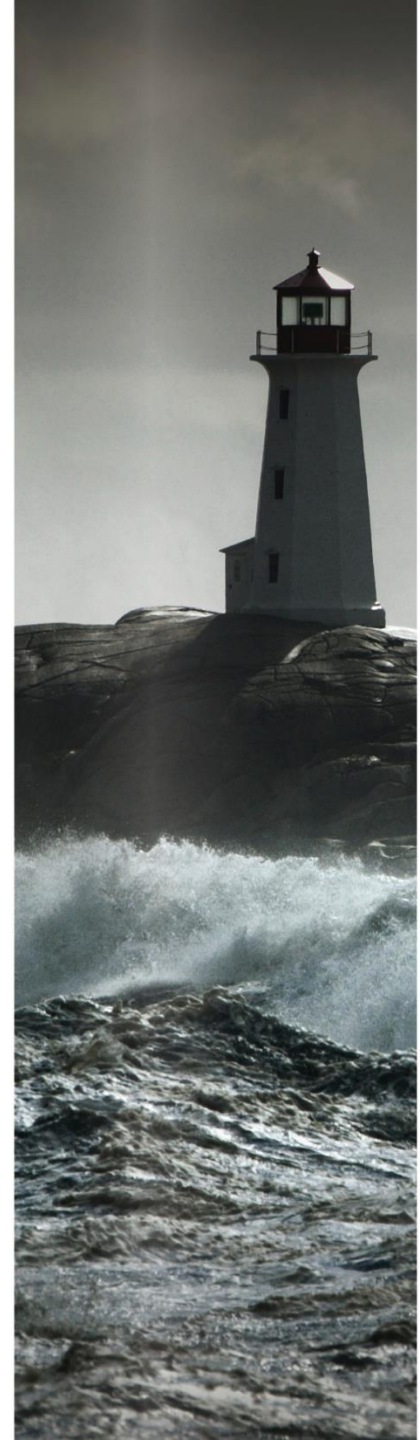
<b>Proposal 1 - Lifetime Retirement Income</b>	<b>Cost</b>	<b>Guaranteed Benefits</b>	<b>Projected Benefits</b>
<b><u>Attorney's Fees</u></b>			
\$50,000.00 immediate cash payment including attorney's fees.	\$50,000.00	\$50,000.00	\$50,000.00
<b><u>Lifetime Income beg at age 65</u></b>			
\$881.57 monthly for the life of Jeff Smith, guaranteed 15 years, beginning at age 65 (1/9/2026).	\$99,700.00	\$158,682.60	\$179,840.28
Assignment Fee:	\$300.00		
<b>TOTAL</b>	<b>\$150,000.00</b>	<b>\$208,682.60</b>	<b>\$229,840.28</b>



## SEGMENT 2

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Statutes and Case Law



# Factoring

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Google search of “structured settlements” will bring up:

- Peachtree
- J.G. Wentworth
- My lump sum
- Stonestreet

# Structured Settlement Protection Acts

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Enacted in 49 States

## **Arizona Revised Statutes § 12-2902. Payment rights; transfer conditions**

A. Direct or indirect transfer of structured settlement payment rights shall not be effective and a structured settlement obligor or annuity issuer shall not be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction or responsible administrative authority.

# Case Law

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- Grillo v. Pettiete – case settled. No published opinion to rely on. Attorney's obligation to discuss structured settlements.
- Aranki v. Burwell – Arizona case involving liability MSA issue.

# Attorney's Fees

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**Childs v. Comr. of I.R.S.**

89 F.3d 856

78 A.F.T.R.2d 96-5176

NO. 95-8762

**United States Court of Appeals, Eleventh Circuit.**

June 11, 1996

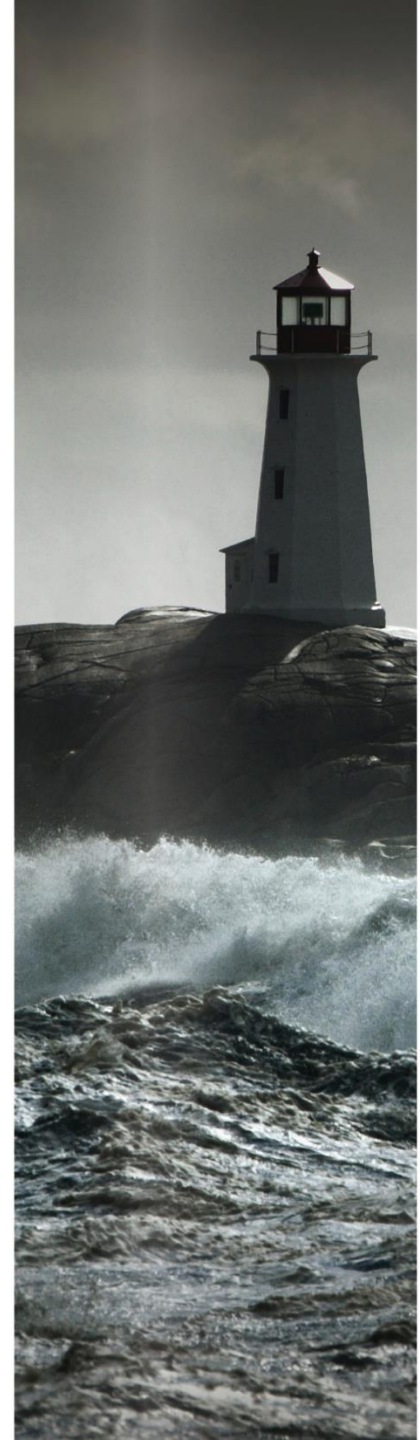
Appeal From: N.D.Ga., No. 15639-92,103 T.C. 634



# SEGMENT 3

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## Questions



## Lori Shipley, JD, CSSC, CMSS

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Lori has been a Structured Settlement Consultant with EPS since 2006. Prior to moving into the structured settlement industry, Lori was a litigation attorney for St. Paul Insurance and a partner at Jones, Skelton & Hochuli, PLLC.

Lori holds a Juris Doctorate Degree from the University of Illinois and a Bachelor's of Arts in Liberal Arts and Science with a Distinction in Finance from the University of Illinois.

Lori is a licensed attorney with the State Bar of Arizona (inactive status) and received her Certified Structured Settlement Consultant (CSSC) designation from the University of Notre Dame. Lori has life, health, and disability licenses in multiple states. In March, 2016, Lori earned the Certified Medicare Settlement Specialist (CMSS™) designation in EPS' inaugural class.

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