

Gov. Schwarzenegger Signs Senate Bill 510 - Will Provide Greater Protection to Structured Settlement Recipients

LOS ANGELES, CALIF.--After passage by the California State Assembly and Senate, California Gov. Arnold Schwarzenegger on October 11 signed into law Senate Bill 510, which gives greater judicial oversight to prevent predatory practices involving structured settlement annuity buyouts. The new law is much needed and will help stop companies from preying on a very vulnerable segment of the population, says Patrick Farber, a structured settlement broker with Ringler Associates.

Instead of receiving lump sum payments for defendants after a usually life-altering injury, injured parties, under legal and financial counsel, often opt for structured settlements--where payments are spread over time through the purchase of insurance annuities. These annuities are designed to provide long-term financial security and stability to the injured or disabled party and their families. When payments are set up within a structured settlement, payments are tax-free for the life of the annuity. In addition, the settlement is designed so that the injured party or "well meaning" friends and relatives are not tempted to spend the settlement in a reckless manner. Studies show that up to 90 percent of lump sum payments are spent within five years or receipt.

"A group of businesses, known as 'factoring' companies, have been approaching individuals with structured settlements, offering to buy the settlement annuities at deeply discounted rates and paying the individuals a lump sum," says Farber, who has been helping attorneys and their clients with structured settlements for more than 30 years. "Despite state and federal statutes designed to prevent abuses from occurring with these sales, many payees were agreeing to sell their settlements without fully realizing the financial ramifications until it was too late."

"Attorneys work extremely hard to obtain fair and appropriate settlements for their clients who will need money for medical expenses or support for many, many years to come," says Amy Fisch Solomon, an attorney with the Los Angeles law firm of Girardi & Keese and past president of the Consumer Attorneys Association of Los Angeles. "A key to providing long-term funds for these people is to put the funds into a structured settlement for protection. Unfortunately, unscrupulous factoring companies have been preying on these vulnerable people and getting them to sell off for cents on the dollar in exchange for a lump sum payment now."

Settlement buyouts require court approval. If the buyout is in the "best interest" of the injured party, the court approves the sale. "The problem is that there is little to help the court define what 'best interest' means," says Farber. "Not surprisingly, the majority of buyouts have been approved."

"With the passage of SB 510, clearly defined parameters are now in place for the courts to consider," notes Solomon. "Additionally, the lawyer who handled the settlement must be notified first before a buyout takes place. This ensures plaintiffs are adequately protected, fully informed and acting in their own best interest."

SB 510, introduced by Senator Ellen Corbett (D, San Leandro), gives the courts explicit guidelines to decide whether a buyout is appropriate. Some of these guidelines include a review of the injured party's current and future financial needs, whether the party has received independent legal and financial advice concerning the buyout and if the "discount rate" proposed

by the factoring company is in keeping with current market rates. The courts would also require that injured parties be clearly shown the value of the structured settlement versus the value of the lump sum buyout.

"SB 510 levels the playing field so injured parties can make decisions with the same knowledge as those who may or may not have their best interest in mind," says Farber. "I expect when most individuals realize the deal they are receiving is actually a questionable deal, they'll say 'no thanks'. The injured parties' lawyers work hard to protect their clients' interest. This new law will further enhance that protection."