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April 30, 2013

Oregon Senate
Judiciary Committee
900 Court Street NE
Salem, OR 97301

Re: Oregon HB 2536-A Engrossed

Dear Committee Members:

I am writing to express my opposition to HB 2536-A Engrossed.

I am an attorney who has appeared in literally hundreds of proceedings where Oregon courts have been called upon to review proposed structured settlement transfers pursuant to the Oregon Structured Settlement Statute (ORS 33.850 et. seq. (the "Oregon Act")). Based upon my experience, the Oregon Act does not require major overhaul. Oregon consumers who must go through the process tell me that complying with the existing law already takes too long, costs too much, and is personally intrusive. The changes proposed by HB 2536-A Engrossed would make the Oregon Act impossibly cumbersome and very intrusive.

I am a solo practitioner with over twenty five years experience. I served as an "Of Counsel" attorney with Ater Wynne, LLP (in Seattle) for over seven years before opening my own firm in 2011. I am licensed to practice in Idaho, Oregon and Washington and represent structured settlement payment buyers in each of those jurisdictions.

I have had the opportunity to meet many Oregon structured settlement recipients (payees) over the years. I have heard their stories as to why they have decided to sell a portion of their structured settlement payments. Based upon my experience, I think that there may be some "misunderstandings" about structured settlement recipients, the current process and the secondary market for structured settlement transfers that I would like to clear up.

First, there seems to be a presumption that structured settlement recipients are all unsophisticated, do not understand what they are doing, and somehow are being taken advantage of by funding companies. I have learned that being a tort victim does not know any particular socio-economic class. I have encountered many payees who are well educated but have unfortunately fallen on hard financial times.

I had a case last year with a payee whose family experienced extremely high medical bills due to serious health issues faced by their young daughter (which were not covered by health insurance). The family racked up thousands of dollars in medical debt to take care of their daughter, but was unable to pay all the medical bills which eventually went into collections. The family was being faced with constant threats of collection lawsuits. The payee decided to sell a

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portion of his structured settlement payments (annuity was created due to the death of his mother in 1984) to pay the medical bills and stop collection action. The transfer was approved but the judge spent about 30-40 minutes questioning the payee about his family finances, daughter's health circumstances, etc...The payee told me after the hearing that it was a humiliating experience to be quizzed about his unfortunate predicament to simply get access to his "own money" to help his family through such difficult times.

I have seen other cases where a payee has lost a job and cannot keep up with their ongoing monthly financial obligations (i.e.: mortgage payments, auto loans, etc...). The payee will then sell a portion of their structured settlement payments to eliminate a portion of their ongoing debt to provide some monthly financial relief.

On a happier note, I have seen many cases where a payee will sell a portion of their annuity payments to come up with the down payment on a home. This then enables the payee to borrow less and reduce their monthly mortgage payment. I have had cases where the funds from a transfer help finance either the payee's own education (or their children's education) to minimize future student loan debt. I even handled one case where a payee used the funds to help finance his 501 (c) (3) charitable organization which provided experiential education (i.e.: earth exploration classes) to local children in the community.

I would also like to point out that only a very small fraction of structured settlements are ever sold and the overwhelming majority of the structured settlements which are sold were not the result of some catastrophic physical injury where the structured settlement payments are the payee's only source of future income. I have seen many cases where the annuity was created years ago due to the loss of a parent when the payee was a child. This is obviously a serious incident, but no direct physical injury was sustained by the payee. In many other cases, the physical injuries, themselves, were minor (e.g. loss of a finger).

I spend lots of time speaking with the payees, well before the court hearing, learning about their circumstances and why they wish to sell a portion of their structured settlement payments. No doubt there are some who should not sell their payments. However, it is not my job to make that determination. The Oregon Act tasks the court with making that determination and whether the transfer is in the payee's "best interest."

I have handled transfer cases in most Oregon counties and some of those cases have been denied. Another "misunderstanding" is that such cases are easily approved without appropriate judicial inquiry. In my experience, Oregon judges are very capable and know how to do their jobs. Judges ask the right questions and will deny transfers which should be denied. I have had some hearings last over an hour as the judge asks probing questions to discern the payee's reason for the transfer. In all due respect, I do not think the Legislature should second guess how the judges are doing their job or try to write a "one size fits all" set of rules for judges who are already doing a good job.

The judges thoroughly review the paperwork filed with the court well before the hearing. When I present facts at the hearing, I tell the judge about the payee's education level, family information (i.e.: spouse and children), nature of the underlying injury which created the annuity,

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employment status, income status, whether the payee has done a prior transfer, remaining payments, and proposed use of funds. If the payee owes back child support, it is standard practice for the support arrearage to be paid directly by my clients before any funds are disbursed to the payee. Language to that affect is put in the final court order. My professional reputation and livelihood is at stake and I will never mislead the court.

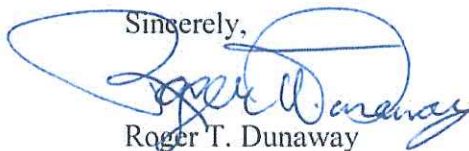
The Oregon Act is based on the Model Act and is very similar to what is now in place in Idaho and Washington. The Oregon Act is working well. Judges are asking the right questions when making a "best interest" determination on such cases. I believe that this is, in part, due to my efforts and those of others (including Ms. Julie Weis of Haglund Kelley Jones & Wilder, LLP in Portland) as we collectively handle the majority of such cases in Oregon. Settlement purchasers offer a viable alternative to Oregon citizens who may not have another funding source to help out with an unexpected financial need.

Many structured settlement recipients have told me that the transfer process (as it now exists) can be time consuming, humiliating and very uncomfortable when they are merely trying to get access to their "own money" when needed. I believe that some of the proposals set forth in HB 2536-A Engrossed would make the process even more difficult and intrusive for Oregon citizens wishing to access their "own money." Again, Oregon judges are smart and are asking the right questions to make a "best interest" determination.

I am more than willing to come to Salem and speak with Committee members about my experience with Oregon payees, experience with Oregon judges, the current process, and why I believe HB 2536-A Engrossed has provisions that negatively impact Oregon citizens who need to access their own money in a time of financial need.

Thank you very much for your time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Roger T. Dunaway", is written over a large, stylized blue oval scribble.

Roger T. Dunaway