

EDITORIAL

Protect victims in settlement cases

Too many are pressured to sell long-term payouts for pennies on the dollar.

By Editorial Board Star Tribune | OCTOBER 17, 2021 — 6:00PM

For a state that has prided itself on protecting consumers, Minnesota has muffed badly on a singularly vulnerable population: accident victims who receive a long-term settlements and then become the prey of companies that dangle upfront cash payments for pennies on the dollar.

A new Star Tribune news series, "[Unsettled \(https://www.startribune.com/structured-settlements-payout-accident-victims-surrender-millions-lightly-regulated-industry/600101581/\)](https://www.startribune.com/structured-settlements-payout-accident-victims-surrender-millions-lightly-regulated-industry/600101581/)," dives deeply into the intricacies of a system where it is too easy to take advantage of victims who aren't always able to act in their own best interests. Reporters examined more than 1,200 cases approved by Minnesota judges. On average, the cash payments turn out to be a good deal — for the companies. Of the Minnesotans injured enough to be awarded long-term settlements, they settled for an average of 40% of what their settlements were actually worth and often far less than that.

The reasons are as varied (<https://www.startribune.com/structured-settlements-was-selling-their-payments-worth-it-we-looked-at-hundreds-minnesota-cases/600101586/>) as the individuals themselves. Some, left permanently disabled and virtually unemployable, sold off payments to pay heating bills or other mounting debts. Some yearned to purchase simple pleasures — a vacation, a wedding. Many more were subjected to constant pressure (<https://www.startribune.com/accident-victims-hounded-to-sell-their-structured-settlement-payments-payouts-court/600104478/>) from companies that can call as many as a dozen times a day, hounding their targets by phone, mail, social media and e-mail. Too often, the individuals who get the worst deals are impaired by their injuries and unable to discern fully what they are doing.

They are individuals such as Stanley Turner, who along with his sister suffered permanent brain damage in an auto crash when he was 5 years old. The \$4 million settlement should have taken care of them both for decades. But investment companies persuaded judges to approve a deal in which they purchased decades worth of payments. In the latest deal, Turner received \$12,000 for more than \$500,000 in future payments. "The wolves sucked it all out," Turner's mother told Star Tribune reporters.

It's not this way everywhere. And the solution does not have to be a national fix that rewrites rules for an entire industry. Star Tribune reporters found that Albuquerque, N.M., has arrived at a reasonable means of protecting the vulnerable while — and this is important — preserving cash payments for those who have been fully apprised of the consequences and who choose to move ahead.

Albuquerque appoints "guardians ad litem," whose role is to advocate for the best interests of the victim. Reserved in Minnesota primarily for cases involving children, such guardians are routinely used in Albuquerque to ensure that individuals fully



JEFF WHEELER, STAR TRIBUNE

The \$12,001 payment Stanley Turner, 40, received from a California company in 2019 represented just 6.3% of the value of the

understand the deal they are about to make.

Minnesota judges typically approve nine out of 10 deals, the series found. In Albuquerque, that figure drops to 42% when a guardian is involved. The series found that in many cases, judges didn't have to rule because after meeting with a guardian, sellers withdrew their requests. In a blunt summation, former Albuquerque Judge Alan Malott, who retired in 2018, told a Star Tribune reporter that "if someone wants to do something stupid, they are allowed. It's a free country. But when there are dependent children or other dependents involved, then the state has more of an interest."

That's a little harsh. There are circumstances where it may make sense to sell payments to meet more pressing needs. But a guardian can go a long way toward helping individuals fully understand the ramifications of their decision. Sometimes it even results in a better deal for the individual, who finds that companies are willing to increase their payout.

Minnesota would need to change state law to expand its use of guardians ad litem. Judges have told the Star Tribune that they don't believe they are allowed to appoint guardians unless the case involves minors or adults deemed mentally incompetent.

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That's an oversight that should be corrected (<https://www.startribune.com/minnesota-lawmakers-vow-to-fix-predatory-accident-settlement-practices/600105164/>) as soon as possible. Thankfully, Gov. Tim Walz and legislators on both sides have vowed to make changes that will better protect vulnerable accident victims. U.S. Sen. Tina Smith has called for an investigation of the industry by the Consumer Financial Protection Bureau.

Change won't be easy. Purchasing future payments has become a billion-dollar-a-year industry, with companies retaining an average of 60%, according to the Star Tribune's analysis of more than 2,400 deals spanning seven states over 20 years.

The companies have argued that judges already have what they need to protect settlement recipients, and that individuals should be free to make their own decisions. We agree that freedom is important to protect. But it is just as important to ensure against exploitation. Minnesota has some work to do there.
