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Structured Settlements: A Smart Choice for Children

When a child is injured, families suffer not only from the devastation of injury, they also suffer financially. After a lawsuit settlement, they are then faced with the difficult decision of whether to accept a lump sum or a structured settlement in their case. On this edition of Ringler Radio, host Larry Cohen and co-host, Rachel D. Grant, Settlement Annuity Specialist in the Detroit office are joined by guest, Attorney James C. Lewis from the firm, Shapiro, Lewis & Appleton, P.C., in Virginia Beach, Virginia. Jim shares his insights about why a structured settlement is the best choice when a child is injured and how this decision can benefit not only the child, but the entire family in the long run**.**

Larry Cohen: Well, hello there and welcome to Ringler Radio. I'm Larry Cohen, head of Ringler Associates Northeast operations and we're certainly glad you could join us again today. When a child is injured, families suffer not only from the devastation of the child being injured, but they also suffer financially. After receiving a settlement they are then faced with the further decision of whether to go with a lump sum or a structured settlement to settle their case.

Today on Ringler Radio, we're going to talk to a personal injury attorney who will share his experience on why a structured settlement is in many ways the best choice when a child is injured and how this decision can benefit not only the child, but the entire family in the long run.

Joining me today from Troy, Michigan is my co-host, Rachel Grant, from our Ringler Associates office in that area. Rachel co-founded the Ringler Associates Detroit office in 2006, coming in with more than 20 years of experience in the structured settlement and insurance business.

Hi there, Rachel. How are you doing? Welcome to Ringler Radio.

Rachel Grant: Good morning, Larry, and thank you. Good morning from a very rainy, rainy Detroit.

Larry: Detroit on a bright day is a tough place to be sometimes. That's cool that you're there. I'm glad you're there, Rachel and I'm glad to have you as our co-host today.

Rachel: Thank you.

Larry: Our special guest is attorney James Lewis from the firm Shapiro, Cooper, Lewis and Appleton in Virginia Beach, Virginia. Jim concentrates his practice on representing seriously injured clients and their families in the areas of motor vehicle injury, medical negligence, aviation, railroad and faulty product injury cases. In fact, the firm tries cases up and down the Eastern seaboard. Jim's colleague, attorney Emily Mapp-Brannon, recently wrote about structured settlements on InjuryBoard.com in a piece titled "Structured Settlements are a Smart

Choice for Children." That's what piqued our interest in talking to Jim. Anytime somebody talks with a beneficial tone towards structured settlements, I think they're welcome here on Ringler Radio. Jim, it's a pleasure to have you here. Welcome.

Jim Lewis: Good morning. It's nice to be here and just to rub it in with Rachel a bit-- 80 degrees and sunny.

Rachel: [laughs] Oh, nice.

Larry: It's raining here in Boston so, we've got the triangle working: Boston, Detroit and Virginia Beach. Between that, I'm sure we'll have a great show. Jim, you cover a wide range of cases in the personal injury arena; tell us a little bit about your law practice and specifically your work with children.

Jim: As you mentioned earlier Larry, my law firm is dedicated exclusively to representing people who have suffered personal injuries in any large number of different ways: medical negligence, automobile crashes, trucking accidents, railroad accidents, aviation accidents. Invariably, when you do this kind of work, you are going to have the sad experience, quite frankly, of being asked to help youngsters who were inadvertently the victim of some sort of catastrophic injury. When you do that, you end up representing the entire family because, of course, children are not left to make serious life decisions on their own. You work closely with Mom and Dad, sometimes brothers and sisters. That's pretty much what we do. I'm happy to discuss the uniqueness of representing a minor personal injury victim today.

Larry: Great.

Rachel: Jim, your colleague Emily Mapp-Brannon wrote about structured settlements and why they're a smart choice for children. The vast majority of cases that I work on here in the Midwest involve minor children, many of whom are catastrophically injured so I found Ms. Mapp-Brannon's article very interesting. Can you give us your insights on her article?

Jim: Basically, Rachel, what the article does is highlight before structured settlements were a part of our lives. It highlights the difficulty in resolving a claim for a child. You end up with a lump sum settlement and the law in every state is a little bit different, but every state requires that money be held in some sort of a trust capacity for the benefit of the child. When the child turns 18, which is the age of majority in most states if not certainly 21, the then adult is entitled to the entire sum of money. That, as you can well imagine, creates all sorts of concerns, issues and problems. Most of them related to the fact that an 18-year-old may not have the judgment and insight that someone older and more experienced would have in terms of managing large sums of money. Structured settlements cure that problem. For that reason, we encourage them in every case we resolve for a child and frequently even for young adults.

Larry: When we're talking about a child's future financial needs, there are a lot of variables. There are unforeseen needs out there. You have a young person you're trying to project into the future and there are a lot of options to fit those needs such as annuity payments that go well beyond when the child reaches majority age into their years far into the future. Of course, there are always college costs that can be dealt with, as well. How have you used structures typically when it comes to dealing with children? What's been the tendency for you? What's been the format, the template?

Jim: One thing that bears mentioning, Larry, before I get to that is the wonderful tax advantage that a structured settlement provides. If the lump sum settlement is chosen as the option, that money begins earning interest and that interest is taxable by state and federal governments. If you put that same money into a structured settlement, all of the interest that it earns during the life of the structure is tax free. It's almost a double gift. You can turn a settlement of X dollars into a settlement of three times X dollars through the use of a structure. Back to your question- what we routinely do with the help of Ringler Associates and folks in that business is sit down with the family and try as best we can to define their goals. Almost invariably, we will make arrangements for college tuition payments on the child's 18th, 19th, 20th and 21st birthday. We use Ringler and Associates to help us project what those expenses are going to be with the understanding that if a college simply is not for this particular individual when he or she attains that age, those money payments will be made to the then adult.

Larry: You know, Jim, some people don't really realize that. They think that because it's labeled a college fund, people are locked into this idea of college, but you're absolutely right. These payments at 18, 19, 20, 21 can literally be used for any need that that child may have at that point in time.

Jim: Absolutely. One most recently comes to mind, when the child turned 18, college was not right for her, so the money went to buy her an automobile so that she could get to and from work. It was very helpful and in addition to providing for educational projections, we then tried to help the family focus on how they want their child's adult life to be done. I settled a case back in 1992. My client was 12 years old when we settled it. We used Ringler and we have put her through college. We bought her first house and this fund will be making payments to her until she is 60 years old. It's a wonderful intermittent safety net where the parents can have the peace of mind that although it started through a very unfortunate event or events, the children that have the benefit of these structured settlements are very, very nicely protected for as far out into the future as the family wants. You don't have to go that far out. You can have it so that the final payments are made at any age you want. The flexibility of a structured settlement is, in fact, its beauty.

Rachel: We have a plethora of life stories or cases where the clients and their families have benefitted from structured settlements, specifically towards the family, beyond the injured child. Any real life cases you could share with us how the expanded family has benefitted?

Jim: Yes, I'll give you an example of a case that we settled two years ago for a young man whose injury was essentially a global brain injury resulting in him being bedridden with very, very limited mobility. His mom and dad were of very modest means. When they came to me they had a discarded, used hospital bed in their living room. That is where this child lived and they got him in and out of the bed with a manual lift. We resolved his case in a way that not only was a lump sum portion of the money used to build an addition to the home to essentially create a room where he could live with his physical needs being met. We also structured a part of his settlement, through the use of a life care plan, so that we have funded for him all of his future medical needs that were foreseeable. What we did by doing that, number one, the quality of life for him and his mom and dad is unbelievably improved. Number two, we've taken that financial burden off the shoulders and mom and dad for the lifelong care of this child.

The examples go on and on and on for the wonderful benefits that structured settlements bring to the table.

Larry: Jim, you're right about that. There is some conversation, though, about how parents can make these long-term financial decisions for these children. Is there some element of locking in this child to an annuity into the future? I actually had a judge in a case, a court approval, wanting to limit the timeframe of this annuity. In other words, start it at age 21, but have it stop at 30 with a big lump so the child could do what they wanted after that period of time. Have you run into that, where judges and others are trying to limit the long term effects of some of these decisions that the parents are trying to make, to give the child more control once they reach those ages?

Jim: Larry, maybe I've just been very fortunate in dealing with judges who take the position that if the insurance carrier, the defense lawyers, the plaintiff lawyers, the plaintiff and the plaintiff's family come to me with this frequently quite sophisticated financial life care plan and want me to approve it, then who am I to substitute my judgment for them? I haven't run into that, but let me tell you one of the reasons why I haven't. We are very careful to make sure that the topic is on the table when all of this planning is done. By the way, don't forget that in 20 years this child is going to be 35 years old and going to want some financial freedom and some financial flexibility. If you put enough of that into the plan, judges don't get the sense that you're really trying to restrict the child.

For instance, one of my favorite recommendations is to say, "OK, let's put him or her through college, and then when he is 25 let's give him enough money to make a down payment on a house. When he's 30 let's give him enough money to maybe move into a bigger house. Thirty-five...and so we're not tying up all of the proceeds for extended periods of time. We try to space it out so that at any given point in the injured person's life, the expectation of future financial resources is not that far away.

Larry: Those are great ideas and obviously help a child as they go along. The benefit of the monthly income is a wonderful thing, but every once in a while having that lump of money coming out helps them eliminate some debt or do the kind of down payment planning that you talked about.

Jim: Sure or just maybe correct a bad financial decision, opening up a restaurant and it failed. There are a million different justifications for setting these things up.

Larry: Everybody seems to have a brother-in-law that wants to open a pizza shop or something. Everybody has a great idea along the way. Speaking of some of those ideas that might go astray, a lot of these ads you might see on TV, especially late at night, are screaming at the public about selling the structured settlement for a lump sum. "It's your money, take it now!" These kinds of ads and these decisions to factor or to sell these annuities can be especially detrimental to a child settlement goal. What is your opinion about the whole factoring area?

Jim: I am unfortunately, or maybe fortunately, I am very rigid when it comes to that idea. I tell my families that once they agree to it, it takes a court order to undo it. In most jurisdictions, it does. The first thing I have to say is that more often than not, those ads are misleading. Number two, very few judges that I know would undo it in the absence of compelling changes in circumstances. Number three; we want our listeners to remember that those guys on television don't do it for free. They all charge a percentage and sometimes it's a fairly overwhelming percentage of whatever the funds that they can extract for you amount to. We think it's a bad idea. We don't condone it. If clients come to me and want to do it, I decline. I decline to get involved.

Larry: It's interesting, one of the things some factoring companies were doing was they were hiring lawyers to come in and represent the individual in front of the judge. I know in California, they recently passed a new law that requires notification to the original plaintiff attorney representing the family at the time of the loss so that individual can come in and say, "Wait a minute, Judge. I'm more of a person that has the interest of the family at heart here, so let's listen to me as well."

Jim: I think that's a great idea. Unfortunately, as we all know, few states are as forward thinking as California, but it's a good idea.

Rachel: Right, great idea. Jim, especially in today's economy, obviously from our conversation you found that the cost of hearing for an injured child can be extremely difficult for the whole family and you found that to be the case? Is your overall opinion, have you found that the placement of a settlement into an annuity plan actually has more of a stabilizing effect on the family as a whole?

Jim: Of course it does. Look at the family that I told you about with the child who's in a hospital bed. Look at what they have to look forward to in the absence of a settlement. Now let's take out a lifetime of "gee, do I go left or do I go right? Do I go up or do I go down?" by establishing all those questions and answers all at once and just putting it in place through the use of a structure. It eliminated the day-to-day stressors in this family by 100 percent.

Larry: It's called peace of mind, isn't it?

Jim: Say again?

Larry: It's called peace of mind.

Jim: Absolutely. You cannot describe it any better.

Larry: We're going to take a quick break right now and be back in a minute with our special guest attorney Jim Lewis and our co-host Rachel Grant. We'll be right back here on Ringler Radio.

Larry: Welcome back to Ringler Radio. Glad you could join us. My co-host today is Rachel Grant from our Michigan office, right there in Detroit. I guess it's in Troy, right Rachel?

Rachel: It is.

Larry: That's great, and it's raining, I understand, where you are right now.

Rachel: Yes, it is. It's pouring.

Larry: Our special guest, of course, attorney Jim Lewis from Shapiro, Cooper, Lewis and Appleton in Virginia Beach, Virginia.

Jim: Yes, sir. Sunny and warm in Virginia Beach.

Rachel: Jim, from your vantage point there, we've talked a lot about setting up families for more financial stability in the future…specifically, structured settlements. We find that they can help carve out a path for the child client. Can you expand on that a little bit more?

Jim: Yes, basically, Rachel, what we're looking at is a fairly short list of categories. You've got anticipated future medical needs, anticipated future educational expenses and then just all of the other events in life that cost money: buying cars, renting apartments, maybe buying homes, those sorts of things. What we do with Ringler is to sit down and try to, with the family of course, map out a plan that is as good a job as we can do at addressing those types of issues for our children clients.

Larry: One of the things that I've found as we've gone along with a lot of these minors cases is these college funds over time; they've taken on a little bit of a different lifestyle, a lifespan. They've gone from a lot of four year college plans to some five year college plans, because a lot of kids are finding themselves unable to really graduate out of that college experience in four years. Are you finding that?

Jim: We have not seen as much of it. I recently did settle a case where Mom and Dad wanted us to make provisions for the five year plan, but when you're sitting there with your ten year old child contemplating educational needs, it might be that parents...

Larry: They don't want to admit it.

Jim: They don't want to sit there and go my kid can't get out in four years.

Larry: They don't want to admit it.

Jim: Exactly.

Larry: I know. It's very interesting. Another thing that I see a lot is during the college years, often times, we'll provide a small monthly stipend for the child while in college, $100, $200 a month to give the child a little bit of spending money along the way. That often times helps. Have you come into contact with that?

Jim: We do that all the time. In fact, we tried a case and won it, but the insurance company involved agreed to let us structure the verdict. We actually set up, because this child has serious, ongoing lifelong medical needs, we set up an allowance for him and his parents starting at age ten. Of course, there are very strict limitations on what can be done with the money. Judges that we regularly appear in front of require that we go to great lengths to make sure that the child is protected from being taken advantage of.

Larry: Sometimes we'll see where a client, let's say the parents, want the lump sum. Not that the money can get right in the hands of the minor, because of different legal controls, often times the parents put it into some kind of a trust arrangement. Frankly, we've seen a lot of these kinds of deals dissipated because parents either make bad decisions or they approach the court for necessaries which aren't really necessary. Before you know it, the child is at risk for the money that was supposed to be there in the long haul. On the other hand, when a child reaches majority, in addition to all the things they need to have, sometimes a little bit of cash in their hand, almost something discretionary, is not necessarily a bad thing. It gives the child an idea that they can maybe start to try to manage their money and yet be comforted to know that even if they blow the idea they have, they have money coming down the pike. How does all of that fit into your few of how to use a structured settlement?

Jim: Larry, if I'm representing anybody under the age of 25, my knee jerk reaction to them and their decision making group is you make a huge mistake not using a structure and let me start giving you the list of why. The first thing on the list is how much training and education do you have in managing large sums of money? The number is invariably zero. In 32 years of representing injured people, I have settled one case for a family who had a member of the decision making core group who had the ability to make sound and wise investment decisions, and he even chose to structure half the settlement. It's not even a close call for us.

Unfortunately you mentioned something about the parents who want the lump sum. That's certainly an option, but I will tell you judges scratch their heads about that. Judges don't like it and in most of the states we practice in the parents have to file some kind of an accounting on an annual basis with the court showing what they did with the money. They can be held financially personally responsible if bad decisions are made. Not always, but they can be. By the time I finish giving my folks the laundry list of why lump sums are bad idea, most of them take my advice.

Rachel: So you're finding, Jim, in Virginia and any other state you practice in-- here in Michigan, yesterday I had a case in Lake County and the judge was adamant that the bulk of the settlement would go into a structured settlement annuity. Are you finding that that's generally the case where you practice, where your firm practices as well?

Jim: Judges want it. We don't routinely go into court seeking approval of infant settlements where some long term financial plan isn't made for the child. We don't run into too much resistance from the judges we appear in front of because we're committed to the structured settlement program. I suspect that if I walked into most of the courts we practice in with a large lump sum settlement for a child, a judge would have some very, very difficult questions for Mom and Dad.

Larry: It's funny, Jim, you talked about all these reasons you give your clients to take the structure and there are quite a few of them. One of the ones I find interesting is young people don't realize the pulls and tugs on them if they have that cash by their friends, associates, boyfriends, girlfriends, suitors, new friends, never-do-well friends. A lot of people have a tough time saying no to these folks and ultimately these friends disappear and the money is gone. It's a very protective way for people to deal with these funds.

Jim: It certainly insulates you from all of that. It's interesting; you mentioned earlier there's always the brother-in-law or father-in-law that wants to open a pizza parlor. What my experience has been is that it's family members, sometimes well meaning and sometimes not, but it seems to me from my experience that individuals can't say no to relatives. I can't tell you how many cases I've settled for adults who chose not to use a structure and went off with their settlement with grand plans and ideas and two or three years later, they're back in my office penniless and sometimes looking for a bankruptcy lawyer.

Larry: That brings us to our last question. What is your advice to other lawyers out there who have children, and then just others as clients, and are contemplating these settlement options? I would assume that you have something set up where if somebody really, vociferously says they need the cash, you almost make them sign a paper that says you've been explained about the structure, you understand the structure and you're saying no to the structure. You're trying to protect yourself.

Jim: Absolutely, we do that in every case. My advice to other lawyers, the main advice I've got, because there are so many of us who do personal injury work that maybe have not been down all of the paths that somebody as old and broken down as I am have been down, make sure you know what all your options are. If you aren't comfortable in knowing that you do, call somebody who does. Call a lawyer with experience in the area. Call Ringler and Associates because they will certainly lay them out for you. It's not the fear of the unknown that scares me, it's the fact that the people who don't know, don't know they don't know.

Larry: Exactly, exactly. Rachel, it's been a terrific show. Jim, if someone wanted to reach you, how would they do that?

Jim: You can go to my website, that's hsinjurylaw.com. You can email me at jlewis@hsinjurylaw.com or pick up the phone and call me at 1-800-752-0042. I'm happy to talk with you.

Larry: Great. Rachel, if someone wanted to find you, where would they do that?

Rachel: Our website is www.ringlerassociates.com and my email is rgrant@ringlerassociates.com. Our office number is 248-457-1212. I had to think about that for a second, because we recently moved offices.

Larry: That always happens and it's a testament to all of our memories to be able to do that. I want to tell our listeners that if you want to reach any Ringler associate, you go to Ringlerassociates.com. We're all on there and we've just revamped that website. It's terrific, a lot of new information. I think you'll find it fascinating to explore. Also, legaltalknetwork.com. You can listen to all the Ringler radio shows on either of those websites. You can tune in. You can download. You can actually get it to your iPod. You can walk around the park and listen to Jim and Rachel talk about dealing with structures for children. With that, Jim, I want to thank you again. Enjoy the day.

Jim: It's been my pleasure. Thank you.

Larry: Same to you, Rachel.

Rachel: Thank you.

Larry: For the rest of you out there, go have a great day.

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