

Consultation with Personal Injury Attorney, Guardian Ad Litem and Trustee

PATRICIA F. SITCHLER, THE LAW OFFICE OF PATRICIA FLORA SITCHLER - LA VERNIA, TX

GLENN W. CUNNINGHAM, LAW OFFICES OF GLENN W. CUNNINGHAM - SAN ANTONIO, TX

LUKE DOW, LUKE DOW LAW FIRM - AUSTIN, TX

ELISA DILLARD RAINEY, RAINEY & RAINEY, ATTORNEYS AT LAW LP - WACO, TX

NANCY SOSA, CADENCE BANK - AUSTIN, TX



The Call to the Proposed Trustee

Drafting attorney: I have drafted a Supplemental Needs Trust for the benefit of Joaquin. We would like for you to consider serving as Trustee.

Trustee: Wonderful. Please give me a little background on the beneficiary.



What the Trustee Needs to Know

What is the beneficiary's disability?

What government benefits does the beneficiary receive?

How will the SNT be created?

What lump sum will fund the SNT?

What are the beneficiary's expectations?

Will a structured settlement annuity pay into the SNT?

Is there a Medicare Set-Aside allocation?

Have all subrogation claims been paid?

Will a Structured Settlement Annuity Pay Into the SNT?

Is trust sufficiently funded with cash?

- Sufficient for immediate purchase of "large ticket" items?
- Can funding generate enough income to cover on-going monthly expenses?

Does structured annuity begin paying immediately, or is it deferred?

- If deferred, to what age?

Internal rate of return vs. investment interest rate

- Internal rate of return is calculated on death of beneficiary.
- Sooner beneficiary dies, lower the internal rate of return.
- Internal rate of return published at purchase assumes beneficiary lives out actuarial life without rating.

Reading the SNT Agreement

Allows Trustee to:

- Determine if the Trustee can meet the beneficiary's goals
- Suggest revisions prior to accepting the trust in order to properly administer the SNT
- Explain the administration of the trust through specific examples

What Are the Beneficiary's Expectations?

Meet with the beneficiary (preferably before trust is signed and accepted)

- Clarify facts
- Set goals
- Explain trustee duties and liabilities
- Manage expectations

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Consultation with the Personal Injury Attorney,
Guardian Ad Litem and Trustee

Also available as part of the eCourse

[When Personal Injury Settlements Meet Special Needs Planning](#)

First appeared as part of the conference materials for the
2018 When Personal Injury Settlements Meet Special Needs Planning session
"Consultation with the Personal Injury Attorney, Guardian Ad Litem and Trustee"