



# Post-Settlement Obligations in Software Settlements

*Presented by: Keli Johnson Swan*

*[www.ScottandScottllp.com](http://www.ScottandScottllp.com)*

# Speaker

Keli Johnson Swan



# Agenda

- Negotiating Legal Issues in Software Settlements
- Understanding Terms of Software Settlements
- Post-settlement obligations and deadlines
- Remediation Efforts
- Ongoing Software Asset Management

# Negotiating Legal Issues in Software Settlements

- Who is the auditor?
  - BSA, SIIA, or software publisher
- Different terms may be negotiable depending on the auditor and license agreement

# Negotiating Legal Issues in Software Settlements

- Critical Terms During Negotiation Phase
  - Release
  - Confidentiality
  - Remediation
- Impact on settlement payment

# Understanding Settlement Terms

- Release of liability depends on the following provisions:
  - Settlement payment
  - Post-settlement remediation
    - Documentation varies
  - Future compliance

# Understanding Settlement Terms

- License agreements and settlement agreements:
  - Superseding terms
    - Audit Provision
    - Remediation requirements

# Post-Settlement obligations and deadlines

- BSA/SIIA remediation requirements:
  - 45-60 days, negotiable
  - Schedules



# Post-Settlement obligations and deadlines

- Remediation and procurement
  - Uninstall or Purchase Licenses
- Procurement
  - Where and when to purchase
- Confirm valid licenses for use case

# Remediation Efforts: Common Licensing Issues

- Over-deployment or improper use of properly licensed products.
- Licenses not in company name.
- Illegitimate software.

# Remediation Efforts

- Consider alternative licensing
  - Enterprise, Cloud-based, Subscriptions
- Record-keeping
  - Ensure accurate records retained

# Ongoing Software Asset Management

- Employee Confidentiality Agreements
- Software Use Policy
- Routine Self-audits
- Procurement process
- Record Maintenance
- Administrative Rights and Restrictions
- Identify Authorized Resellers

# Questions?

# Contact Information

**Keli Johnson Swan**

Attorney

Scott & Scott, LLP.

550 Reserve Street, Suite 200

Southlake, TX 76092

**Phone:** (214) 999-2916

**Fax:** (214) 999-0333

**E-Mail:** [kjohnson@scottandscottllp.com](mailto:kjohnson@scottandscottllp.com)