

**Matter of Peachtree Settlement Funding, LLC v
Metlife Ins. Co. of Connecticut**

2014 NY Slip Op 32917(U)

November 17, 2014

Supreme Court, New York County

Docket Number: 158187/2014

Judge: Peter H. Moulton

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Petition of
PEACHTREE SETTLEMENT FUNDING, LLC
for Judicial Approval of Transfer of Structured
Settlement Payment Rights with KWANA SMITH,
In Accordance With New York General Obligations
Law § 5-1701

Index No. 158187/2014

Petitioners

-and-

METLIFE INSURANCE COMPANY OF
CONNECTICUT

Respondents/Interested Persons Pursuant to
GOL § 5-1701 et seq.

PETER H. MOULTON, J.S.C.:

Kwana Smith seeks the transfer of certain structured payments due to her under a structured settlement agreement in accordance with 26 U.S.C. 5891 et seq. and GOL § 5-1701 et seq.¹ Ms. Smith seeks to sell the following: one (1) guaranteed lump sum payment of \$25,000.00 due to her on February 16, 2018 as well as one (1) guaranteed lump sum payment of \$50,000.00 due to her on February 16, 2023. If her application is approved, Ms. Smith will retain the following future annuity

¹Ms. Smith has one prior application, Index 105265/2010, which was approved by the Hon. Marilyn G. Diamond. Under that transaction, Ms. Smith sold 100 monthly payments each in the amount of \$500.00 commencing on August 16, 2010 through and including November 16, 2018 as well as one lump sum payment of \$7,000.00 due on or about February 16, 2013.

payments: 1) her current \$500.00 in monthly annuity payments will increase to \$1,000.00 in monthly life annuity payments on November 16, 2018 (as a result of her prior application to sell); 2) a lump sum payment of \$75,000.00 payable on February 16, 2028; and 3) a lump sum payment of \$204,201.00 payable on February 16, 2033.

In her petition Ms. Smith seeks to transfer her aforementioned lump sum payments for the gross and net purchase price of \$35,000.00. As amended by an updated disclosure e-mail dated November 7, 2014, the new purchase price is \$45,300.00 (see Attached E-mail dated November 7, 2014). In return, Peachtree will receive Ms. Smith's guaranteed lump sum payments of \$25,000.00 and \$50,000.00 due on February 16, 2018 and 2023, respectively. The discounted present value of the purchased payments at the federal interest rate of 2.20% is \$64,601.81. As such, the \$45,300.00 that Ms. Smith will receive represents 70.12% of the estimated current value of the payments. Originally, the transaction was the equivalent of interest payments to Ms. Smith of 12.02% annually, but has since been amended to interest payments of 7.80% annually. *Id.*

Ms. Smith's affidavit reflects the following: She is 26 years old, single, has no dependants, and lives in New York City. Ms. Smith is currently employed by Presbyterian Hospital, where she works in a unit that admits new patients to the hospital. She earns an annual income of \$36,000.00. She intends to use the money that she receives from the transfer of a portion of her structured settlement payments to accomplish the following objectives: 1) resolve close to \$27,000.00 in student loan debt; and 2) to enroll at Hunter College (approximately \$6,370.00 per semester) so that she can complete a Bachelor's Degree in psychology. Ms. Smith was previously enrolled at Herkimer County Community College ("Herkimer") for two and a half years, but had to take a break from school to get a job and help her family. She now hopes to transfer her credits from Herkimer

to Hunter College, and complete her degree. Having carefully analyzed her budget, Ms. Smith does not believe that she can accomplish her goals without this transaction.

The court met with Peachtree's counsel and Ms. Smith on two separate occasions, the scheduled return date for the Order to Show Cause, October 29, 2014, and again on November 7, 2014. On both occasions, Ms. Smith expounded on her desire to continue her education and pay off her debts. She also emphasized that Herkimer will not release the transcript that would permit her transfer to Hunter College until she resolves her outstanding debts with Hermiker (\$3,499.93). As such, Ms. Smith will not be able to continue her education until she has resolved her outstanding student loan debt.

The court finds that the transaction herein is both fair and reasonable and in the best interest of Ms. Smith. The \$45,300.00 that Ms. Smith will receive represents 70.12% of the estimated current value of the payments. The annual discount rate of 7.80% is also fair and reasonable, and is in Ms. Smith's best interest. Furthermore, given Smith's need for the funds to pay off her debts and admirably continue her education while working, it would not be in Ms. Smith's best interest for the court to disapprove this transaction. Even though Ms. Smith has lump sum payments of \$75,000.00 and \$204,201.00 payable on February 16, 2028 and 2033, respectively, her need to alleviate her debt without the accrual of significant additional interest as well as her desire to further her education, cannot wait. Ms. Smith's loans are already in default, and any further delay in paying them off would add to rather than alleviate her problems. As such, Ms. Smith has shown an immediate need for the funds in connection with this transaction. However, Ms. Smith should take heed of the fact that any future applications may not be approved. She is sold once before in the past, making this application her second application to sell. That being the case, she is cautioned

against reliance on her ability to sell the remaining portions of her structured settlement payments and should use the \$45,300.00 that she is receiving here wisely.

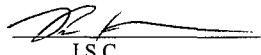
It is hereby:

ADJUDGED that the petition is granted; and an Order is signed simultaneously herewith.

This constitutes the Decision and Judgment of the Court.

Dated: November 17, 2014

ENTER:



J.S.C.

HON. PETER H. MOULTON