

Certify Assignments, LLC v GE Capital Assignment Corp.

2023 NY Slip Op 33794(U)

October 19, 2023

Supreme Court, Kings County

Docket Number: Index No. 523323/2023

Judge: Robin K. Sheares

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This opinion is uncorrected and not selected for official publication.

At an I.A.S. Part / Term 96 of the Supreme Court of the State of New York, held in and for the County of Kings, at the courthouse located at 360 Adams Street, Brooklyn, New York 11201, on the 19th day of **October, 2023.**

P R E S E N T: HON. ROBIN K. SHEARES
Justice of the Supreme Court

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CERTIFY ASSIGNMENTS, LLC,

Petitioner(s),

INDEX NO. 523323/2023

- against -

DECISION/ORDER

GE CAPITAL ASSIGNMENT CORPORATION,
GENWORTH LIFE INSURANCE COMPANY OF NEW
YORK, and LAQUASIA WILKINS,

Motion Sequence No. 01

Respondent(s).

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Recitation, as required by CPLR §2219(a), of the papers considered in the review of this Motion:

<u>Papers</u>	<u>NYSCEF Document No:</u>
<i>Sequence # 01</i>	
Order to Show Cause/Notice of Motion and Affidavits/Affirmations Annexed	2; 9
Exhibits	3 - 7
Affirmations/Affidavits of Service	10; 12

THIS MATTER having come before the Court pursuant to the petition of CERTIFY ASSIGNMENTS, LLC (“Certify” or “Transferee”) seeking approval of the transfer of certain structured settlement payments by the payee, Laquasia Wilkins (“Payee”), to petitioner, Certify, pursuant to the provisions of General Obligations Law § 5-1701 *et seq.*, by an Order to Show Cause and Verified Petition.

NOW, on this 18th day of October, 2023, upon the testimony of Payee and upon review of the documents filed herein, this Court expressly finds as follows:

1. The transfer of the structured settlement proceeds, specifically:

3 monthly payments of \$1,565.72 commencing November 17, 2023 through and including January 17, 2024; and 240 monthly payments of \$1,612.70, increasing annually by 3%, commencing February 17, 2024 through and including January 17, 2044.

(the “Assigned Payments”), by Payee to Transferee as described in the petition in this matter and in the Structured Settlement Annuity Sale and Assignment Agreement (the “Transfer Agreement”) between Payee and Transferee (the “Proposed Transfer”) (i) does not contravene any applicable federal or state statute or the order of any court or other government or responsible administrative authority, and (ii) is in the best interest of Payee, taking into account the welfare and support of Payee’s dependents, if any, and the transaction, including the discount rate used to determine the gross advance amount and the fees and expenses used to determine the net advance amount, is fair and reasonable.

2. Not less than ten (10) days prior to the date on which Payee signed the Transfer Agreement, Transferee provided to Payee a separate disclosure statement meeting the requirements of GOL § 5-1703.

3. Payee has been advised in writing by Transferee to seek independent professional advice regarding the Proposed Transfer and has either received such advice or knowingly waived such advice in writing.

4. The Proposed Transfer complies with the requirements of GOL § 5-1701 *et seq.*, and 26 U.S.C. § 5891, and does not contravene other applicable law.

5. Notice of the Proposed Transfer and the application for its authorization have been filed with this Court and served on all interested parties, including GE Capital Assignment Corporation (“Obligor”) and Genworth Life Insurance Company of New York (“Annuity Issuer”) (collectively, “Genworth”), in compliance with GOL § 5-1705.

6. The Transfer Agreement and all disclosures are written in plain language and in compliance with GOL § 5-702.

7. Jurisdiction and venue are proper in this Court pursuant to GOL § 5-1705(b), and Payee is properly before this Court and has confirmed to the Court's satisfaction that she is a resident of New York and entitled to avail herself of GOL § 5-1701 *et seq.*

8. Transferee has assigned to its designated assignee, United Sentry Capital, Inc. ("ASSIGNEE"), all of its interest in the Transfer Agreement, including the right to receive the Assigned Payments.

Based upon the foregoing findings, **IT IS HEREBY ORDERED** that:

1. Pursuant to GOL § 5-1706, the Proposed Transfer is APPROVED.

2. Genworth shall forward the Assigned Payments, within 7 days of the date due, by check made payable to "United Sentry Capital, Inc." at c/o Goldstar Trust Company #601801 (the "Designated Address"), as follows:

3 monthly payments of \$1,565.72 commencing November 17, 2023 through and including January 17, 2024; and 240 monthly payments of \$1,612.70, increasing annually by 3%, commencing February 17, 2024 through and including January 17, 2044.

3. Genworth shall change its records to reflect that the beneficiary under the subject annuity contract is the estate of Payee, and the death of Payee prior to the due date of the last Assigned Payment shall not adversely affect the Transfer of the Assigned Payments from Payee to ASSIGNEE, and Payee understands that she is giving up her rights, and any rights of her estate, heirs, successors and/or beneficiaries, to the Assigned Payments.

4. Genworth is ordered to issue a formal acknowledgment of the Transfer within twenty (20) days of the date of receipt of this Order. The formal acknowledgment letter shall be mailed to Transferee at CERTIFY ASSIGNMENTS, LLC, via email.

5. The Payee will receive a gross/net payment of \$188,444.11 in and as consideration for the Assigned Payments.

6. This Order shall constitute a final "Qualified Order" within the meaning of 26 U.S.C. § 5891.

This constitutes the Decision/Order of the Court.

Dated: October 19, 2023

ENTER:



Hon. Robin K. Sheares, J.S.C.

For clerks use only
Motion/Seq. # **01**
MG
MD