

**Matter of 22 Title Solutions, LLC v American Home
Assur. Co.**

2023 NY Slip Op 34448(U)

December 13, 2023

Supreme Court, Kings County

Docket Number: Index No. 518665/2023

Judge: Francois A. Rivera

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At an IAS Term, Part 52 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 13th day of December 2023

HONORABLE FRANCOIS A. RIVERA

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In the Matter of the Petition of
22 TITLE SOLUTIONS, LLC,
for the Approval of Transfer of Structured
Settlement Payment Rights In Accordance with
GOL §5-1701 et seq.,

DECISION & ORDER

Index No.: 518665/2023

Petitioner,

- against -

AMERICAN HOME ASSURANCE COMPANY,
THE UNITED STATES LIFE INSURANCE COMPANY
IN THE CITY OF NEW YORK,
and A. A.

Respondents.

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By order to show cause and petition filed on June 27, 2023, under motion sequence one, petitioner 22 Title Solutions, LLC (hereinafter petitioner or 22 Title), seeks an order granting the transfer of structured settlement rights pursuant to the transfer agreement between respondent A. A., as the assignor and 22 Title, as Assignee.

- Order to Show Cause
- Petition
 - Exhibits A to D

MOTION PAPERS

The petitioner's papers consist of an order to show cause, a petition, a Request for Judicial Intervention (RJI), an acknowledgement of service, an affirmation or affidavit of service, and four annexed exhibits labeled A through D. Exhibit A is an affidavit in

support of the petition by respondent A.A. Exhibit B is a color copy of the redacted Pennsylvania driver's license of respondent A.A. Exhibit C is described as Pennsylvania SSPA and includes a copy of a Pennsylvania Statute 40 P.S. Insurance § 4002. Exhibit D is a proposed order.

LAW AND APPLICATION

General Obligations Law Title 17, § 5–1701 et seq., known as the Structured Settlement Protection Act (SSPA) sets for the procedure for seeking and obtaining judicial approval of the appropriate Court of the State of New York for the transfer of certain structured settlement payment. SSPA was adopted by the State Legislature to give greater protection to individuals either entering into a structured settlement agreement or negotiating to sell or transfer a periodic payment thereunder to a third party. The issue before the court on such a petition is whether approval of the proposed transfer would be consistent with the letter and spirit of SSPA (*Matter of Settlement Capital Corp. (Ballos)*, 1 Misc 3d 446 [Sup Ct Queens County 2003]). The plain language of General Obligations Law § 5–1706 sets forth several procedural mandates that must be adhered to for judicial approval of an application for transfer of a structured settlement to a third party (*id.*). Equally significant, the statute mandates that the court, in determining such an application, make a two-prong inquiry based upon considerations of prudence, equity and reason, and vests in the court the authority to make an independent discretionary determination as to whether “the transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents; and whether 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, are fair and reasonable” (*id.*).

The primary purpose of the SSPA is to protect the recipients of long-term structured settlements from being victimized by companies aggressively seeking the acquisition of their rights to guaranteed structured settlement payments (*see 321 Henderson v Martinez*, 11 Misc. 3d 892 [Sup Ct New York County 2006]).

In the instant application, 22 Title seeks judicial permission from the New York State Supreme Court to make an application for judicial approval by a Court in the State of Pennsylvania for a transfer of certain structured settlement payments being received by respondent A.A. 22 Title is not seeking that this Court approve the proposed transfer, rather it solely seeks that this Court allow the Pennsylvania courts to determine the application to transfer a portion of A.A. structured settlement annuity to the petitioner.

Although, the order to show cause requests “the transfer of structured settlement rights pursuant to the transfer agreement between A.A., as Assignor, and 22 Title Solutions, LLC, as Assignee,” the petitioner did not annex a copy of the proposed transfer agreement that it reached with A.A. and that seeks the Pennsylvania court to approve. The petition only states that an application “has or will be commenced” in the State of Pennsylvania.

CPLR 2214 (a) provides that a notice of motion shall “specify the time and place of the hearing on the motion, the supporting papers upon which the motion is based, the relief demanded and the grounds therefor” (*Abizadeh v Abizadeh*, 159 AD3d 856, 857 [2d Dept 2018]). Here, petitioner contends that Pennsylvania has a statute similar to the

SSPA. It annexes a copy of what it describes as the “PA SSPA”. The exhibit contains a copy of 40 P.S. Insurance § 4002, which is a Find Law.com printout of an excerpt of definitions found in the PA Insurance Statute including the word “structured settlement”. However, the petitioner has failed connect this provision of the Pennsylvania statute to demonstrate its entitlement to the relief requested.

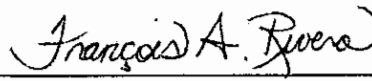
Consequently, 22 Title has not complied with the requirements of CPLR 2214(a) as it has not set forth and established the facts or law that support the relief requested (*Abizadeh*, 159 AD3d at 857).

CONCLUSION

Accordingly, the petition of petitioner 22 Title Solutions, LLC for an order granting the transfer of structured settlement rights pursuant to the transfer agreement between respondent A. A., as the assignor and 22 Title, as Assignee, is denied and the petition is dismissed without prejudice.

The foregoing constitutes the decision and order of this Court.

ENTER:



J.S.C.