

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Promulgation of Rule 229.2 Governing Petitions to Transfer Structured Settlement Payment Rights; No. 480 Civil Procedural Rules; Doc. No. 5

Amended Order

Per Curiam:

And Now, this 15th day of June, 2007, Pennsylvania Rule of Civil Procedure 229.2 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective September 1, 2007.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 229.2. Petition to Transfer Structured Settlement Payment Rights.

(a) Words used in this rule, which are defined by the Structured Settlement Protection Act, shall have the meaning set forth in the Act.

Official Note: See Section 2 of the Act, 40 P. S. § 4002, which defines numerous terms including “best interests,” “dependents,” “payee,” “structured settlement obligor,” and “structured settlement payment rights.”

(b) A petition to transfer structured settlement payment rights shall be filed in the county in which the payee is domiciled.

Official Note: See Section 4 of the Act, 40 P. S. § 4004, providing that the court of common pleas of the judicial district in which the payee is domiciled shall have jurisdiction over the petition.

(c) The parties to the petition shall be the payee and the transferee.

(d) The petition shall be verified by the transferee and shall contain:

(1) a statement setting forth the payment provisions of the structured settlement agreement and the payment rights that the payee seeks to transfer,

(2) separate paragraphs which in bold type set forth

(i) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges, and

(ii) the following statement setting forth the interest rate:

“Based on the net amount that the payee will receive from this transaction (\$ _____) and the amounts and timing of the structured settlement payments that would be assigned, the payee is, in effect, paying interest at a rate of _____ % per year.”

(3) four attachments:

(i) a Payee’s Affidavit in Support of Petition, in the form prescribed by subdivision (f) as Attachment 1,

(ii) an initial order of court scheduling the hearing, in the form prescribed by subdivision (g),

(iii) a certification by an attorney for the transferee representing to the best of his or her knowledge, information and belief, formed after reasonable inquiry, that the transfer will comply with the requirements of the Act and will not contravene any other applicable federal or state statute or regulation or the order of any court or administrative authority, and

(iv) a final order of court granting the petition, in the form prescribed by subdivision (i).

Official Note: These four attachments are in addition to any other documents which are required to support the findings set forth in Section 3 of the Act, 40 P. S. § 4003.

Subdivision (d) requires that two documents be verified. As the two documents contain different information, each must be verified by a different person. The petition to transfer structured settlement payment rights must be verified by the transferee. The Payee’s Affidavit in Support of Petition must be verified by the payee. The transferee is not required to verify the information set forth in the Payee’s Affidavit.

(e)(1) If the petition and Payee’s Affidavit in Support of Petition meet the requirements of this rule and contain factual allegations which, if established, will support the findings set forth in Section 3 of the Act, the court shall promptly enter an order scheduling a hearing date. The transferee shall give notice of the hearing, in the form prescribed by subdivision (h), to the payee, the structured settlement obligor, the annuity issuer, the payee’s spouse and any person who receives child support, alimony or alimony pendente lite from the payee.

(2) If the petition is denied without a hearing for failure to meet the requirements of this rule or to contain necessary factual allegations, which will support the findings set forth in Section 3 of the Act, the court shall state reasons for the denial and the payee may file an amended petition as of course.

(f) The Payee’s Affidavit in Support of Petition shall be substantially in the following form:

(Caption)

Payee’s Affidavit in Support of Petition to Transfer Structured Settlement Rights

I, _____, the payee, verify that the statements below are true and correct:

1. Payee’s name, address and age: _____

2. Marital Status:
 _____ Never Married; _____ Married;
 _____ Separated; _____ Divorced

If married or separated, name of spouse: _____

3. Minor children and other dependents:
 Names, ages, and places of residence: _____

4. Income:
 (a) Payee’s monthly income and sources: _____

(b) If presently married, spouse's monthly income and sources: _____

5. Child support, alimony or alimony pendente lite:

Obligation to pay: _____ Yes _____ No

If yes, state the amount of the obligation, to whom payable, and whether there are arrearages: _____

6. Previous transfers:

Have you previously filed a petition to transfer payment rights under the structured settlement that is the subject of this petition? _____ Yes _____ No

If yes, for each petition that you filed,

(a) If the transfer was submitted for court approval, list the court, the case caption and case number, and state whether the court approved or disapproved the transfer: _____

(b) If the transfer was approved,

(i) State the name of the transferee and identify (listing due dates and payment amount(s)) the payments involved in the transfer: _____

(ii) State the amount of money and the manner in which the money was used: _____

(c) Have you ever transferred payments without court approval? If so, please explain: _____

7. Reasons for transfer:

Describe in detail your reasons for the proposed transfer, including an explanation as to why a sale of a lesser amount of the structured settlement amount will not better serve your interests: _____

8. Payment of debts:

If you seek the transfer in order to pay debts, list each debt, including the name of the creditor and the amount presently owed:

Debt	Creditor	Amount Owed
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Verification

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

DATE: _____ Signature _____

(g) The initial order of court shall be substantially in the following form:

(CAPTION)

Initial Order of Court

On this _____ day of _____, 2____, it is ordered that a hearing on this Petition to Transfer Structured Settlement Payment Rights will be held on _____, in Courtroom _____ at _____ o'clock. The payee shall bring income tax returns for the prior two (2) years to the hearing.

Within seven (7) days, the transferee shall give notice of the hearing date to the payee, the structured settlement obligor, the annuity issuer, the payee's spouse and any person receiving child support, alimony, or alimony pendente lite. The transferee shall attach a certificate of service to the notice of hearing date. A copy of the notice with the certificate of service shall be filed with the court prior to the hearing.

BY THE COURT:

_____ J.

(h) The notice of hearing shall be substantially in the following form:

(CAPTION)

Notice of Hearing on Petition to

Transfer Structured Settlement Payment Rights

To: _____

You are hereby given notice that _____

(name of payee)

has filed a petition to transfer structured settlement payment rights. A hearing in this matter has been scheduled on _____, 2____ at _____ o'clock in courtroom no. _____, courthouse, .

(address)

You are entitled to support, oppose or otherwise respond to the payee's petition, either in person or by counsel, by filing written comments with the court prior to the hearing or by attending the hearing.

Date _____ Transferee _____

_____ Address _____

_____ Telephone Number _____

(i) The final order of court shall be substantially in the following form:

(CAPTION)

Final Order of Court

On this _____ day of _____, 2____, it is ordered that the Petition to Transfer of Structured Settlement Payment Rights is granted.

The court specifically finds that:

(1) the payee has established that the transfer is in the best interests of the payee or the payee's dependents;

(2) based on the certification by an attorney for the transferee, and the court having not been made aware of any statute, regulation or order that would be incompatible with the proposed transfer, the transfer will not contravene any applicable federal or state statute or regulation, or the order of any court or administrative authority;

(3) the transfer complies with the remaining requirements of the Structured Settlement Protection Act, including Sections 3(a)(2), 3(a)(4), 3(a)(5) and 3(a)(6);

(4) the payments that are to be transferred are designated as follows:

(5) the terms of this order shall survive the death of the payee and shall be binding on the payee's heirs, beneficiaries and assigns;

(6) the payee shall receive from the transferee, as of _____, the amount of \$ _____, from which no funds are owed for counsel fees, administrative fees, or other costs, fees or expenses.

BY THE COURT:

J.

Official Note: The form of order does not preclude a court from adding additional language to the order as deemed appropriate in the individual circumstances of a case.

Explanatory Comment

In 2000, the General Assembly passed the Structured Settlement Protection Act, Act of February 11, 2000, P. L. 1, 40 P. S. § 4001 et seq., providing for, inter alia, the court of common pleas to permit the transfer of structured settlement payment rights only upon an express finding that the transfer is in the best interests of the payee. While the Act requires the disclosure of information to the payee concerning the transfer, it does not specify what factual allegations or other information must be included in the petition to enable the trial court to make its determination. New Rule 229.2 is intended to provide the additional information necessary for a trial court to determine whether a petition to transfer structured settlement payment rights satisfies the best interest standard.

Subdivision (c) of the rule identifies the parties to the petition as the payee and the transferee. The transferee is required to verify the petition and, in doing so, must set forth the circumstances surrounding the proposed transfer of structured settlement payment rights. The petition must contain averments that the requirements of the Act have been satisfied, e.g., the proper disclosures have been made to the payee. In contrast, the payee is required through the Payee's Affidavit in Support of Petition to provide the necessary information to enable the trial court to determine whether the transfer is in the best interests of the payee. The court will enter an order scheduling a hearing date only if the petition and the payee's affidavit meet the requirements of the rule and contain factual allegations, which, if established, satisfy the requirements of Section 3 of the Act, 40 P. S. § 4003.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 07-1473. Filed for public inspection August 17, 2007, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CAMBRIA COUNTY

Common Pleas Judges Sitting as Magisterial District Judges; Misc. No. 2007-3407

Administrative Order

And Now, this 1st day of January, 2006, it is hereby Ordered and Directed that any Common Pleas Judge

sitting in Cambria County shall be authorized to act as a Magisterial District Judge, and may conduct hearings on any and all matters, including those graded as felony charges. This shall be at the discretion of the Judge.

By the Court

GERARD LONG,
President Judge

[Pa.B. Doc. No. 07-1474. Filed for public inspection August 17, 2007, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Patrick Wager Geary having been suspended from the practice of law in the State of New Jersey for a period of 2 years by Order of the Supreme Court of New Jersey dated January 10, 2007, the Supreme Court of Pennsylvania issued an Order dated August 1, 2007, suspending Patrick Wager Geary from the practice of law in this Commonwealth consistent with the Order of the Supreme Court of New Jersey dated January 10, 2007. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 07-1475. Filed for public inspection August 17, 2007, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Gregory Gerald Hawn having been suspended from the practice of law in the District of Columbia for a period of 30 days by Order of the District of Columbia Court of Appeals filed March 1, 2007, the Supreme Court of Pennsylvania issued an Order dated August 1, 2007, suspending Gregory Gerald Hawn from the practice of law in this Commonwealth for a period of 30 days. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 07-1476. Filed for public inspection August 17, 2007, 9:00 a.m.]