

RULE 4:44A. Proceedings To Approve Transfer Of Structured Settlement Payment Rights

4:44A-1. Venue; Complaint; Service

An action seeking approval of a transfer or assignment of structured settlement payment rights shall be brought by the proposed transferee in the county of the payee-transferor's residence by order to show cause and verified complaint. Annexed to the verified complaint shall be (a) a copy of the proposed transfer or assignment agreement; (b) a copy of the disclosure statement required by N.J.S.A. 2A:16-65; (c) a certification by the payee-transferor that lists the names and ages of any dependents and explains the impact of the proposed transfer on the payee-transferor and any dependents; (d) a copy of all agreements in any way related to the proposed transfer and a certification that there are no undisclosed conditions or agreements; and (e) either a copy of all prior orders granting or denying approval of a transfer or assignment of structured settlement payment rights or a certification that there have been no such prior orders. The order to show cause and complaint shall be served in accordance with R. 4:67-3 on the payee-transferor, all persons entitled to support by the payee-transferor, and the issuer of the annuity. The order to show cause shall be returnable not less than 20 days following the date of service and shall advise that interested parties, other than the payee-transferor, may, in lieu of appearing on the return date, file an affidavit or certification in response to the order to show cause at least five days before the return date. If the payee-transferor is a minor or an incapacitated person, the court shall appoint a guardian ad litem to represent such payee-transferor whether or not a guardian or conservator has been judicially appointed.

Note: Adopted July 28, 2004 to be effective September 1, 2004; amended July 9, 2008 to be effective September 1, 2008; amended July 19, 2012 to be effective September 4, 2012.

4:44A-2. Hearing

The application shall be heard on the return date of the order to show cause. If the payee-transferor fails to appear, in person or by counsel or guardian ad litem, the complaint shall be dismissed. The court shall approve the transfer or assignment only if it expressly finds that (a) the payee-transferor either received independent professional advice regarding the transfer or assignment from a person neither affiliated with nor recommended by the assignee or transferee or that the payee-transferor has knowingly waived in writing the right to such advice; (b) the proposed transfer does not contravene any applicable statute or court order; (c) the transfer is in the best interests of the payee-transferor, taking into account the welfare and support of the payee-transferor's dependents; and (d) the transferee has complied or ensured compliance with all applicable provisions of N.J.S.A. 2A:16-69. The court shall also consider whether there have been any previous transfers and, if so, the terms thereof. The judgment approving the transfer or assignment shall incorporate the terms and conditions of N.J.S.A. 2A:16-67, which incorporation may be by reference. If the payee-transferor is a minor or an incapacitated person, the judgment also shall require that all proceeds of the assignment or transfer be deposited with the Surrogate pursuant to Rule 4:48A unless the court permits an alternative disposition that will adequately safeguard the interests of the payee-transferor.

Note: Adopted July 28, 2004 to be effective September 1, 2004; amended July 9, 2008 to be effective September 1, 2008.