

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COMMONWEALTH GENERAL : CIVIL ACTION
ASSIGNMENT CORPORATION, et al. :
 : 05-MC-212
v. :
 :
SETTLEMENT FUNDING, LLC., et al. :

MEMORANDUM AND ORDER

Juan R. Sánchez, J.

April 20, 2006

Settlement Funding (Peachtree) asks this Court to enforce a judgment from the Western District of Kentucky against funds Commonwealth General Assignment is holding. I will exercise jurisdiction in this case and allow discovery to resolve the underlying question of ownership of the funds.

FACTS

In 1993 Helen Singledecker received \$750,000 in a medical malpractice case involving the amputation of both her legs in a structured payout “for 30 years certain and life” with a two percent increase each February. Ex. 17, Def.’s Reply Memorandum, Full and Final Release, August 16, 1993 at 1. The structured payout was funded by an annuity Jamestown Life Insurance Company bought from First Colony Life Insurance Company, both of Lynchburg, Virginia. In 1998, Singledecker sold 205 payments, from January 1, 1999 to January 1, 2016, to Peachtree Settlement Funding, a Georgia company, the defendants here, for \$100,276 by assigning her “interest to receive payments in an annuity contract” to Peachtree. Singledecker Petition, October 6, 1998 at 2. When Singledecker received the lump sum from Peachtree, she had recently been released from an involuntary commitment for substance abuse and was living in a motel in Florida. Within months

of receiving the check, Singledecker died of an overdose of alcohol and cocaine in December, 1998. Letters testamentary were granted to William M. Cowan, Esq., in Bucks County, Pennsylvania in January, 1999.

What Singledecker owned and what she could sell to Peachtree is in dispute. Jerry Davis, guardian of Singledecker's minor daughter Nora, says under the Annuity Contract Helen Singledecker was entitled to the monthly payments during her lifetime but Nora was entitled to payments after Helen died. Peachtree says Singledecker retained the power to change the beneficiary of the payments, and she made such a change when she notified Jamestown and First Colony she had assigned her rights.

A class action in the Western District of Kentucky involving Peachtree and Commonwealth General Assignment Corp. resulted in a settlement. Peachtree says Singledecker's rights were represented by the class and the executor of her estate received notice of the opt-out class. Peachtree prevailed in the class action and says Jamestown and First Colony owe Peachtree the missed payments of \$218,500.53, interest and a \$2,000 processing fee. Peachtree also says it is entitled to the amounts remaining on its contract with Singledecker.

If Nora is the beneficiary of Singledecker's annuity, then her rights to the payments would not have been affected by the settlement in the Western District of Kentucky. Davis has litigated repeatedly to prevent enforcement of the purchase agreement between Singledecker and Peachtree, most recently as an intervenor in a declaratory judgment action brought by Peachtree in Bucks County Orphans Court seeking to confirm the transfer of the assigned payments. At the same time Davis brought an action in Philadelphia court claiming Nora had the exclusive right to the periodic payments. Davis's complaint did not mention Peachtree or the Bucks County proceedings. Peachtree was allowed to intervene. Jamestown and First Colony are holding the accrued payments,

now more than \$200,000, until the proper recipient is determined.

DISCUSSION

Peachtree registered the class action judgment from the Western District of Kentucky in this Court under 28 U.S.C. § 1963; the question now is execution. The execution proceedings themselves are controlled by Rule 69 of the Federal Rules of Civil Procedure.¹ Pursuant to Rule 69(a), a judgment creditor must pursue enforcement of its judgment through a writ of execution. However, proceedings supplementary to and in aid of a judgment, including collection of the property of the judgment debtors held by third parties, is to be conducted by state law absent a controlling federal statute. Fed. R. Civ. P. 69(a); *Schreiber v. Kellogg*, 50 F.3d 264, 267 (3d Cir. 1995); *Arnold v. Blast Intermediate Unit 17*, 843 F.2d 122, 125 (3d Cir. 1988).

In *Schreiber* the trustees of a spendthrift trust claimed Orphans Court had exclusive jurisdiction over attachment of trust payments to satisfy a judgment. *Schreiber v. Kellogg*, 849 F. Supp. 382, 385 (E.D. Pa. 1994). The court looked at *Colorado River* abstention requirements and decided it would not abstain. *Id.* at 386. The Third Circuit reversed the district court's decision regarding the trust payments but did not question the court's decision it had jurisdiction. *Schreiber*, 50 F.3d at 278.

The full range of execution methods authorized under Rule 69 includes garnishment. Pa. R. Civ. P. 3101-49. A Rule 69 action can be filed as part of the original suit or as a separate suit. “We fail to see a meaningful distinction between Rule 69 actions brought under an original suit and those brought separately, and we are loathe to burden judgment creditors with an atavism that smacks of the archaic distinctions of pleadings at common law.” *IFC Interconsult, AG v. Safeguard Int'l*

¹The procedure on execution, and proceedings supplementary to and in aid of the judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the state in which the district court is held. . . . Fed. R. Civ. P. 69(a).

Partners, LLC, 438 F.3d 298, 314-15 (3d Cir. 2006). A district court has ancillary jurisdiction to impose an obligation to pay an existing judgment on a party alleged in good faith to be secondarily liable for that judgment. *IFC Interconsult*, 438 F.3d at 317.

To avoid determining to whom the periodic payments from Colonial and Jamestown should be paid, I would have to abstain. Federal district courts have a “virtually unflagging obligation . . . to exercise the jurisdiction given them.” *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976). A district court may abstain only under “exceptional circumstances where the order to the parties to repair to the State court would clearly serve an important countervailing interest.” *Id.* at 813 (internal quotations omitted). The pendency of an action in state court does not bar proceedings in the same matter in federal court. *Id.* at 817.

The threshold requirement for a district court to entertain abstention is a contemporaneous parallel judicial proceeding. *Yang v. Tsui*, 416 F.3d 199, 205 (3d Cir. 2005). Even when there is a substantial identity of parties and claims, abstention is still appropriate only when there are “ongoing, not completed parallel state proceedings.” *Bass v. Butler*, 258 F.3d 176, 179 (3d Cir. 2001). The factors determining the appropriateness of abstention include which court first assumed jurisdiction over a relevant *res*, if any; whether the federal court is inconvenient; whether abstention would aid in avoiding piecemeal litigation; which court first obtained jurisdiction; whether federal or state law applies; and whether the state action is sufficient to protect the federal plaintiff’s rights. *Rycoline Prods., Inc. v. C & W Unlimited*, 109 F.3d 883, 890 (3d Cir. 1997).

When I apply the abstention factors, I find there are parallel state court proceedings, but the state court case is in its infancy. Peachtree argues the Kentucky litigation entitles it to the *res* and this Court only needs to permit execution. That conclusion is far from clear. This Court is no more and no less convenient than state court. A decision by this Court as to the availability of the periodic

payments for execution would avoid piecemeal litigation. A principled argument can be made the first court with jurisdiction was the Western District of Kentucky, and this Court stands in the place of that court for execution of its judgment. State law applies, but this *Erie*-bound court routinely applies Pennsylvania law. Conversely, the state courts are equally able to protect the rights of the federal parties; a federal court is, however, more suitable to enforce a federal judgment. In short, there is no reason for this Court to abstain.² An appropriate order follows.

²The probate exception to federal jurisdiction does not apply because the question before me is execution of a registered judgment. This Court has jurisdiction if the “resolution will not undercut the past probate of a will or result in the federal court.” *Golden ex rel. Golden v. Golden*, 382 F.3d 348, 357-59 (3d Cir. 2004). Nora’s claim is grounded in Singledecker’s annuity contract, not her will.

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ORDER

AND NOW, this 20th day of April, 2006, Defendant Settlement Funding LLC's Motion to Enforce Judgment (Document 2) is DENIED without prejudice to its renewal at the close of discovery. Discovery shall close July 31, 2006. Dispositive motions are due no later than August 15, 2006; response by August 29, 2006. Oral argument is scheduled September 7, 2006 at 1:30 p.m. in Courtroom TBA (parties to call chambers the day prior).

BY THE COURT:

Juan R. Sánchez, J.