

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

CONCLUSIONS OF LAW

In re:

Case No. 6:03-bk-00697-6B7  
Chapter 7

Jeanne Marie Preston,

Debtor.

ORDER

This matter came on the Trustee's Amended Motion of Compromise of Controversy between Trustee, Jeff Connally, and Amstar Insurance Company and Application for Allowance of Attorney's Fees in the Amount of \$2,666.64 and Costs in the Amount of \$157.27 (Doc. 26) and Objection by Orlando Pain and Medical Rehabilitation Center to Motion and Notice of Compromise (Doc. 28 and 31). The following Findings of Fact and Conclusions of Law are made after reviewing the evidence.

FINDINGS OF FACT

Debtor, Jeanne Preston, suffered a car accident and needed medical treatment. She assigned her cause of action, to the extent of the medical bill, to Orlando Pain and Medical Rehabilitation Center ("Orlando Pain").<sup>1</sup> The pre-petition Assignment of Benefits to Orlando Pain was an unqualified transfer of Debtor's interest, rather than the granting of a lien. Debtor relinquished her interest in the claim for payment of medical services.

Trustee seeks approval for a compromise of the claim subsequent to Debtor filing Chapter 7. Trustee has agreed to accept \$8,000 to settle the claim. The settlement proceeds, to the extent of the medical bill – \$4, 742.35, are not property of the estate. Trustee does not have an interest in the settlement proceeds to the extent of \$4, 742.35.

An "assignment transfers to the assignee all of the interests and rights of the assignor in and to the thing assigned."<sup>2</sup> The assignment divested the Debtor of her interest in the cause of action, to the extent of the medical bill, and vested it in Orlando Pain. Debtor no longer has an interest in this portion of the settlement. The proceeds from the personal injury settlement covering the medical bill are not property of the estate. Trustee has no control over the settlement proceeds to the extent of \$4, 742.35. Therefore, it is

**ORDERED, ADJUDGED AND DECREED** that the Objection by Orlando Pain and Medical Rehabilitation Center to Motion and Notice of Compromise (Doc. 28 and 31) is **SUSTAINED**; it is further

**ORDERED, ADJUDGED AND DECREED** that the Compromise will be approved if Trustee remits payment of \$4, 742.35 to Orlando Pain and provides the court with an order consistent with this ruling within 14 days; it is further

**ORDERED, ADJUDGED AND DECREED** that the Compromise will be denied otherwise.

Dated this 5<sup>th</sup> day of January 2005.

*/s/ Arthur B. Briskman*  
ARTHUR B. BRISKMAN  
United States Bankruptcy Judge

<sup>1</sup> Assignment of Benefits; Exhibit A in brief submitted by Orlando Pain and Medical Rehabilitation Center.

<sup>2</sup> *Rose v. Teitler*, 736 S.2d 122 (Fla. 4<sup>th</sup> DCA 1999) (Citing *State v. Family Bank of Hallandale*, 667 S.2d 257, 259 (Fla. 1<sup>st</sup> DCA 1995).