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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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COLUMBUS LIFE INSURANCE
COMPANY,

Plaintiff,

v.

NO. CIV. 2:09-cv-0947 FCD DAD

MEMORANDUM AND ORDER

GAVIN HILL, an individual,
KRISTAN HILL-LOVE, aka
"Kristan L. Love," an
individual, HOLLY LOOMAN, an
individual, KYLE HILL, an
individual, KATRINA CLEMONS,
an individual, and DOES 1-20,
inclusive,

Defendants.

_____ /

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This matter is before the court on plaintiff Columbus Life Insurance Company's ("plaintiff" or "Columbus") motions for order granting discharge in interpleader and for attorneys' fees and costs. None of the defendants oppose plaintiff's motion for discharge. Defendants Gavin Hill, Holly Looman, Kyle Hill, and Katrina Clemons do not oppose plaintiff's motion for attorneys'

1 fees and costs, but defendant Kristan Hill-Love ("Hill-Love")
2 objects to the award of any attorneys' fees or costs from the
3 interpleaded funds. Accordingly, and for the reasons set forth
4 below,¹ plaintiff's motion for order granting discharge is
5 GRANTED, and plaintiff's motion for attorneys' fees and costs is
6 GRANTED in part and DENIED in part.

7 **BACKGROUND**

8 Plaintiff issued a life insurance policy (the "Policy") to
9 the late Garla Quarnberg ("Quarnberg"), dated November 16, 1994,
10 with a death benefit of \$50,000. (Compl. In Interpleader
11 ("Compl."), filed Apr. 6, 2009, ¶ 9.) The original named
12 beneficiary of the Policy was Quarnberg's husband, Max Quarnberg,
13 who died on or about October 12, 2005, and the original
14 contingent beneficiaries were "all surviving children equally."
15 (Id. ¶¶ 10-11.) Subsequently, plaintiff received a change of
16 beneficiary form, dated November 3, 2005, which listed "Kristan
17 L. Love" as the sole beneficiary and "Myranda & Savannah Love" as
18 the sole contingent beneficiaries. (Id. ¶ 12.) Quarnberg died
19 on or about June 30, 2008, and the death benefits became payable
20 under the Policy. (Id. ¶ 13.)

21 By telephone call made on July 16, 2008, and fax sent on
22 July 17, 2008, defendant Gavin Hill made a claim to plaintiff for
23 the death benefit proceeds of the Policy. (Id. ¶ 14.)
24 Specifically, he contended that defendant Hill-Love had committed
25 "personal credit, medical, and life insurance" fraud. (Id.) On
26

27 ¹ Because oral argument will not be of material
28 assistance, the court orders these matters submitted on the
briefs. E.D. Cal. L.R. 230(g).

1 or about August 21, 2008, defendant Hill-Love also made a claim
2 to the death benefit proceeds of the Policy as the primary
3 beneficiary. (Id. ¶ 15.)

4 On April 6, 2009, because of the potentially conflicting
5 claims to the death benefit proceeds under the Policy, plaintiff
6 filed a Complaint in Interpleader pursuant to 28 U.S.C. §
7 1335(a). Plaintiff deposited the sum of \$51,517.81, representing
8 the amount due under the Policy plus interest, with the Clerk of
9 the United States District Court for the Eastern District of
10 California. (Id. ¶ 16.)

11 ANALYSIS

12 "Generally, courts have discretion to award attorney fees to
13 a disinterested stakeholder in an interpleader action." Abex
14 Corp. v. Ski's Enter., Inc., 748 F.2d 513, 516 (9th Cir. 1984)
15 (citing Gelfgren v. Republic Nat'l Life Ins. Co., 680 F.2d 79, 81
16 (9th Cir. 1982)). "The amount of fees to be awarded in an
17 interpleader action is committed to the sound discretion of the
18 district court." Trustees of the Directors Guild of Am.-Producer
19 Pension Benefits Plan v. Tise, 234 F.3d 415, 426 (9th Cir. 2000).
20 The availability of such fees "recognizes that by bringing the
21 action, the plaintiff benefits all parties 'by promoting early
22 litigation on the ownership of the fund, thus preventing
23 dissipation.'" Id. (quoting Schirmer Stevedoring Co. v. Seaboard
24 Stevedoring Corp., 306 F.2d 188, 194 (9th Cir. 1962)).

25 "Because the interpleader plaintiff is supposed to be
26 disinterested in the ultimate disposition of the fund, attorneys'
27 fee awards are properly limited to those fees that are incurred
28 in filing the action and pursuing the plan's release from

1 liability." Id. Due to this limitation, "attorneys' fees to the
2 'distinterested interpleader plaintiff are typically modest."

3 Id. Indeed, "there is an important policy interest in seeing
4 that the fee award does not deplete the fund at the expense of
5 the party who is ultimately deemed entitled to it." Id.

6 In this case, plaintiff seeks attorneys' fees in the amount
7 of approximately \$14,918.00 from the interpleaded fund of
8 \$51,517.81. The court concludes that this amount is
9 unreasonable, both with respect to the rate charged and the hours
10 expended, and well exceeds the "modest" amount of attorneys' fees
11 contemplated in an interpleader action.

12 **1. Reasonable Rate**

13 In order to decide what rate is "reasonable," courts look at
14 "prevailing market rates in the relevant community." Blum v.
15 Stenson, 465 U.S. 886, 895 (1984); Davis v. City of San
16 Francisco, 976 F.2d 1536, 1545 (9th Cir. 1992) (a reasonable
17 hourly rate should be determined "by reference to the fees that
18 private attorneys of an ability and reputation comparable to that
19 of prevailing counsel charge their paying clients for legal work
20 of similar complexity"). Determination of a reasonable hourly
21 rate is not made merely by reference to rates actually charged by
22 the prevailing party. Chalmers v. City of Los Angeles, 796 F.2d
23 1205, 1210 (9th Cir. 1986). Rather, the rate assessed is based
24 on the prevailing rate in the relevant community *for similar*
25 *work*. Id. at 1211; Blum, 465 U.S. at 895 n. 11.

26 Generally, the relevant community is the forum in which the
27 district court sits. Davis v. Mason County, 927 F.2d 1473, 1488
28 (9th Cir. 1991). However, rates outside the forum may be used

1 "if local counsel was unavailable, either because they are
2 unwilling or unable to perform because they lack the degree of
3 experience, expertise, or specialization required to handle
4 properly the case." Gates v. Deukmejian, 987 F.2d 1392, 1405
5 (9th Cir. 1992).

6 In this case, plaintiff's primary counsel seeks the court's
7 approval of a rate of \$450.00 per hour.² Plaintiff has neither
8 established that \$450 is a reasonable hourly rate for the filing
9 of an interpleader complaint in Sacramento, nor that this action
10 required unique expertise that could not be obtained locally.
11 Further, plaintiff has failed to present evidence that \$450 is
12 even the prevailing rate for this work in San Francisco, where
13 plaintiff's law firm is located. Rather, the court concludes
14 that a reasonable hourly rate for plaintiff's counsel is \$250 per
15 hour billed. This figure represents the prevailing rate for
16 similar work in the relevant community of Sacramento in the
17 Eastern District of California, which is the venue of this
18 action.

19 **2. Reasonable Hours Expended**

20 In determining the reasonable hours expended, the party
21 seeking attorneys' fees bears the burden of submitting detailed
22 time records which justify the hours spent working on the claims.
23 Hensley v. Eckerhart, 461 U.S. 424, 434 (1983) (district court
24

25 ² Plaintiff's billing sheets include charges for hours
26 billed by L.J. Hightower, at the rate of \$140/hr., and by J. Lee,
27 at the rate of \$145/hr. Because plaintiff does not include
28 information regarding who these individuals are, in what capacity
they worked on the case, or what the reasonable rates for such
work would be in Sacramento, the court cannot account for such
fees in its order.

1 should exclude hours not "reasonably expended"). "Where the
2 documentation of hours is inadequate, the district court may
3 reduce the award accordingly." Id. at 433; Chalmers, 796 F.2d at
4 1210.

5 After a review of the parties' submissions, plaintiff's
6 billing records, and the docket in this case, the court concludes
7 that the hours expended on this matter are excessive.

8 Plaintiff's counsel has documented 30.1 hours of work in
9 connection with this case. However, the court concludes that
10 only the expenditure of 15 hours is reasonable under the
11 circumstances.

12 **3. Equitable Concerns**

13 "The award of attorney fees is fundamentally a matter of
14 discretion of the trial court." Schirmer Stevedoring, 306 F.2d
15 at 194. Where the nature of the underlying dispute in a
16 interpleader action involves the proceeds of insurance policies,
17 courts have considered that "[s]uch disputes are part of the
18 ordinary course of business for an insurance company" and that to
19 award an insurance company fees and costs would be to permit that
20 company "to shift some of its ordinary business expenses to the
21 claimants." Mutual of Omaha Ins. Co. v. Dolby, 531 F. Supp. 511,
22 517 (E.D. Pa. 1982) (citing Companion Life Ins. Co. v. Schaffer,
23 442 F. Supp. 826, 830 (S.D.N.Y. 1977); Travelers Indem. Co. v.
24 Israel, 354 F.2d 488, 490 (2d Cir. 1965) ("We are not impressed
25 with the notion that whenever a minor problem arises in the
26 payment of insurance policies, insurers may, as a matter of
27 course, transfer a part of their ordinary cost of doing business
28 to their insureds by bringing an action for interpleader.").

1 The court concludes that based upon the nature of the
2 underlying litigation, plaintiff's request for attorneys' fees
3 should be reduced. However, the court also concludes that
4 because plaintiff's role in this litigation was prolonged, at
5 least in part, due to defendant Hill-Love's conduct,³ the award
6 of some attorneys' fees is appropriate. As such, the court
7 concludes that equity requires plaintiffs' request for attorneys'
8 fees to be reduced by half.

9 In sum, plaintiff is entitled to the recovery of documented
10 costs, which totals \$698.05. Plaintiff is also entitled to the
11 recovery of \$1875 in attorneys' fees ($(\$250/\text{hr} \times 15 \text{ hrs.}) \div 2 =$
12 $\$1875$). As such, plaintiff is awarded \$2,573.05 in fees and
13 costs to be awarded from the interpleaded fund.⁴

14 CONCLUSION

15 For the foregoing reasons, plaintiff's motion for order
16 granting discharge is GRANTED, and plaintiff's motion for
17 attorneys' fees and costs is GRANTED in part and DENIED in part.

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22 ³ Plaintiff presents evidence that defendant Hill-Love
23 refused to stipulate to a discharge. While the court
24 acknowledges that defendant Hill-Love also objected to the amount
25 of attorneys' fees, defendant Hill-Love could have significantly
narrowed the issues at an earlier stage in the litigation, before
plaintiff's counsel had to file this motion.

26 ⁴ After a review of the submissions of the parties, the
27 court denies defendant Hill-Love's request that any award be
28 postponed until the merits of the underlying dispute are
resolved. The court also denies defendant Hill-Love's request
that the other defendants bear responsibility for any award of
fees and costs.

1 IT IS SO ORDERED.

2 DATED: September 16 , 2010



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4 FRANK C. DAMRELL, JR.
5 UNITED STATES DISTRICT JUDGE
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