

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Liberty Life Insurance Company,  
10 **Plaintiff,**  
11 **v.**  
12 Eric LungMyers, et al.,  
13 **Defendants.**

No. CV 10-02024-PHX-JAT

**ORDER**

14  
15 Pending before the Court is defendant Estate of Donald D. Myers' Motion (Doc.  
16 297) to Amend or Clarify Judgment (Doc. 294) pursuant to Federal Rule of Civil  
17 Procedure 59(e). Also pending is defendants Erin Stoloff and Kirsten Ruggiano's  
18 substantially similar Motion (Doc. 298) to Amend or Clarify Judgment (Doc. 294)  
19 pursuant to Federal Rule of Civil Procedure 59(e). Plaintiff has filed a Response opposing  
20 both motions (Doc. 302) as unnecessary, and defendants Stoloff and Ruggiano have filed  
21 a Reply (Doc. 303). For the following reasons, the Court denies the defendants' motions  
22 to amend or clarify the Judgment.

23 On February 12, 2013, the Court entered an Order resolving Plaintiff's motion for  
24 partial summary judgment in favor of Plaintiff and directing the parties to notify the Court  
25 of what claims, if any, remained for trial. (Doc. 280). Plaintiff subsequently dismissed all  
26 remaining claims against the various defendants. (Doc. 283). After carefully considering  
27 Plaintiff's Proposed Form of Judgment (Doc. 282) and the various defendants' Objections  
28 (Docs. 284–85, 88), on September 17, 2013, the Court entered the following Judgment, in  
relevant part:

1 IT IS ORDERED that judgment is entered in favor of Plaintiff and  
2 against Defendant Eric LungMyers (a/k/a Eric L. Myers, Eric Lung-Myers)  
3 on Plaintiff's fraud claim, against Defendant Erin Sarah Stoloff (f/k/a Erin  
4 Sarah Myers) on Plaintiff's unjust enrichment claim, against Defendant  
5 Kirsten Anne Ruggiano (f/k/a Kirsten Anne Myers) on Plaintiff's unjust  
6 enrichment claim, and against Defendant the Estate of Donald D. Myers, by  
7 and through Personal Representatives Brooke M. Wilson and Heather M.  
8 Craig (the "Estate of Donald D. Myers") on Plaintiff's conversion claim, in  
9 the amount of \$870,103.80, jointly and severally, plus post-judgment  
10 interest at 0.13%, until Judgment is paid in full.

11 However, the amount recoverable from Defendant Erin Sarah Stoloff  
12 is capped at \$178,031.00; the amount recoverable from Defendant Kirsten  
13 Anne Ruggiano is capped at \$300,620.00; and the amount recoverable from  
14 the Estate of Donald D. Myers is capped at \$478,651.00 and is reduced from  
15 \$478,651.00 by any amounts recovered from Defendant Erin Sarah Stoloff  
16 and Defendant Kirsten Anne Ruggiano.

17 Further, the amount recoverable from Defendant Eric LungMyers is  
18 reduced by any amounts received from Defendants Erin Sarah Stoloff,  
19 Kirsten Anne Ruggiano, and the Estate of Donald D. Myers. Additionally,  
20 any amounts received from Defendant Eric LungMyers in excess of  
21 \$391,452.80 shall reduce, pro rata, the amounts recoverable from  
22 Defendants Erin Sarah Stoloff and Kirsten Anne Ruggiano; which shall  
23 resultantly reduce the amount recoverable from the Estate of Donald D.  
24 Myers.

25 IT IS FURTHER ORDERED dismissing with prejudice all remaining  
26 claims against all defendants other than those listed in this Judgment.

27 (Doc. 294 at 1-2).

28 On October 14 and 15, 2013, the defendants timely<sup>1</sup> filed their motions to amend or  
clarify the Judgment (Docs. 297-98). The crux of both motions to amend or clarify the  
Judgment is that because the *summary* of the Judgment that accompanies the CM/ECF  
docket entry contains only the first paragraph of the Judgment (*see* Docket Entry no. 294),  
the "judgment" against each defendant mistakenly appears as \$870,103.80 and not the  
lesser amounts specified in the Court's actual Judgment (Doc. 294). (Doc. 297 at 3 ("The  
judgment against [the Estate of Donald D. Myers] is shown as \$870,103.80, not  
\$478,651.00 as should have been stated in the Judgment."); Doc. 298 at 5 ("[Stoloff and

---

<sup>1</sup> Any motion to alter or amend a judgment pursuant to Rule 59(e) must "be filed no later than 28 days after entry of the judgment." Fed. R. Civ. P. 59(e).

1 Ruggiano] should not be identified as being held liable for any more than \$178,031.00 and  
2 \$300,620.00 respectively, as [Plaintiff] requested and as this Court recognized.” (internal  
3 citations omitted))).

4 The defendants appear to conflate the Clerk of the Court’s CM/ECF docket  
5 *summary*, which engenders no legal effect, with the *actual*, legally significant, signed  
6 Judgment of the Court attached to the docket entry as Doc. 294. The Court reminds the  
7 defendants that the Court’s actual signed Judgment is the Judgment in this case, not the  
8 Clerk of the Court’s unsigned and incomplete summary of the Court’s Judgment.

9 The Court has reviewed the text of its Judgment (Doc. 294) and finds that the  
10 second paragraph (quoted above) accurately and clearly establishes the maximum liability  
11 of the Estate of Donald D. Myers, Stoloff, and Ruggiano as \$478,651.00, \$178,031.00,  
12 and \$300,620.00, respectively. Moreover, the Court finds that its Judgment clearly  
13 identifies how one defendant’s payment to Plaintiff will reduce the liability of the other  
14 defendants. Consequently, the Court finds that its Judgment need not be amended to  
15 further clarify the respective liabilities of the various defendants.

16 Additionally, defendants the Estate of Donald D. Meyer’s, Stoloff, and Ruggiano  
17 appear to be concerned that Plaintiff may attempt to enforce the Judgment against each  
18 defendant in the full amount of \$870,103.80, jointly and severally, instead of the actual,  
19 lesser amounts adjudicated by the Court. (*See* Doc. 297 at 2 (“if the judgment as it stands  
20 is recorded, the amount of the judgment lien may be listed on that record at that greater  
21 amount”); Doc. 298 at 2 (vaguely alleging that “manifest injustice” may occur if the  
22 Judgment is not amended). The Court notes that, in light of the plain language of the  
23 Court’s Judgment (Doc. 294), any attempt by Plaintiff to enforce an award greater than  
24 the caps specified by the Court would require Plaintiff to materially misrepresent the  
25 Court’s Judgment in bad faith. The defendants present neither allegations nor evidence  
26 that Plaintiff has or intends to so act. Nonetheless, to avoid any potential  
27 misrepresentation by Plaintiff (or misunderstanding by a third-party) that the incomplete  
28 Docket Summary could possibly engender, the Court will order the Clerk of the Court to  
remove the incomplete Docket Entry Summary at Docket no. 294.

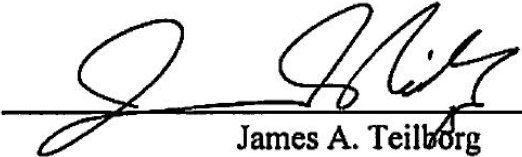
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly,

**IT IS ORDERED** that defendants Estate of Donald D. Myers, Erin Stoloff and Kirsten Ruggiano’s Motions to Amend or Clarify Judgment (Docs. 297–98) are DENIED.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall replace the CM/ECF Docket Entry Summary for the Judgment, Docket no. 294, with “Judgment (see attached Judgment).” The Court’s actual signed Judgment, entered as Doc. 294, shall not be deleted, amended, or modified.

Dated this 15th day of April, 2014.

  
\_\_\_\_\_  
James A. Teilborg  
Senior United States District Judge