

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

**PRUDENTIAL INSURANCE COMPANY
OF AMERICA**

PLAINTIFF

v.

1:10CV00083-BRW

**RICHARD L. KIRK, as Custodian for
Minors E.J.K. and M.L.K., et al.**

DEFENDANTS

ORDER FOR DEPOSIT OF INTERPLEADER FUNDS

Upon joint motion to deposit funds and discharge liability against Plaintiff The Prudential Insurance Company of America (“Prudential”), Defendants Richard L. Kirk, as custodian for minors E.J.K. and M.L.K., and Jessica L. Kirk, individually and as custodian for minor D.H.T., (collectively, the “Adverse Claimants”) and Plaintiff Prudential seek an Order directing Prudential to pay proceeds in the amount of \$100,000.00, plus claim interest, if any, representing the death benefits payable in connection with a certain policy of insurance insuring the life of Richard A. Kirk Jr. under Group policy number G-32000 (the “Plan”), issued by Prudential, through the Office of Servicemembers’ Group Life Insurance (“OSGLI”), which provided Group Life insurance benefits pursuant to the Servicemembers’ Group Life Insurance statute, 38 U.S.C. 1965 *et seq.*, to the United States Department of Veterans Affairs (the “Death Benefit”), less an agreed upon sum of attorneys’ fees and costs, into the registry of a Court, and discharging Prudential of all liability relating to the Plan and/or the Death Benefit, and the Court having considered the application of counsel, and for good cause shown;

IT IS ORDERED as follows:

1. That Richard Kirk filed a wrongful death action against Jessica Kirk in the Circuit Court of Independence County, Arkansas (CV-2010-324-4);

2. That the Circuit Court of Independence County, Arkansas (CV-2010-324-4) is in the best position to determine the proper party entitled to the Death Benefit through Petitioner Richard Kirk's wrongful death suit;
3. Prudential shall deposit with the Circuit Court of Independence County, Arkansas (CV-2010-324-4), a check in the amount of \$96,550.00, which represents the full Death Benefit payable under the Plan insuring the life of Richard A. Kirk Jr., less agreed upon attorneys' fees and costs in the amount of \$3,450.00, which shall be retained by Prudential, (collectively, the "Deposited Funds"), plus claim interest, if any;
4. That upon deposit of the Deposited Funds with the Circuit Court of Independence County, Arkansas (CV-2010-324-4), Prudential shall be, and hereby is, discharged from any and all liability to the Adverse Claimants relating to the Plan and/or the Death Benefit, and for the Adverse Claimants to be, and hereby are, permanently enjoined from making any further actual or implied claims, demands and causes of action, asserted or unasserted, express or implied, foreseen or unforeseen, real or imaginary, suspected or unsuspected, known or unknown, liquidated or unliquidated, of any kind or nature or description whatsoever, that Adverse Claimants, jointly and severally, ever had, presently have, may have, or claim or assert to have, or hereinafter have, may have, or claim or assert to have, against Prudential with respect to the Plan or the payment of the Death Benefit under the Plan;
5. That upon deposit of the Deposited Funds with the Circuit Court of Independence County, Arkansas (CV-2010-324-4), Prudential shall notify in writing the Court in this Action and the Defendants, through their counsel, of the deposit of the money

into the registry of the Circuit Court of Independence County, Arkansas (CV-2010-324-4); and

6. That within 10 days after deposit of the Deposited Funds with the Circuit Court of Independence County, Arkansas (CV-2010-324-4), the Parties shall file an executed Stipulation of Dismissal with this Court seeking dismissal of this matter with prejudice.

Accordingly, the Joint Motion for Deposit of Death Benefit and Dismissal (Doc. No. 17) is GRANTED IN PART.

IT IS SO ORDERED this 29th day of June, 2011.

/s/Billy Roy Wilson
UNITED STATES DISTRICT JUDGE