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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TRANSAMERICA LIFE INSURANCE)
COMPANY,)
)
Plaintiff-in-Interpleader,)
)
v.)
)
YOUSEF RABADI, INTESAR)
ALTURK, BILL BILTAGI,)
LYSAGHT LAW GROUP LLP, and)
DOES 1 through 10,)
)
Defendants-in-Interpleader.)

CV 15-07623-RSWL-Ex

**ORDER re Cross-
Defendants Lysaght Law
Group LLP and Brian C.
Lysaght's Motion to
Amend or Vacate Judgment
Under Federal Rules of
Civil Procedure 59(e)
and 60(b) [166]**

YOUSEF RABADI, INTESAR)
ALTURK, and BILL BILTAGI,)
)
Cross-Claimants,)
)
v.)
)
LYSAGHT LAW GROUP LLP and)
BRIAN C. LYSAGHT,)
)
Cross-Defendants.)

Currently before the Court is Cross-Defendants
Lysaght Law Group ("LLG") and Brian C. Lysaght's
("Lysaght") (collectively, "Cross-Defendants") Motion

1 to Amend or Vacate Judgment pursuant to Federal Rules
2 of Civil Procedure ("FRCP" or "Rule") 59(e) and
3 60(b) ("Motion" or "Motion to Amend or Vacate Judgment")
4 [166]. Having reviewed all papers submitted pertaining
5 to this Motion, the Court **NOW FINDS AND RULES AS**
6 **FOLLOWS:** the Court **DENIES** Cross-Defendants' Motion
7 [166].

8 I. BACKGROUND

9 A. Factual Background

10 This is a Rule 22 interpleader action concerning
11 the remaining 30% of death benefits, totaling \$1.6
12 million, to a life insurance policy (the "Policy"). A
13 more detailed factual background of this Action is
14 provided in the Court's April 18, 2017 Order Granting
15 Cross-Claimants' Motions for Summary Judgment
16 ("Order"). Order re Cross-Cls.' & Cross-Defs.' Mots.
17 for Summ. J. ("Order"), ECF No. 152.

18 B. Procedural Background

19 On September 29, 2015, Transamerica Life Insurance
20 Company ("Transamerica") filed a Complaint in
21 Interpleader ("Complaint" or "Complaint in
22 Interpleader") under Rule 22, naming Cross-Claimants
23 Yousef Rabadi, Intesar Alturk, Bill Biltagi,¹ and Cross-
24 Defendant LLG as Defendants in Interpleader [1].
25 Transamerica could not ascertain who was entitled to

26
27 ¹ Collectively, Yousef Rabadi, Intesar Alturk, and Bill
28 Biltagi are referred to as "Cross-Claimants." The Court will
also refer to Cross-Claimants—when discussed individually—by
their last names (i.e. Rabadi, Alturk).

1 the remaining 30% of the Policy death benefits ("Policy
2 proceeds" or "interpled funds"). On January 13, 2016,
3 Defendants-in-Interpleader Rabadi, Alturk, and Biltagi
4 filed two Cross-Claims against Cross-Defendants for (1)
5 declaratory relief and (2) intentional interference
6 with contractual relations.² Cross-Cl., ECF No. 22.

7 The Court granted Cross-Claimants' Motions for
8 Summary Judgment [99, 100] as to the Complaint in
9 Interpleader and the Cross-Claim for Declaratory
10 Relief, and on April 19, 2017 entered Judgment in favor
11 of Cross-Claimants and against Cross-Defendants
12 ("Judgment"), concluding that Cross-Claimants were
13 entitled to their pro-rata shares of the total
14 interpled funds. Judgment re Cross-Cls.' & Cross-
15 Defs.' Mots. for Summ. J. ("Judg.") 2:7-18, ECF No.
16 153. The Court denied Cross-Defendants' Motion for
17 Summary Judgment [118] as to its affirmative defenses
18 of unclean hands, estoppel, conspiracy, and unjust
19 enrichment and concluded that Cross-Defendants had not
20 demonstrated that their attorney's lien (the "Lien")
21 with their clients in a state court action ("State
22 Court Rabadis") was valid and applicable to the
23 interpled funds. Order 42:9-15.

24 On April 20, 2017, Cross-Defendants appealed the
25 Court's Judgment to the Ninth Circuit. See Ntc. of
26 Appeal, ECF No. 154. On May 5, 2017, the Court stayed
27

28 ² On May 17, 2016, the Court struck the intentional
interference with contractual relations claim. ECF No. 59.

1 execution of the Judgment and disbursement of the
2 interpled funds pending its rulings on Cross-
3 Defendants' post-judgment motions and pending Cross-
4 Defendants' appeal. Order re *Ex Parte* App. ("*Ex Parte*
5 App.") at 2:6-11, ECF No. 165.

6 On May 18, 2017, Cross-Defendants filed the instant
7 Motion to Amend or Vacate Judgment under Rules 59(e)
8 and 60(b) [166].³ Cross-Claimants Rabadi and Alturk
9 filed their Opposition on May 30, 2017 [167] and Cross-
10 Claimant Bill Biltagi filed his Opposition on the same
11 day [168]. He also joined in the other Cross-
12 Claimants' Opposition [169]. On June 6, 2017, Cross-
13 Defendants filed a (1) Reply to Cross-Claimants re
14 Diversity of Citizenship and Subject Matter
15 Jurisdiction [170]; and (2) a Reply to Cross-Claimants'
16 Oppositions [171], both seemingly in response to Cross-
17 Claimants' separate Oppositions. The hearing was set
18 for June 20, 2017, and the Court took the matter under

19
20 ³ A Rule 59(e) motion can be filed "no later than 28 days
21 after the entry of judgment." The Court entered Judgment on
22 April 19, 2017, and Cross-Defendants filed their Motion on May
23 18, 2017, a day after the 28-day deadline of May 17, 2017 [153,
24 166]. Federal Rules of Appellate Procedure ("FRAP")
25 4(a)(4)(B)(i) allow a district court to dispose of any motion
26 listed in FRAP 4(a)(4)(A) even though a notice of appeal is
27 pending, as is the case here. Rule 60 is listed as one of the
28 post-judgment motions in FRAP 4(a)(4)(A) "if the motion is filed
no later than 28 days after the judgment is entered" (emphasis
added). Under FRAP Rules 4(a)(4)(A)-(B), then, the Motion on
Rule 60(b) grounds would also appear untimely, as it was filed
after the 28-day deadline. While the Court does not deny the
Motion on lateness grounds alone, the Court admonishes Cross-
Defendants to respect deadlines in the Federal Rules,
particularly when asking the Court to revisit its previous
rulings.

1 submission on June 15, 2017 [174].

2 Cross-Defendants made objections to the Alturk
3 Declaration and filed the Riggs Declaration in support
4 of their evidentiary objections on June 19, 2017.
5 Cross-Defs.' Evid. Objs., ECF No. 175; Riggs Decl. re
6 Evid. Objs., ECF No. 176. They also filed a
7 Supplemental Memorandum regarding lack of Subject
8 Matter Jurisdiction on June 30, 2017.⁴ Suppl. Mem., ECF
9 No. 177.

10 II. DISCUSSION

11 A. Legal Standard

12 1. Federal Rules of Civil Procedure 59(e) Motion 13 to Alter or Amend the Judgment

14 FRCP 59(e) gives the district courts power to alter
15 or amend a judgment by motion. Fed. R. Civ. P. 59(e).
16 However, the motion to alter or amend a judgment must
17 be filed no later than 28 days after the entry of the
18 judgment. Id. Courts enjoy "considerable discretion
19 in granting or denying [a motion to amend or alter a
20 judgment]." Allstate Ins. v. Herron, 634 F.3d 1101,
21 1111 (9th Cir. 2011)(internal quotation marks and
22 citation omitted). However, Rule 59(e) motions are not

24 ⁴ The Court has reviewed Cross-Defendants' Supplemental
25 Memorandum and concludes that it does not offer newly decided
26 cases that bear on the precise issues at hand; rather, it merely
27 presents generally-known authority regarding subject matter
28 jurisdiction that was available at the time the Motion and Reply
were filed. Moreover, the Supplemental Memorandum is largely
redundant of the rules and cases already relied upon in Cross-
Defendants' Motion and Reply. See generally Mot. The Court thus
declines to consider the Supplemental Memorandum.

1 vehicles for bringing before the court theories or
2 arguments not advanced earlier, nor may the motion
3 present evidence which was available but not offered at
4 the original motion or trial. U.S. S.E.C. v. Edwin-
5 Yoshihiro Fujinaga, No. 16-15623, 2017 WL 2465002, at
6 *1 (9th Cir. June 7, 2017)(unpublished). Rather, the
7 motion must rely on one of the following grounds: (1)
8 an intervening change in controlling law; (2) the
9 availability of new evidence; (3) the need to correct a
10 clear error of law or fact upon which the judgment
11 rests; or (4) the need to prevent manifest injustice.
12 Smith v. Clark County School Dist., 727 F.3d 950, 956
13 (9th Cir. 2013). Clear error occurs when the
14 "reviewing court on the entire record is left with the
15 definite and firm conviction that a mistake has been
16 committed." Smith, 727 F.3d at 956 (quoting United
17 States v. U.S. Gypsum Co., 333 U.S. 364, 395 (1948)).

18 2. Federal Rules of Civil Procedure 60 Motion for
19 Relief From a Judgment or Order

20 Under Federal Rule of Civil Procedure 60(b), a
21 party may move to set aside a final judgment, order, or
22 proceeding for the following reasons:

- 23 (1) mistake, inadvertence, surprise or excusable
24 neglect;
25 (2) newly discovered evidence that, with reasonable
26 diligence, could not have been discovered in
27 time to move for a new trial under Rule 59(b);
28 (3) fraud, misrepresentation, or misconduct by an

- 1 opposing party;
2 (4) the judgment is void;
3 (5) the judgment has been satisfied, released or
4 discharged; it is based on an earlier judgment
5 that has been reversed or vacated; or applying
6 it prospectively is no longer equitable; or
7 (6) any other reason that justifies relief.

8 Fed. R. Civ. P. 60(b).

9 "A motion under Rule 60(b) must be made within a
10 reasonable time, and for reasons (1), (2), and (3) no
11 more than a year after the entry of the judgment or
12 order or the date of the proceeding." Fed. R. Civ. P.
13 60(c).

14 **B. Analysis**

15 1. Cross-Defendants' Evidentiary Objections &
16 Second Riggs Declaration

17 On June 19, 2017—the day before the June 20, 2017
18 hearing and four days after the Court took the hearing
19 off-calendar and the matter under submission—Cross-
20 Defendants filed the following: (1) evidentiary
21 objections to the Alturk Declaration; and (2) a Riggs
22 Declaration in support of the evidentiary objections
23 [175, 176].⁵

24
25 ⁵ Central District Local Rule 7-10 provides: "[a] moving
26 party may, not later than fourteen (14) days before the date
27 designated for the hearing of the motion, serve and file a reply
28 memorandum, and declarations or other rebuttal evidence." Both
documents seemingly violate Local Rule 7-10 in that they could be
sur-replies and declarations filed "later than 14 days" before
the June 20, 2017 hearing. And Cross-Defendants seemingly use

1 Upon review of the objected-to evidence and Cross-
2 Defendants' bases for their objections, Cross-
3 Defendants' evidentiary objections are **OVERRULED** either
4 because the objections are "devoid of any specific
5 argument or analysis as to why any particular exhibit
6 or assertion in a declaration should be excluded,"
7 United States v. HVI Cat Canyon, Inc., 213 F. Supp. 3d
8 1249, 1257 (C.D. Cal. 2016), or because the Court does
9 not rely on the objected-to evidence.

10 2. Motion to Amend or Vacate Judgment

11 Cross-Defendants urge the Court to amend or vacate
12 its Judgment for the following reasons: (1) it lacks
13 subject matter jurisdiction over the Complaint and
14 Cross-Claim for declaratory judgment; (2) the summary
15 judgment standard was not followed; (3) the Policy was
16 illegal and even if it was not, Cross-Claimants made no
17 allegations that they were its lawful beneficiaries;
18 (4) Cross-Defendants were not required to file an
19 "independent action" to perfect their Lien under the
20 unique circumstances of this case; and (5) Lysaght was
21 not a proper party, thus, the Judgment against him as

22 _____
23 the evidentiary objections as a vehicle for supplying points and
24 authorities better reserved for a Reply memorandum. Cross-
25 Claimants did not object to the evidentiary objections or the
26 Riggs Declaration, so the Court exercises its discretion to
27 consider the documents. In any event, to the extent Cross-
28 Defendants' evidentiary objections repeat the arguments already
made in the Reply, the Court has already considered them in the
instant Order. And so long as the statements and exhibits in the
Riggs Declaration are not new evidence and arguments, the Court
will address them as necessary in the Order. Provenz v. Miller,
102 F.3d 1478, 1483 (9th Cir. 1996).

1 an individual is void. Ntc. of Mot. to Am. or Vacate
2 J. i:10-17.

3 a. *The Court has Subject Matter Jurisdiction*
4 *over the Complaint in Interpleader*

5 Cross-Defendants argue that the Judgment should be
6 vacated because the Court never had diversity
7 jurisdiction over the Rule 22 interpleader action and
8 the cross-claim for declaratory judgment.

9 A Rule 22 interpleader action requires either
10 diversity jurisdiction or federal question
11 jurisdiction. For diversity jurisdiction, the amount-
12 in-controversy should exceed \$75,000 and there should
13 be complete diversity between the plaintiff-stakeholder
14 and all claimant-defendants. The court looks to
15 diversity between the plaintiff-stakeholder and the
16 claimant-defendants, regardless whether claimant-
17 defendants are citizens of the same state. See
18 Travelers Ins. Co. v. First Nat'l Bank of Shreveport,
19 675 F.2d 633, n.9 (5th Cir. 1982) The burden of proof
20 is on the party arguing diversity of citizenship and
21 the party should plead and prove such facts under a
22 "preponderance of evidence" standard. Harris v. Rand,
23 682 F.3d 846, 851 (9th Cir. 2012).

24 From the face of the Complaint, it would appear
25 that complete diversity existed between Plaintiff in
26 Interpleader Transamerica, which is an Iowa
27 corporation, and the Defendants in Interpleader, who
28 were all allegedly California citizens. See Compl. in

1 Interpleader ("Compl.") ¶¶ 1-5. However, Cross-
2 Defendants argue that both Alturk and Biltagi's
3 citizenship is unknown because in their Answer, they
4 denied the allegations that they are citizens of
5 California and Los Angeles residents. Cross-Defs.'
6 Mot. to Am. or Vacate J. ("Mot.") 4:25-26; Cross-Cls.'
7 Ans. to Compl. in Interpleader ¶¶ 3, 4, ECF No. 12.
8 Because there are no allegations or proof establishing
9 Biltagi and Alturk's citizenship, they are stateless
10 and thus diversity jurisdiction is not satisfied. The
11 Court addresses Biltagi and Alturk's citizenship in
12 turn.

13 i. *Bill Biltagi*

14 "In order to be a citizen of a State within the
15 meaning of the diversity statute, a natural person must
16 be both a citizen of the United States and be domiciled
17 within the State." Newman-Green, Inc. v. Alfonzo-
18 Larrain, 490 U.S. 826, 828 (1989). Although he denied
19 the citizenship allegation in his Answer, in his
20 Opposition Biltagi explained that he did so because it
21 incorrectly stated that he is a Los Angeles resident
22 (Biltagi lives in Orange County). Biltagi's Opp'n to
23 Mot. to Am. or Vacate J. ("Biltagi's Opp'n") 5:20-22.
24 Cross-Defendants argue that "[t]here is no allegation
25 that Biltagi is a U.S. citizen or domiciled in
26 California," but he states in his Declaration that he
27 is a U.S. citizen and a citizen of California;
28 specifically, he resided in Orange County at the time

1 the Complaint was filed. Id. at ¶¶ 2, 3, ECF No. 168-
2 1; see also Beverly Reid O'Connell, et al., Cal.
3 Practice Guide: Federal Civil Procedure Before Trial ¶
4 2:2031-32 (The Rutter Group 2017)(for domicile in a
5 particular state, it is proper form to allege one is a
6 "citizen" of a specific state). As evidence of same,
7 he attaches a copy of his current passport. Biltagi
8 Decl. Ex. 1. Based on the submitted evidence, Biltagi
9 establishes citizenship for diversity jurisdiction
10 purposes.

11 As a final matter, the Court disagrees with Cross-
12 Defendants that both Biltagi and Alturk's Declarations
13 do not cure the pleadings' failure to allege diversity
14 of citizenship. Cross-Defendants' Evid. Objs. 6:11-12.
15 Because Alturk and Biltagi denied the diversity of
16 citizenship allegations in their Answer, and the
17 Complaint was not amended, Cross-Defendants argue that
18 the pleadings were fixed and devoid of diversity
19 jurisdiction from the beginning, and the instant
20 declarations alleging diversity of citizenship do not
21 change this. Id. at 7:11-22. Cross-Defendants
22 advocate for a rule that is unduly harsh. Were the
23 facts alleging diversity jurisdiction frozen at the
24 time of the Complaint and Answer, it would make little
25 sense to permit parties to dispute and prove subject
26 matter jurisdiction at any point throughout the
27 litigation, even for the first time on appeal. Broce
28 v. Arco Pipe Line Co., 28 F. App'x 653, 654 (9th Cir.

1 2002). Cross-Defendants' argument also does not square
2 with 28 U.S.C. § 1653: "[d]efective allegations of
3 jurisdiction may be amended, upon terms, in the trial
4 or appellate courts." See also Snell v. Cleveland,
5 Inc., 316 F.3d 822, 828 (9th Cir. 2002)(even after the
6 district court had entered judgment, the circuit court
7 could allow amendment of the complaint "to correct
8 defective jurisdictional allegations.").

9 ii. *Intesar Alturk*

10 The Complaint alleged that Alturk is a California
11 citizen and a resident of Los Angeles County. Compl. ¶
12 3. Alturk denied this on the grounds that she is a
13 Jordanian citizen. Rabadi's Opp'n to Mot. to Am. or
14 Vacate J. ("Rabadi's Opp'n") 6:6-7. Pursuant to 28
15 U.S.C. § 1332(a)(2), district courts have original
16 jurisdiction over actions between "citizens of a State
17 and citizens or subjects of a foreign state." At first
18 blush, the Court would have alienage jurisdiction over
19 a citizen of a "foreign state" like Jordan. But Cross-
20 Defendants complicate matters through a litany of
21 theories that Alturk is "stateless" and thus destroys
22 diversity.

23 Cross-Defendants first argue that Alturk is
24 stateless and thus cannot sue or be sued in federal
25 court because she is a U.S. citizen but not domiciled
26 in a particular U.S. state; rather, she is a permanent
27 resident of Jordan, a foreign state. U.S. citizens
28 that are permanent residents of foreign states are

1 "stateless." See Louisiana Mun. Police Emps. Ret. Sys.
2 v. Wynn, 829 F.3d 1048, 1056 (9th Cir. 2016).

3 For support, they attach (1) a W-9 form dated
4 October 29, 2007 with Alturk's alleged social security
5 number written down; and (2) an internet search showing
6 that Alturk's alleged social security number was issued
7 in 1994. Mot. Ex. 1; Riggs Decl. re Reply Ex. 1, ECF
8 No. 170-1; Ntc. of Errata, ECF No. 172.⁶ Cross-
9 Defendants suggest that the paperwork—of which the
10 authenticity is unclear and it is equally unclear
11 whether Alturk filled out the paperwork—shows Alturk is
12 a U.S. citizen. See Lysaght Decl. ¶ 2, ECF No. 166-1
13 ("[i]f she has [a social security number], is a U.S.
14 citizen and domiciled in Jordan, she is stateless.")
15 Further, Alturk argued that she is a permanent resident
16 of Jordan: "[Alturk's] domicile [is] in Jordan" and she
17 "has, for well over a decade resided in . . . Jordan."
18 L.R. 37-1 Stip. Re Cross-Defs.' Mot. for Order
19 Compelling Depo. 5:16-17, 7:8-9, ECF No. 88. Cross-
20 Defendants argue that Alturk is a U.S. citizen and a
21 permanent resident of Jordan, a foreign state, thus
22 rendering her "stateless" and destroying diversity of
23

24 ⁶ They also attach an internet search showing that the
25 social security number she allegedly used was never associated
26 with anyone named Alturk, Altourk, or Hassan. Riggs Decl. re
27 Evid. Objs. Ex. 4. Whether Cross-Defendants mean to suggest that
28 the social security number is fraudulent is anyone's guess, but
the Court surmises Cross-Defendants present her alleged social
security number in other exhibits to show she is a United States
citizen.

1 citizenship.

2 Alturk is not both a U.S. citizen and a permanent
3 Jordanian resident—she is a Jordanian citizen. Thus,
4 she is not stateless. Cross-Defendants cite no
5 authority that suggests an application for a social
6 security number confers citizenship. Further,
7 noncitizens may receive a social security number. See
8 Social Security Numbers for Noncitizens,
9 <https://www.ssa.gov/pubs/EN-05-10096.pdf> (June 2016).
10 Moreover, the attached exhibit, a W-9 Request for
11 Taxpayer Identification Number and Certification Form,
12 can be completed by both U.S. citizens and resident
13 aliens. See Mot. Ex. 1; see also Taxation of U.S.
14 Resident Aliens, <https://www.irs.gov/individuals>
15 [international-taxpayers/taxation-of-resident-aliens](https://www.irs.gov/individuals/international-taxpayers/taxation-of-resident-aliens)
16 (Oct. 31, 2016). And her permanent resident card,
17 which expired in 2012—before the lawsuit was filed—does
18 not confer U.S. citizenship. Without more, the Court
19 cannot conclude that the W-9 form or the social
20 security number render Alturk a U.S. citizen.

21 Cross-Defendants' second argument as to why Alturk
22 is "stateless" is two-fold: (1) Alturk is a Palestinian
23 citizen and because the United States does not
24 recognize Palestine as a sovereign state, Alturk is
25 "stateless" and cannot invoke alienage jurisdiction;
26 and (2) Alturk's alleged Jordanian passport is not
27 actually a passport, but rather is a "travel document"
28 that Jordan issues to Palestinians to allow them to

1 travel. Mot. 6:23-24, 7:1-5; Cross-Defs.' First Reply
2 re Mot. ("First Reply") 8:12-17.

3 Cross-Defendants insist that Alturk is Palestinian.
4 They attach the Death Certificate of Albert Hreish Sr.
5 ("Hreish"), a defendant in an Orange County case in
6 which Alturk and her son, Abraham Khader ("Khader"),
7 were apparently co-defendants. Riggs Decl. re Mot. for
8 Summ. J. Ex. 1, ECF No. 121-1. The death certificate
9 provides that Hreish's place of birth is Palestine.

10 Lysaght Decl. Ex. 3. Another attached exhibit is
11 Khader's deposition from a state-court case. Id. at
12 Ex. 2. Per Cross-Defendants, Khader testified that
13 Alturk and Hreish were from the "same town." Piecing
14 together this testimony and Hreish's death certificate,
15 Alturk is from Palestine. Id. at ¶¶ 3, 4. This is
16 not an entirely accurate description of the testimony,
17 as per Cross-Defendants' pincite, Khader testified that
18 Alturk and Hreish were "from the same city of Java
19 [Jaffa] on the coast of Israel;" Palestine is not
20 expressly mentioned. Id. at Ex. 2, 127:5-9. Cross-
21 Defendants nevertheless point out that Alturk's
22 Jordanian passport provides that she was born in Jaffa
23 in 1935, and although Jaffa is present-day Israel, it
24 was not considered Jordan until 1946 and not considered
25 Israel until 1959; thus, Alturk was born Palestinian
26 and therefore stateless. First Reply 5:21-23. Cross-
27 Defendants also rely on statements apparently made by
28 the Illinois Jordanian consul, which are relayed in the

1 Riggs Declaration: "[the consul] stated that any person
2 born in Jaffa in 1935 was Palestinian." Riggs Decl. re
3 Reply ¶ 2, ECF No. 170.

4 Some of the caselaw Cross-Defendants provide
5 suggests that the United States does not recognize
6 Palestine as a sovereign state. In Klausner v. Levy,
7 83 F. Supp. 599 (E.D. Va. 1949), the court concluded
8 that the plaintiff, who alleged he was a Palestinian
9 citizen when the complaint was filed, was not a citizen
10 of a "foreign state" under section 1332(a)(2) because
11 Palestine was under the British Mandate when the
12 complaint was filed and did not earn recognition as a
13 state until later. And in Abu-Zeineh v. Federal Labs.,
14 Inc., 975 F. Supp. 774, 777-78 (W.D. Pa. 1994), the
15 court found alienage jurisdiction did not exist.
16 Plaintiff's counsel asked the State Department whether
17 "the Palestinian residents of the West Bank [were]
18 Jordanian citizens after King Hussein's July 31, 1988
19 proclamation, which unilaterally severed Jordan's legal
20 and administrative ties with those Palestinians" and
21 thus whether the West Bank-based plaintiffs were
22 citizens of Jordan when the complaint was filed in
23 December 1991. After receiving an inconclusive answer
24 from the State Department, the court relied on King
25 Hussein's 1988 proclamation that any person residing in
26 the West Bank before July 31, 1988 would be a
27 Palestinian, not a Jordanian citizen. Id. at 778.

28 Cross-Defendants' evidence does not convince the

1 Court that Alturk is Palestinian. First, unlike the
2 plaintiffs in Klausner and Abu-Zeineh, Alturk did not
3 allege that she was a Palestinian citizen or a West
4 Bank citizen at the time the lawsuit commenced. Here,
5 Alturk alleges that she was domiciled in Jordan when
6 the action commenced in September 2015 and she proffers
7 her passport, issued in October 2012, which at least
8 under the preponderance of evidence standard suggests
9 that she was a Jordanian citizen at the time the
10 lawsuit was filed. Alturk Decl. Exs. B-D, ECF No. 167-
11 1. Cross-Defendants baldly argue that anyone born in
12 Jaffa in 1935 was Palestinian, Riggs Decl. re Reply ¶
13 2, based on an alleged conversation Cross-Defendants'
14 counsel, Ms. Riggs, had with the Illinois Jordanian
15 consul. They add that she is a Palestinian refugee
16 from the 1948 civil war and thus remains a Palestinian
17 to this day according to the United Nations.⁷ Cross-
18 Defs.' Evid Objs. 8:15-9:10. But Alturk's "place of
19 birth, [] is not determinative on the question of her
20 citizenship for purposes of diversity jurisdiction."
21 Lyons v. O'Quinn, 607 F. App'x 931, 934 (11th Cir.
22 2015). Second, setting aside potential hearsay
23 problems with the Jordanian consul's statements, Cross-
24 Defendants' vague reference to a United Nations's
25 purported policy and the lone statement from the

26

27 ⁷ Cross-Defendants do not provide the Court a cite to some
28 United Nations publication or website material bolstering this
claim.

1 Jordanian consul are unsupported and do not
2 conclusively establish that Alturk is Palestinian.
3 Third, cobbling together Khader's deposition and
4 Hreish's death certificate requires several inferential
5 leaps that are not based in any evidence or legal
6 theories before the Court.

7 Alturk has demonstrated by a preponderance of the
8 evidence that she was a Jordanian citizen at the time
9 this Action was instituted and can invoke alienage
10 jurisdiction. Cross-Defendants' fixation on Jaffa's
11 sovereign status in 1935 and Alturk's birth there do
12 not make it clear that in September 2015, when the
13 Complaint was filed, that she was Palestinian.
14 Diversity of citizenship depends on facts at the time
15 the lawsuit was filed. Grupo Dataflux v. Atlas Global
16 Grp., L.P., 541 U.S. 567, 570 (2004). Although Alturk
17 apparently was once a permanent U.S. resident, this
18 expired in September 2012 before the Complaint was
19 filed. Currently, she only has a visitor's Visa to the
20 U.S. Alturk Decl. ¶ 4, Ex. C. She attaches a copy of
21 her passport from the Kingdom of Jordan as proof of her
22 Jordanian citizenship. Id. at ¶ 2, Ex. A. She also
23 attaches an identification card indicating her
24 permanent residence in Amman, Jordan and listing her
25 specific address. Id. at ¶ 3, Ex. B.

26 Cross-Defendants' second argument is that Alturk is
27 not a Jordanian citizen because her purported Jordanian
28 passport is actually a "travel document" that Jordan

1 issues to Palestinians to facilitate their travel.
2 First Reply 8:12-14. For support, Cross-Defendants
3 attach the Riggs Declaration, in which Cross-
4 Defendants' counsel avers that the Jordanian consul in
5 Illinois stated that Jordan issues passports to
6 Palestinians residing in Jordan, but possession of a
7 Jordanian passport is not necessarily evidence of
8 Jordanian citizenship and the absence of a "national
9 number" on the passport indicates the individual is a
10 Palestinian. See Riggs Decl. re Reply ¶ 2. Cross-
11 Defendants point out that the "national number code" on
12 Alturk's passport has been redacted, thus raising
13 doubts as to whether it is truly a Jordanian passport.
14 Id. But the Jordanian consul also stated that even if
15 Jordan issues a national number to Palestinians living
16 in Jordan, such as when they own property in Jordan,
17 this does not necessarily render them a Jordanian
18 citizen. Id.

19 In Zahren v. Gonzales, 487 F.3d 1039, 1039 (7th
20 Cir. 2007), on rehearing Zahren v. Holder, 637 F.3d 698
21 (7th Cir. 2011), the plaintiff was born in 1971 in the
22 West Bank (in Hebron, specifically) and lived there for
23 20 years, until approximately 1991. In 1983, after
24 power in the West Bank shifted from Jordan to Israel,
25 Jordan started giving Palestinians remaining in the
26 West Bank temporary Jordanian "passports" that did not
27 confer citizenship but were "travel documents." Id. at
28 1041. Again in 1988, after Jordan renounced its

1 control to the West Bank, "Palestinians residing in the
2 West Bank [could] obtain 5-year Jordanian travel
3 passports that confer no citizenship." Id. at 1042.

4 The circuit court upheld the immigration judge's choice
5 to remove plaintiff to Jordan, but indicated there were
6 questions whether he was Palestinian. Id. at 1041.

7 First, while Alturk's passport is set to expire in
8 October 2017, five years after it was issued in October
9 2012, this does not conclusively establish that she is
10 a Palestinian citizen with a "temporary" Jordanian
11 passport. Unlike the plaintiff in Zahren, who
12 admittedly lived in the West Bank for 20 years—and
13 alleged in an affidavit that he was a Palestinian and
14 never once referred to Jordan—including in 1983 and
15 1988, times during which Palestinians received
16 temporary Jordanian "passports" that did not confer
17 citizenship, the facts do not place Alturk as a West
18 Bank/Palestinian citizen during the relevant time
19 window for her passport to qualify as a temporary
20 "travel document."

21 Second, Cross-Defendants do not indicate whether
22 bona fide Jordanian citizens may receive the "travel
23 document," whether it is exclusively meant for
24 Palestinians, or even whether citizens of other foreign
25 states might possess such a document. All the Court is
26 aware of is that Alturk was born in Jaffa in 1935 and
27 presently lives in Amman. Alturk Decl. ¶ 3, Exs. A, B.
28 It is difficult to account for Alturk's status as a

1 Palestinian leading up to 2015, but Cross-Defendants
2 would have the Court believe that she was born a
3 Palestinian and remained one indefinitely after the
4 1948 war. And the focus on the alleged lack of a
5 national number is misplaced, as the Jordanian consul
6 stated that even non-Jordanians can have a national
7 number. Alturk's passport, Jordanian identification
8 card, and allegations as to her permanent residence in
9 Jordan throughout all times relevant to the Complaint
10 show, under the preponderance of evidence standard,
11 that Alturk is a Jordanian citizen. Cross-Defendants'
12 evidence that Alturk is Palestinian is conjectural, and
13 because there are too many gaps in Cross-Defendants'
14 reasoning and too many unsupported inferences the Court
15 would need to make to sign on to their logic, the Court
16 disagrees that she is a Palestinian with a Palestinian
17 "travel document."

18 The Court thus concludes that Defendants in
19 Interpleader Biltagi, Rabadi, and LLG are California
20 citizens, Alturk is a Jordanian citizen, and Plaintiff
21 in Interpleader Transamerica is an Iowa corporation.
22 The amount-in-controversy easily exceeds \$75,000, as
23 \$1.5 million interpled funds are at stake. Thus, the
24 Rule 22 interpleader diversity jurisdiction is
25 satisfied and the Court has subject matter jurisdiction
26 over the Complaint in Interpleader.

27 ///

28 b. *The Court has Subject Matter Jurisdiction*

1 *over the Cross-Claim*

2 Cross-Claimants filed a Cross-Claim against Cross-
3 Defendants, seeking declaratory relief that Cross-
4 Defendants did not have an enforceable Lien for
5 attorneys' fees against Cross-Claimants or the Policy
6 proceeds. Cross-Cl. ¶ 9, ECF No. 22.

7 The Court has subject matter jurisdiction over the
8 Cross-Claim against LLG and Lysaght. Pursuant to FRCP
9 13(g), a pleading "may state as a cross-claim any claim
10 by one party against a co-party if the claim arises out
11 of the transaction or occurrence that is the subject
12 matter of the original action." Here, the declaratory
13 relief claim regarding the enforcement of the Lien
14 arose out of the "transaction or occurrence" underlying
15 the Complaint; that is, the enforceability of the Lien
16 would have had a bearing on who was entitled to the
17 interpled funds amongst Rabadi, Biltagi, Alturk, and
18 LLG, the Defendants in Interpleader. Because the
19 declaratory relief claim arises out of the "same
20 transaction or occurrence" as the Complaint, the Court
21 has supplemental jurisdiction over it. Fed. R. Civ. P.
22 13(g); see 28 U.S.C. § 1367(a). That Cross-Claimants
23 Rabadi and Biltagi are California citizens and Cross-
24 Defendants LLG and Lysaght are too does not disturb the
25 Court's jurisdiction so long as it has supplemental
26 jurisdiction. Cam-Ful Indus. Inc. v. Fidelity &
27 Deposit Co. of Maryland, 922 F.2d 156 (2d Cir.
28 1991)("[a] cross-claim does not need an independent

1 basis for jurisdiction so long as it satisfies the test
2 for ancillary jurisdiction.").

3 Cross-Defendants aver that Lysaght, an individual,
4 could not be added as a cross-defendant in the cross-
5 claim pursuant to FRCP 13 and that he is not an
6 indispensable or even a proper party because he "has
7 never made a claim individually to any part of the
8 proceeds and has never filed a lien individually" and
9 he "is so irrelevant to the main interpleader complaint
10 that [he was] not named as party thereto." Mot. 10:10-
11 11. Per Rule 13(h), Rules 19 and 20 "govern the
12 addition of a person as a party to counterclaim or
13 cross-claim." Rule 20 deals with permissive joinder of
14 parties. "Persons . . . may be joined" if "any right
15 to relief is asserted against them jointly, severally,
16 or in the alternative with respect to or arising out of
17 the same transaction, occurrence, or series of
18 transactions or occurrences" and "any question
19 of law or fact common to all defendants will arise in
20 the action." Fed. R. Civ. P. 20(2)(A)-(B).

21 Although the parties agree that LLG, rather than
22 Lysaght as an individual, likely held the Lien at issue
23 in the Cross-Claim, Rule 20(2) suggests that as
24 managing partner and acting attorney for LLG, Lysaght
25 was at least a party that could have been permissibly
26 joined. Here, the addition of Lysaght satisfied Rule
27 20(2)(A)-(B). Cross-Claimants' Cross-Claim against LLG
28 and Lysaght "arose out of the same series of

1 occurrences"—the Lien that they claimed applied to the
2 interpled funds. See Orlando Decl. Ex. 3 (speaking on
3 behalf of LLG, Lysaght advised that he "expect[ed]
4 [the] [L]ien to be honored with respect to any proceeds
5 allegedly due to Victoria Rabadi."). And the cross-
6 claim against LLG and Lysaght raised questions of fact
7 or law to both: that is, facts regarding whether Cross-
8 Defendants' Lien is enforceable against Cross-
9 Claimants' policy would help resolve to whom the Court
10 should distribute the interpled funds. Finally, adding
11 Lysaght was done to possibly prevent a multiplicity of
12 suits in the future, should Lysaght have his own claims
13 against Cross-Claimants.

14 Pursuant to Rules 13(g), 13(h), and 20, Cross-
15 Claimants could join Lysaght and the Court maintains
16 supplemental jurisdiction over the Cross-Claim for
17 declaratory relief. Satisfied it has subject matter
18 jurisdiction over the Complaint in Interpleader and the
19 Cross-Claim, the Court now turns to Cross-Defendants'
20 arguments regarding the substantive merits of the
21 Court's Order.

22 c. *Whether the Court Misapprehended Cross-*
23 *Defendants as Beneficiaries to the Policy*

24 Cross-Defendants argue that the Court's Order
25 assumed the "myth" that Cross-Defendants were using
26 their affirmative defenses to "shoehorn [their] way
27 into being recognized as a beneficiary" to the Policy
28 proceeds. Cross-Defs.' Second Reply re Mot. ("Second

1 Reply") 3:15-19. They never claimed to be a
2 beneficiary under the Policy.

3 The evidence belies this argument about whether
4 Cross-Defendants were "beneficiaries" under the Policy,
5 or at least whether they were seeking entitlement to
6 the Policy proceeds. In August 2015, Cross-Defendants
7 sent Transamerica a letter stating that they
8 "expect[ed] [the] [L]ien to be honored with respect to
9 any proceeds allegedly due to Victoria Rabadi," that
10 "[the] [L]ien is intended to reach this Transamerica
11 policy," and advising that Transamerica could "litigate
12 [Cross-Defendants'] entitlement to 30%" of the Policy.
13 Orlando Decl. Ex. 3, at 12. Per Lysaght, he was merely
14 responding to Transamerica after he had "dealt on and
15 off with [Transamerica's attorney] for years in
16 connection with the underlying state court case," and
17 he knew nothing of the Policy. Second Reply 2:11-12.
18 In their Answer to the Complaint in Interpleader,
19 Cross-Defendants admitted that their "[L]ien is valid
20 and enforceable and [they] are entitled to [] 100% of
21 the remaining policy proceeds." Cross-Defs.' Ans. to
22 Compl. ¶ 21, ECF No. 15. And in their Answer to the
23 Cross-Claim, they averred that they were "the only
24 claimant in this case who has made or can legally make
25 [a] lawful claim to the [P]olicy proceeds." Cross-
26 Defs.' Ans. to Cross-Cl. ¶ 9, ECF No. 66.

27 Regardless what Cross-Defendants knew at the time,
28 Transamerica filed the Complaint on the belief that

1 Cross-Defendants were disputing their entitlement to
2 the remaining 30% of Policy proceeds. Compl. ¶ 18.
3 Although Cross-Defendants argue that they were not
4 beneficiaries and "ha[ve] never done anything except
5 get sued," second reply 3:20-21, why did Cross-
6 Defendants not seek to extricate themselves from the
7 Complaint or subsequently the Cross-Claim, instead
8 choosing to assert affirmative defenses and seeking to
9 have the Court reduce or bar Cross-Claimants'
10 entitlement to the funds? Putting aside the semantics
11 of whether or not they are claiming they are the Policy
12 "beneficiaries," Cross-Defendants were at least seeking
13 a stake in the proceeds. To change tack now—and argue
14 that in the Motion for Summary Judgment they were only
15 burdened with showing a jury should decide their
16 affirmative defenses—is disingenuous.

17 Cross-Defendants argue that rather than trying to
18 claim beneficiary status, they were using their
19 affirmative defenses to diminish Cross-Claimants' claim
20 to the Policy proceeds. Cross-Defendants seize on the
21 Court's statement in its March 2016 Order re Cross-
22 Claimants' Motion to Strike Affirmative Defenses in
23 Cross-Defendants' Answer to the Complaint: "[Cross-
24 Defendants'] affirmative defenses directly impact this
25 Court's determination of the proper recipient of the
26 proceeds. *If* [Cross-Defendants] prevail on [their]
27 affirmative defenses, [Cross-Claimants'] claim to the
28 Policy proceeds will be reduced or barred." ECF No.

1 51, at 5:8-13 (emphasis added). The Court's March 2016
2 Order said it would possibly reduce Cross-Claimants'
3 claim to the Policy proceeds *if* Cross-Defendants'
4 affirmative defenses succeeded. The Court concluded
5 they did not in its Summary Judgment Order. The Court
6 reasoned that the facts were too sparse to conclude
7 there were no genuine disputes of material fact whether
8 the Policy was illegal, and the Policy was not
9 necessarily a STOLI policy as it was distinguishable
10 from some of the cases Cross-Defendants cited. Cross-
11 Defs.' Mot. for Summ. J. 27:11-16, 30:7-9, ECF No. 118.
12 And while the Court acknowledged that the conspiracy
13 claim, in isolation, may have had legs, Cross-
14 Defendants provided little guidance as to why the Court
15 could first bar Cross-Claimants' recovery of the Policy
16 proceeds and then "award [Cross-Defendants'] all funds
17 deposited by [Transamerica]." Cross-Defendants' Proposed J.
18 to Mot. for Summ. J. 1:12-14, ECF No. 118-2.

19 In its Summary Judgment Order, the Court
20 acknowledged that even if the validity of Cross-
21 Defendants' affirmative defenses could feasibly bar or
22 reduce Cross-Claimants' claims to the Policy (which
23 they did not), "dispute[s] remained" as to whether the
24 interpled funds should go to Cross-Defendants. It is
25 curious that in one breath Cross-Defendants argue that
26 they are mere "officers of the court under an
27 obligation" to shine a light on the "criminal
28 enterprise,"—that is, only pursuing their affirmative

1 defenses—but in another breath Cross-Defendants ask the
2 Court to conclude Alturk lacks alienage jurisdiction,
3 dismiss her from the case, and then “[a]ward 44% of the
4 interpled funds to Lysaght Law Group LLP.” Suppl. Mem.
5 6:21-27. Whether or not Cross-Defendants want to label
6 themselves beneficiaries, they still do not show how or
7 why they are entitled to the interpled funds after
8 Cross-Claimants’ portion is barred or reduced.

9 d. *Policy Illegality and Lien Enforceability*

10 Cross-Defendants aver that it was improper for the
11 Court to presume it needed to confirm that the Lien
12 applied to the Policy proceeds and that the Lien was
13 established through an “independent action.” Second
14 Reply 1:12-14. Cross-Defendants’ affirmative defenses
15 and participation in the interpleader action are
16 unaffected by whether it has established the Lien’s
17 validity; Cross-Defendants did not need to sue anyone
18 regarding their Lien to participate in this Action.
19 Id. at 5:25-27. By participating in this litigation,
20 all they were trying to show were “sufficient facts to
21 get to the jury that the [State Court Rabadis] made a
22 deal to get paid under the table from a common pool of
23 illicit proceeds of which these death benefits were a
24 party.” Mot. 9:10-13. Cross-Defendants did not meet
25 their burden. Moreover, they repeatedly entwined their
26 Lien with the Policy proceeds and the alleged Khader
27 “conspiracy,” arguing that the State Court Rabadis were
28 part of the same conspiracy that was a “backdoor

1 effort[] to avoid [Cross-Defendants'] contingency fee"
2 or that the State Court Rabadis entered the Khader
3 conspiracy to cheat Cross-Defendants out of the fees
4 they sought to salvage through the Lien. Cross-Defs.'
5 Mot for Summ J. 24:10-21, ECF No. 118. Even taking
6 away the issue of the Lien, Cross-Defendants do not
7 sketch out how a jury would determine the State Court
8 Rabadis were paid the unlawful Policy proceeds and then
9 conclude Cross-Defendants were entitled to the proceeds
10 from said illegal Policy.

11 The Court finds itself rehashing its analysis
12 already made in the Order.⁸ Because a Rule 59(e) or
13 Rule 60(b) motion "may not be used to re-litigate old
14 matters, or to raise arguments or present evidence that
15 could have been raised prior to the entry of judgment,"
16 and Cross-Defendants' arguments do not show newly
17 discovered evidence, an intervening change in
18 controlling law, or manifest errors of law or fact, the
19 Court declines to grant Cross-Defendants' Motion on the
20 basis of this argument. Exxon Shipping Co. v. Baker,
21 554 U.S. 471, 485 n.5 (2008).

22 Because the Court properly had subject matter
23 jurisdiction over the Complaint in Interpleader and the

24
25 ⁸ Cross-Defendants also revisit their arguments about the
26 Policy illegality, which are largely repetitive of those raised
27 in their Motion for Summary Judgment. Compare Second Reply 7:10-
28 15 ("any policy lacking an insurable interest . . . is void ab
initio"), with Reply re Cross-Defs.' Mot. for Summ. J. 8:1-9:28
(STOLI policies that lack an insurable interest are void ab
initio).

1 Cross-Claim, and because Cross-Defendants have not
2 demonstrated unusual circumstances warranting Rule
3 59(e) and Rule 60(b)'s extraordinary relief, the Court
4 denies Cross-Defendants' Motion.

5 **III. CONCLUSION**

6 Based on the foregoing, the Court **DENIES** Cross-
7 Defendants' Motion [166]. As mentioned in the Court's
8 Order granting Cross-Defendants' *Ex Parte* Application,
9 ECF No. 165 at 6:6-11, now that the Court has ruled on
10 their post-judgment motions, Cross-Defendants shall
11 post a supersedeas bond should they seek a stay of
12 disbursement of the interpled funds pending the current
13 Ninth Circuit appeal. **IT IS SO ORDERED.**

14
15 DATED: July 24, 2017

S/ RONALD S.W. LEW

HONORABLE RONALD S.W. LEW
Senior U.S. District Judge

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18 CC: FISCAL, BILL/COSTS
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