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**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

WELLS FARGO BANK, NATIONAL ASSOCIATION,

Plaintiff,

v.

PACCAR FINANCIAL CORP., a Washington corporation; and SIDHU TRUCK LINE, INC., a California corporation,

Defendants.

NO. 1:08-CV-00904-AWI-SMS

ORDER GRANTING PLAINTIFF WELLS FARGO’S MOTION FOR JUDGMENT IN INTERPLEADER AND AWARD OF ATTORNEYS’ FEES AND ENTRY OF DEFAULT JUDGMENT

Pending before the court are Plaintiff Wells Fargo Bank, National Association’s (“Wells Fargo”) motion for discharge from liability and for an award of attorneys’ fees and costs and motion for entry of default judgment in this interpleader action. Defendants PACCAR Financial Corp. (“PACCAR”) and Sidhu Truck Line, Inc. (“Sidhu”) have not filed any oppositions to Plaintiff’s motions.

BACKGROUND

On February 28, 2008, Sidhu deposited check No. 00217398 in the amount of \$6371.39 payable to Sidhu and PACCAR to Sidhu’s account with Wells Fargo. The check was only endorsed by Sidhu and not PACCAR.

On April 23, 2008, PACCAR contacted Wells Fargo and demanded payment of the full amount of the check. Wells Fargo withdrew the proceeds of the check from Sidhu’s account and

1 delivered the funds in the amount of \$6371.39 into the United States District Court Registry.

2 On June 26, 2008, Wells Fargo filed a complaint for interpleader against Defendants.

3 On September 23, 2008, PACCAR answered the complaint. Sidhu did not answer the
4 complaint.

5 On November 12, 2008, Wells Fargo filed a motion for entry of default against Sidhu
6 with a corresponding proof of service.

7 On November 14, 2008, the clerk of the court entered a default entry as to Sidhu for
8 failing to appear, plead, or answer Plaintiff's complaint within the time allowed under the
9 Federal Rules of Civil Procedure.

10 On December 18, 2008, Plaintiff filed a motion for discharge from liability and for an
11 award of attorneys' fees and costs and a motion for entry of default judgment. Defendants have
12 not filed any oppositions to Plaintiff's motions.

13 On January 13, 2009, the court took the matter under submission pursuant to L.R. 78-
14 230(h) and directed Plaintiff to provide evidence that \$315.00 is a reasonable hourly rate in the
15 Fresno legal community.

16 On January 19, 2009, Plaintiff and PACCAR filed a stipulation that all funds remaining
17 in the custody of the clerk after the court exercises its discretion and awards attorneys' fees and
18 after the clerk pays Plaintiff the sum, the remaining balance, if any, shall be payable to
19 PACCAR.

20 On January 22, 2009, Plaintiff filed the declaration of attorney Tamara Lyles ("Ms.
21 Lyles") in support of attorney Robert Fisher's ("Mr. Fisher") hourly rate of \$315.00.

22 DISCUSSION

23 Discharge of Liability

24 Rule 22 provides: "Persons having claims against the plaintiff may be joined as
25 defendants and required to interplead when their claims are such that the plaintiff is or may be
26 exposed to double or multiple liability." Fed. R. Civ. P. 22(1). A party seeking to bring an
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1 interpleader action under Rule 22 must first establish jurisdiction over its claims. Aetna Life Ins.
2 Co. v. Bayona, 223 F.3d 1030, 1033 (9th Cir. 2000). Here, pursuant to 28 U.S.C. §1335(a),
3 Plaintiff holds money of the value of more than \$500 and the two adverse claimants are of
4 diverse citizenship as defined in 28 U.S.C. § 1332.¹ “Interpleader’s primary purpose is not to
5 compensate, but rather to protect stakeholders from multiple liability as well as from the expense
6 of multiple litigation.” Aetna, 223 F.3d at 1034. The principle requirement for interpleader is a
7 real and reasonable fear of double liability or vexatious, conflicting claims. Indianapolis Colts v.
8 Mayor of Baltimore, 741 F.2d 954, 957 (7th Cir. 1984).

9 In this case, Plaintiff has received conflicting claims as to the \$6371.39. Wells Fargo
10 itself has no interest in the \$6371.39. If an interpleading plaintiff has no interest in the stake, the
11 plaintiff should be dismissed. Sun Life Assur. Co. of Canada v. Chan’s Estate, 2003 WL
12 22227881, *2 (N.D. Cal. Sept. 22, 2003). Moreover, Defendants do not object to Wells Fargo
13 being discharged in this action. Thus, Plaintiff’s motion for discharge can be granted.

14 Award of Attorneys’ Fees and Costs

15 Plaintiff asks for attorneys’ fees and costs to compensate it for bringing this interpleader
16 action. Defendants have not objected to Plaintiff’s request for fees and costs. Courts generally
17 have discretion to award attorneys’ fees to a disinterested stakeholder in an interpleader action.
18 Abex Corp. v. Ski’s Enters., Inc., 748 F.2d 513, 516 (9th Cir. 1984). Courts routinely grant such
19 awards absent a showing of bad faith. Schirmer Stevedoring Corp. Ltd. v. Seaboard Stevedoring
20 Corp., 306 F.2d 188, 194-95 (9th Cir. 1962). “The amount of fees to be awarded in an
21 interpleader action is committed to the sound discretion of the district court.” Trustees of
22 Directors Guild of America-Producer Pension Benefits Plans v. Tise, 234 F.3d 415, 426 (9th Cir.
23 2000). The stakeholder will typically be compensated for reasonable attorneys’ fees out of the
24

25 ¹Defendant PACCAR is a Washington corporation with its principal place of business in
26 Bellevue, Washington. Defendant Sidhu is a California corporation with its principal place of
27 business in Bakersfield, California. (Mr. Fisher’s Decla. ¶9 & ¶11.)

1 Eckerhart, 461 U.S. 424, 437 (1983). Additionally, the fee applicant “has the burden of
2 producing satisfactory evidence, in addition to the affidavits of its counsel, that the requested
3 rates are in line with those prevailing in the community for similar services of lawyers of
4 reasonably comparable skill and reputation.” Blum v. Stenson, 465 U.S. 886, 896 n.11 (1984);
5 Schwarz v. Secretary of Health and Human Servs., 73 F.3d 895, 908 (9th Cir. 1995).

6 Accordingly, Wells Fargo has the burden to establish that \$315.00 is a reasonable rate in
7 the Eastern District of California, Fresno area. See Mendenhall v. NTSB, 213 F.3d 464, 471 n.5
8 (9th Cir. 2000) (stating that “[u]nder Ninth Circuit caselaw, . . . the relevant legal community is
9 the ‘forum district.’”); see also A&S Air Conditioning v. John J. Moore Co., 184 Cal. App. 2d
10 617, 621 (1960) (“The determination of reasonable attorneys’ fees is controlled by the amounts
11 customarily charged in the locale of the action . . .”).

12 In support of Mr. Fisher’s hourly rate, Plaintiff submits the declaration of Ms. Lyles, a
13 Fresno attorney. Ms. Lyles states in her declaration: “It is my opinion that \$315 per hour is a
14 reasonable rate in the Fresno legal community for the services provided by Wells Fargo Bank’s
15 attorney . . .” (Ms. Lyles’s Decla. ¶7.) Ms. Lyles further provides: “In my experience, litigators
16 with 20 or more years experience generally bill fees ranging from \$275 to \$400 per hour, with
17 those similar experiences to Wells Fargo Bank’s attorney generally billing between \$300 to \$400
18 per hour.” (Ms. Lyles’s Decla. ¶ 6.) Mr. Fisher has been practicing law for over 30 years. (Ms.
19 Lyles’s Decla. ¶ 5.)

20 Based on Ms. Lyles’s declaration and given that Defendants have not submitted any
21 oppositions to Plaintiff’s request for attorneys’ fees, the court finds that Plaintiff has met its
22 burden of proof that \$315 is a reasonable rate in this case.

23 Default Judgment

24 Rule 55(b)(2) provides that judgment may be entered:

25 By The Court. In all other cases, the party must apply to the court for a default
26 judgment . . . If the party against whom judgment by default is sought has
27 appeared in the action, the party (or, if appearing by representative, the party’s
28 representative) shall be served with written notice of the application for judgment

1 at least 3 days prior to the hearing on such application.

2 Fed. R. Civ. P. 55 (b)(2).

3 Thus, a party in default is only entitled to Rule 55 (b)(2) notice if he has “appeared” in the
4 action. However, the appearance need not necessarily be a formal one, such as one involving a
5 submission or presentation to the court. In limited situations, informal contacts between the
6 parties have sufficed when the party in default has thereby demonstrated a “clear purpose to
7 defend the suit.” Wilson v. Moore & Associates, 564 F.2d 366, 368-69 (9th Cir. 1977).

8 Here Sidhu has not filed a formal appearance nor has it demonstrated a “clear purpose to
9 defend the suit.” It appears that Mr. Fisher and Kevin Sidhu² (“Mr. Sidhu”) had several
10 telephonic conversations about Plaintiff’s interpleader complaint and the possibility of Sidhu
11 defaulting if Sidhu did not file an answer.³ (Mr. Fisher’s Decla. ¶10.) Plaintiff contends that Mr.
12 Sidhu told Mr. Fisher that he was not going to spend money for an attorney in this matter. Id.
13 Based on the evidence before the court, the court finds that Sidhu has not demonstrated a “clear
14 purpose to defend the suit.” Therefore, Defendant Sidhu is not entitled to Rule 55 (b)(2) notice
15 in this matter.

16 In this case, the clerk entered a default entry as to Sidhu for failing to appear, plead, or
17 answer Plaintiff’s complaint. With the entry of default, this court may accept the factual
18 allegations of Plaintiff’s complaint as true. TeleVideo Systems, Inc. v. Heidenthal, 826 F.2d 915,
19 917-918 (9th Cir. 1987) (“Upon default, the factual allegations of the complaint, except those

21 ²Mr. Fisher submits that he believed Mr. Sidhu to be an officer and principal of Sidhu
22 Truck Lines. (Mr. Fisher’s Decla. ¶10.)

23 ³Mr. Fisher submits that he called Mr. Sidhu on several occasions and encouraged him to
24 get an attorney to assert Sidhu’s claim to the proceeds of check No. 00217398. (Mr. Fisher’s
25 Decla. ¶10.) Mr. Fisher alleges that he informed Mr. Sidhu that Sidhu would be placed in default
26 if Sidhu Truck Lines did not answer. Id. Mr. Fisher alleges that Mr. Sidhu stated that he did not
27 know any Fresno attorneys. Id. Mr. Fisher alleges that he located Fresno attorney Paul Franco
and informed Mr. Sidhu that Paul Franco would be receptive to representing Sidhu. Id.
Thereafter, Mr. Fisher alleges that Mr. Sidhu told him that he was not going to spend money for
an attorney in this matter and that he would try to get the money from Wells Fargo a different
way. Id. Mr. Fisher also submits that he personally served Plaintiff’s interpleader complaint
upon Sidhu in Texas. Id.

1 relating to the amount of damage, will be taken as true.”). Thus, based on Plaintiff’s uncontested
2 allegations, they are entitled to relief and this court grants a default judgment as to Sidhu.

3
4 **ORDER**

5 Accordingly, it is hereby ORDERED as follows:

- 6 (1) Plaintiff is discharged from any and all liability on account of any and all claims
7 and demands asserted against Wells Fargo;
- 8 (2) Defendants are restrained from instituting or prosecuting any action in any court
9 related to the rights and obligations of Plaintiff to the Defendant’s with respect to
10 check No. 00217398 in the amount of \$6371.39;
- 11 (3) Plaintiff’s motion for attorneys’ fees and costs is granted. Plaintiff is awarded
12 attorneys’ fees in the amount of \$4788.00 and costs in the amount of \$787.55 for a
13 total of \$5575.55 in attorneys’ fees and costs.
- 14 (4) Plaintiff’s motion for entry of a default judgment as to Sidhu is granted; and
- 15 (5) Pursuant to Plaintiff’s and Defendant PACCAR’s stipulation, after the clerk pays
16 Plaintiff attorneys’ fees in the sum of \$5575.55 from the proceeds, the remaining
17 balance of \$795.84 shall be payable to PACCAR.

18
19 IT IS SO ORDERED.

20 Dated: January 27, 2009

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE