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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TRANSAMERICA LIFE INSURANCE
COMPANY,

Plaintiff-in-Interpleader,

v.

CAROLYN YOUNG, as trustee of the
ALVIN M. WHEELER REVOCABLE
TRUST; et al.,

Defendants-in-
Interpleader.

No. 2:14-cv-2314 MCE AC

FINDINGS AND RECOMMENDATIONS

Plaintiff-in-Interpleader (“plaintiff”) moves for the entry of a default judgment against defendant-in-interpleader (“defendant”) Linda Wilson. This proceeding was referred to this court by Local Rule 302(c)(19) (motions for entry of default judgment under Fed. R. Civ. P. 55(b)(2)).

Alvin M. Wheeler (the “decedent”), is the late father of defendants-in-interpleader (“defendants”) James E. Wheeler, Daniel M. Wheeler, Patricia Smith and Linda Wilson. The Alvin M. Wheeler Revocable Trust (“the Trust”) is a trust that the decedent established during his lifetime; defendant Carolyn Young is the Trustee, and is sued in that capacity. Plaintiff insurance company issued a life insurance policy (“Policy”) on the decedent’s life, which was in effect at the time of his death on May 5, 2014. Plaintiff admits its liability under the Policy in the amount of \$86,525.56, plus interest, but is unable to determine who among the several defendants is

1 entitled to receive the proceeds.

2 I. PROCEDURAL BACKGROUND

3 On October 3, 2014, following the California procedure applicable to these interpleader
4 actions, plaintiff deposited \$87,241.47 into the registry of the court (presumably \$86,525.56 plus
5 interest to the date of the deposit). See Cal. Civ. Proc. Code § 386(c) (plaintiff may deposit
6 “[a]ny amount which a plaintiff . . . admits to be payable . . . with the clerk of the court at the time
7 of the filing of the complaint . . . in interpleader without first obtaining an order of the court
8 therefor”) . On April 16, 2015, plaintiff filed an amended interpleader complaint naming all the
9 actual and potential claimants to the Policy proceeds as defendants-in-interpleader.

10 The court exercises diversity jurisdiction over this state-law matter. 28 U.S.C.
11 § 1332(a)(1).¹

12 Plaintiff has filed Linda Wilson’s Waiver of the Service of Summons. It appears that all
13 other defendants have been served.² The time for Wilson to respond to the complaint has
14 expired.³ Plaintiff filed this Motion for Default Judgment (“Motion”) against Wilson on August
15 25, 2015, about a month after Wilson’s time to respond had expired. Plaintiff also served Wilson
16 with the default judgment motion.

17 II. LEGAL STANDARDS

18 A. Motion for Default Judgement

19 The Federal Rules of Civil Procedure provide for the court-ordered entry of a default
20 judgment following the entry of a default by the Clerk of the Court. Fed. R. Civ. P. 55(a), (b)(2);
21 see Eitel v. McCool, 782 F.2d 1470, 1471 (9th Cir. 1986) (distinguishing Clerk’s entry of default
22 under Rule 55(a) from court’s entry of default judgment under Rule 55(b)). It is within the sound
23 discretion of the district court to grant or deny an application for default judgment. Aldabe v.
24 Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980) (per curiam). “The general rule of law is that upon

25 ¹ Federal interpleader jurisdiction does not apply here, as the claimants are not diverse. See 28
26 U.S.C. § 1335(a)(1).

27 ² According to plaintiff, the remaining defendants (that is, all except Wilson), have “reached an
28 agreement for payment of the Policy proceeds.” Motion at 10.

³ At the hearing on this matter, plaintiff’s counsel represented that he had spoken to Wilson about
this matter but that at some point she stopped returning his calls.

1 default the factual allegations of the complaint, except those relating to the amount of damages,
2 will be taken as true.” TeleVideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th
3 Cir. 1987) (per curiam) (quoting Geddes v. United Financial Group, 559 F.2d 557, 560 (9th
4 Cir. 1977) (per curiam)). Those well-pleaded factual allegations must be sufficient to establish
5 plaintiff’s entitlement to a judgment under the applicable law. DIRECTV, Inc. v. Hoa Huynh,
6 503 F.3d 847, 855 (9th Cir. 2007) (district court properly refused to grant default judgment where
7 the complaint failed to state violations of the relevant statute), cert. denied, 555 U.S. 937 (2008);
8 Cripps v. Life Ins. Co. of North America, 980 F.2d 1261, 1267 (9th Cir. 1992) (“claims which are
9 legally insufficient, are not established by default”).

10 Even when a default judgment is warranted, the propriety of its entry is committed to the
11 sound discretion of the court. Eitel, 782 F.2d at 1471 (although all requirements for default
12 judgment were met, “[t]he denial of a default judgment here was within the court’s discretion”).

13 Factors which may be considered by courts in exercising discretion
14 as to the entry of a default judgment include: (1) the possibility of
15 prejudice to the plaintiff, (2) the merits of plaintiff’s substantive
16 claim, (3) the sufficiency of the complaint, (4) the sum of money at
17 stake in the action; (5) the possibility of a dispute concerning
material facts; (6) whether the default was due to excusable neglect,
and (7) the strong policy underlying the Federal Rules of Civil
Procedure favoring decisions on the merits.

18 Eitel, 782 F.2d at 1471-72.

19 B. Interpleader Action Under Cal. Civ. Proc. Code § 386(b)

20 Any person, firm, corporation, association or other entity against
21 whom double or multiple claims are made, or may be made, by two
22 or more persons which are such that they may give rise to double or
multiple liability, may bring an action against the claimants to
compel them to interplead and litigate their several claims.

23 Cal. Civ. Proc. Code § 386(b). Once the plaintiff “admits liability and deposits the money with
24 the court, he or she is discharged from liability and freed from the obligation of participating in
25 the litigation between the claimants.” City of Morgan Hill v. Brown, 71 Cal. App. 4th 1114, 1122
26 (6th Dist. 1999). “The purpose of interpleader is to prevent a multiplicity of suits and double
27 vexation” in respect to one liability. Id. at 1122 (citing Hancock Oil Co. of Cal. v. Independent
28 Distributing Co., 24 Cal. 2d 497, 510 (1944)).

1 III. ANALYSIS

2 A. Procedural Requirements

3 Plaintiff has satisfied the procedural requirements predicate to this court's entry of a
4 default judgment. As discussed above, plaintiff filed a Waiver of the Service of Summons
5 executed by Wilson. See ECF No. 21. Wilson failed to answer or otherwise respond to the
6 summons and complaint within the 60 days allotted. Upon application by plaintiff (ECF No. 26),
7 the Clerk of the Court properly entered a default against Wilson pursuant to Fed. R. Civ. P. 55(a).
8 See ECF No. 27. Plaintiff then filed the current motion for default judgment, showing proper
9 service of the summons and complaint, Wilson's failure to respond, and the entry of default. See
10 ECF No. 28. The motion further avers that Wilson is not a minor, incompetent person, in military
11 service or otherwise exempt from default judgment. See ECF No. 28. Finally, the motion
12 complies with Fed. R. Civ. P. 54(c) in that it requests a remedy that is not different in kind from
13 that prayed for in the Complaint. Thus, the court, in its discretion, may order a default judgment
14 against Wilson based on the Eitel factors, outlined below.

15 B. Eitel Factors

16 1. Factor One: Possibility of Prejudice to Plaintiff

17 The first Eitel factor considers whether the plaintiff would suffer prejudice if default
18 judgment is not entered, and such potential prejudice to the plaintiff militates in favor of granting
19 a default judgment. Here, plaintiff would be prejudiced if the court did not enter a default
20 judgment, since plaintiff would be without another recourse for relief. See PepsiCo, Inc. v.
21 California Security Cans, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002). Accordingly, the first
22 Eitel factor favors the entry of default judgment.

23 2. Factors Two and Three: The Merits and the Sufficiency of the Complaint

24 The undersigned considers the merits of plaintiff's substantive claims and the sufficiency
25 of the complaint together because of the relatedness of the two inquiries. The undersigned must
26 consider whether the allegations in the complaint are sufficient to state a claim that supports the
27 relief sought. See Cripps, 980 F.2d at 1267 ("claims which are legally insufficient, are not
28 established by default").

1 Plaintiff states a claim for interpleader where it alleges that (1) the proceeds of the Policy
2 are claimed, or may be claimed, by all the parties against whom relief is demanded, and
3 (2) plaintiff is a “disinterested stakeholder” in that it does not claim any interest in the proceeds of
4 the Policy. See Hancock Oil Co., 24 Cal. 2d at 502-03 (setting out common law elements as
5 modified by Section 386(b)); Pacific Loan Management Corp. v. Superior Court, 196 Cal.
6 App. 3d 1485, 1489 (6th Dist. 1987) (the interpleader statute “requires only that the stakeholder
7 file a verified pleading disclaiming any interest in the money or property claimed”).⁴

8 a. Conflicting actual or potential claims

9 According to the complaint, each defendant, including Wilson, has made a claim for the
10 proceeds of the Policy, or has a potential claim for the proceeds of the Policy.⁵ The interpleader
11 statute may be used where multiple claims “are made, *or may be made*” against the Policy
12 proceeds. See Cal. Civ. Proc. Code § 386(b) (emphasis added). In particular, Wilson, as a
13 daughter and heir to decedent, is a “potential beneficiar[y] of Alvin M. Wheeler’s estate,” of
14 which the Policy proceeds are, or potentially are, a part. See Complaint ¶ 38.

15 b. Disinterested stakeholder

16 Plaintiff admits that it is obligated to pay out the policy proceeds, plus interest. Complaint

17
18 ⁴ The two additional elements of the common law claim were removed when Section 386(b) was
19 enacted. The common law requirement that “all of the adverse titles or claims must be
20 dependent, or be derived from a common source,” is no longer an element of the claim. Hancock
21 Oil Co., 24 Cal. 2d at 503 (the statute “directly abrogates the common law requirement that all the
22 adverse titles or claims must be dependent or be derived from a common source”). The
23 requirement that the plaintiff “must have incurred no independent liability” to any of the
24 claimants, is also no longer an element of the claim. Pacific Loan, 196 Cal. App. 3d at 1489
25 (“[t]he true test of suitability for interpleader is the stakeholder’s disavowal of interest in the
26 property sought to be interpleaded, coupled with the perceived ability of the court to resolve the
27 entire controversy as to entitlement to that property without need for the stakeholder to be a party
28 to the suit,” so that “[i]f a claimant of these funds also has an independent right of action against
the stakeholder, he is free to sue him separately”).

⁵ See Complaint ¶¶ 33 (“Carolyn Young seeks the Policy benefits on behalf of the Trust”),
35 (James E. and Daniel M. Wheeler “claim to be entitled to the Policy benefits as beneficiaries
of the Trust”), 36 (“James E. Wheeler alternatively claims to be entitled to the Policy benefits
based on the December 9, 2009 beneficiary designation”), 37 (“Daniel M. Wheeler alternatively
claims to be entitled to the Policy benefits based on the original August 5, 2009 beneficiary
designation in the Application”), 38 (the decedent’s daughters, “Patricia Smith and Linda Wilson
are potential beneficiaries of Alvin M. Wheeler’s estate”).

1 ¶ 45. It further alleges that it “claims no interest in the Policy Proceeds,” and “is a mere
2 stakeholder in this action.” Complaint ¶ 44.

3 Plaintiff has accordingly alleged facts sufficient to support an interpleader claim against
4 Wilson.

5 3. Factor Four: The Sum of Money at Stake in the Action

6 Under the fourth factor cited in Eitel, “the court must consider the amount of money at
7 stake in relation to the seriousness of Defendant’s conduct.” PepsiCo, Inc., 238 F. Supp. 2d
8 at 1177. The money at stake in this litigation is the \$87,241.47 which plaintiff has deposited with
9 the court. However, it is not clear whether this sum favors or disfavors default judgment, since
10 the judgment sought is only to enjoin Wilson from suing *plaintiff* over the money. The proposed
11 default judgment does not purport to preclude plaintiff from making a claim for the money as
12 against the other defendants, and no party has briefed the court on how a default judgment here
13 would, or would not, affect Wilson’s ability to make a claim for the funds *against the other*
14 *defendants*.

15 4. Factor Five: The Possibility of a Dispute Concerning Material Facts

16 The underlying facts involving the various iterations of the trust and the Policy, and the
17 state court litigation about them, are a bit convoluted. See Complaint ¶¶ 11-39. However, the
18 basic fact that each of the defendants is now an actual or potential claimant to the funds does not
19 appear to be subject to any dispute. Assuming the truth of the well-pleaded facts in the
20 complaint, each of the defendant children of the decedent, as well as and the Trustee of the Trust,
21 all have actual or potential claims on the proceeds of the Policy, and the plaintiff has no claim on
22 the proceeds.

23 5. Factor Six: Whether the Default Was Due to Excusable Neglect

24 Upon review of the record before the Court, and based upon the representations of
25 plaintiff’s counsel at the hearing, the undersigned finds that the default was not the result of
26 excusable neglect. Plaintiff properly served Wilson with the summons and complaint. Despite
27 ample notice of this lawsuit and plaintiff’s intention to seek a default judgment, Wilson has not
28 appeared in this action to date. In addition, plaintiff’s counsel has communicated with Wilson by

1 telephone about the case, but Wilson at some point stopped returning counsel's calls. Thus, the
2 record suggests that defendant has simply chosen not to defend this action. Accordingly, this
3 Eitel factor favors the entry of a default judgment.

4 6. Factor Seven: Policy Favoring Decisions on the Merits

5 "Cases should be decided upon their merits whenever reasonably possible." Eitel, 782
6 F.2d at 1472. However, where a defendant's failure to appear "makes a decision on the merits
7 impracticable, if not impossible," entry of default judgment is warranted. Pepsico, Inc., 238 F.
8 Supp. 2d at 1177. Therefore, where as here, defendants have failed to appear or respond –
9 making a decision on the merits impossible – the entry of default judgment is warranted, as
10 district courts have concluded with regularity. See, e.g., Microsoft Corp. v. Nop, 549 F. Supp. 2d
11 1233, 1237 (E.D. Cal. 2008) (England, J.) ("defendant's failure to appear and defend against
12 plaintiff's claims has made a decision on the merits impossible in this case"); Craigslist, Inc. v.
13 Naturemarket, Inc., 694 F. Supp. 2d 1039, 1061 (N.D. Cal. 2010) (same). Accordingly, although
14 the undersigned is cognizant of the policy in favor of decisions on the merits – and consistent
15 with existing policy would prefer that this case be resolved on the merits – that policy does not,
16 by itself, preclude the entry of default judgment.

17 III. CONCLUSION

18 For the reasons stated above, IT IS HEREBY RECOMMENDED that:

19 1. Plaintiff's motion for default judgment against defendant Linda Wilson (ECF No. 14),
20 be GRANTED.


21 2. The court APPROVE the proposed judgment submitted by plaintiff (ECF No. 28-4);
22 and

23 3. Plaintiff be ORDERED to file dispositional documents within 30 days of the entry of
24 the default judgment, based upon its representation that all remaining defendants have "reached
25 an agreement for payment of the Policy proceeds."

26 These findings and recommendations are submitted to the United States District Judge
27 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty one days
28 after being served with these findings and recommendations, any party may file written

1 objections with the court and serve a copy on all parties. Id.; see also Local Rule 304(b). Such a
2 document should be captioned “Objections to Magistrate Judge’s Findings and
3 Recommendations.” Any response to the objections shall be filed with the court and served on all
4 parties within fourteen days after service of the objections. Local Rule 304(d). Failure to file
5 objections within the specified time may waive the right to appeal the District Court’s order.
6 Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57
7 (9th Cir. 1991).

8 DATED: October 13, 2015

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10 ALLISON CLAIRE
11 UNITED STATES MAGISTRATE JUDGE
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