

(“ERISA”) to resolve competing claims to certain pension funds accrued and fully vested on behalf of Irena Opalinska, deceased, under the PENSION PLAN.

2. Defendants, DOROTA OPALINSKA CHABAN and the ESTATE OF IRENA OPALINSKA, are adverse claimants to certain pension funds accrued and fully vested on behalf of Irena Opalinska, deceased, under the PENSION PLAN.

3. DOROTA OPALINSKA CHABAN, both individually and in her capacity as Administrator of the ESTATE OF IRENA OPALINSKA, has been duly served with the Complaint in Interpleader and DOROTA OPALINSKA CHABAN and the ESTATE OF IRENA OPALINSKA have appeared through counsel.

4. On November 9, 2010, pursuant to Order of this Court, the PENSION PLAN and PLAN ADMINISTRATOR deposited with the Clerk of the Court its admitted liability in the total sum of ONE HUNDRED TWENTY-NINE THOUSAND FOUR HUNDRED THIRTY-ONE and 20/100 DOLLARS (\$129,431.20), representing the funds accrued and fully vested on behalf of Irena Opalinska, deceased, under the PENSION PLAN into an interest-bearing account subject to further order of this Court indicating as to who among the Defendants the admitted liability should be distributed, in keeping with the Clerk’s normal practice, pending further Order of this Court.

5. The PENSION PLAN and PLAN ADMINISTRATOR are a neutral stakeholders and have done all that is required to perfect their interpleader action, which is not part of their ordinary course of business.

6. The PENSION PLAN and PLAN ADMINISTRATOR have properly served a copy of this Motion for Final Judgment Order in Interpleader on the Defendants.

7. The PENSION PLAN and PLAN ADMINISTRATOR are entitled to recover their reasonable attorneys fees' and court costs actually incurred in brining this interpleader action. *Aaron v. Mahl*, 550 F. 3d 659, 667 (7th Cir. 2008).

8. The PENSION PLAN and PLAN ADMINISTRATOR supports their request for a fee award with the attached Affidavit of Jennifer S. Stegmaier, which provides: (1) a detailed description of the services rendered, the amount of time spent, the hourly rate, and the total amount claimed; and (2) a summary of relevant qualifications and experience. A true and correct copy of the Affidavit of Jennifer S. Stegmaier is attached hereto and incorporated by reference herein as Exhibit 1.

9. The PENSION PLAN and PLAN ADMINISTRATOR submit their proposed Final Judgment Order in Interpleader to the court pursuant to Judge Darrah's Case Management Procedures.

WHEREFORE, Plaintiffs, CHICAGO ORAL & MAXILLOFACIAL SURGERY, LTD. DEFINED BENEFIT PENSION PLAN & TRUST ("PENSION PLAN") and CHICAGO ORAL & MAXILLOFACIAL SURGERY, LTD., as Plan Administrator for CHICAGO ORAL & MAXILLOFACIAL SURGERY, LTD. DEFINED BENEFIT PENSION PLAN & TRUST ("PLAN ADMINISTRATOR"), respectfully request that the Court enter an Order:

- A. Entering judgment in favor of the PENSION PLAN and PLAN ADMINISTRATOR and against the Defendants, DOROTA OPALINSKA CHABAN and the ESTATE OF IRENA OPALINSKA;
- B. Releasing and discharging PENSION PLAN, PLAN ADMINISTRATOR, CHICAGO ORAL & MAXILLOFACIAL SURGERY, LTD., all fiduciaries acting on behalf of the PENSION PLAN, including, Neil Hagen and Diane Hagen, individually and as Trustees of the PENSION PLAN, and each of their respective successors, assigns, representatives, agents, attorneys, and all of their affiliated companies, including officers, directors and employees from any and all liability to Defendants, DOROTA OPALINSKA CHABAN and the ESTATE OF IRENA OPALINSKA;

- C. Releasing and discharging PENSION PLAN, PLAN ADMINISTRATOR, CHICAGO ORAL & MAXILLOFACIAL SURGERY, LTD., all fiduciaries acting on behalf of the PENSION PLAN, including, Neil Hagen and Diane Hagen, individually and as Trustees of the PENSION PLAN, and each of their respective successors, assigns, representatives, agents, attorneys, and all of their affiliated companies, including officers, directors and employees from any and all liability for the payment or withholding of taxes for the pension funds accrued and fully vested on behalf of Irena Opalinska under the PENSION PLAN pursuant to IRC Section 3405(c) or any other provision of the Internal Revenue Code, said responsibility being solely on the party to whom the court finds is entitled to receive the pension funds accrued and fully vested on behalf of Irena Opalinska under the PENSION PLAN;
- D. Permanently and perpetually restraining and enjoining Defendants, DOROTA OPALINSKA CHABAN and the ESTATE OF IRENA OPALINSKA from filing or prosecuting any claim in any federal, state or administrative court or other forum with respect to the pension funds accrued and fully vested on behalf of Irena Opalinska under the PENSION PLAN;
- E. Excusing PENSION PLAN and PLAN ADMINISTRATOR from further attendance upon this cause and dismissing with prejudice PENSION PLAN and PLAN ADMINISTRATOR from this cause with an express finding that, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, there is no just reason for delaying either the enforcement or appeal of this Order or both;
- F. Requiring the Defendants, DOROTA OPALINSKA CHABAN and the ESTATE OF IRENA OPALINSKA to litigate their entitlement to the pension funds accrued and fully vested on behalf of Irena Opalinska under the PENSION PLAN among themselves without further involving PENSION PLAN and PLAN ADMINISTRATOR;
- G. Awarding PENSION PLAN and PLAN ADMINISTRATOR its reasonable attorneys' fees and costs, which it incurred in bringing this Complaint for Interpleader. This amount shall be deducted from and paid out of its total admitted liability, which is on deposit with the Registry of this Court; and
- H. Granting PENSION PLAN and PLAN ADMINISTRATOR such other and further relief as this Court deems just and appropriate.

