

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE LINCOLN NATIONAL LIFE
INSURANCE COMPANY,

Plaintiff,

v.

FRANK HARON WEINER, PLC, and
INTERNAL REVENUE SERVICE,

Defendants.

Case No. 2:14-cv-11243
Honorable Laurie J. Michelson
Magistrate Judge Mona K. Majzoub

**OPINION AND ORDER GRANTING THE UNITED STATES' MOTION FOR
SUMMARY JUDGMENT [22] AND DENYING FRANK HARON WEINER'S
MOTION FOR SUMMARY JUDGMENT [20]**

Defendant United States of America and Defendant Frank Haron Weiner, PLC (“FHW”) both claim priority to the money formerly held in non-party Bradley Mali’s 401(k) account with Plaintiff Lincoln National Life Insurance Company (and held in Mali’s IRA account with non-party Morgan Stanley Smith Barney, LLC—the subject of another case before the undersigned). FHW’s claim to the money is based on a \$39,463.14 judgment it received against Mali, its efforts to garnish the two retirement accounts to satisfy the judgment, and a subsequent state-court order directing Morgan Stanley and Lincoln National to use the funds in the accounts they held for Mali to collectively pay FHW \$39,463.14. The United States’ claim to the money is based on its enforcement of federal tax liens that attached to Mali’s property, including his retirement accounts with Lincoln National and Morgan Stanley. Lincoln National, faced with these competing claims, filed a state-court interpleader action. (*See* Dkt. 1.) The United States removed that action here. The parties have since stipulated to, and the Court ordered, Lincoln National’s dismissal upon its deposit of the funds at issue in this case with the Court. (Dkt. 23.)

This case is a companion to a case with identical facts (at least in all material respects) and legal issues that has also been assigned to the undersigned. *Morgan Stanley Smith Barney, LLC v. Frank Haron Weiner, PLC*, No. 14-11241 (E.D. Mich. filed Mar. 26, 2014). FHW's and the United States' arguments in their motions for summary judgment are the same as those they make in *Morgan Stanley*. As such, for the reasons set forth in this Court's March 5, 2015 Opinion and Order in *Morgan Stanley*, the Court GRANTS the United States' motion for summary judgment (Dkt. 22) and DENIES Frank Haron Weiner, PLC's (Dkt. 20).

Judgment will not enter until the parties advise the Court that Lincoln National has deposited the funds with the Clerk of the Court for the Eastern District of Michigan and that those funds have been disbursed to the United States.

SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Dated: March 5, 2015

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on March 5, 2015.

s/Jane Johnson
Case Manager to
Honorable Laurie J. Michelson