

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

USABLE LIFE COMPANY,)
)
 Plaintiff,)
)
 v.)
)
 DIANA FISHER;)
 BRAIDEN A. ANDERSON, a minor;)
 MAKAYLA LEE BANKS, a minor;)
 DALLAS MICHAEL CASTLEMAN, a minor;)
 SHANE TAYLOR HARLESS-BANKS, a minor;)
 DANICA LEANN HARLESS-BANKS, a minor;)
 SHELBY JO HUNT, a minor;)
 JORDON SCOTT LOPEZ, a minor;)
 AUSTIN THOMAS, a minor;)
 JULIA L. RUPP and J.L. ROBERTSON)
 d/b/a/ RUPP FUNERAL HOME)
)
 Defendants.)

Case No. 11-06112-CV-DGK

**ORDER PARTIALLY GRANTING JOINT MOTION FOR DISCHARGE,
DISTRIBUTION OF FUNDS, AND DISMISSAL**

This case is an interpleader action concerning who is entitled to the benefits of Decedent Danny Lee Bank’s life insurance policy (“the Policy”).

Now before the Court is Plaintiff USAbLe Life Company (“USAbLe”) and Defendant Rupp Funeral Home’s (“Rupp”) Stipulation and Agreed Order of Discharge, Permanent Injunction, Distribution of Interpleaded Funds, and Dismissal (doc. 35). USAbLe and Rupp suggest that USAbLe has performed all of its obligations under the Policy and the Court should: (1) disburse \$7,681.76 of the interpleaded funds to Rupp to pay for the Decedent’s funeral expenses; (2) discharge USAbLe from the case; (3) permanently enjoin the remaining defendants from commencing or continuing any proceeding against USAbLe in relation to the interpleaded funds or the Policy; (4) disburse \$1,000.00 of the interpleaded funds to USAbLe’s attorneys as costs which were reasonable and necessarily incurred by USAbLe in prosecuting this action; and then (5)

distribute the remaining interpleaded funds in a subsequent ruling. Finding that disbursement of the interpleaded funds to pay for the Decedent's funeral expenses is appropriate at the present time, but that discharge of US Able and an order enjoining the remaining defendants from any proceedings against the interpleaded funds is not yet appropriate, the motion is GRANTED IN PART.

The Court makes the following findings of fact:

1. All defendants have been validly served and the Court has jurisdiction over the persons of all defendants.

2. This Court has subject-matter jurisdiction over this case.

3. On January 18, 2010, Danny Lee Banks ("Decedent") died.

4. At the time of his death, Decedent was enrolled for a sum of \$20,000 ("the Benefit") in a group life insurance plan sponsored by his employer, I&M Machine & Fabrication, which was assigned policy number K0031970, and payable by Plaintiff US Able to an appropriate beneficiary or beneficiaries.

5. The Decedent did not name a beneficiary of the Benefit when he became a participant in the group life insurance plan.

6. Defendants Diana Fisher ("Fisher"); Braiden A. Anderson, a minor ("Anderson"); Makayla Lee Banks, a minor ("Banks"); Dallas Michael Castleman, a minor ("Castleman"); Danica LeAnn Harless-Banks, a minor ("Danica Harless-Banks"); Shane Taylor Harless-Anderson, a minor ("Shane Harless-Banks"); Shelby Jo Hunt, a minor ("Hunt"); Jordon Scott Lopez, a minor ("Lopez"); Austin Thomas, a minor ("Thomas"), and Julia L. Rupp and J.L. Robertson d/b/a/ Rupp Funeral Home ("Rupp") are potentially competing claimants to the Benefit.

7. In addition to making a claim for the Benefit, Defendant Fisher executed an assignment of \$7,681.76 of the Benefit to Rupp Funeral Home to pay for Decedent's funeral expenses.

8. The sum of \$21,430.14 that USAble deposited with the Court on February 10, 2011 represents all of the benefits payable under the Policies as a result of the Decedent's death plus accrued interest to December 7, 2010.

9. As of March 21, 2012, only Defendant Rupp has formally responded and made a claim to any portion of the Benefit, but other defendants/potential claimants have contacted the Court and expressed an interest in claiming a portion of the Benefit.

Based upon these findings, the Court ORDERS the following:

1. The Clerk of the Court is directed to disburse from the funds on deposit the sum of \$7,681.76, payable to "Rupp Funeral Home" and deliverable to Keith J. Schieber at 1009-D West St. Maartens Drive, St. Joseph, Missouri, 64506 as payment in full for Decedent's funeral expenses.

2. The remainder of the funds on deposit shall be held by the Clerk and distributed in accordance with a future ruling from the Court.

3. The request to pay Baker, Donelson, Bearman, Caldwell & Berkowitz, PC \$1,000.00 to reimburse USAble a portion of its reasonable attorneys' fees and costs incurred in this action is taken under advisement.

IT IS SO ORDERED.

Date: March 22, 2012

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT