

JS-6

CC: FISCAL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PRIMERICA LIFE INSURANCE
COMPANY,

Plaintiff,

v.

WILBERT HOOD, JR., et al.,

Defendants.

Case No. 2:21-cv-02189-FLA (AGRx)

**AMENDED ORDER GRANTING
DEFENDANT WILBERT HOOD
JR.'S APPLICATION FOR
DEFAULT JUDGMENT AGAINST
DEFENDANT AMERICAN
FUNERAL FINANCIAL, LLC [DKT.
43] AND DEFENDANTS WILBERT
HOOD, JR. AND LATRESA KIDD-
HOOD'S MOTION FOR
INTERPLEADER DISBURSEMENT
[DKT. 44]**

RULING

Before the court are Defendant Wilbert Hood, Jr.’s (“Hood”) Application for Default Judgment against Defendant American Funeral Financial, LLC (“AFF”) (the “Application”), and Defendants Hood and Latresa Kidd-Hood’s (“Kidd-Hood”) Joint Motion for Entry of Final Judgment and Order of Interpleader Disbursement (the “Motion”). Dkt. 43; Dkt. 44. On June 24, 2022, the court found this matter appropriate for resolution without oral argument and vacated the hearing set for July 1, 2022. Dkt. 45; *see* Fed. R. Civ. P. 78(b); Local Rule 7-15.

For the reasons stated herein, the court GRANTS the Application for Default Judgment as modified and GRANTS the Motion for Interpleader Disbursement in its entirety.

BACKGROUND

I. Procedural History

On March 10, 2021, Plaintiff Primerica Life Insurance Company (“Primerica” or “Plaintiff”) filed this interpleader action, naming Hood, Kidd-Hood, and AFF (collectively, “Defendants”) as defendants. Dkt. 1 (“Compl.”). Hood and Kidd-Hood answered on April 13, 2021, and April 21, 2021, respectively. Dkts. 20, 25.

AFF has not appeared in this action. Dkt. 43-2 (Declaration of Michael Hoover, “Hoover Decl.”) ¶ 6; Dkt. 43-3 (Declaration of Leroy Williams, “Williams Decl.”) ¶ 6. The summons and Complaint were served on AFF on March 30, 2021. Dkt. 18; Hoover Decl. ¶ 4; Williams Decl. ¶ 4. AFF’s response to the Complaint was due by April 20, 2021. Hoover Decl. ¶ 5; Williams Decl. ¶ 5. The court entered default against AFF on May 12, 2021. Dkt. 28.

On June 24, 2021, Primerica, Hood, and Kidd-Hood stipulated to the dismissal of Primerica from this action and the disbursement of a portion of the stake to Primerica to cover its reasonable costs and attorney’s fees. Dkt. 32. The remaining parties are now Defendants Hood, Kidd-Hood, and AFF.

Hood filed the Application for Default Judgment on May 23, 2022. Dkt. 43.

1 On the same day, Hood and Kidd-Hood jointly filed the Motion for Interpleader
2 Disbursement, seeking to have the funds at issue disbursed to them in accordance with
3 their settlement agreement. Dkt. 44 ¶ 9. Specifically, Hood and Kidd-Hood agreed to
4 an even split of funds between them, with any accumulated interest going to Kid-
5 Hood. *Id.* at 11.

6 **II. Factual Background**

7 “The general rule of law is that upon default the factual allegations of the
8 complaint, except those relating to the amount of damages, will be taken as true.”
9 *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987) (citation and
10 quotation marks omitted). Thus, for purposes of the subject motion, the court takes
11 the following facts, which are pleaded in the Complaint, as true:

12 In 2013, Primerica issued a life insurance policy (the “Policy”) to Curtis Hood
13 (the “Insured”), with Kidd-Hood designated as the beneficiary. Compl. ¶ 9-10. In
14 May 2019, the beneficiary changed from Kidd-Hood to Hood. *Id.* ¶ 10.

15 Following the Insured’s death, Hood made a claim under the Policy for the
16 benefit, which at that time was \$350,000. *Id.* ¶ 12. Kidd-Hood also asserted a claim
17 to the entire benefit on the basis that the change of beneficiary was fraudulent or
18 otherwise invalid. *Id.* ¶ 15. Primerica believes the Policy was paid for in part by
19 community property funds while Kidd-Hood and the Insured were married, potentially
20 entitling Kidd-Hood to an unknown portion of the Policy benefit. *Id.* Primerica was
21 also informed Hood had assigned \$65,528.48 of the benefit to AFF, a limited liability
22 company. *Id.* ¶¶ 4, 15.

23 Primerica interpleaded the three named defendants to determine what portion of
24 the Policy benefit is payable to each defendant. *Id.* at 20-22. Primerica admitted
25 liability under the policy in the amount of \$350,000, plus interest. *Id.* at 23.
26 Primerica deposited the total amount, after interest, of \$353,797.26 with the court on
27 June 29, 2021. Dkt. 33. On July 2, 2021, the court awarded attorney’s fees to
28 Primerica in the amount of \$4,295.75, leaving a total of \$349,501.51 at issue. Dkt. 36.

Kidd-Hood and Hood have reached an agreement that Hood is entitled to \$174,750.75 of the funds, while Kidd-Hood is entitled to \$174,750.76 plus all accumulated interest. Dkt. 44 at 9, 11.

DISCUSSION

I. Procedural Requirements

In this district, a motion for a default judgment must be accompanied by a declaration in compliance with Fed. R. Civ. P. 55(b)(1) and (2), and include the following:

- (a) When and against what party the default was entered;
- (b) The identification of the pleading to which default was entered;
- (c) Whether the defaulting party is an infant or incompetent person, and if so, whether that person is represented by a general guardian, committee, conservator or other representative;
- (d) That the Servicemembers Civil Relief Act (50 U.S.C. App. § 521) does not apply; and
- (e) That notice has been served on the defaulting party, if required by [Fed. R. Civ. P.] 55(b)(2).

Local Rule 55-1.

Here, the Application and supporting materials state: (a) default was entered against Defendant AFF on May 12, 2021; (b) default was entered by a clerk of the court on the operative Complaint; and (c) AFF is believed to not be a minor or incompetent person. *See* Hoover Decl. ¶¶ 2-8; Williams Decl. ¶¶ 2-8. AFF has not appeared in this action. Hoover Decl. ¶ 6. As such, Fed. R. Civ. P. 55(b)(2) does not require notice of an application for default judgment to be served on AFF. Fed. R. Civ. P. 55(b)(2).

Notably, the Application does not address the Servicemembers Civil Relief Act, 50 U.S.C. App. § 521, as required by Local Rule 55-1(d). The Servicemembers Civil Relief Act provides certain additional protections against default judgment for defendants in military service. *See* 50 U.S.C. App. § 521. However, as an LLC, AFF is not an individual or a servicemember. *See* Hoover Decl. ¶ 7; William Decl. ¶ 7.

1 The court, therefore, determines the Servicemembers Civil Relief Act does not apply
2 to this action.

3 Accordingly, the Application meets the procedural requirements of Local Rule
4 55-1.

5 **II. Default Judgment Legal Standard**

6 The court clerk is generally authorized to enter default judgment at a plaintiff's
7 request against a defendant without a court hearing or judicial action if the claim is for
8 "a sum certain or a sum that can be made certain by computation." Fed. R. Civ. P.
9 55(b)(1). In all other cases, the non-defaulting party must apply to the court for a
10 default judgment. Fed. R. Civ. P. 55(b)(2).

11 The purpose of interpleader is not to compensate the plaintiff, but rather to
12 protect stakeholders from multiple liability. *Aetna Life Ins. Co. v. Bayona*, 223 F.3d
13 1030, 1034 (9th Cir. 2000), *as amended on denial of reh'g and reh'g en banc* (Nov. 3,
14 2000). As such, it is appropriate to grant default judgment against a nonappearing
15 defendant in an interpleader action—precluding the defendant from later asserting a
16 claim to the stake, in order to grant the litigants the certainty and finality that an
17 interpleader judgment is intended to provide. *Trustees of IL WU-PMA Pension Plan*
18 *v. Peters*, 660 F. Supp. 2d 1118, 1143-44 (N.D. Cal. 2009). "A named interpleader
19 defendant who fails to answer the interpleader complaint and assert a claim to the res
20 forfeits any claim of entitlement that might have been asserted if service was properly
21 effected on them." *Standard Ins. Co. v. Asuncion*, 43 F. Supp. 3d 1154, 1156 (W.D.
22 Wash. 2014) (internal quotations omitted). Thus, an appearing interpleader defendant
23 may move the court for default judgment against a defaulting defendant. *See*
24 *generally Dang v. Pontier*, Case No. 3:19-cv-01519-GPC-AHG, 2020 WL 5521133
25 (S.D. Cal. July 22, 2020).

26 The court has considerable discretion as to what it may require as a prerequisite
27 to the entry of a default judgment. *TeleVideo*, 826 F.2d at 917. "The court may
28 conduct hearings or make referrals—preserving any federal statutory right to a jury

trial—when, to enter or effectuate judgment, it needs to: (A) conduct an accounting; (B) determine the amount of damages; (C) establish the truth of any allegation by evidence; or (D) investigate any other matter.” Fed. R. Civ. P. 55(b)(2) (paragraph breaks omitted). “The general rule of law is that upon default the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true.” *TeleVideo*, 826 F.2d at 917-18 (citation and quotation marks omitted). However, facts which are not established by the pleadings or claims which are not well-pleaded cannot support a default judgment. *Alan Neuman Prods., Inc. v. Albright*, 862 F.2d 1388, 1392 (9th Cir. 1988).

“Factors which may be considered by courts in exercising discretion as to the entry of a default judgment include: (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff’s substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at 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.” *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

The court considers the *Eitel* factors in turn below.

III. Analysis of *Eitel* Factors

A. Possibility of Prejudice to the Moving Party

Due to the unique nature of an interpleader action, the moving party here is a defendant, rather than a plaintiff; however, the same analysis applies. *See Dang*, 2020 WL 5521133.

As discussed, Hood and Kidd-Hood reached an agreement regarding the division of proceeds. However, the funds cannot be disbursed while AFF remains a party. AFF has not appeared despite proper notice and the passage of more than two years. Without entry of default judgment, Hood and Kidd-Hood are likely to be without recourse due to AFF’s lack of response. *See PepsiCo, Inc. v. Cal. Sec. Cans*, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002) (“If Plaintiffs’ motion for default

1 judgment is not granted, Plaintiffs will likely be without other recourse for
2 recovery.”). Thus, the first *Eitel* factor favors default judgment.

3 **B. Merits of Plaintiff’s Claims and Sufficiency of the Complaint**

4 The next two *Eitel* factors are (1) the merits of the plaintiff’s substantive claim,
5 and (2) the sufficiency of the complaint. *Eitel*, 782 F.2d at 1471-72. The Ninth
6 Circuit has suggested these two factors require a plaintiff to “state a claim on which
7 the [moving party] may recover.” *Danning v. Lavine*, 572 F.2d 1386, 1388 (9th Cir.
8 1978).

9 Unlike traditional litigation between a plaintiff and defendant, this case involves
10 a neutral stakeholder seeking only to resolve the question of its liability. Thus,
11 Primerica does not take sides or allege facts stating a prima facie case against any of
12 the defendants in its Complaint. *See* Compl. Rather, it alleges that there are multiple
13 competing claimants to the Policy’s benefit. *See id.* Courts may grant default
14 judgment in such actions where the complaint adequately alleges the moving party is a
15 beneficiary of a life insurance policy. *See Thrivent Fin. for Lutherans v. Bloomquist*,
16 Case No. 2:17-cv-01555-JCM-NJK, 2018 WL 3312979, at *2-3 (D. Nev. July 3,
17 2018).

18 Here, the Complaint alleges Hood is a named beneficiary of the Policy, while
19 Kidd-Hood has sought to assert a community property interest in the Policy’s
20 proceeds. Hood and Kidd-Hood are the only parties making a claim for the proceeds.
21 Thus, the Complaint sufficiently alleges facts to show their entitlement to the Policy’s
22 benefit. The second and third *Eitel* factors favor entering default judgment.

23 **C. Sum of Money at Stake**

24 Next, the court considers “the amount of money at stake in relation to the
25 seriousness of [the] [d]efendant’s conduct.” *Pepsico*, 238 F. Supp. 2d at 1176; *see*
26 *also Eitel*, 782 F.2d at 1471-72.

27 Here, the amount of money at stake does not warrant denying default judgment.
28 The sum of money at stake is roughly \$350,000, which is not an unreasonable amount

when considering comparable cases. *See United of Omaha Life Ins. Co. v. Kaplan*, Case No. 2:18-cv-03228-PA (PLAx), 2018 WL 6262800, at *1 (C.D. Cal. Oct. 17, 2018) (default judgment granted on \$400,000 life insurance policy); *UNUM Life Ins. Co. of Am. v. Jace*, Case No. 5:15-cv-02265-JGB (SPx), 2017 WL 11636580 (C.D. Cal. June 30, 2017) (default judgment granted on \$282,051.96 life insurance benefit); *Fid. & Guar. Life Ins. Co. v. Canul*, Case No. 1:11-cv-01378-AWI-JLT, 2012 WL 217850, at *1 (E.D. Cal. Jan. 24, 2012), report and recommendation adopted, Case No. 1:11-cv-01378-AWI-JLT, 2012 WL 467697 (E.D. Cal. Feb. 13, 2012) (\$224,737.53 life insurance benefit). The fourth *Eitel* factor weighs in favor of default judgment.

D. Possibility of a Dispute Concerning Material Facts

The court may also consider whether there is a possibility of a dispute between the parties concerning material facts. *Eitel*, 782 F.2d at 1471-72. Here, AFF has not appeared in the action. Nothing in the record before the court has raised a dispute of material fact. Furthermore, the participating defendants have reached a settlement. Dkt. 44 at 9, 11. Thus, it appears no genuine dispute of material fact would preclude granting the Application. The fifth *Eitel* factor weighs in favor of default judgment.

E. Whether Default Was Due to Excusable Neglect

Excusable neglect is unlikely when a defendant is properly served and, therefore, aware of the pending action in court. *Wecosign, Inc. v. IFG Holdings, Inc.*, 845 F. Supp. 2d 1072, 1082 (C.D. Cal. 2012). As it appears AFF was properly served and AFF has not provided any evidence of circumstances constituting excusable neglect, this *Eitel* factor favors entering default judgment.

F. Policy Favoring Decisions on the Merits

“Cases should be decided upon their merits whenever reasonably possible.” *Eitel*, 782 F.2d at 1472. However, “[t]he very fact that [Fed. R. Civ. P.] 55(b) exists shows that this preference, standing alone, is not dispositive.” *Kloepping v. Fireman’s Fund*, No. 3:94-cv-02684-TEH, 1996 WL 75314, at *3 (N.D. Cal. Feb. 13,

1996). The fact that AFF has not participated in the lawsuit and has made no indication that it intends to participate makes it impractical, if not impossible, for the court to render a decision on the merits. Accordingly, while the final *Eitel* factor generally weighs against granting default judgment, the court finds this factor is neutral here.

6 **G. Conclusion on Eitel Factors**

7 In sum, six of the seven *Eitel* factors favor entering default judgment against
8 Defaulting Defendants, while the final factor, the policy favoring a determination on
9 the merits, is neutral. *See Eitel*, 782 F.2d at 1471-72. The court, therefore, finds it
10 appropriate to grant default judgment against AFF. The court now turns to the
11 appropriateness of Hood and Kidd-Hood's requested relief.

12 **IV. Remedy**

13 Hood seeks default judgment against AFF such that AFF shall receive no life
14 insurance proceeds in this case. Hood and Kidd-Hood seek the disbursement of funds
15 on deposit with the court between the two of them according to their agreement.

16 As stated, "[a] named interpleader defendant who fails to answer the
17 interpleader complaint and assert a claim to the res forfeits any claim of entitlement
18 that might have been asserted if service was properly effected on them." *Standard*
19 *Ins. Co.*, 43 F. Supp. 3d at 1156 (internal quotations omitted). Thus, a judgment that
20 AFF shall not receive anything under the Policy benefit is appropriate. Hood and
21 Kidd-Hood are the only remaining parties in the action and are entitled to the
22 disbursement of the interpleaded amount as agreed.

23 **IT IS HEREBY ORDERED:**

24 1. Defendant Wilbert Hood, Jr.'s Application for Default Judgment against
25 Defendant American Funeral Financial, LLC (Dkt. 43) is GRANTED.

26 2. Defendants Wilbert Hood, Jr. and Latresa Kidd-Hood's Joint Motion for
27 Entry of Final Judgment and Order of Interpleader Disbursement (Dkt. 44) is
28 GRANTED.

1 3. American Funeral Financial, LLC shall receive nothing of the life
2 insurance proceeds in this case.

3 4. Pursuant to the agreement of the remaining parties to this action, from the
4 funds on deposit with the court totaling \$349,501.51, Wilbert Hood, Jr. is entitled to
5 receive, and the Clerk shall disburse to him, One Hundred Seventy-Four Thousand
6 Seven Hundred Fifty and Seventy-Five Cents (\$174,750.75), payable to “Interpleader
7 Law, LLC IOLTA” and mailed to: Michael Hoover, Interpleader Law, LLC, 5800
8 One Perkins Place Dr., Suite 2A, Baton Rouge, LA 70808.

9 5. Pursuant to the agreement of the remaining parties to this action, from the
10 Funds on deposit with the court totaling \$349,501.51, Latresa Kidd-Hood is entitled to
11 receive, and the Clerk shall disburse to her, One Hundred Seventy-Four Thousand
12 Seven Hundred Fifty and Seventy-Six Cents (\$174,750.76), payable to “Barilari &
13 Williams, LLP Trust Account” and mailed to: LeRoy A. Williams, Barilari &
14 Williams, LLP, 111 West Ocean Blvd., Suite 429, Long Beach, CA 90803.

15 6. One Hundred Percent (100%) of all accrued interest on the deposited
16 Funds, if any, shall be disbursed to Latresa Kidd-Hood, payable to “Barilari &
17 Williams, LLP Trust Account” and mailed to: LeRoy A. Williams, Barilari &
18 Williams, LLP, 111 West Ocean Blvd., Suite 429, Long Beach, CA 90803.

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1 7. The court DISMISSES the action with prejudice. The court retains
2 jurisdiction to reopen the action within 60 days from the date of this Order, provided
3 any request by a party to do so shall make a showing of good cause.
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5 IT IS SO ORDERED.
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7 Dated: September 14, 2023
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9 FERNANDO L. AENLLE-ROCHA
10 United States District Judge
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