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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

SYMETRA LIFE INSURANCE CO., Plaintiff	CIVIL DOCKET NO. 1:21-CV-02366
VERSUS	CHIEF DISTRICT JUDGE DRELL
FREDERICK SMITH, ET AL., Defendants	MAGISTRATE JUDGE PEREZ-MONTES

MEMORANDUM ORDER

Before the Court is Symetra Life Insurance Company's ("Symetra's") Motion to Determine Reasonableness of Attorney's Fees and Costs. ECF No. 51.

Because Symetra failed to properly support its Motion (ECF No. 51), the Motion is GRANTED IN PART and DENIED IN PART, and Symetra is awarded $594.71 for costs and $4,700 for attorney's fees.

I. Background

This action was instituted as a Complaint in Interpleader, pursuant to 28 U.S.C. § 1335, to determine the correct beneficiary for a $30,000 life insurance policy and a $30,000 accidental death and dismemberment policy issued by Symetra. Rickey Layne Smith, Sr. ("the Insured") was the named insured. Defendants are Fredrick Smith (brother to the Insured), Chicella Smith (wife of the Insured), Rickey Smith, Jr. (son of the Insured), and Rodriguez Washington (son of the Insured). Frederick Smith and Chicella Smith dispute who is to receive the life insurance proceeds. At the behest of Symetra, a succession was opened for Rickey Smith and

Chicella Smith was appointed as Independent Administrator of the estate. ECF No. 30. Symetra amended its Complaint to specify that Chicella Smith was sued in both her individual capacity and in her capacity as administrator of the estate. ECF No. 30.

When Defendants failed to respond to Symetra's Second Amended Complaint, a default judgment was entered against Rickey Smith, Jr., Rodriguez Washington, and Chicella Smith in her capacity as Administrator of the Estate of Rickey Layne Smith, Jr. ECF No. 46. Chicella Smith answered the Second Amended Complaint in her individual capacity. ECF No. 39.

Symetra filed this motion to determine the reasonableness of the attorney's fees and costs ($20,080.21) claimed to have been incurred in this interpleader action. ECF No. 51. Frederick Smith opposes that motion. ECF No. 53.

Frederick Smith and Chicella Smith subsequently filed a "Notice of Partial Settlement" (ECF No. 58), informing the Court they have settled their dispute over the life insurance proceeds, and that the only issue remaining in the case is Symetra's claim for fees and costs.

II. Law and Analysis

"A district court has the authority to award reasonable attorney's fees in interpleader actions. The award of attorney's fees is in the discretion of the district court, and fees are available when the interpleader is a disinterested stakeholder, and is not in substantial controversy with one of the claimants." *Metropolitan Life*

Insurance Co. v. Linnear, 2014 WL 4678713, at * 1 (W.D. La. 2014) (quoting *Rhoades v. Casey,* 196 F.3d 592, 603 (5th Cir. 1999)). "The award must be reasonable." *Southern Farm Bureau Life Insurance Company v. Brown,* 2019 WL 908221, at * 2 n. 5 (W.D. La. 2019) (citing *Rhoades,* 196 F.3d at 603). "Because all that is required in a typical interpleader action is the 'preparation of a petition, the deposit in court or posting of a bond, service on the claimants, and the preparation of an order discharging the stakeholder,' the amount of the attorney's fee award is usually moderate." *Southern Farm Bureau Life Insurance Company,* 2019 WL 908221, at * 2 (citing Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 1719 (3d ed. 2001)).[1]

"Courts consider the following factors in determining whether to award fees and costs to an interpleader-plaintiff: (1) whether the case is simple; (2) whether the

[1] "'Interpleader is a device [that] allows a party in possession of money or property belonging to another to join two or more parties asserting mutually exclusive claims to the property or fund in a single suit, thereby freeing the stakeholder from multiple liability or multiple lawsuits' with respect to the property or fund." *State Farm Life Ins. Co. v. Bryant*, 2019 WL 7938266, at *9 (N.D. Tex. 2019) (quoting *Corrigan Dispatch Co. v. Casa Guzman, S.A.*, 696 F.2d 359, 363-64 (5th Cir. 1983)). "An interpleader action typically involves two stages." *Reese v. Sun Life Assurance Co. of Canada*, 483 F. Supp. 3d 407, 410 (W.D. Tex. 2020) (quoting *Rhoades*, 196 F.3d at 600). "In the first stage, the district court decides whether the requirements for rule or statutory interpleader action have been met by determining if there is a single fund at issue and whether there are adverse claimants to that fund." *Id.* "If a court determines that the interpleader action has been properly brought, it 'may enter an order discharging a disinterested stakeholder, who has no claim itself to the disputed funds and has tendered the disputed fund into the court registry, from liability from further claims to the disputed fund and claims regarding entitlement to the disputed fund and the stakeholder's failure to resolve the dispute in the claimant's favor.'" *Reese*, 483 F.Supp.3d at 410 (quoting *Bryant*, 2019 WL 7938266, at *9). "Then, the court will proceed to the second step of the process and 'make a determination of the respective rights of the claimants.'" *Reese*, 483 F.Supp.3d at 410 (quoting *Rhoades*, 196 F.3d at 600).

interpleader-plaintiff performed any unique services for the claimants or the court; (3) whether the interpleader-plaintiff acted in good faith and with diligence; (4) whether the services rendered benefitted the interpleader-plaintiff; and (5) whether the claimants improperly protracted the proceedings." *Metropolitan Life Insurance Co.,* 2014 WL 4678713, at * 1 (citing *Royal Indemnity Co. v. Bates,* 307 Fed. Appx. 801, 806 (5th Cir. 2009) (citing 7 Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, *Federal Practice and Procedure* § 1719 (3d ed. 2001).

"Ordinarily, the starting point for settling upon a reasonable fee is 'the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.'" *Metropolitan Life Insurance Co.,* 2014 WL 4678713, at *2 (quoting *Hensley v. Eckerhart,* 461 U.S. 424, 434 (1983)). "The product of this calculation is commonly referred to as the "lodestar" amount." *Metropolitan Life Insurance Co.,* 2014 WL 4678713, at *2 (citing *Farrar v. Hobby,* 506 U.S. 103, 118 (1992)). "Although 'more than a mere 'rough guess' or initial approximation of the final award to [be] made,' the lodestar amount is not *per se* dispositive." *Metropolitan Life Insurance Co.,* 2014 WL 4678713, at *2 (citing *Hensley, supra*). "After computing the lodestar amount, the court must determine whether the amount should be adjusted in light of the twelve factors set forth in *Johnson v. Georgia Highway Express,* 488 F.2d 714, 717–19 (5th Cir. 1974).[2] *Id.* "No one factor is a substitute for multiplying reasonable

[2] "The 12 *Johnson* factors include: (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill required to properly perform the legal services; (4) the preclusion of other employment by the attorney due to acceptance of this case; (5) the

billing rates by a reasonable estimation of the number of hours expended on the litigation." *Blanchard v. Bergeron*, 489 U.S. 87, 94 (1989). There is a strong presumption that the lodestar figure represents a reasonable fee. *See Blanchard*, 489 U.S. at 95.

Symetra deposited the insurance proceeds in the registry of the Court. Symetra contends it has a beneficiary form naming Frederick Smith as the beneficiary. Chicella Smith contests the validity of the beneficiary form. Symetra admits that, under Louisiana law, without a designated beneficiary, Chicella Smith would be the first priority beneficiary, and the Insured's sons would be second in line for the policy proceeds.

Symetra's attorney cites difficulties, time, and expenses in locating the Insured's sons. Symetra's attorney did not submit a time sheet or an expense list. Instead, she submitted many pages of pleadings, discovery, emails, and bills for costs, which are explained in her unsworn statement. ECF No. 51. In her brief, she states that she spent 70.9 hours on this matter. ECF No. 51-1 at 17. Neither the costs nor billed time are itemized.

The Local Rules for the Western District of Louisiana provide as follows:

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customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and results obtained; (9) the experience, reputation, and ability of counsel; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases." *Metropolitan Life Insurance Co.,* 2014 WL 4678713, at *2

> **LR54.2 Award of Attorney's Fees**
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> In all cases where attorney's fees are sought, the party desiring to be awarded such fees shall submit to the court a contemporaneous time report reflecting the date, time involved, and nature of the services performed. The report shall be in both narrative and statistical form and provide hours spent and justification thereof.
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> Any judge of the court may, for good cause shown, relieve counsel of the obligation of filing such a report with the court.

The Court must determine whether the total number of hours claimed for reimbursement are reasonable, and must "exclude all time that is excessive, duplicative, or inadequately documented." *Watkins v. Fordice*, 7 F.3d 453, 457 (5th Cir. 1993). When attorneys submit time reports to the court, the record should evidence "billing judgment." *Saizan v. Delta Concrete Products Co., Inc.*, 448 F.3d 795, 799 (5th Cir. 2006). "Billing judgment requires documentation of the hours charged and of the hours written off as unproductive, excessive, or redundant." *Id.*

Symetra has failed to support the Motion for Attorney Fees with a time and cost report. Without such a report, the Court cannot determine the reasonableness of the claimed fees and costs.

The Court takes note of Defendants' argument that Symetra's wasted time and money searching for and serving the Insured's adult sons, Rodriguez Washington and Rickey Smith, Jr. The sons did not contest the beneficiary form for the policy, neither before nor after they were served with Symetra's Complaint. Moreover, Symetra admits that, if the beneficiary form was found to be null and void, the policy proceeds

would go first to the Insured's spouse. The Insured's sons were second in priority to receive the proceeds.[3] Therefore, the time and money spent finding and serving the Insured's sons appears to have been unnecessary.[4]

This case involved a simple dispute between two people – a brother and a wife – over the proceeds to the Insured's life insurance policy. Symetra filed an interpleader, then unnecessarily served the Insured's adult children. Symetra also unnecessarily insisted that the insured's succession be opened, and served the succession representative. It appears that Symetra caused, or failed to avoid, the procedural complications in this case. There were no "unique services" that needed to be performed by the interpleader-plaintiff. Those unnecessary actions did not benefit either Symetra or Defendants. Nor is there any evidence that the Defendants unnecessarily protracted the proceedings.

Symetra claims $3,594.71 in costs, $3,000 of which was to find and served the Insured's sons. Because that was not necessary, and because Defendants agree to pay Symetra $594.71 in costs, Symetra should be awarded $594.71 for costs.

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[3] It is also not clear why Symetra wanted to have the Insured's succession opened (apparently, he had no property other than this insurance policy). Life insurance proceeds payable to a beneficiary other than the decedent's estate are not considered as a part of a Louisiana decedent's estate. *See Norsworthy v. Succession of Norsworthy*, 30,010 (La. App. 2d Cir. 12/12/97), 704 So.2d 953; *see also McLeery v. Speed,* 2023 WL 1099149 (5th Cir. 2023) (citing *T.L. James & Company, Inc. v. Montgomery*, 332 So.2d 834, 845 (La. 1975)).

[4] Counsel for Symetra also claims to have spent time investigating whether the Insured's wife murdered him. The Insured's death certificate shows that an autopsy was performed and it was determined that the Insured died from blunt force trauma in a motor vehicle accident.

Symetra also claims 70.9 hours in attorney fees, none of which is supported with an itemized time report. Instead, Symetra attached its filed pleadings and emails to its motion. Symetra contends the local rate (in Metairie, Louisiana) is currently $235 per hour, and asks for $16,485.50 in attorney fees. This litigation took place in Alexandria, Louisiana, where the local rate may be different from that in Metairie. Because Symetra failed to properly support its claim for attorney fees, the Court cannot determine how much of the time claimed to have been spent on this matter by Symetra's attorney was reasonable. However, it appears that much of the time claimed was for unnecessary procedures.

Defendants state they are willing to pay Symetra $235 per hour for 20 hours, or $4,700 for attorney's fees. ECF No. 53. Twenty hours appears to be a reasonable amount of time for a straightforward interpleader. *See American General Life Insurance Company v. Russell,* 2018 WL 3240964, at *4 (M.D. La. 2018) (finding 15 hours for a straightforward interpleader action to disburse a life insurance policy was reasonable); *Dearborn National Life Insurance Company v. Jeitani,* 2016 WL 3546434, at *2 (W.D. Tex. 2016) (finding 15 hours for a straightforward interpleader action to disburse a life insurance policy was reasonable); *Amica Life Insurance Co. v. White*, 2010 WL 2682394, at *3 (M.D. La. 2010) (finding 15 hours for a straightforward interpleader action to disburse a life insurance policy was reasonable). Therefore, the Court will order Defendants to pay $ 4700 for attorney's fees.

III. ORDER

IT IS ORDERED that Symetra's Motion for Attorney's Fees and Costs is GRANTED IN PART AND DENIED IN PART. Defendants are ORDERED TO REMIT $594.71 for costs and $ 4,700 for attorney's fees to Counsel for Symetra within 30 days of the date of this Order.

THUS DONE AND SIGNED in chambers in Alexandria, Louisiana, this 17th day of August 2023.

Joseph H.L. Perez-Montes
United States Magistrate Judge