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USAA INVESTMENT MANAGEMENT COMPANY;
8 USAA FEDERAL SAVINGS BANK; and USAA TRANSFER
AGENCY COMPANY d/b/a USAA SHAREHOLDER ACCOUNT
9 SERVICES

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION
13

14 USAA INVESTMENT MANAGEMENT
COMPANY, a Delaware Corporation; USAA
15 FEDERAL SAVINGS BANK, a federally
chartered savings association; and USAA
16 TRANSFER AGENCY COMPANY d/b/a
USAA SHAREHOLDER ACCOUNT
17 SERVICES, a Delaware Corporation,

18 Plaintiffs,

19 vs.

20
21 HAROLD W. HODGES; REBECCA S.
KETNER; KIMBERLY D. JOHNSON;
22 ESTATE OF DARLENE L. HODGES; and
DOES 1 through 5, inclusive,

23 Defendants.
24

CASE NO.

COMPLAINT IN INTERPLEADER

25 COMES NOW PLAINTIFFS USAA INVESTMENT MANAGEMENT COMPANY
26 (“USAA IMCO”), USAA FEDERAL SAVINGS BANK (“USAA FSB”), AND USAA
27 TRANSFER AGENCY COMPANY D/B/A USAA SHAREHOLDER ACCOUNT SERVICES
28 (“USAA TRANSFER AGENCY”) (unless otherwise specified herein collectively, “USAA” or

1 “Plaintiffs”) AND ALLEGE AS FOLLOWS:

2 **NATURE OF THIS ACTION**

3 1. This is an interpleader action in which USAA seeks guidance from this Court to
4 determine the proper beneficiary(ies) of Darlene L. Hodges’ two individual retirement accounts
5 (“IRA”) and a brokerage account with a transfer-on-death designation (collectively, the
6 “Accounts”).

7 **A. Account One: Self-Directed Traditional IRA**

8 2. Darlene L. Hodges (“Decedent”) opened a Self-Directed Traditional IRA with
9 USAA registered to Decedent’s name in February 1999, account number ending -1341 (“S/D
10 IRA”).

11 3. On the Account Application for the S/D IRA, Decedent designated her husband,
12 HAROLD W. HODGES, as the primary beneficiary.

13 4. On the Account Application for the S/D/ IRA, Decedent designated her daughters,
14 REBECCA S. KETNER and KIMBERLY S. JOHNSON, as contingent beneficiaries.

15 5. On the Account Application for the S/D/ IRA, HAROLD W. HODGES provided
16 written consent to designate someone other than himself as primary beneficiary of the S/D IRA in
17 February 1999.

18 6. In February 2016, Decedent submitted a change of beneficiary designation to
19 USAA for the S/D IRA. On that form, Decedent designated her daughters, REBECCA S.
20 KETNER and KIMBERLY D. JOHNSON as the equal, primary beneficiaries for the S/D IRA.
21 Decedent did not designate any contingent beneficiary for the S/D IRA at that time.

22 7. The S/D IRA has a current value of approximately \$630,000.

23 **B. Account Two: Roth IRA**

24 8. Decedent opened a Roth IRA with USAA registered to Decedent’s name in
25 August 2008, account number ending -6530 (“Roth IRA”).

26 9. On the Account Application for the Roth IRA, Decedent designated her husband,
27 HAROLD W. HODGES, as the primary beneficiary.

28 10. On the Account Application for the Roth IRA, Decedent designated her daughter,

1 REBECCA S. KETNER as contingent beneficiary.

2 11. In February 2016, Decedent submitted a change of beneficiary designation for her
3 Roth IRA. On that form, Decedent designated her daughters, REBECCA S. KETNER and
4 KIMBERLY D. JOHNSON as the equal, primary beneficiaries for the Roth IRA. Decedent did
5 not designate any contingent beneficiary for the Roth IRA at that time.

6 12. The Roth IRA has a current value of approximately \$19,000.

7 **C. Account Three: Brokerage Account with Transfer-on-Death Designation**

8 13. Decedent created a transfer-on-death designation on a Brokerage Account with
9 USAA registered to Decedent's name in November 2017, account number ending -3648
10 ("Brokerage Account").

11 14. Decedent designated her daughters, REBECCA S. KETNER and KIMBERLY D.
12 JOHNSON as the equal, primary transfer-on-death beneficiaries for the Brokerage Account.
13 Decedent did not designate any contingent transfer-on-death beneficiary for the Brokerage
14 Account.

15 15. The Brokerage Account has a current value of approximately \$743,000.

16 **D. Decedent's Death and Competing Claims to Subject Accounts**

17 16. Decedent died on or about February 13, 2018. USAA is informed and believes
18 that Decedent resided in Merced County, California at the time of her death.

19 17. Since Decedent's death, HAROLD W. HODGES has advised USAA that prior to
20 Decedent's death, he attempted to revoke his consent to have Decedent to designate someone
21 other than himself as the beneficiary of the subject accounts. As such, HAROLD W. HODGES is
22 now claiming 100% of the Accounts.

23 18. Decedent's daughters, REBECCA S. KETNER and KIMBERLY D. JOHNSON,
24 have also since advised USAA that they each claim their respective 50% shares of each of the
25 Accounts, pursuant to the beneficiary designations on-file at the time of Decedent's death.

26 19. To the extent that any of the beneficiary designations fail, the Accounts lapse to
27 the ESTATE OF DARLENE L. HODGES.

28 20. Since Decedent's death, USAA has maintained, and continues to maintain the

1 Accounts pending a determination of the proper beneficiary(ies).

2 21. As such, USAA acting in good faith and having no interest in the funds in any of
3 the subject accounts other than recovering the costs and reasonable attorney fees associated with
4 the instant action, now requests that this Court determine the proper beneficiary(ies) of the
5 Accounts, and any related obligations of the parties.

6 **THE PARTIES**

7 22. Plaintiff USAA IMCO is now and at all times mentioned in this Complaint has
8 been a Delaware corporation duly authorized to do business in California. USAA IMCO is the
9 registered broker-dealer for the Accounts.

10 23. Plaintiff USAA FSB is now and at all times mentioned in this Complaint is a
11 federally chartered savings association, with its principal place of business in Texas, duly
12 authorized to do business in California. USAA FSB is the custodian of record for the Accounts.

13 24. Plaintiff USAA Transfer Agency is now and at all times mentioned in this
14 Complaint has been a Delaware corporation duly authorized to do business in California. USAA
15 Transfer Agency is the transfer agent for the Accounts.

16 25. Decedent was the registered, individual owner of each of the Accounts at the time
17 of her death. USAA is informed and believes that Decedent died on or about February 13, 2018
18 in Merced County, California.

19 26. USAA is informed and believes that decedent's estate is currently being probated
20 in Merced County Probate Court, in the name of defendant ESTATE OF DARLENE L.
21 HODGES. The ESTATE OF DARLENE L. HODGES is a citizen of California, as Decedent
22 was a citizen of California at the time of her death. USAA is informed and believes that Mark E.
23 Olson is the designated personal representative of said estate.

24 27. USAA is informed and believes that defendant HAROLD W. HODGES is a
25 natural person who at all relevant times was a citizen of California and a resident of Merced
26 County, California. USAA is informed and believes that defendant HAROLD W. HODGES was
27 Decedent's spouse at all relevant times, including at the time of Decedent's death.

28 28. USAA is informed and believes that defendant REBECCA S. KETNER is a

1 natural person who at all relevant times was a citizen of California and a resident of Merced
2 County, California. USAA is informed and believes that defendant REBECCA S. KETNER was
3 Decedent's daughter.

4 29. USAA is informed and believes that defendant KIMBERLY D. JOHNSON is a
5 natural person who at all relevant times was a citizen of California and a resident of Merced
6 County, California. USAA is informed and believes that defendant KIMBERLY D. JOHNSON
7 was Decedent's daughter.

8 30. The true names and capacities of Does 1 through 5 inclusive are unknown to
9 USAA. USAA will seek leave to amend this Complaint to add additional defendants should the
10 names and capacities become known to USAA.

11 **JURISDICTION AND VENUE**

12 31. Interpleader is appropriate pursuant to Fed. R. Civ. Proc. 22 because there is
13 diversity of citizenship under 28 U.S.C. section 1332(a)(1) in that it is a civil action wherein the
14 matter in controversy exceeds the sum of \$75,000 exclusive of interest and costs and is between
15 citizens of different states.

16 32. The combined value of the Accounts is approximately \$1.39 million. This
17 satisfies the amount in controversy requirement for interpleader under 28 U.S.C. section 1332(a).

18 33. USAA is informed and believes that all of the Defendants-Claimants are citizens
19 of California.

20 34. Plaintiffs USAA IMCO, USAA FSB, and USAA Transfer Agency are citizens of
21 states besides California as discussed above, with their principal places of business in Texas.

22 35. Venue is proper with this Court pursuant to 28 U.S.C. section 1397 because one or
23 more of the Defendant-Claimants reside(s) in Merced County, California, which is within this
24 judicial district.

25 **INTRADISTRICT ASSIGNMENT**

26 36. The United States District Court for the Eastern District of California, Fresno
27 Division, embraces the District and Division in which the Defendant-Claimants reside and thus
28 said Court and Division are the proper venue for this action pursuant to 28 U.S.C. § 84(b) and

Civil L.R. 120(d).

COUNT I – INTERPLEADER
Against All Defendants

A. Traditional S/D IRA

37. USAA realleges paragraphs 1 through 36, inclusive, as if set forth fully herein.

38. Decedent opened the S/D IRA in February 1999.

39. On the Account Application for the S/D IRA, Decedent designated her husband, HAROLD W. HODGES, as the primary beneficiary.

40. On the Account Application for the S/D/ IRA, Decedent designated her daughters, REBECCA S. KETNER and KIMBERLY S. JOHNSON, as contingent beneficiaries.

41. On the Account Application for the S/D/ IRA, HAROLD W. HODGES provided written consent to designate someone other than himself as primary beneficiary of the S/D IRA in February 1999.

42. In February 2016, Decedent submitted a change of beneficiary designation to USAA for the S/D IRA. On that form, Decedent designated her daughters, REBECCA S. KETNER and KIMBERLY D. JOHNSON as the equal, primary beneficiaries for the S/D IRA. Decedent did not designate any contingent beneficiary for the S/D IRA at that time.

B. Roth IRA

43. Decedent opened the Roth IRA in August 2008.

44. On the Account Application for the Roth IRA, Decedent designated her husband, HAROLD W. HODGES, as the primary beneficiary.

45. On the Account Application for the Roth IRA, Decedent designated her daughter, REBECCA S. KETNER as contingent beneficiary.

46. In February 2016, Decedent submitted a change of beneficiary designation for her Roth IRA. On that form, Decedent designated her daughters, REBECCA S. KETNER and KIMBERLY D. JOHNSON as the equal, primary beneficiaries for the Roth IRA. Decedent did not designate any contingent beneficiary for the Roth IRA at that time.

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C. Brokerage Account with Transfer-On-Death Designation

47. Decedent created a transfer-on-death designation on the Brokerage Account in November 2017.

48. Decedent designated her daughters, REBECCA S. KETNER and KIMBERLY D. JOHNSON as the equal, primary transfer-on-death beneficiaries for the Brokerage Account. Decedent did not designate any contingent transfer-on-death beneficiary for the Brokerage Account.

D. Conflict over the Proper Beneficiary(ies) of the Subject Accounts

49. USAA has and continues to maintain the Accounts.

50. USAA is informed and believes that Decedent died on or about February 13, 2018.

51. At the time of Decedent's death, the S/D IRA, the Roth IRA, and the Brokerage Account listed the following beneficiaries:

a. Rebecca S. Ketner, daughter – 50%; and

b. Kimberly D. Johnson, daughter – 50%.

52. Since Decedent's death, HAROLD W. HODGES has advised USAA that prior to Decedent's death, he attempted to revoke his consent to have Decedent to designate someone other than himself as the beneficiary of the subject accounts. As such, HAROLD W. HODGES is now claiming 100% of the Accounts.

53. Defendants REBECCA S. KETNER and KIMBERLY D. JOHNSON, have also since advised USAA that they each claim their respective 50% shares of each of the Accounts, pursuant to the beneficiary designations on-file at the time of Decedent's death.

54. To the extent that any of the beneficiary designations fail, the subject accounts lapse to the ESTATE OF DARLENE L. HODGES. As such, the ESTATE OF DARLENE L. HODGES is another potential claimant to the Accounts.

E. USAA's Involvement in the Instant Interpleader Action

55. In light of the foregoing, USAA cannot determine the proper beneficiary or beneficiaries of the Accounts.

56. USAA claims no interest in the Accounts except any costs and reasonable

1 attorneys' fees that this Court deems appropriate.

2 57. USAA is ready and willing to comply with any and all directives of this Court as
3 to the identity of the proper beneficiary or beneficiaries of the Accounts.

4 58. USAA brings the instant Interpleader in good faith and to ensure that the funds
5 within the Accounts are disbursed to the proper beneficiary or beneficiaries.

6 59. Under Fed. R. Civ. Pro. Rule 22, whenever multiple claims are asserted or may be
7 asserted by two or more claimants, and such claims may expose a party holding funds or property
8 to double or multiple liability, a right of interpleader lies with the stakeholder.

9 60. Absent a judicial declaration of rights of the Defendants to the proceeds from the
10 Accounts, USAA faces the potential for multiple, conflicting obligations. Due to the competing
11 demands and potential demands of Defendants, USAA seeks guidance from this Court.

12 61. At the Court's direction or with the Court's leave, should the Claimant-Defendants
13 stipulate to an agreed-upon distribution of the funds, USAA shall distribute the funds held within
14 the Accounts accordingly.

15 62. USAA has incurred costs and reasonable attorney's fees in connection with these
16 proceedings and may incur additional fees and costs hereafter.

17 WHEREFORE, USAA prays for guidance from this Court and requests the following
18 instructions, or, in the alternative, orders:

- 19 1. That this Court advise USAA and Defendants, and each of them, the
20 identity of the proper beneficiary or beneficiaries of the S/D IRA, the Roth
21 IRA, and the Brokerage Account, and to give any and all instructions to
22 USAA regarding the proper beneficiary or beneficiaries;
- 23 2. That Defendants, and each of them, be restrained from initiating any
24 actions against USAA relating to the subject matter of this interpleader
25 action;
- 26 3. That USAA be discharged from liability to each Defendant with respect to
27 the subject matter of this interpleader action;
- 28 4. That the beneficiaries be required to interplead and litigate between

1 themselves their claims to the S/D IRA, the Roth IRA, and the Brokerage
2 Account;

3 5. That USAA be awarded costs and reasonable attorney fees incurred in
4 relation to this action; and

5 6. For such other guidance and relief as this Court deems just and proper.
6

7 Dated: May 1, 2018

DKM LAW GROUP, LLP

8 By: /s/ Joshua N. Kastan

9 ROBERT S. McLAY

JOSHUA N. KASTAN

10 ANASTASIA M. LOLONG

Attorneys for Plaintiffs

11 USAA INVESTMENT MANAGEMENT

COMPANY; USAA FEDERAL SAVINGS BANK;

12 and USAA TRANSFER AGENCY COMPANY

d/b/a/ USAA SHAREHOLDER ACCOUNT

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