

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Cases No. 03-20161 CIV-KING

MARIE JEANNE JEAN,
in her individual capacity, and
as a parent and legal guardian for minors
VLADIMY PIERRE and MICHELDA
PIERRE, and
LEXIUSTE CAJUSTE,

Plaintiffs,

v.

CARL DORELIAN and LUMP SUM
CAPITAL, LLC a Maryland limited
liability company,

Defendants.

_____ /

LUMP SUM CAPITAL, LLC'S MOTION FOR INTERPLEADER

Lump Sum Capital, LLC ("Lump Sum") by and through its undersigned counsel and pursuant to 28 U.S.C. §§1335 and 2361 hereby moves this Court for an Order of Interpleader in this matter and states as follows:

1. On or about November 25, 2003 Lump Sum and Carl Dorelien entered into a Lottery Prize Assignment Agreement. This Agreement provides that Lump Sum would pay to Dorelien the sum of \$1,300,000.00 in exchange for his remaining 13 lottery payments each in the amount of \$159,000.00. This transaction has since been approved by the State of Florida Lottery and on or about March 2, 2004 Lump Sum filed a Petition for Approval of Assignment of Lottery Prize with the Circuit Court of the 2nd Judicial Circuit in and for Leon County, Florida. In Re: Assignment of Certain Lottery Payments of Carl Dorelien, Leon County Circuit Court Case No.: 04 CA 559.

2. On or about March 11, 2004, Plaintiffs filed their Second Amended Complaint asserting claims against Lump Sum Capital for violations of Florida's Fraudulent Transfer Act.

3. In addition, Plaintiffs filed a Motion to Intervene in the Leon County Circuit Court preceding which has precluded Lump Sum, thus far, from proceeding with the assignment which was already approved by the State of Florida Lottery.

4. Lump Sum Capital is currently inhibited from proceeding forward with its Lottery assignment transaction based upon the pending litigation and dispute between Plaintiffs and Defendant Carl Dorelien. Lump Sum is a disinterested stakeholder and has no stake in this particular controversy. Lump Sum merely wants to proceed forward with the Lottery Assignment Agreement, deposit the Lump Sum proceeds from such Assignment into the registry of this Court, and be dismissed from this case with no further liability. It is extremely prejudicial to Lump Sum to be exposed to the additional expense, attorney's fees and costs incurred in the substantial litigation of this matter between Plaintiffs and Defendant.

5. Accordingly, in accordance with 28 U.S.C. §§1335 and 2361, Lump Sum seeks an Order of Interpleader in this case. Lump Sum seeks this Court to enter an Order demanding that Plaintiffs and Defendant allow Lump Sum to proceed forward with the transaction in the Leon County Circuit Court action. Lump Sum also requests that this Court enter an Order commanding Lump Sum to pay all Lump Sum payments from the Florida Lottery into the Registry of this Court to thereafter be dispersed to the prevailing party in this action or as otherwise Ordered by this Court. See, Mallonee v Fahey, 117 F. Supp. 259, 274 (S.D. Ca. 1953) ("Jurisdiction under the interpleader

statute does not depend upon which of several claimants may ultimately be held to be right or wrong.”); American-Hawaiian Steamship Co. v. Bowering & Co., 150 F. Supp. 409, 452-53 (S.D. N.Y. 1957) (“Interpleader is an equitable remedy governed by equitable principles which should be applied liberally”); Johnson Service Co. v. H.S. Kaiser Co., 324 F. Supp. 745, 748 (N.D. Ill. 1971) (“The complainant is a disinterested or indifferent stakeholder who simply prays that the hostile claimants be required to cease from troubling him and to settle their disputes among themselves.”).

6. Moreover, Lump Sum respectfully requests that this Court award to it as a disinterested stakeholder, in this case reasonable attorneys’s fees incurred in the Interpleader action. See, Minnesota Mutual Life Insurance Co. v. Gustafson, 415 F. Supp. 615, 617 (N.D. Ill. 1976) (“As noted above, most Federal Courts have held that it is within their discretion to award attorneys fees in statutory interpleader actions.”); Perkins State Bank v. Connolly, 632 F. 2d 1306, 1311 (5th Cir. 1980) (Costs and attorneys fees are generally awarded by Federal Courts to the party who initiates the interpleader as a mere stakeholder).

WHEREFORE, Lump Sum respectfully requests that this Court enter an Order of Interpleader, allowing Lump Sum to proceed forward with the Leon County Circuit Court action without intervention by Plaintiffs or Defendant; commanding Lump Sum to deposit the Lump Sum Lottery payments into the Registry of this Court, thereafter Lump Sum will receive an Order of dismissal from this case with release of future liability from Plaintiffs and Defendant; for an award of reasonable attorney’s fees and Court costs incurred in the Interpleader action and for any and all other relief this Court deems just and proper under the circumstances.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail this 16th day of April, 2004 upon Kurt Klaus, Esq., The Law Offices of Kurt R. Klaus, Jr., 3191 Coral Way, Suite 402-A, Miami, FL 33145, Matthew Eisenbrandt, Esq., The Center for Justice and Accountability, 870 Market Street; Suite 684, San Francisco, CA 94102, John Andres Thornton, Esq., 9 Island Avenue #2005, Miami Beach, Florida 33139 and Dwayne E. Williams, Esq., Holland & Knight LLP, 701 Brickell Avenue, Suite 3000, Miami, FL 33131:

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