

1 John E. Peer, CA State Bar No. 95978
Sean B. Dean, CA State Bar No. 187140
2 **WOOLLS & PEER**
A Professional Corporation
3 One Wilshire Boulevard, 22nd Floor
Los Angeles, California 90017
4 Telephone: (213) 629-1600
Facsimile: (213) 629-1660

5 Attorneys for Plaintiff
6 Merit Life Insurance Company

7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10
11 MERIT LIFE INSURANCE COMPANY,

12 Plaintiff,

13 v.

14 LIDIA CARRASCO, LIDIA TREJO,
SORAYA TREJO, JOSHUA DE LA
15 GARZA, a minor, DAVID DE LA GARZA,
ROBERTO DE LA GARZA, JOSE DE LA
16 GARZA III, BLANCA ESTELE DE LA
GARZA, and THE ESTATE OF JOSE DE
17 LA GARZA, JR.

18 Defendants.

New Case No. 1:05-cv-1199 OWW LJO
Old Case No. 1:05-cv-1199 REC SMS

Assigned to the Hon. Oliver W. Wanger

STIPULATION AND ORDER FOR
ENTRY OF JUDGMENT IN
INTERPLEADER; TRANSFER OF
PROCEEDS

Filing Date: October 28, 2005
Trial Date: Not set

19
20 IT IS HEREBY STIPULATED, by and among plaintiff Merit Life Insurance
21 Company (“Merit Life”), defendants Lidia Carrasco, Lidia Trejo and Soraya Trejo
22 (collectively the “Carrasco Defendants”), and defendants Joshua De La Garza, David
23 De La Garza, Roberto De La Garza, Jose De La Garza III, Blanca Estele De La Garza,
24 and The Estate of Jose De La Garza, Jr. (collectively the “De La Garza Defendants”),
25 by and through their respective attorneys of record herein, that:

26 1. Merit Life properly filed its Complaint in Interpleader herein, and this is
27 a proper cause for interpleader;

28 2. By reason of the death of Jose De La Garza, Jr. (the “Decedent”) on or

1 about September 23, 2004, the sum of \$50,000.00 (the “Insurance Proceeds”) became
2 payable under Merit Life accidental death and dismemberment insurance policy
3 number D05000000045481 (the “Policy”);

4 3. The Carrasco Defendants and the De La Garza Defendants each claim all
5 or some portion of the Insurance Proceeds, and no other person or entity has made a
6 claim to those Insurance Proceeds;

7 4. Having deposited the Insurance Proceeds, plus interest, (\$51,201.39) with
8 the Clerk of the United States District Court in and for the Eastern District of
9 California in September 2005 (which funds now are on deposit with the registry of
10 this Court), Merit Life and its agents be released, discharged and acquitted of and
11 from any liability of any kind or nature whatsoever under the Policy;

12 5. Merit Life be awarded the sum of \$4,500.00 for its reasonable attorneys'
13 fees and costs incurred in connection with this action and that the Clerk of this Court
14 pay such amount, from and out of the funds deposited herein, by check made payable
15 to “Merit Life Insurance Company” and delivered to Merit Life’s attorneys of record;

16 6. The Carrasco Defendants and the De La Garza Defendants be compelled
17 to interplead or settle among themselves their respective rights or claims to the
18 remaining Insurance Proceeds;

19 7. The Court may enter a Stipulated Judgment in Interpleader and Dismissal
20 in the form attached hereto and marked as Exhibit A;

21 8. Upon the Court’s payment of the sum described in paragraph 5, above,
22 and upon the entry of a Stipulated Judgment in Interpleader and Dismissal in the form
23 attached hereto and marked as Exhibit A, Merit Life be dismissed from this action
24 without further cost to any party;

25 9. Upon the Court’s payment of the sum described in paragraph 5, above,
26 the entry of a Stipulated Judgment in Interpleader and Dismissal in the form attached
27 hereto and marked as Exhibit A, and the dismissal of Merit Life from this action, this
28 action be transferred, or re-filed as a declaratory relief action, with related case

1 number 1:05-cv-05-00846 OWW LJO to/in the California Superior Court in and for
2 the County of Kern for all other proceedings.

3 10. As to the insurance proceeds of \$50,000.00 plus interest deposited with
4 the Clerk of the United States District Court described in paragraph 4, above, less the
5 payment described in paragraph 5, above, upon transfer of this case number to the
6 California Superior Court in and for the County of Kern, the Clerk of the United
7 States District Court shall transfer those proceeds plus interest to the following
8 account:

9 Morgan Stanley Account No. 117-038141-033
10 5601 Truxtun Avenue, Bakersfield, CA 93309
Telephone (661) 322-3971

11 11. These funds shall be used to purchase United States Treasury Bills in the
12 amount so transferred and shall be held in the names of Timothy Lemucchi, State Bar
13 No. 038612-0, attorney for the Carrasco defendants, and Jay P. Renneisen, State Bar
14 No. 173531, attorney for the De la Garza defendants;

15 12. This account shall not be paid out or otherwise distributed without a
16 settlement or judgment or order of the Kern County Superior Court.

17 13. This stipulation may be executed in any number of counterparts, each of
18 which may be an original, but all of which shall constitute one and the same

19 ///

20 ///

21 ///

WOOLLS & PEER
A PROFESSIONAL CORPORATION
ONE WILSHIRE BOULEVARD, 22ND FLOOR
LOS ANGELES, CALIFORNIA 90017

1 instrument.

2 IT IS SO STIPULATED:

3 DATED: March 2, 2006

WOOLLS & PEER
A Professional Corporation

4
5 /S/ Sean B. Dean, Esq.

6 _____
Sean B. Dean
Attorneys for Plaintiff Merit Life Insurance
7 Company

8 DATED: March __, 2006

LAW OFFICES OF TIMOTHY J.
9 LEMUCCHI

10 /S/ Timothy J. Lemucchi, Esq.

11 _____
Timothy J. Lemucchi
Attorneys for Defendants Lydia Carrasco,
12 Lidia Trejo and Soraya Trejo

13
14 DATED: March __, 2006

LAW OFFICES OF JAY P. RENNEISEN

15 /S/ Jay P. Renneisen, Esq.

16 _____
Jay P. Renneisen
Attorneys for Defendants Joshua De La
17 Garza, David De La Garza, Roberto De La
18 Garza, Jose De La Garza III, Blanca Estele
19 De La Garza, and The Estate of Jose De La
Garza, Jr.

20
21 **ORDER**

22 IT IS SO ORDERED.

23
24 DATED: March 20, 2006

By: _____ /s/ OLIVER W. WANGER

25 Hon. Oliver W. Wanger
26 United States District Judge
27
28

PROOF OF SERVICE
Merit Life Insurance Company v. Lidia Carrasco, et al.
Case No. 1:05-CV-1199 OWW LJO

I, AIDE AVILA, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Woolls & Peer, A Professional Corporation, One Wilshire Boulevard, 22nd Floor, Los Angeles, California 90017. On March 17, 2006, I served the document(s) described as **Stipulation and Order for Entry of Judgment in Interpleader; Transfer of Proceeds** on the interested parties in this action as follows:

By placing the original a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at One Wilshire Boulevard, 22nd Floor, Los Angeles, California 90017 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at One Wilshire Boulevard, 22nd Floor, Los Angeles, California 90017.

OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by FEDERAL EXPRESS UPS Overnight Delivery [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of FEDERAL EXPRESS UPS OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at One Wilshire Boulevard, 22nd Floor, Los Angeles, California 90017 with delivery fees fully provided for.

BY FACSIMILE: I sent via facsimile a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[Federal] I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on March 17, 2006, at Los Angeles, California.

/S/ Aide Avila

[Signature]

WOOLLS & PEER
A PROFESSIONAL CORPORATION
ONE WILSHIRE BOULEVARD, 22ND FLOOR
LOS ANGELES, CALIFORNIA 90017

WOOLLS & PEER
A PROFESSIONAL CORPORATION
ONE WILSHIRE BOULEVARD, 22ND FLOOR
LOS ANGELES, CALIFORNIA 90017

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

Timothy J. Lemucchi, Esq.
Craig A. Edmondston, Esq.
Law Offices of Timothy J. Lemucchi
918 Truxtun Avenue
P. O. Box 2171
Bakersfield, CA 93303-1100
Telephone: (661) 324-1100
Facsimile: (661) 324-1633
E-mail: tlemucchi@ncinternet.net

Attorneys for Defendants
LIDIA CARRASCO, LIDIA TREJO, SORAYA
TREJO

Robert R. Pohls, Esq.
Pohls & Associates
12657 Alcosta Boulevard, Suite 150
San Ramon, CA 94583
Telephone: (925) 973-0300
Facsimile: (925) 937-1763
E-mail: rpohls@califehealth.com

Attorneys for Plaintiff
PRIMERICA LIFE INSURANCE COMPANY

Jay P. Renneisen, Esq.
Law Offices of Jay P. Renneisen
1931 San Miguel Drive, Suite 210
Walnut Creek, CA 94596
Telephone: (925) 280-8900
Facsimile: (925) 955-1601
E-mail: jpr@renneisenlaw.com

Attorneys for Defendants/Cross-Claimants
JOSHUA DE LA GARZA, DAVID DE LA
GARZA, ROBERTO DE LA GARZA, JOSE
DE LA GARZA III, BLANCA ESTELE DE LA
GARZA, and THE ESTATE OF JOSE DE LA
GARZA, JR.