

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

HONORABLE DALE P. NIELSON  
VISITING JUDGE

DATE: JANUARY 22, 2023

NOTICE

NANCY KNIGHT,

Plaintiff,

vs.

GLEN LUDWIG, et al.,

Respondent.

CASE NO.: CV-2018-04003

The Court has considered the Plaintiffs five actions for declaratory judgment together with the defendant's responses. The defendant has correctly set forth the laws that resolves all of the Requests for Declaratory Judgment as follows:

The adoption of the Uniform Declaratory Judgments Act (A.R.S. §§12-1831 to 12- 27 1846) is not intended to be used within litigation already before the Court. This specific point is clearly and succinctly stated in Merritt-Chapman & Scott Corp. v. Frazier, 375 P.2d 18, 92 Ariz. 136 (Ariz. 1962), wherein the Arizona Supreme Court provided the following:

"Plaintiff contends that a cause of action for declaratory relief under the Uniform Declaratory Judgments Act (A.R.S. §§ 12-1831 to 12-1846) was stated in the complaint and amended complaint. It was never intended that the relief to be obtained under the Declaratory Judgment Act should be exercised for the purpose of trying issues involved in cases already pending. Staley Elevator Co., Inc. v. Otis Elevator Co., 35 F.Supp. 778 (D.C.N.J.1940). See also Borchard, Declaratory Judgments, 2d Ed., pp. 302, 350, 351. Generally, declaratory relief will be denied when the issue presented by the action is already pending in another forum. Burton v. Lester, 227 La. 347, 79 So.2d 333 (1955).

The complaint was properly dismissed as to the defendants Bernice M. Frazier, Robert C. Frazier, Jr., Linda Joy Frazier, Kent M. Frazier, and Cleveland J. Frazier inasmuch as the complaint itself disclosed that a case was then pending between these defendants and the plaintiff which involved the same issues as those raised in this action. The Declaratory Judgment Act could not be invoked under such circumstances and the court properly declined to declare the rights of the parties." Id. at pp. 19-20. 13 See also: "'The Act' was not intended to constitute a fountain of legal advice for the court." Ariz. Biltmore Hotel Villas Condos. Ass'n, Inc. v. Ariz. Biltmore Hotel Master Ass'n, Corp., No. 1 CA-CV 13-0703 (Ariz. App. Jul 30, 2015), p. 6.

The Court has also considered the Plaintiffs request to reconsider the award of attorney's fees in the amount of \$6230.25. The motion is denied as not being based on any valid legal or factual basis. The Request to take Judicial Notice With Affects on Potential Appeal is denied. The record before the court is clear and available for either party to request the record for appeal purposes.

January 22, 2023



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Dated

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The Honorable Dale Nielson Visiting Judge

cc:

Nancy Knight  
[nancyknight@frontier.com](mailto:nancyknight@frontier.com)  
Plaintiff

Law Offices Daniel J. Oehler  
[Djolaw10@gmail.com](mailto:Djolaw10@gmail.com)  
Counsel for Defendants

Carolyn Voss\*  
[cvoss@courts.az.gov](mailto:cvoss@courts.az.gov) - Judicial Assistant, Mohave County Superior Court