

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

LEO E. STRINE, JR.
VICE CHANCELLOR

New Castle County Courthouse
Wilmington, Delaware 19801

Date Submitted: March 5, 2010

Date Decided: March 16, 2010

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RE: Dara M. Gelof v. Prickett, Jones & Elliott, P.A.
C.A. No. 4930-VCS

Dear Counsel:

Plaintiff Dara M. Gelof moved for reargument of this court's decision of February 19, 2010, which held that Gelof's complaint did not state a claim within this court's equitable jurisdiction.¹ In the course of so ruling, this court rejected the argument that it should retain jurisdiction over the purely legal claims against defendants Prickett, Jones & Elliott, P.A., James P. Dalle Pазze, and Herdeg, DuPont & Dalle Pазze, LLP because, in an entirely separate case, plaintiff Gelof has alleged claims against separate defendants that center on some of the same factual events. The entirety of plaintiff Gelof's

¹ *Dara M. Gelof v. Prickett, Jones & Elliott, P.A.*, 2010 WL 759663 (Del. Ch. Feb. 19, 2010).

argument, which did not include a request to consolidate the purportedly related cases, was as follows:

This Court is currently presiding over a related action involving Plaintiff and her brother, Adam Gelof, concerning the same estate at issue in this matter. The interests of judicial economy would be best served by having both matters, with overlapping facts and actors, heard before a single fact-finder.²

Having had that sparse argument rejected, plaintiff Gelof now provides a fulsome explanation of her position, an explanation that includes arguments that were not made previously, such as that there may be a danger of inconsistent judgments. The submission therefore is improper as it presents arguments not fairly made before, and the motion on that ground alone is denied.³ But even if the motion were proper, I would deny it. Any potential for great inefficiency can be alleviated by coordinating discovery between the remaining Court of Chancery action and the Superior Court action, and by appropriate sequencing, any danger of inconsistent verdicts can be minimized. To go further and to somehow require the defendants in this case, which lacks any basis for equitable jurisdiction, to give up their jury trial right so as to allow the plaintiffs to press equitable claims against other defendants in another case simultaneously with their legal claims against the defendants in this case is not only, in my view, an inappropriate outcome as a matter of justice, but it is also problematic as a matter of law.⁴

² Pl.'s Ans. Br. 8.

³ See *Oliver v. Boston Univ.*, 2006 WL 4782232, at *1 (Del. Ch. Dec. 8, 2006); *Lane v. Cancer Treatment Ctrs. of Am., Inc.*, 2000 WL 364208, at *1 (Del. Ch. Mar.16, 2000).

⁴ *In re Markel*, 254 A.2d 236, 239 (Del. 1969).

The motion for reargument is denied. IT IS SO ORDERED.

Very truly yours,

/s/ Leo E. Strine, Jr.

Vice Chancellor

LESJr/eb