

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No. CV 11-9146 PSG (CWx) Date November 8, 2011

Title Empire Fire and Marine Insurance Co. V. Anthony Jason Ballina, et al.

Present: The Honorable Philip S. Gutierrez, United States District Judge

Wendy K. Hernandez

Not Present

n/a

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

**Proceedings: (In Chambers) Order to Show Cause re Dismissal of Declaratory Relief Action**

This is an action for declaratory relief under the Federal Declaratory Judgment Act (“Act”), which provides in part:

In a case of actual controversy within its jurisdiction, . . . any court of the United States, upon filing of an appropriate pleading, *may* declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.

28 U.S.C. § 2201(a) (emphasis added). As is evident from the word “may,” the Act does not grant litigants an absolute right to a legal determination. *See United States v. Washington*, 759 F.2d 1353, 1356 (9th Cir. 1985). Rather, the decision to grant declaratory relief rests within a district court’s discretion. *Id.*

The district court considers the following factors in determining whether to entertain a suit for declaratory relief: (1) avoidance of “needless determination of state law issues,” forum shopping, and duplicative or piecemeal litigation;<sup>1</sup> (2) the existence of a parallel, pending state-court action that involves the same legal issues as the federal action;<sup>2</sup> (3) whether the declaratory action (a) will “settle all aspects of the controversy,” (b) will clarify the legal relations at issue, (c) is being sought only for purposes of procedural fencing or to obtain a *res judicata* advantage,

<sup>1</sup> *Gov’t Employees Ins. Co. v. Dizol*, 133 F.3d 1220, 1225-26 (9th Cir. 1998).

<sup>2</sup> *Chamberlain v. Allstate Ins. Co.*, 931 F.2d 1361, 1366-67 (9th Cir. 1991).

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or (d) will result in entanglement between the federal and state court systems; (4) whether there exist alternative remedies that are convenient for the parties;<sup>3</sup> and (5) the promotion of sound public policy.<sup>4</sup>

The Court orders the parties to show cause in writing by **November 29, 2011** why this Court should not dismiss this action without prejudice.

**IT IS SO ORDERED.**

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<sup>3</sup> *Dizol*, 133 F.3d at 1225 n.5.

<sup>4</sup> *Employers Reinsurance Corp. v. Karussos*, 65 F.3d 796, 798-99 (9th Cir. 1995) (noting important policy considerations, such as “avoiding rendering opinions based on purely hypothetical factual scenarios, discouraging forum shopping, encouraging parties to pursue the most appropriate remedy for their grievance, preserving precious judicial resources, and promoting comity”).