Federal District Court's Discretionary Jurisdiction Over Declaratory Judgment Actions: Recent Trends and Developments

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Federal district courts have discretionary jurisdiction over declaratory judgment actions that present a justiciable controversy and meet the requirements for either federal question or diversity jurisdiction. Insurers and insureds alike often file declaratory judgment actions under 28 U.S.C. Section 1332, asking the court to declare their rights and obligations under an insurance policy. Because its jurisdiction is discretionary, a district court may dismiss or remand a declaratory judgment action to state court at the request of either party or even *sua sponte*. Whether and when to exercise that discretion, however, has been the subject of much debate in Pennsylvania over the past few years and has culminated in the issuance of several Third Circuit opinions on the subject.

The Third Circuit has outlined eight, non-exhaustive factors that district courts should consider when weighing whether to retain jurisdiction over declaratory judgment actions:

> (1) the likelihood that a federal court declaration will resolve the uncertainty of obligation which gave rise to the controversy;
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> (2) the convenience of the parties;
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> (3) the public interest in settlement of the uncertainty of obligation;
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> (4) the availability and relative convenience of other remedies;
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> (5) a general policy of restraint when the same issues are pending in a state court;
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> (6) avoidance of duplicative litigation;
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> (7) prevention of the use of the declaratory action as a method of procedural fencing or as a means to provide another forum in a race for res judicata; and
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> (8) (in the insurance context) an inherent conflict of interest between an insurer's duty to defend in a state court and its attempt to characterize that suit in federal court as falling within the scope of a policy exclusion

Reifer v. Westport Ins. Corp., 751 F.3d 129, 146 (3rd Cir. 2014).

The Third Circuit further stated that while no single factor is dispositive, "the absence of pending parallel state proceedings militates significantly in favor of exercising jurisdiction, although it alone does not require such exercise." *Id.* at 144. In that circumstance, a district court must be "rigorous in ensuring themselves that the lack of pending parallel state proceedings is outweighed by opposing factors." *Id.* A parallel state proceeding is "another proceeding . . . pending in a state court in which all the matters in controversy between the parties could be fully adjudicated." Id. at 144 (quoting *Brillhart v. Excess Ins. Co. of America,* 316 U.S. 491, 495 (1942)).

The *Reifer* Court also considered and discussed its prior decision: *State Auto Ins. Cos. v. Summy,* 234 F.3d 131 (3rd Cir. 2000). *Reifer,* 751 F.3d at 147. In *Summy,* the Third Circuit explained that, when applicable state law is uncertain, district courts should be reluctant to exercise jurisdiction over declaratory judgment actions. *Summy,* 234 F.3d at 135. The *Summy* Court also stated that "[w]hen the state law is firmly established, there would seem to be even less reason for the parties to resort to the federal courts." *Id.* at 136. Just recently, however, in *Dianoia's Eatery, LLC v. Motorists Mut. Ins. Co., et al.*, 10 F.4th 192 (3d Cir. Aug. 18, 2021), the Third Circuit cautioned that "there can be no per se dismissal

of insurance declaratory judgment actions, in part because federal and state courts are equally capable of applying settled state law to a difficult set of facts." *Id.* at 197 (citations omitted).

While *Summy* held that the district court should have declined to exercise jurisdiction, the Third Circuit in *Reifer* clarified *Summy*, stating: "*Summy's* holding specifically turned on considerations relevant to the pending state court suit." *Reifer,* 751 F.3d at 147. Thus, after applying the foregoing eight factors, the *Reifer* Court held that the district court did not abuse its discretion by declining jurisdiction because "the lack of pending parallel state proceedings was outweighed by another relevant consideration, namely, the nature of the state law issue raised by *Reifer.*" *Id.* at 148.

Thus, whether there currently exists a parallel state proceeding is of paramount importance when determining whether a declaratory judgment action should remain before a district court. In *Dianoia's Eatery,* the Third Circuit explained that, in weighing the various factors, "district courts declining jurisdiction should be rigorous in ensuring themselves that the lack of pending parallel state proceeding is outweighed by opposing factors." *Id.* at 197.

In *Westfield Ins. Co. v. Icon Legacy Custom Modular Homes & Icon Legacy,* No. 4:15-cv-00539, 2015 U.S. Dist. LEXIS 99214 (M.D. Pa. 2015), the court retained jurisdiction over an insurance coverage declaratory judgment action. The court weighed the factors set forth in *Reifer* and *Summy* and determined that "most significantly, there is no pending parallel state court litigation that addresses the issues presented in this case." *Id.* at *10. Moreover, "[t]he fact that no pending parallel state court litigation is ongoing 'militates significantly in favor of exercising jurisdiction,'" and that "considered alongside the absence of duplicative litigation, the availability and convenience of other remedies, and the strong likelihood that this action will settle the controversy between the parties, the balance of factors tips in favor of exercising jurisdiction in this matter." *Id.* at *14-5 (quoting *Reifer,* supra, at 144).

The Eastern District Court has likewise emphasized the importance of whether there is a pending state court action, stating: "[T]he absence of pending parallel state proceedings creates a rebuttable presumption in favor of jurisdiction unless good reasons exist for overriding this presumption." *Western World Ins. Co. v. Alarcon & Marrone Demolition Co.*, No. 14-6617, 2015 U.S. Dist. LEXIS 74847, at *4-5 (E.D. Pa. 2015).

Over the past several years, Pennsylvania district courts appeared split over whether to retain discretionary jurisdiction over declaratory judgment actions involving insurance coverage issues. While certain cases remained in federal court, many—particularly where there was a parallel state court proceeding—were dismissed or remanded, often *sua sponte* by the District Judge. The Third Circuit's opinion in *Dianoia's Eatery, LLC,* however, may signal a trend toward retaining jurisdiction over certain cases.

In that case, the Third Circuit noted, "district courts should squarely address the alleged novelty or undetermined nature of state law issues." *Id.* at 197. The court ultimately vacated the district courts' orders remanding several cases where they failed to squarely address the alleged novelty of the state law issues. Furthermore, the Third Circuit explained:

> The fifth factor's "policy of restraint" is applicable only when the "same issues" are pending in state court between the same parties, not when the "same issues" are merely the same legal questions pending in any state proceeding.
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> Because the Reifer factors are non-exhaustive, a district court may still consider, when relevant, whether the same legal question at issue in a declaratory judgment action is at issue in state court proceedings between different parties. Yet we question how this fact would ever militate against exercising jurisdiction. At any given time, there are countless insurance cases pending in state courts which implicate some common application of state law. Once again, "[f]ederal and state courts are equally capable of applying settled state law to a difficult set of facts." Reifer, 751 F.3d at 147. Furthermore, it would undercut the policy and purpose of diversity jurisdiction—"prevent[ion of] apprehended discrimination in state courts against those not citizens of the State," Erie R.R. v. Tompkins, 304 U.S. 64, 74, 58 S.Ct. 817, 82 L.Ed. 1188 (1938)—if a party were unable to seek a declaratory judgment in federal court because that declaration would require the unbiased application of a settled question of state law.
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> *Dianoia's Eatery, LLC, 10 F.4th at 207.*

The impact *Dianoia's Eatery* will ultimately have on district courts' decisions to retain jurisdiction remains to be seen. However, it will undoubtedly be cited by litigants to encourage the courts to exercise their discretion in the future.

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