

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KALAHARI RESORTS, LLC, *et al.*,

Plaintiffs,

v.

THE HON. THOMAS W. WOLF, *et al.*,

Defendants.

Civil Action No. 2:20-cv-1934

Hon. William S. Stickman IV

ORDER OF COURT

Plaintiffs, when filing this action, designated it as “related to” *Butler et al. v. Wolf et al.*, 20-cv-00677, a case adjudicated by the Court that is now on appeal to the Third Circuit Court of Appeals. As a case self-designated as “related to” 20-cv-00677, the matter was automatically assigned to this Judge, rather than being put on the “wheel” for random assignment in due course.

Local Civil Rule 40 governs the designation of a case as “related.” The Court finds the instant matter fails subsection D.2. of LCvR 40, which provides in pertinent part:

D. Related Actions. At the time of filing any civil or criminal action or entry of appearance or filing of the pleading or motion of any nature by defense counsel, as the case may be, counsel shall indicate on an appropriate form whether the action is related to any other pending or previously terminated actions in this Court. Relatedness shall be determined as follows:

* * *

2. civil actions are deemed related when an action filed relates to property included in another action, or involves the *same issue of fact*, or it grows out of *the same transaction* as another action, or involves the validity or infringement of a patent involved in another action;

LCvR 40 (emphasis added).

The Court's initial review of the facts and claims asserted in Plaintiffs' Complaint reveals that this case does not involve the same issues of fact as those contained in 20-cv-00677. Furthermore, it does not grow out of the same transaction as 20-cv-00677. While both cases may present similar or related legal issues stemming from Defendants' use of emergency powers to promulgate COVID-19 mitigation orders, the instant case concerns different plaintiffs, in a different industry who are challenging a different emergency order. The expedited declaratory judgment hearing requested by Plaintiffs by separate motion would, as a consequence, require another hearing and the creation of a new evidentiary record. A purpose of the "related to" designation is to foster efficiency by avoiding the need for parties to create two separate factual records before two separate judges where a single factual record would suffice. The Local Rule is also designed to avoid even the appearance of judge shopping. The presence of similar legal issues or even the same defendants does not, alone, permit the designation of a case as "related" pursuant to LCvR 40. For these reasons, the Court holds that the instant matter is not "related to" 20-cv-00677 per the definition set forth in LCvR 40 and hereby directs the Clerk of Courts to vitiate the "related-to" designation and assign the case in the ordinary course.

Dated: December 15, 2020

BY THE COURT:



WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE