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What To Consider Before Filing For A Rule 57 Speedy Hearing

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Declaratory judgment actions have existed for a century, and most jurisdictions — including over half the states — allow litigants to expedite claims for declaratory judgment through a mechanism known as a "speedy hearing." Despite the long history and widespread availability of this mechanism, however, there remains a "dearth" of case law explaining when parties may seek, and courts may order, a speedy hearing in a declaratory judgment case.[1]

Because of this absence of precedent, litigants in declaratory judgment cases often struggle to understand when a request for speedy hearing will be taken seriously by the courts and just how "speedy" a hearing may be. This article examines the available precedent to identify factors lawyers should consider when faced with a declaratory judgment action and the prospect of either pursuing or defending against a "speedy hearing."

History and Purpose of "Speedy Hearing" Provisions

In the early 1900s, lawmakers grew concerned that the traditional system of remedies — which typically required litigants to have incurred actual, compensable damages before filing suit — "harmed parties by forcing them to wait an unnecessarily long time before seeking relief."[2] In response, state legislatures began authorizing declaratory judgment actions as early as 1919,[3] and the Federal Declaratory Judgment Act followed in 1934.[4] Mechanisms to seek "speedy hearings," although not universal, accompanied most of these reform efforts. Today, the federal rules, along with rules in 32 states and the District of Columbia, expressly permit speedy hearings in declaratory judgment actions.

In the federal courts, the procedural aspects of declaratory judgment are governed by Federal Rule of Civil Procedure 57 which, since its adoption in 1937, has provided for a "speedy hearing" or other form of expedited relief.[5] According to the drafters of the rule, because "[a] declaratory judgment ... operates frequently as a summary proceeding," the speedy hearing mechanism allows "docketing the case for early hearing as on a motion."[6] The provision allowing speedy hearings thus reflects one of the core purposes of declaratory judgment: to "afford a speedy and inexpensive method of adjudicating legal disputes ... and to settle

legal rights and remove uncertainty and insecurity from legal relationships without awaiting a violation of the rights or a disturbance of the relationships."[7]

Three Considerations Courts Invoke To Address Requests for Speedy Hearings

Given the emphasis on speed and efficiency in declaratory judgment actions, it is surprising how infrequently Rule 57's speedy hearing provision and its state analogs are litigated. The few reported decisions that do interpret these provisions, however, reveal three considerations that courts have found relevant in deciding whether a speedy hearing is appropriate.

First and most important, a concrete need for urgency will increase the chances of a speedy hearing.

For example, in National Basketball Association v. Williams, the court ordered a speedy hearing to avoid casting a "legal cloud" over an upcoming NBA season.[8] At issue was whether the college draft and salary caps, among other NBA policies, violated antitrust laws in the absence of a collective bargaining agreement between the NBA and its players association.[9] Because the college draft and free agency were rapidly approaching, the court ordered an accelerated trial schedule to resolve the case and allow teams and players to "sign contracts and prepare for the upcoming season."[10]

The circumstances need not be this dramatic, however. In Miller v. Warner Literary Group LLC, a novelist sought a declaration allowing him to terminate a contract with his agent in advance of an upcoming publication date.[11] Given the "imminent deadline," the court found "good cause" to resolve a motion for declaratory judgment "on an expedited basis."[12]

The urgency must be legitimate, and any delay in filing suit or invoking the speedy hearing mechanism may jeopardize expedited treatment.

For example, one plaintiff — a former employee of the defendant — waited over a year before seeking to declare his noncompete clause unenforceable and asking for "a prompt trial of [his] declaratory judgment claim."[13] The court denied this request, explaining that the plaintiff's yearlong delay "suggest[ed] that this matter may not be so urgent as to justify priority over other litigants."[14] Thus, parties who seek to avail themselves of the speedy hearing mechanism should not only be prompt in bringing suit but should also request a speedy hearing as early in the litigation as possible.[15]

Second, courts are more willing to order speedy hearings when the parties' factual disputes are narrow and the chief disagreement is a legal issue that can be resolved without an extensive evidentiary hearing. In Tri-State Generation & Transmission Association Inc. v. BNSF Railway Co., for example, the parties disputed whether a specific contractual provision covered the transportation of coal to a particular facility.[16]

In granting a motion for an expedited hearing, the court reasoned that "this issue appears to be a fairly straight-forward issue of contract interpretation."[17] Likewise, in Williams, the court ordered a speedy hearing in part because "the raw facts" were "not in dispute" and the parties' disagreement "center[ed] on the applicable legal standard."[18]

In contrast, "fact-intensive" cases that "would benefit from more than limited discovery," are less likely to receive speedy hearings.[19] This does not mean speedy hearings will be granted only in cases "in which the facts are entirely or nearly undisputed."[20] Courts "have discretion to hold prompt hearings or trials in declaratory judgment cases, as indeed they do in all other cases, regardless of whether the

facts are mostly undisputed." It is safe to assume, however, that the fewer and narrower the factual disputes, the more likely a declaratory judgment case will be deemed an appropriate candidate for expedited treatment.

Finally, in considering requests for speedy hearings, courts evaluate whether the resolution of the declaratory judgment claim "will terminate the controversy or at least substantially narrow the issues."[21]

In Tri-State, for example, the court granted an expedited hearing because the court's interpretation of the disputed contractual provision was "likely to be dispositive in [the] matter."[22] Thus, where a speedy hearing on a declaratory judgment claim is likely to resolve the entire case or a significant portion of it, litigants have a particularly strong argument in favor of expedited treatment.

Judicial Discretion and Constitutional Limits

Assuming that a speedy hearing is appropriate under the circumstances of a particular case, the question of how "speedy" the hearing may be remains. Neither Rule 57 nor its state counterparts define what it means for a hearing to be speedy. Reported cases suggest that two overriding considerations — the needs of the case and due process — define the boundaries of how rapidly a declaratory judgment case may be resolved.

One feature of the speedy hearing mechanism is its flexibility. Courts have latitude to tailor the schedule of a declaratory judgment action to the needs of the parties and the exigencies of the dispute.

In Williams, for example, time was of the essence because of the upcoming NBA draft and free agency, and the court held a merits trial less than two weeks after the case was assigned to the presiding judge.[23] In Miller, meanwhile, the schedule was tailored to a novelist's upcoming publication deadline, which was four months after the complaint was filed.[24] But while courts have discretion to address the needs of each particular set of circumstances, a declaratory judgment action receives no exception from constitutional principles of due process.

As a general matter, due process requires notice and an opportunity to confront adverse witnesses and present one's own arguments and evidence.[25] A "speedy hearing," could therefore violate due process principles if, for example, the defendant is not given "an appropriate opportunity to develop evidence."[26] This concern is particularly significant because — unlike other forms of expedited relief such as a temporary restraining orders or preliminary injunctions — a declaratory judgment is a final determination on the merits.

Given these concerns, it is no surprise that the court's two-week timetable in Williams is an outlier, even in the speedy hearing context. More frequently, the time for an expedited hearing is measured in months. In Miller, for example, the court ruled on the plaintiff's motion for declaratory judgment roughly two months after initiation of the suit, and one month after the plaintiff first moved for declaratory judgment. Speedy hearings therefore reflect a general approach to case management rather than any specific time limit for decision. In one example, the court simply requested an amended case management report "that contemplate[d] the Court's desire to impose an expedited schedule."[27]

The key point, then, is that speedy hearings can be a viable option in the right kind of case: a case in which the parties need an immediate answer from the court, the factual disputes are narrow and well defined, and a ruling on a declaratory judgment claim will resolve or substantially narrow the litigation.

Where these factors are present, judicial discretion will tilt in favor of a speedy hearing and due process will permit it.

Accordingly, the lack of case law construing speedy hearing provisions should not deter litigants from seeking expedited relief. To the contrary, Rule 57 and its state counterparts provide a method for accelerated litigation that warrants closer attention than it has historically received from litigants and courts.

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[1] See 10B Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure § 2752 (4th ed. 2019).

[2] Robert T. Sherwin, Shoot First, Litigate Later: Declaratory Judgment Actions, Procedural Fencing, and Itchy Trigger Fingers, 70 Okla. L. Rev. 793, 801 (2018) (quoting Donald L. Doernberg & Michael B. Mushlin, The Trojan Horse: How the Declaratory Judgment Act Created a Cause of Action and Expanded Federal Jurisdiction While the Supreme Court Wasn't Looking, 36 UCLA L. Rev. 529, 552–53 (1989)).

[3] See Wright & Miller supra note 1 §2752.

[4] See 28 U.S.C. § 2201(a).

[5] Fed. R. Civ. P. 57 (1938).

[6] See Fed. R. Civ. P. 57 advisory committee notes (1937).

[7] Beacon Const. Co., Inc. v. Matco Elec. Co., Inc., 521 F.2d 392, 397 (2d Cir. 1975) (internal quotation marks omitted).

[8] 857 F. Supp. 1069, 1071 n.1 (S.D.N.Y. 1994), aff'd, 45 F.3d 684 (2d Cir. 1995).

[9] Id. at 1071.

[10] Id. at 1071 n.1.

[11] No. 12-CV-2871-WJM-KLM, 2013 WL 360012, at *2 (D. Colo. Jan. 30, 2013).

[12] Id.

[13] Anderson v. Pictorial Prods., Inc., 232 F. Supp. 181, 182 (S.D.N.Y. 1964).

[14] Id.

[15] See, e.g., Miller, 2013 WL 360012, at *2 (granting expedited treatment in response to a motion for speedy hearing filed less than two months after the case was initiated).

[16] No. CV08-272-PHX-MHM, 2008 WL 2465407, at *7 (D. Ariz. June 17, 2008).

[17] Id.

[18] 857 F. Supp. at 1071 n.1.

[19] Allergan, Inc. v. Valeant Pharm. Int'l, Inc., No. SACV 14-1214 DOC ANX, 2014 WL 4181457, at *4 (C.D. Cal. Aug. 21, 2014).

[20] United States v. Stein, 452 F. Supp. 2d 230, 270 (S.D.N.Y. 2006), vacated sub nom. on other grounds, Stein v. KPMG, LLP, 486 F.3d 753 (2d Cir. 2007).

[21] GEC US 1 LLC v. Frontier Renewables, LLC, No. 16-CV-1276 YGR, 2016 WL 3345456, at *6 (N.D. Cal. June 16, 2016) (internal quotation marks omitted).

[22] 2008 WL 2465407, at *7.

[23] See 857 F. Supp. at 1071 n.1.

[24] 2013 WL 360012, at *1.

[25] See, e.g., Goldberg v. Kelly, 397 U.S. 254, 267–68 (1970).

[26] See Stein, 452 F. Supp. 2d at 274 (discussing, but ultimately rejecting, the argument that a speedy proceeding would violate due process).

[27] Tri-State Generation & Transmission Ass'n, 2008 WL 2465407, at *7.