

Understanding Declaratory Actions: “Well, I Do Declare!”

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When Do You Use a Declaratory Judgment Action?

- 1) When the judgment will serve a useful purpose in clarifying and settling the legal relations in issue, and
- 2) When it will terminate and afford relief from the uncertainty, insecurity, and controversy giving rise to the proceeding.

McGraw-Edison Co. v. Preformed Line Prod. Co., 362
F.2d 339, 342 (9th Cir. 1966)

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Is Administrative Exhaustion Required?

Generally, No

Darby v. Cisneros, 509 U.S. 137, 153-54 (1993)

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Declaratory Judgment Action, APA or Mandamus Action?

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What Should I Know Before I File?

- What if I am not licensed in a jurisdiction?
- What if the decision is discretionary?
- What do I tell my client about the risks of litigation?

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What Should I Review?

- Federal Rules of Civil Procedure
- Local Rules
- Judge's Standing Orders

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Who, What, Where and How

- What are some hurdles?
- Who should be named?
- What does the Complaint look like?
- Where is it filed?

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Now What?

- How long so they have to answer?
- How can I get interim relief?
- When can I file for Summary Judgement?
- Will I get discovery?
- When is trial?

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Questions? Comments?

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