

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-091893

08/12/2022

HONORABLE STEPHEN M. HOPKINS

CLERK OF THE COURT
C. Avena
Deputy

AMBER RIDGE HEIGHTS HOMEOWNERS
ASSOCIATION

MARK W WALDRON

v.

MARIA M LUNA, et al.

MARIA M LUNA
3738 W APOLLO RD
PHOENIX AZ 85041

WELLSPRING GROUP L L C, THE
INCorp SERVICESW INC
400 N MAIN AVE STE 206
SIOUX FALLS SD 57104
JUDGE HOPKINS

MINUTE ENTRY

The Court is in receipt of a proposed form of Order, submitted pursuant to Rule 54 (b) of the Arizona Rules of Civil. The Court now rules as follows.

Rule 54 (b) is designed as a compromise between the policy against interlocutory appeals and the desirability “in a few cases” of an immediate appeal to prevent an injustice. *See, e.g., Southern California Edison Co. v. Peabody Western Coal Co.*, 194 Ariz. 47, 977 P.2d 769 (1999). Our appellate courts have emphasized the strong policy and desire to prevent piecemeal appeals. *McHazlett v. Otis Engineering Corp.*, 133 Ariz. 530, 652 P.2d 1377 (1982). Stated another way Rule 54 (b) language may be appropriate in those “few cases” where no appellate court would have to decide the same issues more than once even if there were subsequent

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appeals. *Dabrowsi v. Bartlett*, 246 Ariz. 504, 442 P.3d 811 (App. 2019). As confirmed by the *Southern California Edison* court:

Rule 54 . . . is designed as a compromise between the policy against interlocutory appeals and the desirability, in a few cases, of an immediate appeal to prevent an injustice. *Pulaski*, 127 Ariz. at 218, 619 P.2d at 490. A trial judge has discretion to decide whether an order or judgment should be accorded finality; the judge should certify the order or judgment pursuant to Rule 54(b) only in those cases in which some hardship or injustice would result from a delay in entering a final judgment. *See id.*; *see also* 10 CHARLES ALAN WRIGHT, ARTHUR R. MILLER & MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE: CIVIL 3D § 2659. Our decision today does not depart from our policy against piecemeal appeals, nor from our policy in favor of arbitration. We emphasize that 54(b) orders should not be entered routinely or as a courtesy or accommodation to counsel. The power which this Rule confers upon the trial judge should be used only ‘in the infrequent harsh case’ as an instrument for improved administration of justice and the more satisfactory disposition of litigation in light of the public policy indicated by statute [as to the appealability of final judgments] and rule. *Pulaski*, 127 Ariz. at 218, 619 P.2d at 490 (quoting *Panichella v. Pennsylvania R.R.*, 252 F.2d 452, 455 (3d Cir.1958)).

194 Ariz. at 53, 977 P.2d at 769.

The Court cannot conclude based upon the Court record that this is the “infrequent harsh case” where an immediate appeal is necessary to prevent an injustice.

IT IS THEREFORE ORDERED denying the any request for 54 (b) certification, and denying the request for entry of a final Order at this time.