

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2009-037208

05/11/2010

HONORABLE BETHANY G. HICKS

CLERK OF THE COURT  
M. Sahli  
Deputy

CINDY VONG, et al.

CLINT BOLICK

v.

SUE SANSOM, et al.

SUE SANSOM  
1721 E BROADWAY RD  
TEMPE AZ 85282

DONNA AUNE  
1721 E BROADWAY RD  
TEMPE AZ 85282  
BRIDGET FITZGIBBONS  
HARRINGTON

MINUTE ENTRY

The Plaintiffs have sued the Executive Director of the State of Arizona Board of Cosmetology (the "Board") in her official capacity challenging the Board's authority to regulate the business, referred to as a "fish therapy spa", conducted by Plaintiff Cindy Vong through La Vie LLC.

It is unclear from the Complaint whether this is an action for a declaratory judgment or an attempt to secure review of the Board's administrative action against the Plaintiffs as manifested in the Consent Agreement (the "Consent") executed by the Plaintiffs on September 3, 2009 and approved and entered by the Board on September 9, 2009.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2009-037208

05/11/2010

If this is treated as a declaratory judgment action, it is improper, as a party may not use a complaint for declaratory judgment as a substitute for a timely appeal for judicial review of an administrative order. *Smith v. Ariz. Citizens Clean Elections Comm'n*, 212 Ariz. 407, 461, 132 P.3d 1187, 1196 (2006); *Thielking v. Kirschner*, 176 Ariz. 154, 156, 859 P.2d 777, 779 (App. 1993).

On the other hand, if this is treated as an appeal for judicial review of an administrative order, it was required to be filed by November 2, 2009. It was not filed until November 30, 2009. Accordingly, it was untimely.

On either basis,

**IT IS ORDERED** the Defendants' Motion to Dismiss is appropriate and is hereby granted.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>