

NOTICE
Decision filed 05/22/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250469-U

NO. 5-25-0469

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

COUNTRY MUTUAL INSURANCE COMPANY,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	St. Clair County.
)	
v.)	No. 22-MR-54
)	
FREEBURG COMMUNITY CONSOLIDATED)	
SCHOOL DISTRICT NO. 70, a Corporation,)	
LAWRENCE MEGGS, and JOHN DOE, Defendants.)	
)	Honorable
(Freeburg Community Consolidated School District No. 70)	Stacy L. Campbell,
and Lawrence Meggs, Defendants-Appellees).)	Judge, presiding.

PRESIDING JUSTICE CATES delivered the judgment of the court.
Justices Vaughan and Sholar concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court did not abuse its discretion in granting a stay of the proceedings in the declaratory judgment action pending a resolution of the underlying tort case. The circuit court’s order to stay the proceedings is affirmed.

- ¶ 2 The plaintiff, Country Mutual Insurance Company (Country Mutual) appeals from the circuit court’s order granting a motion by Freeburg Community Consolidated School District No. 70 (Freeburg School District) and Lawrence Meggs, to stay the proceedings in Country Mutual’s action for a declaratory judgment regarding insurance coverage pending resolution of an underlying tort case. We affirm.

¶ 3

I. BACKGROUND

¶ 4 On July 28, 2021, John Doe (Doe 5) filed the underlying tort action against Freeburg School District and Lawrence Meggs, a former superintendent and assistant superintendent of the Freeburg School District. In the general allegations of the complaint, Doe 5 alleged that he was a student at Carl L. Barton Elementary School, a school in the Freeburg School District, during the years 1972 to 1981; that beginning in approximately 1977, he was sexually abused by Robin Hawkins, then an employee of Freeburg School District; and that the incidents of abuse occurred when Doe 5 was on the premises of Barton Elementary School for ordinary school activities. Doe 5 further alleged that Freeburg School District, by and through its board members, administrators, teachers, agents, and employees, were aware or should have been aware of reports, allegations, and complaints of sexual abuse brought against Hawkins by other students in the district that preceded the abuses alleged in Doe 5's complaint, and failed to supervise Hawkins. Doe 5 claimed that he had repressed his memories of the abuse until February 2020. He brought counts alleging negligence, negligent infliction of emotional distress, intentional infliction of emotional distress, and failure to supervise against Freeburg School District and intentional infliction of emotional distress and failure to supervise against Meggs.

¶ 5 Freeburg School District and Meggs tendered the defense of the lawsuit to its insurer, Country Mutual. On February 7, 2022, Country Mutual agreed to pay the costs of defending the School District and Meggs in the underlying case.

¶ 6 On March 18, 2022, the plaintiff, Country Mutual, filed a declaratory judgment action against the defendants, Freeburg School District and Meggs.¹ Country Mutual named Doe 5 as an

¹In the appellant's brief, Country Mutual refers to Freeburg School District and Meggs as its "insureds."

additional party defendant, however, it did not serve Doe 5 with a summons and a copy of the complaint. As a result, Doe 5 did not enter an appearance in the declaratory judgment action, and he did not participate in this appeal.

¶ 7 In the complaint for declaratory relief, Country Mutual claimed it did not have duties to defend and to indemnify Freeburg School District and Meggs in the underlying tort action. Country Mutual alleged that it had “no definitive records” of providing insurance coverage to Freeburg School District during the period from 1977 through 1981, when Doe 5 was allegedly abused. Country Mutual further alleged that it repeatedly requested that Freeburg School District provide documents evidencing Country Mutual insurance policies in effect during the relevant period, including copies of the policies or other documents indicating the types, terms and conditions of coverage, and exclusions from coverage; that it was not provided with any proper or sufficient evidence of a policy or policies; and that it sought a judicial determination of the coverage issues. Country Mutual asserted that even if there was a Country Mutual policy in effect during the relevant period, the allegations in the underlying lawsuit did not come within the scope, terms and conditions of coverage. In addition, Country Mutual asserted that Doe 5’s lawsuit alleged incidents of abuse as far back as 1977, and that it was first notified of the occurrence in July of 2020. Thus, any potential coverage would be excluded because of the failure to provide timely notice of the occurrence.

¶ 8 Country Mutual sought a judgment determining and declaring the rights and liabilities of the parties. More specifically, Country Mutual sought a declaration that Freeburg School District and Meggs failed to establish the existence of a Country Mutual policy during the relevant time period, and that if the circuit court found there was a Country Mutual policy in effect during the relevant period, then a declaration that the occurrence was not covered under the policy or excluded

from coverage, or that that Freeburg School District and Meggs were not entitled to coverage due to a breach of the policy provision requiring timely notice. Finally, Country Mutual sought declarations that it had no duty to defend or indemnify Freeburg School District or Meggs under any Country Mutual policy in connection with the underlying case and that “the Defendants had no rights” under any Country Mutual policy in connection with the underlying lawsuit.

¶ 9 After Country Mutual filed its declaratory judgment action in March 2022 there was little activity in that case for almost three years. Then, on February 19, 2025, Country Mutual served Freeburg School District with written interrogatories and requests for production. Most of Country Mutual’s requests were directed toward the discovery of documents and information that evidenced the existence of Country Mutual insurance policies or other insurance policies during the period from 1973 to 1985. However, there was a request for “all documents and information concerning the Underlying Complaint”² and an interrogatory seeking the identity of all expert witnesses, the substance of each expert’s opinions, and the grounds for those opinions.

¶ 10 On March 21, 2025, Freeburg School District and Meggs filed a motion to stay the proceedings in the declaratory judgment action pending a resolution of the underlying case. They asserted that they tendered their defense and indemnity in the underlying case to their insurer, Country Mutual, and that Country Mutual “acknowledged, admitted, and accepted its duty to defend” them in the underlying case, but disclaimed a duty to indemnify them. They claimed that the declaratory judgment action had been effectively stayed for three years pending the outcome of the underlying case and that Country Mutual had paid the costs of defense during that period. Freeburg School District and Meggs also claimed the declaratory judgment action was not ripe for

²Country Mutual’s interrogatories and requests for production contained a section defining specific terms used in the discovery requests. “Underlying Complaint” or “Underlying Claim” referred to Doe 5’s case against Freeburg School District and Lawrence Meggs.

adjudication because the question of whether Country Mutual had a duty to indemnify was premature and could not be determined until the underlying case was adjudicated. They also asked the circuit court to stay discovery pursuant to Illinois Supreme Court Rule 201(c)(1) (eff. March 17, 2023), given that the indemnity issue was not yet ripe for adjudication and that a potential defense verdict in the underlying case could make the indemnity issue moot. They claimed that discovery would not be judicially efficient, would constitute an unreasonable and unnecessary expense, and would potentially conflict with discovery or result in factual findings inconsistent with findings made in the underlying case. In addition, they claimed Freeburg School District would be highly prejudiced and would face a substantial likelihood of suffering unreasonable and unnecessary expenditure of the district's efforts and public funds in moving forward with discovery and litigation and that Country Mutual would suffer no prejudice if the action was stayed.

¶ 11 On April 8, 2025, Country Mutual filed suggestions in opposition to the motion to stay. Country Mutual asserted that its declaratory judgment action involved questions about its obligations both to defend and to indemnify Freeburg School District and Meggs in the underlying case. Country Mutual claimed that it directly contested its duty to defend in the declaratory judgment complaint and that a stay was unwarranted because the question concerning its duty to defend was ripe for adjudication and unrelated to the outcome of the underlying case. Country Mutual also argued that Freeburg School District and Meggs failed to meet their burden to establish a clear hardship or inequity that would justify a stay. In the alternative, Country Mutual asked the circuit court to allow discovery regarding the existence of insurance coverage during the relevant period, arguing that the existence of coverage was not an issue that would be addressed or

adjudicated in the underlying litigation and that a stay would result in unnecessary delay and increased litigation costs.

¶ 12 The motion to stay was set for hearing on May 27, 2025. Prior to considering that motion, the circuit court granted Country Mutual’s unopposed motion for the issuance of a summons to defendant Doe 5. During the arguments on the motion to stay, both parties noted that Country Mutual had agreed to provide and pay for its insureds’ defense of the underlying case. Country Mutual argued that it provided a defense under a reservation of rights to contest both the duty to defend and the duty to indemnify. Freeburg School District and Meggs argued that Country Mutual’s reservation of rights was only directed toward Country Mutual’s claim that it had no duty to indemnify them. The reservation-of-rights letter was not filed with the pleadings or provided to the circuit court for review. Therefore, it is not part of the record on appeal. After considering the pleadings and the arguments of counsel, the circuit court granted the motion to stay the proceedings pending the resolution of the underlying case. This appeal followed.

¶ 13

II. ANALYSIS

¶ 14 On appeal, Country Mutual claims that the circuit court abused its discretion in ordering a stay of the declaratory judgment proceedings based on the court’s erroneous conclusion that by providing a defense to Freeburg School District and Meggs while also litigating its coverage obligations, Country Mutual only reserved its right to challenge the duty to indemnify. Country Mutual contends that there is no legal authority to support a stay of a declaratory judgment action “when the insurer challenges the duty to defend but has agreed to provide the insured with a defense,” and that Freeburg School District and Meggs failed to establish any other valid basis to support a stay of the declaratory judgment action.

¶ 15 This is an interlocutory appeal from the circuit court's order granting a motion to stay the declaratory judgment proceedings. An order granting or denying a motion to stay proceedings is injunctive in nature and reviewable under Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017). See *Khan v. BDO Seidman, LLP*, 2012 IL App (4th) 120359, ¶ 55; *TIG Insurance Co. v. Canel*, 389 Ill. App. 3d 366, 372 (2009). Accordingly, this court has jurisdiction to consider this interlocutory appeal.

¶ 16 Generally, the circuit court's decision to grant or deny a motion to stay proceedings is reviewed for an abuse of discretion. See *Estate of Bass v. Katten*, 375 Ill. App. 3d 62, 67 (2007). Under this standard of review, the question is not whether the reviewing court agrees or disagrees with the circuit court's decision. Instead, the reviewing court must determine whether the circuit court acted arbitrarily without the employment of conscientious judgment or, in view of all the circumstances, exceeded the bounds of reason and ignored recognized principles of law so that substantial prejudice resulted. *Estate of Bass*, 375 Ill. App. 3d at 67. In the interlocutory appeal, the only question before the reviewing court is whether a sufficient showing was made to the circuit court to sustain its order granting or denying the relief sought. *Estate of Bass*, 375 Ill. App. 3d at 67. A reviewing court looks to the sufficiency of the evidence for the limited purpose of ascertaining whether the circuit court abused its discretion in entering the interlocutory order and not for purposes of determining controverted rights or deciding the merits of the case. *Estate of Bass*, 375 Ill. App. 3d at 67-68.

¶ 17 A stay order is intended to preserve the status quo existing on the date of its entry and does not address in any way the merits of the dispute. *Kaden v. Pucinski*, 263 Ill. App. 3d 611, 615 (1994). The circuit court may stay the proceedings as part of its inherent authority to control the disposition of cases before it. *Estate of Bass*, 375 Ill. App. 3d at 68. In determining whether to stay

proceedings, the circuit court may consider factors such as the orderly administration of justice and judicial economy. *Estate of Bass*, 375 Ill. App. 3d at 68. The party seeking a stay bears the burden of establishing adequate justification for it. *Kaden*, 263 Ill. App. 3d at 615. Thus, the moving party must show that the benefits of a stay outweigh any potential harm to the party against whom it operates. *Kaden*, 263 Ill. App. 3d at 615-16.

¶ 18 With these principles in mind, we must consider whether there was sufficient showing to sustain the circuit court’s decision to stay the declaratory judgment proceedings pending the resolution of the underlying tort action. At the time the motion to stay was heard, the declaratory judgment action had been pending for more than three years. In that three-year period, the declaratory judgment action was essentially stayed by agreement, with little activity beyond a status conference and no substantive rulings by the circuit court. On February 19, 2025, Country Mutual unilaterally changed that course and initiated discovery in the declaratory judgment action. We note that in the declaratory action, Country Mutual sought a judgment declaring that the “Defendants” had no rights under any Country Mutual policy, and that in discovery, Country Mutual sought all documents and information concerning the underlying complaint filed by Doe 5. This is significant because Doe 5 is a named defendant and necessary party in the present action, yet he was never served with a summons and a copy of the complaint for declaratory relief. The failure to join a necessary party may be raised at any time, either by the parties or the trial court or appellate court *sua sponte*. *Oglesby v. Springfield Marine Bank*, 385 Ill. 414, 423 (1944); *Allied American Insurance Co. v. Ayala*, 247 Ill. App. 3d 538, 543-44 (1993). A necessary party is one whose presence in a lawsuit is required for any of three reasons: (1) to protect an interest which the absentee has in the subject matter which would be materially affected by a judgment entered in his absence, (2) to reach a decision to protect the interests of those who are before the court, or

(3) to enable the court to make a complete determination of the controversy. *City of Elgin v. Arch Insurance Co.*, 2015 IL App (2d) 150013, ¶ 34. Doe 5 is also an injured party who has a substantial right in the viability of the insurance policy and the coverage. See *Skidmore v. Throgmorton*, 323 Ill. App. 3d 417, 421-22 (2001) (liability insurance policies should operate to afford injured parties coverage, and a declaration of noncoverage would eliminate a source of funds for the injured party). The circuit court recognized that Doe 5 must be given an opportunity to litigate the questions regarding coverage under the relevant Country Mutual liability insurance policies before his beneficial interest may be terminated. *Reagor v. Travelers Insurance Co.*, 92 Ill. App. 3d 99, 103 (1980). In this case, the circuit court acted well within its discretion to stay all proceedings in the declaratory judgment action to preserve the status quo.

¶ 19 The record reveals an additional basis to sustain the circuit court's decision to stay the declaratory judgment proceedings. In its complaint for declaratory relief, Country Mutual challenged both the duty to defend and the duty to indemnify its insureds in the underlying tort case. In opposing the insureds' motion to stay, Country Mutual seemed to acknowledge that the indemnity question would not become ripe for adjudication until its insureds' liability was determined in the underlying action. Country Mutual focused its argument on its challenge to the duty to defend. Country Mutual claimed that a stay was unwarranted because the questions regarding its duty to defend were ripe for adjudication and unrelated to the outcome of the underlying complaint. In determining whether the insurer owes a duty to defend, a court ordinarily compares the allegations of the underlying complaint to the relevant provisions of the policy. *Outboard Marine Corp. v. Liberty Mutual Insurance Co.*, 154 Ill. 2d 90, 107-08 (1992); *Maryland Casualty Co. v. Peppers*, 64 Ill. 2d 187, 193 (1976). Here, the underlying complaint generally alleges that Doe 5 was subjected to sexual abuses on school property "numerous times" beginning

in 1977. However, the dates and nature of the abuse have yet to be clearly defined. Additionally, there are factual questions regarding when the insured knew of the prior instances of sexual misconduct by Hawkins and how they responded to that information. These issues have yet to be determined in the underlying case. As to the duty to defend, there are genuine factual questions about the existence of insurance coverage for the occurrences at issue, the effective dates of coverage, and the timeliness of the notification of the occurrences to Country Mutual. The resolution of these coverage questions rests, in part, upon factual issues that have yet to be developed and determined in the underlying case. Based on this record, the circuit court's decision to stay proceedings in the declaratory judgment action was not an abuse of discretion.

¶ 20 Country Mutual contends that the circuit court's decision to grant the motion to stay was based on its erroneous conclusion that because Country Mutual agreed to pay for its insureds' defense in the underlying case, Country Mutual effectively reserved only the challenge to the duty to indemnify. Based upon our review of the record, the circuit court made no final decisions on the merits regarding the scope of Country Mutual's reservation of rights or whether Country Mutual waived or was estopped from litigating its challenge to the duty to defend. The record shows that the scope of Country Mutual's reservation of rights was vehemently contested. The circuit court did not have the benefit of reviewing the reservation-of-rights letter at issue or receiving any documentary evidence or testimony regarding Country Mutual's assertion of a reservation of rights. During the hearing, the circuit court indicated that it agreed with the "assessment" by the insureds' counsel "that the reservation of rights deals with indemnity." In the next breath, however, the court stated that "if the court is wrong, the court will take this up after the conclusion of [the underlying action] if that is in fact necessary." While the circuit court's

comments were confusing, we do not find that those comments could be construed as a substantive ruling on the scope of Country Mutual's reservation of rights.

¶ 21

III. CONCLUSION

¶ 22 Under the unique circumstances presented here, we do not find that the circuit court acted arbitrarily and without the employment of conscientious judgment or that it exceeded the bounds of reason and ignored recognized principles of law resulting in substantial prejudice. The circuit court did not abuse its discretion in granting the motion by Freeburg School District and Meggs to stay the declaratory judgment proceedings pending the resolution of the underlying tort action. Accordingly, the circuit's court order granting a stay of the proceedings is affirmed.

¶ 23 Affirmed.