

# United States Court of Appeals

For the Seventh Circuit  
Chicago, Illinois 60604

November 16, 2021

## By the Court:

ELI LILLY AND COMPANY and LILLY USA, LLC, Plaintiffs-Appellants,	] Appeal from the United ] States District Court ] for the Southern District ] of Indiana, Indianapolis ] Division.
No. 21-3128                      v.	]
XAVIER BECERRA, et al., Defendants-Appellees.	] No. 1:21-cv-00081-SEB-MJD ] ] Sarah Evans Barker, ] Judge.

## ORDER

A preliminary review of the short record indicates that the order appealed from may not be a final appealable judgment within the meaning of 28 U.S.C. § 1291, or at the very least may not be ready for appellate review.

In declaratory judgment actions – the instant case is such an action – the district court must declare specifically and separately the respective rights of the parties. Language in a memorandum opinion or Rule 58 judgment indicating simply that a motion has been granted or denied, does not comply with the requirements of Rule 58. *Philadelphia Indemnity Ins. Co. v. The Chicago Trust Co.*, 930 F.3d 910, 912 (7th Cir. 2019); *Calumet River v. International Union of Operating Engineers*, 824 F.3d 645, 651 (7th Cir. 2016).

In the present case, the district court failed to separately declare the rights of the parties. The partial final judgment (district court docket no. 145) states that summary judgment is entered in favor of plaintiff on some claims and in favor of defendants on other claims; it also set aside and vacated an advisory opinion and a separate enforcement letter, but did not explicitly declare the rights of the parties.

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In a recent case exhibiting similar shortcomings, the court determined such shortcomings did not resolve the parties' dispute, requiring further action by the district court before this court's review. See *Philadelphia Indemnity Ins. Co.*, 930 F.3d at 912; see also *Greenhill v. Vartanian*, 917 F.3d 984 (7th Cir. 2019). Accordingly,

IT IS ORDERED that appellants and appellees shall file, on or before November 30, 2021, a brief memorandum stating why this appeal should not be dismissed for lack of jurisdiction, or sent back to the district court as was done in the *Philadelphia Indemnity* and *Greenhill* cases. A motion for voluntary dismissal pursuant to Fed. R. App. P. 42(b) will satisfy this requirement. Briefing shall be suspended pending further court order.

NOTE: Caption document "JURISDICTIONAL MEMORANDUM." The filing of a Circuit Rule 3(c) Docketing Statement does not satisfy your obligation under this order.