

THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 01-4478

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EVELYN M. AXELROD; HERBERT R. AXELROD,

vs.

CENTRAL GARDEN & PET COMPANY,

Appellant.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

(D.C. No. 01-cv-01262)

District Judge: The Honorable Mary Little Cooper

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ARGUED JULY 23, 2002

BEFORE: SLOVITER, NYGAARD, and BARRY, Circuit Judges.

(Filed: August 28, 2002)

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OPINION OF THE COURT

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NYGAARD, Circuit Judge.

In this appeal, Appellant, Central Garden and Pet Company, asks us to reverse those portions of the District Court's Order that granted the Axelrods' motion to confirm a January 31, 2001 arbitration award rendered in the Axelrods' favor by PriceWaterhouseCoopers . The initial conflict arose out of Central's purchase of all of the Axelrods' shares of TFH Publications. The arbitration was conducted to resolve disputes that arose between the Axelrods and Central as to the amount, if any, of additional purchase price Central owed to the Axelrods. Central argues on appeal that the District Court should have dismissed the Axelrods' petition to confirm the arbitration award because the arbitration was not an arbitration at all, but rather an appraisal. Further, Central argues that the District Court should have abstained or stayed judgment pending the conclusion of a state court action. We conclude that neither issue has merit, and would affirm, except that both parties agree the District Court erred by calling its order a Declaratory Judgment, rather than a mere confirmation of an arbitrator's award. We agree, will vacate the Declaratory Judgment and remand the cause for the District Court to enter a judgment confirming the arbitration award.

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TO THE CLERK:

Please file the foregoing opinion.

/s/ Richard L. Nygaard  
Circuit Judge