

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-002081

02/20/2019

HONORABLE CONNIE CONTES

CLERK OF THE COURT
K. Cabral/D Arrieta
Deputy

DAN CAGLEY, et al.

KURT E HAMMOND

v.

NATIONWIDE AFFINITY INSURANCE
COMPANY, et al.

LAURENCE R SHARLOT
JUDGE CONTES

MINUTE ENTRY

The court has read and considered defendant Nationwide Affinity's request to add Rule 54(b) language to the court's October 1, 2018 order so that, defendant urges, the October 1 order will be "final and appealable pursuant to A.R.S. § 12-2101.01(A)(1)." No response has been filed, nor is one necessary. *See Sw. Gas Corp. v. Irwin ex rel. Cty. of Cochise*, 229 Ariz. 198, 201, ¶ 7 (App. 2012) (whether a judgment is "final" is a question of law).

IT IS ORDERED denying same.

A.R.S. § 12-2101.01(A)(1) grants appellate jurisdiction over an appeal from "[a]n order denying an application to compel arbitration made under § 12-1502 or 12-3007." The October 1 order did not deny an application to compel arbitration under either statute; instead, it denied defendant's motion to compel an appraisal. Accordingly, the October 1 order would not be an appealable one, regardless whether Rule 54(b) language were added. *See Sec. Alarm Fin. Enters., L.P. v. Fuller*, 242 Ariz. 512, 515, ¶ 5 (App. 2017) (discussing appeal from order denying motion to compel arbitration made under Federal Arbitration Act). Indeed, the Court of Appeals implicitly recognized as much in its December 31, 2018 order dismissing defendant's appeal from the October 1 order in part because the October 1 order was "an interlocutory ruling and not

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substantively appealable.” *But see Meineke v. Twin City Fire Ins. Co.*, 181 Ariz. 576, 580 (App. 1994) (applying principles of arbitration law to dispute regarding insurance policy appraisal clause).

Finally, to the extent defendant requests Rule 54(b) language based on *Southern California Edison*, the court simply disagrees that case is persuasive. *See S. Cal. Edison Co. v. Peabody W. Coal Co.*, 194 Ariz. 47, 52-53, ¶¶ 16-20 (1999) (order compelling arbitration appealable if certified pursuant to Rule 54(b)).