

JUDGE DAVID BRIONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FILED

2007 MAY 25 AM 9:41

CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY _____
DEPUTY

GECU, Plaintiff

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v.

UNITED STATES OF AMERICA and
FRANK B. APODACA, Defendants

NO. _____

**PLAINTIFF'S ORIGINAL COMPLAINT FOR INTERPLEADER
AND DECLARATORY RELIEF**

Comes now GECU, Plaintiff herein, and files its Original Complaint for
Interpleader and Declaratory Relief as follows:

EP07CA0181

1. This Court has jurisdiction over this action for interpleader and for declaratory relief pursuant to 28 United States Code Sections 1335 and 2201.

2. Venue lies in this judicial district pursuant to 28 United States Code Section 1397, in that one or more of the claimants reside in El Paso Division of the Western District of Texas in this interpleader. Defendant Apodaca resides in El Paso, Texas.

3. On or about May 21, 2007, GECU (a credit union chartered under the laws of the state of Texas, deposits in which are federally insured), was served with a Seizure Warrant issued by this court in Cause Number EP: 05-CR-182, calling for seizure of the deposits of Frank B. Apodaca in four specified accounts: share accounts numbers 0155123 and 035001; and checking account numbers 8069486 and 8074822. A check for the total amounts on hand at GECU in those accounts on 5/21/07 in the amount of

\$14,405.76 and payable to US Marshal, Western District of Texas, was delivered to the FBI agent serving the above described Seizure Warrant prior to the filing hereof. At the time of the service of said Seizure Warrant, GECU had among its accounts standing in the name of Frank B. Apodaca another account which was not listed in the Seizure Warrant: Certificate of Deposit number 03500181 in the amount of \$75,936.53. Each of the Defendants United States of America and Frank B. Apodaca are claiming entitlement to the funds reflected by such certificate of deposit and by reason of these conflicting claims, plaintiff is in great doubt as to which Defendant is entitled to be finally and irreversibly paid the funds represented by such certificate of deposit which were on hand at GECU at the time it was served with the Seizure Warrant on May 21, 2007.

Wherefore, Plaintiff prays that the court adjudge:

A. That each of the Defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said certificate of deposit or any part thereof, pursuant to 28 US Code Section 2361;

B. That the entitlement to the proceeds from such certificate of deposit be declared as determined by the court;

C. That Plaintiff be discharged from all liability in the premises except to the individual or governmental Defendant whom or which the court shall adjudge to be entitled to the funds represented by said certificate of deposit or any part thereof;

D. That Plaintiff have judgment in its favor against either or both Defendants to the extent of his or its receipt of funds from GECU prior to the filing hereof is determined by the Court to have been in error;

E. That Plaintiff recovers its costs;

F. For such other and further relief which Plaintiff may show itself entitled, either at law or in equity.

Respectfully submitted



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