

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

INDEPENDENCE MALL, INC.,)
a Delaware Corporation,)
 Plaintiff,)

 v.)

MICHAEL J. WAHL, individually, and)
WAHL FAMILY DENTISTRY, P.A.,)
a Delaware Corporation as successor-)
in-interest to Dr. Mervin H. Wahl, P.A.,)
 Defendants.)

C.A. No.: 10C-12-031 FSS
(E-FILED)

Submitted: January 28, 2013
Decided: February 7, 2013

ORDER

**Upon Plaintiff’s Application for Certification of Interlocutory Appeal -
*CERTIFICATION DENIED.***

1. On January 28, 2013, Defendant filed an Application for Certification of Interlocutory Appeal from the January 17, 2013 order. A hard copy of the application was received in chambers on February 5, 2013.

2. This is landlord/tenant dispute. On December 31, 2012, the court denied, in part, several partial–summary judgment claims. The court denied reargument on January 17, 2013.

3. In denying summary judgment, the court reviewed the parties

previous leases, including written or unwritten extensions. The court also considered the parties' actions during the time between the last lease's expiration and the breach. Considering that entire picture, the court decided that when the tenancy was finally terminated, it was year-to-year or month-to-month.

4. The way the court characterized the lease left open factual questions about the lease's termination and damages.

5. While the December 31, 2012 and January 17, 2013 orders are important and play a significant role in the case's final determination, trial issues remain. No matter how an interlocutory appeal would be decided, this litigation will continue.¹

For the foregoing reasons, the court sees little benefit to an interlocutory appeal that leaves matters for trial and further appeal, no matter what. Accordingly, the court declines to certify an interlocutory appeal.

IT IS SO ORDERED.

/s/ Fred S. Silverman

Judge

cc: Prothonotary (Civil)
pc: William J. Rhodunda, Jr., Esquire
Nicholas G. Kondraschow, Esquire
Paul E. Bilodeu, Esquire

¹ See Supr. Ct. R. 42(b)(v).