

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                                       |   |                              |
|---------------------------------------|---|------------------------------|
| CATHOLIC DIOCESE OF                   | § |                              |
| WILMINGTON, INC., a Delaware          | § |                              |
| corporation, ST. MARY                 | § | No. 337, 2009                |
| MAGDALEN ROMAN CATHOLIC               | § |                              |
| CHURCH, a Delaware corporation,       | § |                              |
| and EDWARD F. DUDZINSKI,              | § |                              |
|                                       | § |                              |
| Defendants Below-                     | § |                              |
| Appellants,                           | § | Court Below—Superior Court   |
|                                       | § | of the State of Delaware,    |
| v.                                    | § | in and for New Castle County |
|                                       | § | C.A. No. 08C-11-097          |
| WILLIAM J. HEANEY, as personal        | § |                              |
| representative of the Estate of Kevin | § |                              |
| C. Heaney,                            | § |                              |
|                                       | § |                              |
| Plaintiff Below-                      | § |                              |
| Appellee.                             | § |                              |

Submitted: June 10, 2009

Decided: June 29, 2009

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

**ORDER**

This 29<sup>th</sup> day of June 2009, it appears to the Court that:

(1) The defendants-appellants have petitioned this Court, pursuant to Supreme Court Rule 42, to accept an appeal from an interlocutory order of the Superior Court dated May 11, 2009. The Superior Court's order granted in part and denied in part the defendants' motion to dismiss the plaintiff's complaint. The

trial court dismissed plaintiff's wrongful death action but allowed plaintiff to proceed with a survival action.

(2) Defendants filed their application for certification to take an interlocutory appeal in the Superior Court on May 21, 2009. The Superior Court denied the certification application on June 4, 2009.

(3) Applications for interlocutory review are addressed to the sound discretion of this Court. In the exercise of its discretion, this Court has concluded that the application for interlocutory review does not meet the requirements of Supreme Court Rule 42(b) and should be refused.

NOW, THEREFORE, IT IS HEREBY ORDERED that the within interlocutory appeal be REFUSED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice