

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMPSON HOMES, INC. and	§	
THOMPSON HOMES AT	§	No. 590, 2009
CENTREVILLE, INC.,	§	
	§	Court Below—Superior Court
Defendants/Third-Party	§	of the State of Delaware in and
Plaintiffs Below,	§	for New Castle County
Appellants,	§	
	§	
v.	§	
	§	
JEFFREY C. BEITEL,	§	
	§	
Third-Party Defendant Below,	§	C.A. No. 06C-10-075
Appellee.	§	

Submitted: October 15, 2009

Decided: October 20, 2009

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 20th day of October 2009, upon consideration of the appellants' notice and supplemental notice of appeal from an interlocutory order, it appears to the Court that:

(1) The appellants, Thompson Homes, Inc. and Thompson Homes at Centreville, Inc. ("Thompson"), were sued in the Superior Court for breach of a residential construction contract. Thompson, as third party plaintiffs, brought an action against several of the subcontractors associated with the construction. Thereafter, Thompson was granted leave to amend its third party complaint to add the appellee, architect Jeffrey C. Beitel, as a third party defendant.

(2) By order dated September 16, 2009, the Superior Court granted Beitel's motion for summary judgment on the basis that a contractual limitations period precluded Thompson from filing a third party complaint against Beitel. Because the September 16, 2009 order did not resolve all claims against all parties, it was not a final judgment.¹

(3) Thompson has petitioned this Court, pursuant to Supreme Court Rule 42, to appeal from the Superior Court's order granting Beitel's motion for summary judgment. On October 13, 2009, the Superior Court denied Thompson's application for certification of an interlocutory appeal.

(4) Applications for interlocutory review are addressed to the sound discretion of this Court and are granted only in exceptional circumstances.² In the exercise of its discretion, the Court has concluded that exceptional circumstances as would merit interlocutory review of the Superior Court's order do not exist in this case.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ It does not appear that Thompson sought entry of a final judgment pursuant to Superior Court Civil Rule 54(b).

² Del. Supr. Ct. R. 42(b), (d)(v).