IN THE SUPREME COURT OF THE STATE OF DELAWARE

HERBERT SILVERBERG and	§	
GENE NANNETTI,	§	No. 241, 2011
	§	
Plaintiffs Below,	§	
Appellants,	§	
,	§	
	§	Court Below:
v.	§	Court of Chancery of the
	§	State of Delaware
THOMAS A. BOLOGNA, EUGENE	350	
I. DAVIS, STEFAN LOREN,	§	
NICOLE S. WILLIAMS, JAMES	§	C.A. No. 6373
M. HART, BRUCE D. DALZIEL,	§	
ORCHID CELLMARK INC.,	§	
OCM ACQUISITION CORP., and	§	
LABORATORY CORPORATION	§	
OF AMERICA HOLDINGS,	§	
	§	
Defendants Below,		
Appellees.	§ §	
	_	

Submitted: May 13, 2011 Decided: May 16, 2011

Before BERGER, JACOBS, and RIDGELY, Justices.

ORDER

This 16th day of May 2011, upon consideration of the notice of appeal from an interlocutory order filed pursuant to Supreme Court Rule 42, it appears to the Court that:

(1) On May 13, 2011, Herbert Silverberg and Gene Nannetti (Appellants) filed a Notice of Appeal From Interlocutory Order and a Motion for Expedited

Certification of Interlocutory Appeal and Expedited Proceedings on Appeal. They seek review of the Court of Chancery's May 12, 2011 decision denying their motion for a preliminary injunction.

- (2) The transaction at issue is a tender offer, to be followed by a merger, by which a wholly-owned subsidiary of Laboratory Corporation of America Holdings, Inc. intends to acquire Orchard Cellmark Inc. for \$2.80 per share. The tender offer is scheduled to close on May 17, 2011.
- (3) The Court of Chancery, in a thorough and detailed opinion, determined that appellants had not demonstrated a reasonable probability of success on the merits; the threat of imminent, irreparable harm; or that a balancing of the equities favors the entry of an injunction.
- (4) Applications for interlocutory appeals are addressed to the sound discretion of the Court.¹ The Court of Chancery, in its order granting leave to appeal, stated that review of its decision "is of vital importance to serving considerations of justice..." Notwithstanding the trial court's statement, this Court concludes, in the exercise of its discretion, that this matter does not meet the requirements and criteria for acceptance of an interlocutory appeal.³

¹Supr.Ct.R. 42(d)(v).

²Appellants' Notice of Appeal, Ex. B.

³Supr.Ct.R. 42(b).

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

BY THE COURT:

/s/ Carolyn Berger
Justice