

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TELXON CORPORATION,	§
	§
Plaintiff Below-	§ No. 175, 2001
Appellant,	§
	§ Court Below—Court of Chancery
v.	§ of the State of Delaware,
	§ in and for New Castle County
ROBERT F. MEYERSON, DAN R.	§ C.A. No. 13139
WIPFF, ROBERT A. GOODMAN, DR.	§
RAJ REDDY, and NORTON W. ROSE,	§
	§
Defendants Below-	§
Appellees.	§

Submitted: April 20, 2001

Decided: May 9, 2001

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

ORDER

This 9th day of May 2001, it appears to the Court that:

(1) The plaintiff below, Telxon Corporation, has petitioned this Court, pursuant to Supreme Court Rule 42, to appeal from an interlocutory order of the Court of Chancery dated March 23, 2001. The Court of Chancery's order granted in part the defendants' motion for summary judgment and entered judgment for the defendants on all claims of a breach of duty of loyalty but reserved two duty of care claims for trial.

(2) Telxon contends that it cannot recover damages against its former directors on the duty of care claims, therefore, it has no incentive to try those claims. Accordingly, Telxon argues, the Court of Chancery's order has the same effect on Telxon's rights as a final order. It does not appear that Telxon sought entry of a final judgment on the duty of loyalty claims pursuant to Court of Chancery Rule 54(b).

(3) On April 19, 2001, the Court of Chancery refused to certify an interlocutory appeal to this Court.

(4) Applications for interlocutory review are addressed to the sound discretion of this Court and are granted only in extraordinary cases.

(5) 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 is REFUSED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice