

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RITE AID CORPORATION,	§
	§
Defendant Below-	§ No. 550, 2003
Appellant,	§
	§
v.	§ Court Below—Court of Chancery
	§ of the State of Delaware,
FRANK BERGONZI,	§ in and for New Castle County
	§ C.A. No. 20453-NC
Plaintiff Below-	§
Appellee.	§

Submitted: November 10, 2003

Decided: November 20, 2003

Before **HOLLAND**, **BERGER** and **STEELE**, Justices.

ORDER

This 20th day of November 2003, it appears to the Court that:

(1) The defendant below, Rite Aid Corporation, has petitioned this Court, pursuant to Supreme Court Rule 42, to appeal from an interlocutory ruling of the Court of Chancery dated October 20, 2003. The Court of Chancery's ruling dismissed Rite Aid's counterclaim against the plaintiff, Frank Bergonzi, because the claim was not ripe for adjudication. The dismissal was without prejudice to Rite Aid's right to reassert the claim at a later time.

(2) On November 5, 2003, the Court of Chancery denied Rite Aid's application to certify an interlocutory appeal to this Court.

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

(4) 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/ Randy J. Holland
Justice