

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES T. SUNDERLAND,	§
KENT W. SUNDERLAND, JAMES	§
P. SUNDERLAND, ROBERT	§ No. 593, 2002
SUNDERLAND, GEORGE M.	§
WELLS, JOHN H. ROSS III,	§
CHARLES T. WIEDENHOFT,	§
CHARLES V. LARSON, JOHN W.	§
WEBSTER, and ASH GROVE	§ Court Below—Court of Chancery
CEMENT CO.,	§ of the State of Delaware,
	§ in and for New Castle County
Defendants Below-	§ C.A. No. 19357
Appellants,	§
	§
v.	§
	§
DANIEL F. RAIDER,	§
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 24, 2002
Decided: November 4, 2002

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

ORDER

This 4th day of November 2002, it appears to the Court that:

(1) Defendant Ash Grove Cement Company (“Ash Grove”) has petitioned this Court, pursuant to Supreme Court Rule 42, to appeal from an interlocutory ruling of the Court of Chancery dated September 24, 2002. The Court of Chancery’s ruling denied defendants’ motion to characterize the action below as a derivative action.

(2) On October 21, 2002, the Court of Chancery denied Ash Grove'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/ Carolyn Berger
Justice