



1) Landmark American Insurance Company (Landmark) and Commerce Industry Insurance Company (C&I), defendants below, petitioned this Court, pursuant to Supreme Court Rule 42, to accept an appeal from an interlocutory order of the Superior Court dated July 12, 2012.

2) The Superior Court granted the certification application on August 14, 2012.

3) Applications for interlocutory review are addressed to the sound discretion of this Court.

4) It appears that the Superior Court opinion addresses motions for summary judgment and motions for partial summary judgment filed in the summer of 2009. The trial court's opinion decides issues such as trigger dates, allocation of costs of defense, and primary coverage obligations.

5) Landmark's application for certification states that it seeks review of three issues. Two issues are matters that Landmark contends the trial court failed to address. The third issue is the trial court's determination of a duty to defend one of three categories of employees.

6) C&I's application for certification states that it seeks review of at least seven issues, such as, whether: the plaintiffs below waived coverage claims "for most of the subject underlying actions based upon . . . failure to provide timely

notice;” the trial court erred in deciding that “the matter was ripe for allocation of the costs of defense;” and the parties’ stipulation made the plaintiffs below unconditional additional insureds for all claims under certain policies.

7) This case has been pending in the trial court for more than five years. Based on the two applications for certification, this Court is not satisfied that interlocutory review is likely to “terminate the litigation, substantially reduce further litigation, or otherwise serve considerations of justice . . . .”<sup>1</sup>

NOW, THEREFORE, IT IS HEREBY ORDERED that the interlocutory appeals be DENIED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

---

<sup>1</sup>Supr. Ct R. 42 (b)(iii).