

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FIRST STATE ORTHOPAEDICS,	§	
P.A., and FIRST STATE SURGERY	§	No. 569, 2012
CENTER, LLC,	§	
	§	Court Below–Superior Court
Defendants Below,	§	of the State of Delaware in and
Appellants,	§	for New Castle County
	§	
v.	§	
	§	
CHARLENE TUCKER,	§	
	§	
Plaintiff Below,	§	C.A. No. 09C-07-126
Appellee.	§	

Submitted: November 19, 2012

Decided: December 3, 2012

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 3rd day of December 2012, it appears to the Court that:

(1) The defendants/appellants, First State Orthopaedics, P.A., and First State Surgery Center, LLC (“Defendants”), have petitioned this Court, pursuant to Supreme Court Rule 42 (“Rule 42”), to accept an appeal from interlocutory orders of the Superior Court entered on August 16, 2011 and October 11, 2012. The Superior Court’s August 16, 2011 opinion and order granted Defendants’ motions for summary judgment on certain common law claims brought by the plaintiff/appellee, Charlene Tucker (“Plaintiff”), but denied Defendants’ motions as to Plaintiff’s statutory claims. In its October

11, 2012 order, the Superior Court denied Defendants' motion for reargument of the August 16, 2011 opinion and order.

(2) Defendants filed their application for certification of an interlocutory appeal on October 18, 2012. Plaintiff filed a response opposing the application on October 31, 2012. By order dated November 19, 2012, the Superior Court granted Defendants' application for certification.

(3) Applications for interlocutory review are addressed to the sound discretion of this Court. The Court has examined the Superior Court's interlocutory orders of August 16, 2011 and October 11, 2012 under the criteria in Rule 42. In the exercise of our discretion, we have concluded that exceptional circumstances warranting interlocutory review do not exist in this case.

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice