

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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| STEFAN S. O'CONNOR, MD.D. | § |
| and STEFAN S. O'CONNOR, | § No. 201, 2006 |
| M.D., P.A., | § |
| | § Court Below – Superior Court |
| Defendants Below, | § of the State of Delaware, |
| Appellants, | § in and for New Castle County |
| | § C.A. No. 03C-10-068 |
| v. | § |
| | § |
| LINDA PETTI, | § |
| | § |
| Plaintiff Below, | § |
| Appellee. | § |

Submitted: May 30, 2006

Decided: June 2, 2006

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

O R D E R

This 2nd day of June 2006, it appears to the Court that:

1) The defendants-appellants, Stefan S. O'Connor, MD.D. and Stefan S. O'Connor, M.D., P.A., have petitioned this Court, pursuant to Supreme Court Rule 42, to accept an appeal from an interlocutory order of the Superior Court dated March 24, 2006. The Superior Court's order granted the plaintiff's motion to strike the defendants' expert witness, Dr. Leonard Parver.

2) On May 12, 2006, the Superior Court denied the defendants' request to certify the application to take an interlocutory appeal for the following reasons:

[a] The order of this Court dated March 24, 2006 did not determine a substantial issue or establish a legal right. The order barred the introduction of expert testimony from a witness, Dr. Leonard Parver, based upon the Defendant's failure to comply with the scheduling order entered by the Court requiring the identification of expert witnesses by the Defendant on or before February 15, 2005. The ruling did not prohibit the Defendant from introducing any evidence of the subject from another source or witness. The Defendant's rights *vis a vis* the litigation remain the same and no[] substantive issues, i.e., concerning liability or damages, have been resolved.

[b] A review of the March 24, 2006 order will not terminate or substantially reduce the scope or the duration of the litigation. As noted by counsel for the Defendant, the defense had initially decided not to present expert testimony in this regard and had intended to proceed without it until the existence and possible assistance of Dr. Parver was discovered in January 2006.

[c] There is no indication that a review of the March 24, 2006 [order] will serve the interests of justice and the Defendant has otherwise failed to establish the existence of the criteria required for certification of an appeal of an interlocutory order pursuant to Supreme Court Rule 42(b).

3) This Court has considered the transcript of the Superior Court regarding its decision to grant the plaintiff's motion to strike the defendants' expert witness, the order of the Superior Court declining to certify this

matter for interlocutory review, and the submissions to this Court by the parties.

4) Applications for interlocutory review are addressed to the sound discretion of this Court and are accepted only in extraordinary circumstances. 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 and should be refused.

NOW, THEREFORE, IT IS HEREBY ORDERED that both applications for interlocutory review in this matter be, and the same are hereby, REFUSED.

BY THE COURT:

/s/ Randy J. Holland
Justice