

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

Randal Fritz

v.

Case No. 06-cv-469-PB

Kenneth Brown and Kathryn Daly

O R D E R

Defendants seek permission to file an interlocutory appeal challenging my ruling that they are not entitled to summary judgment with respect to their Mt. Healthy defense. Although I welcome any guidance that the Court of Appeals may wish to provide with respect to this issue, I cannot grant the motion because the issue does not present "one or more difficult and pivotal questions of law not settled by controlling authority."

Caraballo-Seda v. Municipality of Hormigueros, 395 F.3d 7, 8 (1st Cir. 2005) (quoting Palandjian v. Pahlavi, 782 F.2d 313, 314 (1st Cir. 1986)).

Defendants' motion for order certifying a question for interlocutory appeal under 28 U.S.C. § 1292(b) (Doc. No. 109) is denied.

SO ORDERED.

/s/Paul Barbadoro

Paul Barbadoro  
United States District Judge

August 27, 2009

cc: Pierre Rumpf, Esq.  
Paula Werme, Esq.  
Nancy J. Smith, Esq.