

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff

v.

Civil Action No. 2:10-1087

\$88,029.08, More or Less,
in United States Currency,

Defendant

MEMORANDUM OPINION AND ORDER

Pending is the motion filed September 2, 2011, by interested parties Katherine A. Hoover, M.D., and John F. Tomasic styled, in part, as "A REQUEST FOR A STAY OF PROCEEDINGS PENDING AN INTERLOCUTORY APPEAL," which the court construes as a motion to certify an interlocutory appeal ("motion to certify").

It appears that the interested parties remain dissatisfied with the unsuccessful outcome of their subject matter jurisdiction challenge. Title 28 U.S.C. § 1292(b) provides pertinently as follows:

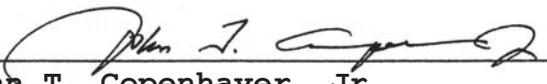
When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he

shall so state in writing in such order. . . .
28 U.S.C. § 1292(b). The court of appeals has observed that
section 1292(b) "should be used sparingly" Myles v.
Laffitte, 881 F.2d 125, 127 (4th Cir. 1989).

The proposed subject of the appeal does not constitute
a "controlling question of law as to which there is substantial
ground for difference of opinion" Id. § 1292(b). The
court, accordingly, ORDERS that the motion to certify be, and it
hereby is, denied.

The Clerk is directed to forward copies of this written
opinion and order to all counsel of record and any unrepresented
parties.

DATED: September 9, 2011



John T. Copenhaver, Jr.
United States District Judge