

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LIBERTY MUTUAL INSURANCE CO.,	§
	§
Defendant Below-	§ No. 777, 2010
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
THE MILLS LIMITED PARTNERSHIP	§ in and for New Castle County
AND SPG-FCM VENTURES, LLC, as	§ C.A. No. 09C-11-174
successor to The Mills Corporation,	§
	§
Plaintiffs Below-	§
Appellees.	§

Submitted: December 21, 2010
Decided: January 10, 2011

Before **HOLLAND, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 10th day of January 2011, it appears to the Court that:

(1) The defendant-appellant, Liberty Mutual Insurance Company, has petitioned this Court, pursuant to Supreme Court Rule 42, to accept an appeal from interlocutory orders of the Superior Court, dated November 5, 2010 and November 23, 2010. The Superior Court's November 5th order, which applied Delaware law, granted the plaintiffs' motion for partial summary judgment and denied Liberty Mutual's motion for partial summary judgment, holding that Liberty Mutual's obligations under an excess directors' and officers' liability policy were triggered even though the plaintiff had settled with its underlying insurers for less than their

policy limits. The Superior Court's November 23rd order denied Liberty Mutual's motion for reargument.

(2) Liberty Mutual filed its application for certification to take an interlocutory appeal in the Superior Court on December 3, 2010. The Superior Court denied the certification application on December 9, 2010.

(3) Applications for interlocutory review are addressed to the sound discretion of this Court. 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(b) and should be refused.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice