

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §  
PETITION OF LUCAS-INSERTCO § No. 572, 2001  
PHARMACEUTICAL PRINTING §  
COMPANY OF MARYLAND, LLC §  
and LUCAS-INSERTCO §  
PHARMACEUTICAL PRINTING §  
CO. OF PUERTO RICO FOR A §  
WRIT OF MANDAMUS §

Submitted: December 10, 2001

Decided: January 15, 2002

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

**ORDER**

This 15th day of January 2002, upon consideration of the petition of Lucas-Insertco Pharmaceutical Printing Company of Maryland LLC and Lucas-Insertco Pharmaceutical Printing Company of Puerto Rico (collectively “Lucas-Insertco”) for a writ of mandamus, as well as the response and motion to dismiss filed respondents, Lehigh Press Puerto Rico LLC, Lehigh Press Puerto Rico, Inc., and John DePaul, as the real parties in interest, it appears to the Court that:

(1) Lucas-Insertco filed a complaint for damages against the respondents in Superior Court Civil Action No. 00C-06-181. On November 6, 2001, the Superior Court stayed the proceedings below pending the resolution of related litigation in Puerto Rico, which was first-filed. Lucas-Insertco filed

the present petition requesting this Court to issue an original writ of mandamus directed to the Superior Court. Lucas-Insertco asks this Court to order the Superior Court to lift a stay of the proceedings below and to “place the case on a normal trial schedule for ultimate resolution.” The respondents have moved to dismiss Lucas-Insertco’s petition for an extraordinary writ of mandamus. We find that Lucas-Insertco’s petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be DISMISSED.

(2) This Court may issue a writ of mandamus to compel a lower court to perform a duty. As a condition precedent to the performance of that duty, it must be demonstrated to this Court: that the complainant has a clear right to the performance of the duty; that no other remedy is available; and that the trial court has arbitrarily failed or refused to perform its duty.<sup>1</sup> The Court will not issue a writ of mandamus to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket.<sup>2</sup>

(3) In this case, it is manifest that Lucas-Insertco takes issue with a discretionary, interlocutory ruling made by the Superior Court and wants this

---

<sup>1</sup> *In re Hyson*, 649 A.2d 807, 808 (Del. 1994).

<sup>2</sup> *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

Court, in an inappropriate exercise of its original jurisdiction, to reverse the Superior Court's ruling. Lucas-Insertco has not established a right to the relief it seeks, nor can it establish that the Superior Court has arbitrarily failed or refused to act. Moreover, it is clear that Lucas-Insertco has an adequate remedy in the appellate process. This Court has discretion to exercise its appellate jurisdiction to review interlocutory rulings of the Superior Court, but Lucas-Insertco did not seek to have an interlocutory appeal certified to this Court. Furthermore, Lucas-Insertco may seek review of the Superior Court's ruling once a final order is issued below. A petitioner, who clearly has an adequate remedy in the appellate process, cannot use the extraordinary writ process as a substitute for a timely-filed appeal.<sup>3</sup>

NOW, THEREFORE, IT IS ORDERED that the respondents' motion to dismiss is GRANTED. The petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

---

<sup>3</sup> See *Matushefske v. Herlihy*, Del. Supr., 214 A.2d 883, 885 (1965).