IN THE SUPREME COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE, DELAWARE DEPARTMENT OF TRANSPORTATION,	§	
	§	No. 265, 2013
	§	
Defendant Below, Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware
	§	in and for New Castle County
v.	§	C.A. No. N11C-10-050
EDITH HAGE SMITH,	§	
Plaintiff Below, Appellee,	§	
STATE FARM FIRE AND CASUALTY COMPANY, a foreign corporation,	§	
Defendant Below, Appellee.	§	

Submitted: May 30, 2013
Decided: May 31, 2013

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

O R D E R

This 31st day of May 2013, it appears to the Court that:

(1) The defendant-appellant, State of Delaware, Delaware Department of Transportation ("DelDOT"), has filed a notice of appeal pursuant to the collateral order doctrine. DelDOT has also petitioned this Court, pursuant to Supreme Court Rules 42 and 32, to accept an appeal from interlocutory orders of the Superior Court and to stay a trial that is scheduled

to begin on June 3, 2013. At issue is the Superior Court's ruling that, under the facts presented to it, the State has waived sovereign immunity under title 18, section 6511 of the Delaware Code.

(2) The interlocutory application refers to denials of summary judgment motions in bench rulings on February 21, 2013 and May 9, 2013. DelDOT has not provided this Court with a transcript of either bench ruling. Moreover, the Superior Court docket for both dates includes a notation that, in the future, the Superior Court will provide a written opinion on the summary judgment rulings. To date, no written opinion has been issued by the Superior Court or, if so, has not been provided to this Court.

(3) DelDOT filed its application for certification to take an interlocutory appeal in this Court on May 20, 2013. On May 30, 2013, the Superior Court denied the certification application on the ground that the requirements of Supreme Court Rule 42 had not been met. The Superior Court also denied DelDOT's request for a stay pending appeal of the June 3, 2013 trial.

(4) Applications for interlocutory review are addressed to the sound discretion of this Court. In the absence of either a transcript of the Superior Court's bench rulings or a written opinion, this Court cannot determine that DelDOT's application for interlocutory review meets the

requirements of Supreme Court Rule 42. Therefore, that application is refused.

(5) Similarly, in the absence of either a transcript or a written opinion, this Court cannot determine whether a final judgment has been entered that meets the requirements of the collateral order doctrine.

NOW, THEREFORE, IT IS ORDERED that the interlocutory appeal is REFUSED. The purported appeal under the collateral order doctrine is DISMISSED. The motion for a stay is moot.

BY THE COURT:

/s/ Randy J. Holland
Justice