

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NAVIGATORS INSURANCE	§
COMPANY, RSUI INDEMNITY	§
COMPANY, and BERKLEY	§ No. 144, 2018
INSURANCE COMPANY,	§
	§ Court Below—Superior Court of
Plaintiffs Below,	§ the State of Delaware
Appellants,	§
	§ C.A. No. N16C-01-104
v.	§
	§
DAVID H. MURDOCK, C.	§
MICHAEL CARTER, DOLE FOOD	§
COMPANY, INC. and DFC	§
HOLDINGS, LLC,	§
	§
Defendants Below,	§
Appellees.	§

Submitted: March 28, 2018

Decided: April 6, 2018

Before **STRINE**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

**ORDER**

This 6<sup>th</sup> day of April 2018, having considered the notice and supplemental notice of appeal from an interlocutory order under Supreme Court Rule 42, it appears to the Court that:

(1) This interlocutory appeal arises from a Superior Court opinion granting in part and denying in part the plaintiffs below-appellants’, Navigators Insurance Company, RSUI Indemnity Company, and Berkley Insurance Company (“the Insurers”), motion for summary judgment.<sup>1</sup> The Insurers request an interlocutory

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<sup>1</sup> *Arch Ins. Co. v. Murdock*, 2018 WL 1129110 (Del. Super. Ct. Mar. 1, 2018).

appeal from the parts of the opinion holding: (i) Delaware law applied to the directors and officers liability policies at issue; and (ii) Delaware public policy did not prohibit the Insurers from paying for the fraud of the insureds.

(2) On March 9, 2017, the Insurers filed an application for certification to take an interlocutory appeal. The defendants below-appellees, David H. Murdock, C. Michael Carter, Dole Food Company, Inc. and DFS Holdings, LLC (“the Insureds”), opposed the application. On March 28, 2018, the Superior Court denied the application after determining certification was not warranted under the principles and criteria of Supreme Court Rule 42(b).<sup>2</sup>

(3) Applications for interlocutory review are addressed to the sound discretion of the Court.<sup>3</sup> In the exercise of our discretion, we have concluded that the application for interlocutory review does not meet the strict standards for certification under Rule 42(b) and should be refused.

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

BY THE COURT:

/s/ Karen L. Valihura  
Justice

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<sup>2</sup> *Arch Ins. Co. v. Murdock*, 2018 WL 1560294 (Del. Super. Ct. Mar. 28, 2018). The Superior Court corrected the order on April 2, 2018.

<sup>3</sup> Supr. Ct. R. 42(d)(v).