

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                         |                              |
|-------------------------|------------------------------|
| BEEBE HOSPITAL (MORE    | §                            |
| PROPERLY KNOWN AS BEEBE | § No. 238, 2026              |
| MEDICAL CENTER, INC.),  | §                            |
|                         | § Court Below–Superior Court |
| Defendant Below,        | § of the State of Delaware   |
| Appellant,              | §                            |
|                         | § C.A. No. S25C-05-020       |
| v.                      | §                            |
|                         | §                            |
| JAMES BOWERS,           | §                            |
|                         | §                            |
| Plaintiff Below,        | §                            |
| Appellee.               | §                            |
|                         | §                            |

Submitted: July 31, 2026<sup>1</sup>

Decided: September 10, 2026

Before **SEITZ**, Chief Justice; **LEGROW** and **GRIFFITHS**, Justices.

**ORDER**

After consideration of the notice of appeal from an interlocutory order, its exhibits, and the transcript of the interlocutory ruling, it appears to the Court that:

(1) On May 16, 2025, the appellee, James Bowers, filed a medical malpractice lawsuit against the appellant, Beebe Hospital (more properly known as Beebe Medical Center, Inc.) (“Beebe”). In his complaint, Bowers alleged, among other things, that (i) the last day of Beebe’s negligent care of him occurred on

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<sup>1</sup> The notice of appeal from an interlocutory order was filed on June 12, 2026, but the transcript of the interlocutory ruling was docketed in this Court on July 31.

February 25, 2023, when he was last seen and treated at Beebe; and (ii) he had sent a notice of intent to investigate (the “NOI”) to Beebe on February 13, 2025, at its regular place of business by certified mail, thereby tolling the statute of limitations for 90 days under 18 *Del. C.* § 6856(4). Beebe moved for judgment on the pleadings, arguing that Bowers’ claim was time-barred by the two-year statute of limitations because he had failed to strictly comply with Section 6856(4), which requires that the NOI (i) be attached to the plaintiff’s complaint and (ii) be sent to a potential defendant by certified mail, return receipt requested, at the defendant’s regular place of business.

(2) In response to Beebe’s motion, Bowers amended his complaint to attach the NOI, which stated that it was being sent by certified mail, return receipt requested. Bowers also submitted an affidavit from his attorney’s paralegal attesting that he: (i) sent the NOI to Beebe’s regular place of business on Savannah Road in Lewes, Delaware; (ii) requested that it be sent by certified mail, return receipt requested, at the post office; (iii) provided the PS Form 3811 (the domestic return receipt form) to the post office; and (iv) retained the certified mail receipt as proof of the mailing. The paralegal acknowledged, however, that he had not received a signed return receipt postcard. Following oral argument, the Superior Court granted Bowers the opportunity to obtain more information from the United States Postal Service. After several months, Beebe renewed its motion for judgment on the

pleadings. In response, Bowers attached confirmation from the USPS that the document associated with the tracking number on the paralegal's certified mail receipt had been picked up from the Lewes post office at 8:38 a.m. on February 20, 2025.

(3) On May 15, 2026, the Superior Court denied Beebe's motion from the bench, finding that whether Bowers complied with Section 6856(4) was a disputed issue of material fact that could not be decided on a motion for judgment on the pleadings (the "Bench Ruling"). Beebe then asked the Superior Court to certify an interlocutory appeal of the Bench Ruling under Supreme Court Rule 42. Bowers opposed the application.

(4) On June 10, the Superior Court denied Beebe's application.<sup>2</sup> The court concluded that the Bench Ruling had decided a substantial issue of material importance—a threshold inquiry under Rule 42. The court then turned to the Rule 42(b)(iii) factors cited by Beebe and concluded that they did not support the certification of an interlocutory appeal.

(5) First, the court disagreed that the Bench Ruling involved a question of first impression (factor A). To the contrary, the court concluded that the Bench Ruling acknowledged that strict compliance with Section 6856(4) is required under Delaware law. Similarly, the court found that the Bench Ruling did not involve the

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<sup>2</sup> *Bowers v. Beebe Hosp.*, 2026 WL 1679597 (Del. Super. Ct. June 10, 2026).

construction of a statute that has not been settled by this Court (factor C). And, although the court agreed that interlocutory review could terminate the litigation (factor G), the court rejected Beebe's perfunctory claim that interlocutory review would serve considerations of justice (factor H).

(6) We agree that interlocutory review is not warranted here. Applications for interlocutory review are addressed to the sound discretion of the Court.<sup>3</sup> Giving due weight to the Superior Court's analysis and in the exercise of our discretion, the Court has concluded that the application for interlocutory review does not meet the strict standards for certification under Supreme Court Rule 42(b). Exceptional circumstances that would merit interlocutory review of the Bench Ruling do not exist in this case,<sup>4</sup> and the potential benefits of interlocutory review do not outweigh the inefficiency, disruption, and probable costs caused by an interlocutory appeal.<sup>5</sup>

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

BY THE COURT:

/s/ N. Christopher Griffiths  
Justice

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

<sup>4</sup> Del. Supr. Ct. R. 42(b)(ii).

<sup>5</sup> Del. Supr. Ct. R. 42(b)(iii).