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Only the Westlaw citation is currently available.
United States District Court, W.D. Michigan,
Southern Division.

KALAMAZOO RIVER STUDY GROUP, Plaintiff,
v.
ROCKWELL INTERNATIONAL, et al.,
Defendants.

No. 1:95-CV-838.
|
April 14, 1998.

*MEMORANDUM OPINION AND ORDER DENYING
PLAINTIFF'S MOTION TO CERTIFY ORDER AS
FINAL OR TO ALLOW INTERLOCUTORY APPEAL*

BELL, J.

*1 Plaintiff Kalamazoo River Study Group ("KRSG") has filed a motion pursuant to Fed.R.Civ.P. 54(b) for certification of the portion of the Court's March 6, 1998 order granting Defendant Pharmacia and Upjohn Company's and Defendant Menasha Corporation's motions for summary judgment as a final judgment. In the alternative, Plaintiff moves the Court pursuant to 28 U.S.C. § 1292(b) to certify the March 6, 1998 order for interlocutory review.

Entry of a final judgment under Rule 54(b) as to less than all of the parties is only appropriate if the Court determines that there is no just reason for delay. Certification of an order for interlocutory appeal under § 1292(b) is only appropriate if the court determines that an immediate appeal from the order may materially advance the ultimate termination of the litigation.

Having given the matter due consideration, the Court concludes that certification of the March 6, 1998, order for immediate appeal is not appropriate under either Rule 54(b) or § 1292(b). The legal issue Plaintiff seeks to appeal—the Court's application of the "threshold of significance standard"—is not unique to Pharmacia and Upjohn and Menasha. This controlling issue of law will also be applied to the Court's determination regarding the liability of the remaining defendants. An immediate appeal from the March 6 order will not materially advance the ultimate termination of the litigation because the appeal will not be concluded prior to this Court's decision on the two remaining motions for summary judgment or before the June 1, 1998 trial on liability. Considerations of judicial economy and the avoidance of piecemeal appeals convinces this Court that justice will best be served by delaying entry of final judgment as to Pharmacia and Upjohn and Menasha until judgment is entered as to all remaining defendants. Accordingly,

IT IS HEREBY ORDERED that Plaintiff Kalamazoo River Study Group's motion to certify the March 6, 1998 order as final (Docket # 710) is DENIED.

All Citations

Not Reported in F.Supp., 1998 WL 2016509