

No. 12-0511

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
**Nov 27, 2012**  
DEBORAH S. HUNT, Clerk

In re: LINEBARGER GOGGAN BLAIR & )  
SAMPSON, LLP, a Texas limited liability )  
partnership, )  
)  
Petitioner. )  
)  
)  
)

ORDER

Before: GUY and ROGERS, Circuit Judges; HOOD, District Judge.\*

Petitioner Linebarger Goggan Blair & Sampson, LLP seek permission to appeal the September 30, 2012 order certifying this diversity tort action as a class action. The plaintiff opposes the petition.

Federal Rule of Civil Procedure 23(f) grants us discretion to hear interlocutory appeals of class certification rulings. *See Pipefitters Local 636 Ins. Fund v. Blue Cross Blue Shield of Mich.*, 654 F.3d 618, 629 (6th Cir. 2011), *cert. denied*, 132 S. Ct. 1757 (2012); *Reeb v. Ohio Dep't of Rehab. & Corr.*, 435 F.3d 639, 643 (6th Cir. 2006). Yet “the Rule 23(f) appeal is never to be routine,” and “we eschew any hard-and-fast test in favor of a broad discretion to evaluate relevant factors that weigh in favor of or against an interlocutory appeal.” *In re Delta Air Lines*, 310 F.3d 953, 959 (6th Cir. 2002). These factors include: 1) whether the class certification ruling is the death knell of the litigation; 2) whether the appeal raises a novel or unsettled question; 3) whether the petitioner has a likelihood of success on the merits; and 4) the posture of the case below. *Id.* at 960.

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\*The Honorable Joseph M. Hood, United States District Judge for the Eastern District of Kentucky, sitting by designation.

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A ruling on class certification “is subject to a very limited review and will be reversed only upon a strong showing that the district court’s decision was a clear abuse of discretion.” *Beattie v. CenturyTel, Inc.*, 511 F.3d 554, 559-60 (6th Cir. 2007) (internal quotation marks and citation omitted). Moreover, a Rule 23(f) interlocutory appeal is not a vehicle for the review of “the application of well-established standards to the facts of a particular case.” *In re Delta Air Lines*, 310 F.3d at 959-60.

The petitioner challenges the class definition and argues that the district court failed to undertake a rigorous analysis of the Rule 23 requirements. The petitioner has not shown a strong likelihood of success on the merits or demonstrated that this is the rare case justifying an immediate appeal under Rule 23(f).

The petition to appeal is **DENIED**.

ENTERED BY ORDER OF THE COURT



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Clerk