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November 12, 2010

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You are hereby notified that the Court has entered the following opinion and order:

2010AP2721-LV

Sean Dilweg v. Access to Loans for Learning Student Loan  
Corporation (L.C. #2010CV1576)

Before Vergeront, P.J., Lundsten and Blanchard, JJ.

Access to Loans for Learning Student Loan Corp. and Lloyds TBS Bank PLC (collectively, Lloyds) petition for leave to appeal: (1) a scheduling order, dated October 20, 2010, that denied their requests for discovery and set a date for a confirmation hearing on the rehabilitation plan in this matter; and (2) any nonfinal aspects of an order dated October 26, 2010, that ruled on a legal challenge to the establishment of the segregated account which is the subject of the rehabilitation proceeding, denied various requests for injunctive relief, and refused to allow several interested parties to intervene.<sup>1</sup> Lloyds also asks us to stay the scheduled hearing. The Wisconsin Office of the Commissioner of Insurance and the Ambac Assurance Company oppose the petition and stay request.

Interlocutory review is disfavored in this state. *State ex rel. A.E. v. Circuit Court for Green Lake County*, 94 Wis. 2d 98, 102, 288 N.W.2d 125 (1980). While we have discretion to review an order not appealable as of right when an appeal would materially advance the termination of the litigation or clarify further proceedings, protect the petitioner from substantial or irreparable injury, or clarify an issue of general importance in the administration of justice, we will not grant leave to appeal absent compelling circumstances. See WIS. STAT. § 808.03(2) (2007-08). *Cascade Mountain, Inc. v. Capitol Indem. Corp.*, 212 Wis. 2d 265, 268, 569 N.W.2d 45 (Ct. App. 1997). This policy “is designed to protect pretrial and trial court proceedings from the interruptions and delays caused by multiple appeals, and to limit each case to a single appeal” under ordinary circumstances. *Id.* The petitioner must demonstrate both that there is a substantial likelihood of success on appeal, and that the necessity of immediate review

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<sup>1</sup> We do not decide here whether the order may be final and appealable as to those parties who were denied the right to intervene. That decision will be made in response to any notices of appeal which are filed.

outweighs our general policy against the piecemeal disposition of litigation. *Id.* at 268 n.2; *State v. Salmon*, 163 Wis. 2d 369, 374-75, 471 N.W.2d 286 (Ct. App. 1991).

Lloyds complains that it is inefficient and fundamentally unfair that the matter has been scheduled for trial without first permitting discovery, and it asserts that no hearing would even be necessary if this court were to agree with its position that the segregated account which is the subject of the proceeding was improperly created. The commissioner and Ambac respond that rehabilitation proceedings under Chapter 645 are not designed as an adversarial process and the trial court therefore properly refused to grant individual discovery rights to every policy holder and/or insurer that had some interest in the outcome. They also point out that Lloyds failed to direct its request for a stay to the trial court first.

Having considered the arguments of both the petitioner and the respondent, we conclude that there are no sufficiently compelling reasons to warrant interlocutory review here. The issues presented will be fully preserved, and their factual context better developed, following the hearing.

IT IS ORDERED that the petition for leave to appeal and motion for a stay are denied.

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*A. John Voelker*  
*Acting Clerk of Court of Appeals*