

Rec.

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IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM B. WEINBERGER, §
 Plaintiff Below, §
 Appellant, §
 v. §
 UOP, INC., THE SIGNAL §
 COMPANIES, INC., SIGCO §
 INCORPORATED, LEHMAN §
 BROTHERS KUHN LOEB, INC., §
 CHARLES S. ARLEDGE, §
 BREWSTER L. ARMS, ANDREW §
 J. CHITIEA, JAMES V. §
 CRAWFORD, JAMES W. GLANVILLE, §
 RICHARD A. LENON, JOHN O. §
 LOGAN, FRANK J. PIZZITOLA, §
 WILLIAM J. QUINN, FORREST §
 N. SHUMWAY, ROBERT S. §
 STEVENSON, MAYNARD P. VENEMA, §
 WILLIAM E. WALKUP and HARRY §
 H. WETZEL, §
 Defendants Below, §
 Appellees. §

No. 120, 1979

Submitted: June 4, 1979
Decided: August 28, 1979

Before HERRMANN, Chief Justice, and QUILLEN and HORSEY, Justices.

ORDER

This 28th day of August, 1979,

Upon consideration of the notice of appeal of interlocutory orders and defendants' response to plaintiff's notice of appeal of interlocutory orders, it appears to the Court that:

(1) The interlocutory appeal is based on the following two decisions by the Court of Chancery: (a) dismissal of the derivative claims by opinion dated April 3, 1979; and (b) determination of the size of the class in the class action certification by opinion dated April 5, 1979.

(2) As to the derivative claims, this Court cannot determine that any one of the necessary criteria under Rule 42(b)(ii) is applicable.

(3) As to the determination of the size of the class for the class action claims, the decision of the Court of Chancery

did not establish a legal right. Rule 23(c)(1); compare the federal law: Coopers & Lybrand v. Livesay, 437 U.S. 463, 98 S.Ct. 2454, 57 L.Ed.2d 351 (1978); 3B Moore's Federal Practice ¶23.97.

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

REFUSED.

BY THE COURT:

William J. Tuller

Justice