



Tennessee Supreme Court
DISCRETIONARY APPEALS
Grants & Denials List
October 26, 2015 - October 30, 2015

DENIALS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Appellate Judge/Judgment	Nature Of Appeal	Action
<u>Nashville</u>				
TRACY LYNN REECE EISWERT, ET AL v. UNITED STATES OF AMERICA M2015-01474-SC-R23-CV	U.S. Court of Appeals, Sixth Circuit 146125		SCt Rule 23	Denied: See Attached Order

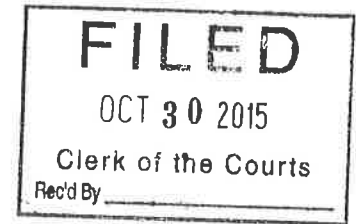
IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

TRACY LYNN REECE EISWERT, ET AL v. UNITED STATES OF
AMERICA

Rule 23 Certified Question of Law
from the United States Court of Appeals for the Sixth Circuit

No. 14-6125

No. M2015-01474-SC-R23-CV



ORDER

Pursuant to Tennessee Supreme Court Rule 23, a certification order was filed in this Court on August 7, 2015, by the United States Court of Appeals for the Sixth Circuit. Briefs have now been filed pursuant to Section 7, and, upon consideration of the certification order and the briefs filed by the parties, this Court declines to answer the following certified question of law:

Does a complaint signed by plaintiff's counsel, which attaches an expert report, signed by an expert who meets the competency requirements of Tennessee Code Annotated § 29-26-115, stating that the expert believes within a reasonable degree of medical certainty that the defendant's acts or omissions resulted in the harm to the plaintiff substantially comply with Tennessee Code Annotated § 29-26-122?

Upon thorough review, the Court finds that the certified question is not one which "will be determinative of the cause" as required by Rule 23, Section 1. There remains unresolved in this case the issue of the plaintiffs' compliance with the pre-suit notice requirement under Tennessee Code Annotated section 29-26-121. That issue was raised by the defendant in its motion to dismiss in the District Court but was not addressed by that court. This Court's answer to the certified question, therefore, will not necessarily be determinative of this cause. Accordingly, this Court, in the exercise of its discretion, denies the certification. *See* Tenn. Sup. Ct. R. 23, § 9; *Seals v. H & F, Inc.*, 301 S.W.3d 237, 241 n.3 (Tenn. 2010).

PER CURIAM