

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

May 16, 2016

Elisabeth A. Shumaker
Clerk of Court

EAST BINGER (MARCHAND) UNIT;
BINGER OPERATIONS LLC;
CONOCOPHILLIPS COMPANY,
formerly known as Phillips Petroleum
Company; PHILLIPS 66 COMPANY,

Petitioners,

v.

BILLY STEPHENSON, husband, for
themselves and all others similarly situated;
CHERYL STEPHENSON, wife, for
themselves and all others similarly situated;
PHILLIP COMPTON, husband, for
themselves and all others similarly situated;
LYNDA COMPTON, wife, for themselves
and all others similarly situated,

Respondents.

No. 16-601
(D.C. No. 5:15-CV-00341-C)
(W.D. Okla.)

ORDER

Before **HOLMES**, **MATHESON**, and **PHILLIPS**, Circuit Judges.

This matter comes on for consideration of the “Petition for Permission to Appeal Pursuant to 28 U.S.C. § 1453(c)(1) by ConocoPhillips Company, East Binger (Marchand) Unit, Binger Operations, LLC, and Phillips 66 Company” and the response filed thereto.

The decision whether to grant leave to appeal under § 1453(c)(1) “remains a matter ‘committed to the informed discretion of the reviewing court. . . .’” *BP America v.*

Oklahoma ex rel. Edmondson, 613 F.3d 1029, 1035 (10th Cir. 2010) (quoting *College of Dental Surgeons of Puerto Rico v. Connecticut Gen. Life Ins. Co.*, 585 F.3d 33, 39 (1st Cir. 2009)).

In *BP America*, we set forth the following factors to be considered:

(1) the presence of an important CAFA-related question; (2) whether the question is unsettled; (3) whether the question, at first glance, appears to be either incorrectly decided or at least fairly debatable; (4) whether the question is consequential to the resolution of a particular case; (5) whether the question is likely to evade effective review if left for consideration only after final judgment; (6) whether the question is likely to recur; (7) whether the application arises from a decision or order that is sufficiently final to position the case for intelligent review; and (8) whether the probable harm to the applicant should an immediate appeal be refused outweighs the probable harm to the other parties should an immediate appeal be entertained.

Id. at 1034 (citing *College of Dental Surgeons of Puerto Rico* 585 F.3d at 38-39 (internal quotation marks and alteration omitted)).

After reviewing these factors, we have determined that the instant petition does not make a sufficiently strong case for review.

Accordingly, the petition is **DENIED**.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Ellen Rich Reiter
Jurisdictional Attorney