

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS

Lois Lama-Wolobah, as Personal Representative of the Estate of
H.W. v. Paqui, LLC, Amplify Snack Brands, Inc., The Hershey
Company, Walgreen Eastern Co., Inc. d/b/a Walgreen #03151,
Walgreens of Massachusetts, LLC, James Connolly, and Jane Doe

Lama-Wolobah v. Paqui · No. 4:24-cv-12016-MRG · Decided March 31, 2026

SUMMARY

The United States District Court for the District of Massachusetts issued an omnibus order addressing multiple motions in a wrongful-death and product-liability action arising from the Paqui One Chip Challenge. The court denied reconsideration, separate final judgment, certification of a question of law, and interlocutory appeal; denied a motion to strike the amended complaint; deemed certain motions moot; and granted a motion to strike a sur-reply containing materials outside the pleadings.

CASE DETAILS

COURT	United States District Court for the District of Massachusetts
WRITING FOR THE COURT	Margaret R. Guzman
JURISDICTION	United States District Court for the District of Massachusetts
DECIDED	March 31, 2026
DOCKET	4:24-cv-12016-MRG
DISPOSITION	other
PROCEDURAL POSTURE	Omnibus order resolving the plaintiff's motion for reconsideration, motion for separate final judgment, motion to certify a question of law to the Massachusetts Supreme Judicial Court, and motion for interlocutory appeal, as well as defendants' motions to dismiss, motion to strike portions of the amended complaint, motion for joinder, and motion to strike a sur-reply.
STANDARD OF REVIEW	Reconsideration of a nonfinal order is available only upon newly discovered evidence, an intervening change in controlling law, or manifest error or clear injustice. Rule 54(b) certification requires a final disposition of at least one substantive claim and an express determination that there is no just reason for delay. Certification of a

state-law question requires that the question be determinative of the pending cause and lack controlling Massachusetts precedent. Interlocutory appeal under 28 U.S.C. § 1292(b) requires a controlling question of law, substantial ground for difference of opinion, and a material advancement of the litigation. On a motion to dismiss, consideration of materials outside the pleadings is generally prohibited unless the proceeding is converted to summary judgment, subject to narrow exceptions.

PRECEDENTIAL VALUE

unknown

TOPICS

motion for reconsideration

motions to dismiss

interlocutory appeal

appellate procedure

products liability

PRACTICE AREAS

civil procedure

appellate procedure

products liability

wrongful death

evidence

QUESTIONS PRESENTED

1. Whether the court should reconsider its prior order denying remand and dismissing James Connolly and Jane Doe as fraudulently joined defendants.
2. Whether the court should enter a separate final judgment under Federal Rule of Civil Procedure 54(b) as to the dismissed defendants.
3. Whether the court should certify a question concerning Connolly's duty of care to the Massachusetts Supreme Judicial Court.
4. Whether the court should certify the prior ruling for interlocutory appeal under 28 U.S.C. § 1292(b).
5. Whether portions of the amended complaint referring to previously dismissed defendants should be stricken.
6. Whether defendants' motion for joinder was moot after denial of the motion to strike the amended complaint.
7. Whether motions to dismiss directed to the superseded original complaint were moot.
8. Whether plaintiff's sur-reply and attached materials outside the pleadings should be stricken at the motion-to-dismiss stage.

HOLDINGS

1. A motion to reconsider a nonfinal order may be granted only upon newly discovered evidence, an intervening change in controlling law, or manifest error of law or clear injustice; plaintiff's motion failed to establish any of those circumstances.
2. Separate final judgment was improper because the dismissed and pending negligence claims were factually intertwined and plaintiff failed to show undue hardship from waiting for resolution of the

remaining claims.

3. Certification was denied because plaintiff supplied no distinct legal question, failed to show that the proposed question would be determinative of the case, and sought certification only after losing the relevant motion.
4. Interlocutory appeal was denied because plaintiff failed to establish a controlling question of law, substantial ground for difference of opinion, and material advancement of the litigation, and the circumstances were not exceptional.
5. The amended complaint would not be stricken merely because it referred to previously dismissed parties, but those references did not vacate the prior dismissal and the court would not analyze claims against those parties.
6. Materials attached to plaintiff's sur-reply, including FDA-related materials, news sources, and medical journal articles, were improper at the motion-to-dismiss stage because they were not attached to or expressly incorporated into the amended complaint and did not fall within a recognized exception.

KEY QUOTATIONS

“A motion for reconsideration for a non-final order may only be granted when the moving party can ‘demonstrate that one of three ‘limited’ circumstances applies by 1) presenting the Court with ‘newly discovered evidence,’ 2) offering an ‘intervening change in applicable law’ that is controlling or 3) asserting that the Court’s prior order suffers from ‘a manifest error of law’ or ‘was clearly unjust.’”” (Section II)

“The First Circuit disfavors “piecemeal appeals” and directs courts to employ Rule 54(b) “with great circumspection,” using the order for separate final judgments “sparingly.”” (Section III)

“For a district court to grant an interlocutory appeal, all three of these requirements must be satisfied.” (Section V)

“At the motion to dismiss stage, “any consideration of documents not attached to the complaint, or not expressly incorporated therein, is forbidden, unless the proceeding is properly converted into one for summary judgment under Rule 56.”” (Section IX)

FACTUAL BACKGROUND

Plaintiff's minor son, H.W., ate part of the Paqui One Chip Challenge chip and died later that evening from respiratory and cardiac complications. Plaintiff brought wrongful-death and product-liability claims against the chip's manufacturers and distributors, along with claims against Walgreens manager James Connolly and Jane Doe. The court had previously found Connolly and Doe fraudulently joined and dismissed them, while the claims against the remaining defendants continued.

PROCEDURAL HISTORY

Plaintiff filed a wrongful-death and product-liability action in Massachusetts Superior Court on July 11, 2024. Defendants removed the action on August 5, 2024, asserting diversity jurisdiction and fraudulent joinder of Massachusetts defendants James Connolly and Jane Doe. The district court denied remand and dismissed Connolly and Doe on June 30, 2025. Plaintiff then sought reconsideration, separate final judgment, certification,

and interlocutory appeal; defendants sought to strike portions of the amended complaint, join a motion, dismiss the original complaint, and strike plaintiff's sur-reply. The court denied or denied as moot the plaintiff's motions, denied the motion to strike the amended complaint, deemed the joinder motion moot, deemed the motions to dismiss the original complaint moot, and granted the motion to strike the sur-reply.

DISPOSITION

other

CASES CITED

- Mazza v. City of Bos., 780 F. Supp. 3d 325, 329-30 (D. Mass. 2025)
- Barrows v. Resolution Tr. Corp., 1994 WL 643309, at *3 (1st Cir. 1994)
- Farr Man & Co. v. M/V Rozita, 903 F.2d 871, 874 (1st Cir. 1990)
- Fernandez-Vargas v. Pfizer, 522 F.3d 55, 61 n.2 (1st Cir. 2008)
- Pure Distribs., Inc. v. Baker, 285 F.3d 150, 156 (1st Cir. 2002)
- United States v. Allen, 573 F.3d 42, 53-54 (1st Cir. 2009)
- United States ex rel. Nargol v. DePuy Orthopaedics, Inc., 69 F.4th 1, 11 (1st Cir. 2023)
- Biltcliffe v. CitiMortgage, Inc., 772 F.3d 925, 930 (1st Cir. 2014)
- Karimpour v. Stanley Black & Decker, Inc., 779 F. Supp. 3d 68, 70 (D. Mass. 2025)
- Soto-Padró v. Pub. Bldgs. Auth., 675 F.3d 1, 9 (1st Cir. 2012)
- Ofori v. Ruby Tuesday, Inc., 205 F. App'x 851, 852-53 (1st Cir. 2006)
- Gorfinkle v. U.S. Airways, Inc., 431 F.3d 19, 22 (1st Cir. 2005)
- O'Connor v. Raymark Indus., 518 N.E.2d 510, 513 (Mass. 1988)
- Froudi v. United States, 22 Cl. Ct. 290, 300 (1991)
- United States v. Medoff, 733 F. Supp. 3d 19, 24 (D. Mass. 2024)
- Chapman v. Bernard's Inc., 198 F.R.D. 575, 579 (D. Mass. 2001)
- Sullivan v. Bankhead Enters., Inc., 108 F.R.D. 378, 381 (D. Mass. 1985)
- Spiegel v. Tr. of Tufts Coll., 843 F.2d 38, 42-45 (1st Cir. 1988)
- Curtiss-Wright Corp. v. Gen. Elec. Co., 446 U.S. 1, 7 (1980)
- Acha v. Beame, 570 F.2d 57, 62 (2d Cir. 1978)
- Gonzalez Figueroa v. J.C. Penney P.R. Inc., 568 F.3d 313, 318 n.3 (1st Cir. 2009)
- Nichols v. Cadle Co., 101 F.3d 1448, 1449 (1st Cir. 1996)
- Niemic v. Galas, 286 F. App'x 738, 739 (1st Cir. 2008)
- Credit Francais Int'l, S.A. v. Bio-Vita, Ltd., 78 F.3d 698, 706 (1st Cir. 1996)
- Kersey v. Dennison Mfg. Co., 3 F.3d 482, 487 (1st Cir. 1993)
- Braswell Shipyards, 2 F.3d 1331, 1335-36 (4th Cir. 1993)
- Stewart v. Milford-Whitinsville Hosp., 349 F. Supp. 2d 68, 71 (D. Mass. 2004)
- In re Zofran (Ondansetron) Prods. Liab. Litig., 261 F. Supp. 3d 62, 83 (D. Mass. 2017)

- *Plourde v. Sorin Grp. USA, Inc.*, 23 F.4th 29, 31 (1st Cir. 2022)
- *In re Engagne, Inc.*, 544 F.3d 50, 53 (1st Cir. 2008)
- *Ropes & Gray LLP v. Jalbert*, 910 N.E.2d 330 (Mass. 2009)
- *In re Fuller*, 642 F.3d 240, 244 (1st Cir. 2011)
- *Boston Car Co. v. Acura Auto. Div., Am. Honda Motor Co.*, 971 F.2d 811, 817 n.3 (1st Cir. 1992)
- *New England Gen-Connect, LLC v. U.S. Carburetion, Inc.*, 2015 WL 13694424, at *1 (D. Mass. Dec. 8, 2015)
- *Massachusetts ex rel. Powell v. Holmes*, 546 F. Supp. 3d 58, 67 (D. Mass. 2021)
- *Young v. City of Mount Ranier*, 238 F.3d 567, 572-73 (4th Cir. 2001)
- *Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1518 (10th Cir. 1991)
- *Cicchetti v. Lucy*, 514 F.2d 362, 365 n.5 (1st Cir. 1975)
- *In re County of LaSalle*, 169 F.3d 469, 472 (7th Cir. 1999)
- *Watterson v. Page*, 987 F.2d 1, 3 (1st Cir. 1993)
- *Romani v. Shearson Lehman Hutton*, 929 F.2d 875, 879 n.3 (1st Cir. 1991)