

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**RODNEY L. DAVIS, THOMAS M. DAVIS, III, EDWIN
G. PERLMUTTER, RICK CRAWFORD, MARK KIRK,
JAMES CLYBURN, STENY HOYER, and all others
similarly situated,
*Plaintiffs-Petitioners***

v.

**UNITED STATES,
*Defendant-Respondent***

2025-119

On Petition for Permission to Appeal pursuant to 28
U.S.C. Section 1292(d)(2) from the United States Court of
Federal Claims in No. 1:24-cv-00364-EGB, Senior Judge
Eric G. Bruggink.

ON PETITION

Before LOURIE, MAYER, and DYK, *Circuit Judges*.
DYK, *Circuit Judge*.

O R D E R

Pursuant to 28 U.S.C. § 1292(d)(2), petitioners seek permission to appeal an order of the United States Court of Federal Claims granting in part the United States's motion to dismiss petitioners' claims for lost pay and retirement benefits. The United States responds, taking no position on whether the court should permit interlocutory review.

Under § 1292(d)(2), the Court of Federal Claims may certify that an order that is not otherwise immediately appealable is one involving a controlling question of law as to which there is substantial ground for difference of opinion and for which an immediate appeal may materially advance the ultimate termination of the litigation. Ultimately, this court must exercise its own discretion in deciding whether to grant permission to appeal an interlocutory order. *See In re Convertible Rowing Exerciser Pat. Litig.*, 903 F.2d 822, 822 (Fed. Cir. 1990). In this case, we decline to grant permission to appeal under § 1292(d)(2).

Accordingly,

IT IS ORDERED THAT:

The petition for permission to appeal is denied.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

May 20, 2025
Date