

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

Suhail Najim Abdullah Al Shimari, *et al.*,)
)
Plaintiffs,)
)
v.)
)
CACI International, Inc., *et al.*,)
)
Defendants.)

Case No. 1:08-cv-827

ORDER

THIS MATTER is before the Court on Defendants' Motion for 28 U.S.C. § 1292(b) Certification of the Court's Order on Defendants' Motion to Dismiss. (Dkt. No. 127.) The issue is whether the Court has jurisdiction to certify its March 18, 2009 Order on Defendants' Motion to Dismiss under 28 U.S.C. § 1292(b), while a rehearing *en banc* is pending before the United States Court of Appeals for the Fourth Circuit after Defendants sought and obtained interlocutory review of the Order by a three-judge panel by arguing that the Fourth Circuit has appellate jurisdiction over this Court's Motion to Dismiss concerning their three defenses: immunity, political question, and preemption. This Court denies Defendants' Motion because the Court does not have jurisdiction to certify issues that have been decided by a three-judge panel and are now pending before the Fourth Circuit for *en banc* review. *See Al Shimari v. CACI Int'l, Inc.*, 658 F.3d 413 (4th Cir. 2011); *See also Al-Quraishi v. L-3 Serv., Inc.*, 657 F.3d 201, 204–06 (4th Cir. 2011) (rejecting plaintiffs' challenge to the Fourth Circuit's appellate jurisdiction over a similar interlocutory appeal concerning nearly identical issues in a companion case of *Al Shimari*). Accordingly, it is hereby

ORDERED that Defendants' Motion for 28 U.S.C. § 1292(b) Certification of the Court's Order on Defendants' Motion to Dismiss is DENIED.

The Clerk is directed to forward a copy of this Order to counsel of record.

ENTERED this 22nd day of November, 2011.

Alexandria, Virginia
11/ 22/2011

/s/
Gerald Bruce Lee
United States District Judge