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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 JOHN B. KENNEY,

12 Plaintiff,

13 v.

14 KASEYLEE LAWRENCE and  
15 MATTHEW KOERBER,

16 Defendants.

Case No.: 13cv248-WQH-AGS

**ORDER**

17 HAYES, Judge:

18 The matters before the Court are the notice of appeal filed by Plaintiff John B.  
19 Kenney (ECF No. 634) and the ex parte motion to stay proceedings pending appeal (ECF  
20 No. 633).

21 **I. NOTICE OF APPEAL**

22 On March 13, 2018, Plaintiff filed a Notice of Appeal to the Ninth Circuit Court of  
23 Appeals. (ECF No. 634). Plaintiff states that he appeals an order of the Court entered on  
24 February 15, 2018, ECF No. 607. Plaintiff states that he appeals docket number 607  
25 “amongst other Final Orders” but does not clearly identify the other orders from which he  
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1 appeals.<sup>1</sup> See Fed. R. App. P. 3(c)(1) (“The notice of appeal must . . . designate the  
2 judgment, order, or part thereof being appealed[.]”). The February 15, 2018 Order is a  
3 minute Order which denies a motion to clarify filed by Plaintiff. (ECF No. 607). The  
4 motion to clarify requests the Court clarify docket number 588, which granted a prior  
5 motion to clarify oral rulings made by the Court at a motion in limine hearing. (ECF No.  
6 589).

7 Generally, “[t]he filing of a notice of appeal is an event of jurisdictional significance  
8 – it confers jurisdiction on the court of appeals and divests the district court of its control  
9 over those aspects of the case involved in the appeal.” *Griggs v. Provident Consumer Disc.*  
10 *Co.*, 459 U.S. 56, 58 (1982). However, this transfer of jurisdiction from the district court  
11 to the court of appeals does not occur when a litigant files a notice of appeal from a non-  
12 appealable order. See *Nascimento v. Dummer*, 508 F.3d 905, 908 (9th Cir. 2007) (“When  
13 a Notice of Appeal is defective in that it refers to a non-appealable interlocutory order, it  
14 does not transfer jurisdiction to the appellate court, and so the ordinary rule that the district  
15 court cannot act until the mandate has issued on the appeal does not apply.”); *Ruby v. Sec’y*  
16 *of U.S. Navy*, 365 F.2d 385, 389 (9th Cir. 1966) (“Where the deficiency in a notice of  
17 appeal, by reason of untimeliness, lack of essential recitals, or reference to a non-  
18 appealable order, is clear to the district court, it may disregard the purported notice of  
19 appeal and proceed with the case, knowing that it has not been deprived of jurisdiction.”).

20 There has been no judgment or appealable order entered in this case. The February  
21 15, 2018 Order of the Court denying a motion for clarification by minute order is a non-  
22 appealable interlocutory order. Accordingly, the Court is not divested of jurisdiction and  
23 this case shall proceed accordingly.

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27 <sup>1</sup> Plaintiff references “still unanswered ECF 583” in the Notice of Appeal. Docket number 583 is a pretrial  
28 memorandum filed by Plaintiff and requires no ruling by the Court. Plaintiff additionally asserts that the  
Court has not ruled on an ex parte motion for reconsideration. (ECF No. 507). Magistrate Judge Schopler  
denied this motion on August 11, 2017. (ECF No. 515).

