

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 09-20756-CIV-SEITZ/SIMONTON

UNITED STATES OF AMERICA,
ex rel. JUDE GILLESPIE,

Plaintiff,

v.

KAPLAN UNIVERSITY, *et al.*,


Defendants.

ORDER DENYING RULE 60 MOTION TO REOPEN AND VACATE

THIS MATTER is before the Court on Relator Jude Gillespie's Rule 60 Motion to Reopen Case to Vacate Order Granting Final Summary Judgment and Final Judgment [DE-442]. Relator has appealed the Court's Order Granting Final Summary Judgment and Final Judgment, *see* DE-434, and, according to PACER, the appeal is tentatively set for oral argument the week of February 2, 2015. For that reason, the Court lacks jurisdiction to consider Relator's motion. *See Weaver v. Florida Power & Light Co.*, 172 F.3d 771, 773 (11th Cir. 1999) (stating that it "is well-settled law that the filing of a notice of appeal divests the district court of jurisdiction over a case"). Relator's reliance on *Standard Oil of California v. U.S.*, 429 U.S. 17 (1976), to support jurisdiction is misplaced because, in that case, the appellate court had already issued its mandate. Here, the appeal remains pending. Accordingly, it is

ORDERED that Relator Jude Gillespie's Rule 60 Motion to Reopen Case to Vacate Order Granting Final Summary Judgment and Final Judgment [DE-442] is DENIED.

DONE and ORDERED in Miami, Florida, this 6th day of January, 2015.


PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: All counsel of record