

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

ERIC BARKWELL and GARY MASSEY, *
on behalf of themselves and all *
other similarly situated *
persons, *

Plaintiffs,

* CASE NO. 4:09-CV-56 (CDL)

vs.

SPRINT COMMUNICATIONS COMPANY, *
L.P., et al., *

Defendants. *

O R D E R

The Court recently denied the Motion to Compel Arbitration of Defendants Sprint Communications Company, L.P., Sprint Nextel Corporation, Sprint Solutions, Inc., and Sprint Spectrum, L.P. (collectively, "Sprint"). See generally Order, Jan. 12, 2012, ECF No. 67. Sprint has appealed that decision. See generally Notice of Appeal, Jan. 30, 2012, ECF No. 68. Presently pending before the Court is Sprint's Motion for Stay Pending Appeal (ECF No. 69). "When a litigant files a motion to stay litigation in the district court pending an appeal from the denial of a motion to compel arbitration, the district court should stay the litigation so long as the appeal is non-frivolous." *Blinco v. Green Tree Servicing, LLC*, 366 F.3d 1249, 1253 (11th Cir. 2004) (per curiam). Though a district court may declare an appeal to

be frivolous and decline to stay litigation, *id.*, the Court cannot conclude that Sprint's appeal in this case is frivolous. Therefore, Sprint's Motion for Stay Pending Appeal (ECF No. 69) is granted.

IT IS SO ORDERED, this 8th day of February, 2012.

S/Clay D. Land

CLAY D. LAND
UNITED STATES DISTRICT JUDGE