

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TINA KENDEL,)	
)	CASE NO. 5:10cv2300
Plaintiff,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
LOCAL 17-A UNITED FOOD AND)	
COMMERCIAL WORKERS, <i>et al.</i> ,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Defendants.)	<u>ORDER</u> [Regarding ECF No. 191]

Pending is Plaintiff Tina Kendel’s motion for an order compelling Defendant Local 17-A to provide the appellate court with the entire trial transcript. [ECF No. 191](#). Defendant has objected and alleged that the trial court no longer has jurisdiction over “those aspects of the case involved in the appeal.” [ECF No. 192 at 1](#).

Typically “‘the filing of a notice of appeal divests the district court of jurisdiction and transfers jurisdiction to the court of appeals,’ but [] the ‘district court retains jurisdiction to proceed with matters that are in aid of the appeal.’” [Inland Bulk Transfer Co. v. Cummins Engine Co.](#), 332 F.3d 1007, 1013 (6th Cir. 2003) (quoting [Cochran v. Birkel](#), 651 F.2d 1219, 1221 (6th Cir. 1981), cert. denied, 454 U.S. 1152 (1982)). “The distinction, although sometimes blurred, is between actions that merely aid the appellate process and actions that alter the case on appeal.” [Allan Ides, The Authority of a Federal District Court to Proceed After a Notice of Appeal Has Been Filed](#), 143 F.R.D. 307, 323 (1992). Based upon this legal authority and the Court’s familiarity with the trial record, the Court finds that Plaintiff is likely to be prejudiced by having less than the entire trial transcript provided to the appellate court and having less that a

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complete trial transcript may hamper the appellate court's ability to resolve the issues on appeal.

Accordingly, the undersigned grants Plaintiff's motion. Defendant shall provide the entire trial transcript to the appellate court.

IT IS SO ORDERED.

March 25, 2013
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge