UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CIVIL ACTION NO. 1:17-608 (WOB)

JASON COTTERMAN **PLAINTIFF**

VS. **ORDER**

CITY OF CINCINNATI, ET AL. **DEFENDANTS**

This matter is before the Court on plaintiff's "Motion that this Court Specifically Address Issues of State Law Causes of Action and of Privacy Not Addressed in Original Opinion and Order," brought pursuant to Fed. R. Civ. P. 62.1. (Doc. 127). Defendant DeBlauw filed a response in opposition to this motion. (Doc. 129).

The Court has reviewed plaintiff's motion and concludes that it should be denied.

Fed. R. 62.1 is a mechanism for a federal trial court to make an "indicative" ruling on a pending motion for relief where the district court otherwise lacks jurisdiction to rule due to a pending appeal in the case. *See generally* 12 James Wm. Moore et al., *Moore's Federal Practice* §§ 62.1.02, 62.1.10 (3d ed. 1997 & Supp. 2022). The most common example is when a party files a post-judgment motion, typically a Rule 60(b) motion, when an appeal is already pending. *Id.*

"Rule 62.1 does not provide for relief itself; rather it provides the Court with authority to entertain a motion for relief, including for example, a Rule 60(b) motion." *Hickman v. Moore*, Nos. 3:09-CV-69, 3:09-CV-102, 2011 WL 4860040, at *2 (E.D. Tenn. Oct. 13, 2011). *See also Medgraph, Inc. v. Medtronic, Inc.*, 310 F.R.D. 208, 210 (W.D.N.Y. 2015).

Here, there are no post-judgment motions pending which the Court is precluded from ruling on due to plaintiff's appeal to the United States Court of Appeals for the Sixth Circuit. (Doc. 125). "Absent an underlying, predicate motion, there is no basis for relief under Rule 62.1." *Medgraph*, 310 F.R.D. at 210.

Therefore, having reviewed this matter, and the Court being advised,

IT IS ORDERED that plaintiff's "Motion that this Court Specifically Address Issues of State Law Causes of Action and of Privacy Not Addressed in Original Opinion and Order" (Doc. 127) be, and is hereby, **DENIED**.

This 16th day of September 2022.

Signed By:
William O. Bertelsman WOB
United States District Judge