

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL J. FAVOR [sic],

Plaintiff,

Case No. 2:13-cv-655

JUDGE GREGORY L. FROST

Magistrate Judge Norah McCann King

v.

W.L. GORE ASSOCIATES, INC., et al.,

Defendants.

ORDER

This matter is before the Court on Plaintiff Michael Favors' opposition to various pending motions filed by Defendants. (ECF No. 60.) Plaintiff's opposition does not address Defendants' motions on their merits. Instead, Plaintiff takes the position that his notice of appeal filed on September 23, 2013 divests this Court of jurisdiction to adjudicate Defendants' motion and that proceedings in this Court are "held in abeyance" pending the disposition of his appeal in the Sixth Circuit Court of Appeals. (*Id.*)

With this Order, the Court wishes to make clear its position that Plaintiff's notice of appeal did *not* divest this Court of jurisdiction. Under Sixth Circuit precedent, the district court is allowed to proceed "where the order from which appeal is sought is itself clearly nonappealable." *Cochran v. Birkel*, 651 F.2d 1219, 1222-23 (6th Cir. 1981). In this case, Plaintiff has filed a notice of appeal from this Court's decision denying remand to the state court. This is a nonappealable order. *See In re Briscoe*, 448 F.3d 201, 211 (3d Cir. 2006); *see also Caterpillar, Inc. v. Lewis*, 519 U.S. 61, 74 (1996) ("An order denying a motion to remand, 'standing alone,' is 'obviously . . . not final and [immediately] appealable' as of right.") (quoting *Chicago, R. I. & P. R. Co. v. Stude*, 346 U.S. 574, 578 (1954)). Accordingly, the Court retains

jurisdiction in this case, including jurisdiction to decide the motions currently pending before the Court. *See e.g. In re Taylor*, 831 F.2d 297 (table), 1987 U.S. App. LEXIS 14033 (6th Cir. Oct. 22, 1987); *United States v. Bissacco*, No. 3:06-cr-174, 2013 U.S. Dist. LEXIS 862443 (S.D. Ohio June 19, 2013).

Plaintiff's response also requests a one-week extension of time for responding to Defendants' pending motions in the event this Court disagrees (as the Court does) with Plaintiff's position that his notice of appeal divested this Court of jurisdiction. The Court **DENIES** Plaintiff's requested extension for want of good cause. Plaintiff's responses to Defendants' motions remain due on the date previously set by this Court. (ECF No. 56.)

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE