

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

MID-AMERICA APARTMENT	)	
COMMUNITIES, INC.	)	
Plaintiff - Appellee,	)	
	)	Case No. 25-5993
v.	)	
	)	
DENNIS PHILIPSON,	)	
	)	
Defendant - Appellant.	)	
	)	
	)	

**MID-AMERICA APARTMENT COMMUNITIES, INC.’S REPLY IN SUPPORT OF
MOTION TO DISMISS APPEAL**

Pursuant to Federal Rule of Appellate Procedure 27, Plaintiff-Appellee Mid-America Apartment Communities, Inc. (“MAA”) respectfully submits this reply in support of its motion to dismiss this appeal for lack of appellate jurisdiction. The Orders from which the appeal are taken are not final and are not subject to 28 U.S.C. § 1292.

ARGUMENT

I. Philipson’s Response in Opposition Is Untimely.

As a threshold matter, Philipson’s response in opposition to MAA’s Motion to Dismiss Appeal is untimely, and, therefore, should not be considered. Pursuant to Federal Rule of Appellate Procedure 27, a response to a motion “must be filed within 10 days after service of the motion unless the court shortens or extends the time.” Federal Rule of Appellate Procedure 26 governs computing time and requires that “[w]hen the period is stated in days or a longer unit of time: (A) exclude the day of the event that triggers the period; (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and (C) include the last day of the period, but if the last

day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.”

MAA served its Motion to Dismiss Appeal on Philipson via email on November 6, 2025. By using the rules for computing time, Philipson’s response was due Monday, November 17, 2025. However, he did not file his response until Friday, November 21, 2025 – four days after his deadline passed. Philipson seemingly attempts to justify his late response in a filing in the district court by alleging that he did not receive service of MAA’s motion and “first became aware of the motion only after manually checking the docket on PACER.” (ECF No. 328-6 at PageID 7381.)¹ This is patently false. Counsel for MAA sent Philipson a courtesy copy of its motion via email shortly after filing the motion on November 6, 2025. Moreover, Philipson actually responded to the email sent by MAA’s counsel: “Hey Jordan, Thanks! Have a great night. I got [sic] a lot more people to email.” A true and correct copy of this email exchange is attached hereto as **Exhibit A**.

Philipson argues that he should be given an additional three days to respond to MAA’s motion because under Federal Rule of Appellate Procedure 26(c), “[w]hen service is made by mail, an additional 3 days are added.” (ECF No. 328-6 at PageID 7379.) First, as noted above, service was not made by mail, it was made via email. Further, even if this Court entertains Philipson’s falsifications about not receiving service, his response would still be late, even with the provided three extra days. Philipson even acknowledges this, noting “Appellant understands that, absent leave of Court, his mailed response could be treated as having been filed slightly outside that nominal period, and therefore brings this motion.” (*Id.* at PageID 7379)

Philipson argues that even if the Court finds his response was untimely, it should allow him additional time for “good cause” and “excusable neglect.” First, Philipson’s neglect is not

¹ Philipson’s “Motion for Leave to File Response to Motion to Dismiss Instantner” has now been docketed in this appeal as Document No. 13.

excusable. MAA has provided documented evidence that not only did it send Philipson a copy of its motion to dismiss appeal via email the day the motion was filed, but MAA has also shown that Philipson received it because he responded. To say now that he never received the motion to dismiss appeal is a blatant lie, and this Court should not allow him leniency.

Further, Philipson contends that because he is pro se, his filings should be “liberally construed and that mental impairments can be considered in assessing equitable tolling and deadline-related relief.” (ECF No. 328-6 at PageID 7386.) While courts do “apply ‘less stringent standards’” to pro se pleadings, “the lenient treatment generally accorded to pro se litigants has limits.” *Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th Cir. 1996) (explaining that “[w]here, for example, a pro se litigant fails to comply with an easily understood court-imposed deadline, there is no basis for treating that party more generously than a represented litigant.”). That is the case here. Based on his “Motion for Leave to File Response to Motion to Dismiss Instantly,” Philipson clearly understands the deadline imposed by Federal Rule of Appellate Procedure 27. Therefore, his Response in Opposition to MAA’s Motion to Dismiss Appeal should not be considered.

II. The Appealed from Orders Do Not Provide a Basis for Jurisdiction.

A. The Appealed from Orders Are Not Final Orders Under 28 U.S.C. § 1291.

Despite Philipson’s assertions to the contrary, the district court’s Order Assessing Monetary Sanctions for Violations of Permanent Injunction, entered on October 6, 2025, is not a final order. Instead, it is part of an ongoing “post-judgment litigation” concerning Philipson’s continuous violations of the Permanent Injunction. Because Philipson has continuously violated the Permanent Injunction entered by the district court, the court granted both MAA’s Motions for Contempt. In determining sanctions for Philipson’s repeated violations, which still have not ceased, the court ordered MAA to file a declaration of proof once per month, detailing Philipson’s

violations. (ECF 285, PageID# 5268 (“To the extent that MAA believes Mr. Philipson violates the terms of the permanent injunction going forward, it shall submit such allegations, no more than once per month, along with a declaration of proof detailing each violation.”)). In fact, since the district court entered that Order, MAA has filed another Declaration of Proof, detailing an additional 295 violations and is in the process of preparing a third Declaration of Proof, detailing another set of violations.

Because the district court has ordered MAA to file monthly proof showing Philipson’s continuous violations, the district court’s Order Assessing Monetary Sanctions for Violations of Permanent Injunction is not a final order and is not appealable to this Court.

Philipson next appeals the district court’s Order Denying Motion for Leave to File Native Audio and Video Evidence on the Public Docket and Establishing Guidelines for Future Filings (ECF No. 310), entered October 17, 2025, and Order Directing Clerk to Not File Submissions on the Dockets (ECF No. 312), entered October 22, 2025. Both these Orders deal with Philipson’s incessant filing of various “Notices” and “Evidence” which are not in response to anything and are “not relevant to what remains of [the district court’s] jurisdiction.” (*See* ECF No. 310, at PageID 6899). The Orders are guidelines regarding what Philipson can file and instructions for the Clerk on what submissions made by Philipson to the Clerk should be filed.²

Further, prior to these Orders being entered, MAA filed a Motion for Criminal Contempt, Referral for Criminal Prosecution for Perjury or Issuance of Arrest Warrant for Failure to Meet Condition of Release for Civil Contempt (ECF No. 308). The district court has not ruled on that Motion yet, and these Orders from which Philipson now appeals provide instructions as to how he

² This Court is no stranger to Philipson’s filing practices. During pendency of Philipson’s appeal of the final judgment, which was affirmed by the Sixth Circuit on June 9, 2025, this Court found it necessary to block all Sixth Circuit Court of Appeals recipients from receiving emails from Philipson’s email address due to his abuse of that privilege. Since the affirmance by this Court, the district court has had to take similar steps.

is allowed to respond. Therefore, the “post-judgment litigation” is still pending and neither of those Orders are final or appealable.

B. The Appealed From Orders Are Not Interlocutory Decisions Subject to 28 U.S.C. § 1292(a)(1).

Philipson also asserts that “Orders 310 and 312 are appealable injunction-type orders under § 1292(a)(1) and the collateral-order doctrine.” (Appellant’s Response in Opposition to Appellee’s Motion to Dismiss Appeal for Lack of Jurisdiction (“Response”), at 18.) Philipson argues that these Orders should be considered injunctions because they:

are not mere “guidelines” or housekeeping rules. They are coercive, forward-looking commands telling a litigant what he “shall not” do and telling the Clerk what ‘will not’ be done. They substantially burden Appellant’s ability to file motions, preserve the record, and present evidence in ongoing contempt and enforcement proceedings – including MAA’s pending motion for criminal contempt.

(Response, at 20.)

Courts have the ability to control what is filed on the docket, primarily where a party is abusing the system by filing documents that serve no legitimate purpose whatsoever. *See Wooten v. Fed. Med. Ctr. Lexington*, No. 5:22-CV-52-REW, 2022 WL 1275624, at *2 (E.D. Ky. Apr. 28, 2022) (“The Court’s docket is not a repository for evidence in a case, and documents are not generally to be filed in the record unless in support of (or opposition to) a motion pending before the Court.”); *In re Atchison-Jordan*, No. 12-MC-50879, 2014 WL 1516218, at *5 (E.D. Mich. Apr. 17, 2014) (“The Court’s docket is not a public file server.”); *Hildebrandt v. Veneman*, 233 F.R.D. 183, 184 (D.D.C. 2005) (explaining that “the Court’s docket is not a forum for personal attacks” or for filings that “did not serve any legitimate litigation-related purpose and appear to be a form of grandstanding really addressed to other audiences”) (internal citations omitted). Philipson was

continuously filing “Notices” that “seek[] no immediate relief” but are merely “docketed to preserve the record.” (ECF No. 310 at PageID 6898).

Further, the district court did not burden Philipson’s “ability to file motions, preserve the record, and present evidence in ongoing contempt and enforcement proceedings – including MAA’s pending motion for criminal contempt” as he contends. The district court specifically explained that he could not file documents that were “not in support of or opposition to a motion pending before the Court” meaning he is permitted to file motions, memoranda in support of motions, or responses to MAA’s pending motions.

“To determine when an order – no matter how it’s labeled – is appealable, the Supreme Court has set out the following test.” *Doe v. Lee*, 137 F.4th 569, 575 (6th Cir. 2025). “To be appealable, the district court’s action must: (1) have the ‘practical effect’ of granting or denying an injunction, (2) have ‘serious, perhaps irreparable, consequence[s]’ for a party, and (3) be ‘effectually challenged’ only by immediate appeal.” *Id.* (quoting *Carson v. Am. Brands, Inc.*, 450 U.S. 79, 84 (1981)). To determine whether an order has the “practical effect” of granting or denying an injunction, “the following simple question will typically suffice: is the request for injunctive relief still pending before the district court?” *Id.* Here, there was no motion for injunctive relief by either party. The district court, *sua sponte*, entered Orders 310 and 312 to prevent Philipson from filing “Notices” and “evidence” that have nothing to do with any pending motions. Nothing about the orders is injunctive in nature. The district court is merely trying to control its own docket and hold Philipson to the standards it holds other litigants to. Therefore, the orders do not have the “practical effect” of granting or denying an injunction.

Further, the orders do not have serious or irreparable consequences for Philipson. As noted, Philipson is free to file motions, memoranda in support of motions, and responses to motions. Prior

to the district court's final judgment, Philipson failed to meaningfully participate in various status conferences, hearings, or motion practice. Only after the district court entered not only a judgment against him but also sanctions, he is now attempting to submit "evidence." That time has passed. By entering Orders 310 and 312, the district court is merely providing guidelines on what can and cannot be filed in post-judgment proceedings. The district court's instructions in Orders 310 and 312 are akin to the district court's guidelines on MAA submitting additional declarations of proof – which it is only allowed to do so once per month.

Finally, the third element also fails because there is nothing to "effectually challenge." Neither Philipson nor MAA has sought injunctive relief in regards to filing procedures. Orders 310 and 312 are merely filing guidelines implemented by the district court to control its docket.

Because the appealed from orders are not subject to 28 U.S.C. § 1292(a), Philipson's appeal should be dismissed.

CONCLUSION

For the foregoing reasons, MAA respectfully requests that this Court dismiss this appeal.

Respectfully Submitted,

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/s/ John Golwen

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***Counsel for Mid-America
Apartment Communities, LLC***

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2025, the foregoing was served on the individual below by the ECF filing system:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310

/s/ John Golwen
John Golwen

EXHIBIT A

Ward, Samantha

From: Thomas, Jordan
Sent: Thursday, November 6, 2025 3:57 PM
To: Mikey D
Cc: Golwen, John S.; Mills, Paige
Subject: Case No. 25-5993 MAA v. Philipson - Motion to Dismiss Appeal
Attachments: MAA Motion to Dismiss Appeal.pdf

Mr. Philipson,

Attached is MAA's Motion to Dismiss Appeal, filed with the Sixth Circuit today.

Thanks,
Jordan Thomas

BASS BERRY SIMS

Jordan Thomas
Associate

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901-543-5966 phone
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[map](#)

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Ward, Samantha

From: Mikey D <mikeydphilips@gmail.com>
Sent: Thursday, November 6, 2025 4:02 PM
To: Thomas, Jordan
Subject: Re: Case No. 25-5993 MAA v. Philipson - Motion to Dismiss Appeal

Hey Jordan,

Thanks!

Have a great night. I got a lot more people to email.

Dennis

On Thu, Nov 6, 2025 at 4:57 PM Thomas, Jordan <jordan.thomas@bassberry.com> wrote:

Mr. Philipson,

Attached is MAA's Motion to Dismiss Appeal, filed with the Sixth Circuit today.

Thanks,

Jordan Thomas

BASS BERRY + SIMS

Jordan Thomas

Associate

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