

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SHARONELL FULTON, et al.,	:	
	:	
Plaintiffs	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 18-2075
CITY OF PHILADELPHIA, et al.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this __18th__ day of July, 2018, upon consideration of the Motion of the Support Center for Child Advocates and Philadelphia Family Pride to Intervene as Defendants (“Motion to Intervene”) (Doc. 14), Memorandum of Law in Support of the Motion of the Support Center for Child Advocates and Philadelphia Family Pride to Intervene as Defendants (Doc. 27), Memorandum of Law in Opposition to Emergency Motion to Intervene by Support Center for Child Advocates and Philadelphia Family Pride (Doc. 48), and Plaintiffs’ Notices of Appeal (Docs. 54, 55), **IT IS HEREBY ORDERED AND DECREED** that Proposed Intervenors’ Motion to Intervene (Doc. 14) is **STAYED**.¹

BY THE COURT:

/s/ **Petrese B. Tucker**

Hon. Petrese B. Tucker, U.S.D.J.

¹ On June 7, 2018, Plaintiffs filed an amended Motion for a Temporary Restraining Order and Preliminary Injunction (“Injunction Motion”) (Doc. 13). On June 8, 2018, Proposed Intervenors, Center for Child Advocates and Philadelphia Family Pride, filed a Motion to Intervene (Doc. 14) as defendants in this case. On July 13, 2018, the Court denied Plaintiffs’ Injunction Motion in an Order (Doc. 53) and accompanying Memorandum Opinion (Doc. 52). On July 14, 2018, Plaintiffs filed two Notices of Appeal (Docs. 54, 55) of the Court’s order denying Plaintiffs’ Injunction Motion. At the time of filing of the Notices of Appeal, the Court had not yet ruled upon the Motion to Intervene (Doc. 14).

It is axiomatic that a timely notice of appeal “is an event of jurisdictional significance, immediately conferring jurisdiction on a Court of Appeals and divesting a district court of its control over those aspects of the case involved in the appeal.” *Venen v. Sweet*, 758 F.2d 117, 120 (3d Cir. 1985).

The issue presented in this case—whether a district court, after the filing of a notice of appeal, maintains jurisdiction to decide a pending motion to intervene that was filed before entry of the order from which a party appeals—appears to be an issue of first impression in the Third Circuit. Decisions in other courts, however, suggest that the filing of a notice of appeal divests the district court of jurisdiction to rule on a motion to intervene. *See, e.g., Doe v. Public Citizen*, 749 F.3d 246, 258–59 (4th Cir. 2014) (acknowledging that the “majority of . . . circuits that have confronted this issue have applied the general jurisdiction-stripping rule to hold that an effective notice of appeal deprives a district court of authority to entertain a motion to intervene” and holding that even where a motion to intervene is filed before the notice of appeal, and ruling on the motion may arguably be “in aid of appeal,” the district court may not rule on the motion); *Nicol v. Gulf Fleet Supply Vessels, Inc.*, 743 F.2d 298 (5th Cir. 1984) (providing that “the district court in this case was without jurisdiction to rule on the motion to intervene . . . once [the appellant] filed his notice of appeal.”); *see also Halderman v. Pennhurst State Sch. & Hosp.*, 612 F.2d 131, 134 (3d Cir. 1979) (concluding that a district court’s denial of a motion to intervene that was filed after the filing of a notice of appeal was harmless error).

In the absence of Third Circuit precedent on the issue, and in deference to the appellate jurisdiction of the Third Circuit, the Court will refrain from ruling on the Motion to Intervene unless and until the Third Circuit grants the Court leave to rule on the Motion to Intervene. Accordingly, the Motion to Intervene is STAYED.