

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

JUL 27 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

STATE OF ARIZONA; et al.,

Plaintiffs-Appellants,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY; et al.,

Defendants-Appellees.

No. 21-16118

D.C. No. 2:21-cv-00186-SRB  
District of Arizona,  
Phoenix

ORDER

In this appeal of the district court's June 30, 2021 order, appellants filed an emergency motion for injunction pending appeal. However, a review of the district court docket reflects that appellants timely filed a motion for reconsideration of the order on appeal, which is still pending. The notice of appeal therefore may be ineffective until entry of the order disposing of the motion for reconsideration. *See* Fed. R. App. P. 4(a)(4).

The parties are directed to address whether these appellate proceedings should be held in abeyance pending the district court's resolution of the pending motion for reconsideration of the June 30, 2021 order. *See Leader Nat'l Ins. Co. v. Indus. Indem. Ins. Co.*, 19 F.3d 444, 445 (9th Cir. 1994); *Tripati v. Henman*, 845 F.2d 205, 206 (9th Cir. 1988). In addition, the parties are directed to address whether this court has jurisdiction over an appeal from the district court's order

dismissing the complaint with leave to amend. *See WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1136-37 (9th Cir. 1997) (en banc).

Appellants' response to this order is due July 29, 2021. Appellees' reply is due August 2, 2021.

Resolution of the emergency motion for an injunction pending appeal is stayed pending a review of the parties' response to this order.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Dania Lopez Beltran  
Deputy Clerk  
Ninth Circuit Rule 27-7