IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DEFENSE DISTRIBUTED, ET AL.,	§	
	§	
Plaintiffs,	§	
	§	
V.	§	1-15-CV-372 RP
	§	
UNITED STATES DEPARTMENT OF STATE, ET AL.,	§	
	§	
	§	
Defendants.	§	

ORDER

Before the Court are Plaintiffs' Motion to Stay Proceedings Pending Appeal, filed September 22, 2015 (Clerk's Dkt. #63); Individual Defendants' Response in Partial Opposition to Plaintiffs' Motion to Stay, filed September 29, 2015 (Clerk's Dkt. #64); and U.S. Government Defendants' Opposition to Plaintiffs' Motion to Stay Proceedings Pending Appeal, filed September 29, 2015 (Clerk's Dkt. #65).

By way of their motion, Plaintiffs seek to stay this action pending an interlocutory appeal of the Court's denial of their motion for preliminary injunction. The appeal was filed on August 13, 2015. On September 1, 2015, the Court granted the motion of Defendants the United States Department of State, the Directorate of Defense Trade Controls, and the individuals named in their official capacity, and extended their time to respond to Plaintiffs' live complaint until twenty-one days after mandate issues from the Fifth Circuit Court of Appeals on the pending interlocutory appeal.

The remaining defendants, the individuals named in their individual capacity, declined to enter into a similar agreement. Instead, on September 14, 2015, they filed a motion to dismiss Plaintiffs' claims against them. Plaintiffs now ask the Court to stay this case in its entirety, based on their pending interlocutory appeal.

Although a notice of appeal from an interlocutory order does not produce a complete divestiture of the district court's jurisdiction over the case, it does divest the district court of

jurisdiction over those aspects of the case on appeal. *Alice L. v. Dusek*, 492 F.3d 563, 564-65 (5th Cir. 2007); *Taylor v. Sterrett*, 640 F.2d 663, 667-68 (5th Cir. 1981). In this case, Plaintiffs argue the issues raised in the pending motion to dismiss concern aspects of the case which are at issue in the interlocutory appeal. Defendants, in turn, argue a stay is not warranted because resolution of the motion to dismiss may be possible without implicating issues before the Fifth Circuit and because the Fifth Circuit may not address all of the issues before it.

The Court disagrees. The constitutional issues at the core of Plaintiffs' motion for preliminary injunction are also the basis of their claims against the individual-capacity defendants. The issues in the motion to dismiss are sufficiently intertwined with those same issues to prevent full consideration of the motion prior to resolution of the pending interlocutory appeal.

Accordingly, Plaintiffs' Motion to Stay Proceedings Pending Appeal is hereby GRANTED and the above-styled action is ordered STAYED during the pendency of Plaintiffs' interlocutory appeal. All pending matters and settings in this case are ABATED pending further order from this Court. The District Clerk's Office is directed to administratively close this case until the termination of the appeal proceedings.

SIGNED on October 1, 2015.

ROBERT L. PITMAN
UNITED STATES DISTRICT JUDGE