

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

Leonard Green
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: May 09, 2012

Mr. Geoffrey Parker Damon
Law Office
119 E. Court Street
Cincinnati, OH 45202

Mr. Eric C. Deters
Law Office
5427 Madison Pike
Independence, KY 41051-0000

Mr. David S. Gingras
Law Office
3941 E. Chandler Boulevard
Suite 106-243
Phoenix, AZ 85048

Mr. Charles T. Lester Jr.
Eric C. Deters & Associates
5247 Madison Pike
Independence, KY 41051

Ms. Alexis B. Mattingly
Huddleston Bolen
P.O. Box 2185
Huntington, WV 25722

Mr. Alexander C. Ward
Huddleston Bolen
P.O. Box 770
Ashland, KY 41105

Re: Case No. 12-5133, *Sarah Jones v. Dirty World Entertainment Reco, et al*
Originating Case No. : 2:09-CV-219

Dear Sir or Madam,

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Cheryl Borkowski
Case Manager
Direct Dial No. 513-564-7035

cc: Mr. Robert R. Carr

Enclosure

No mandate to issue

No. 12-5133

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
May 09, 2012
LEONARD GREEN, Clerk

SARAH JONES,)
)
Plaintiff-Appellee,)
)
v.)
)
DIRTY WORLD ENTERTAINMENT)
RECORDINGS LLC, dba Thedirt.com; DIRTY)
WORLD ENTERTAINMENT, LLC, dba)
Thedirty.com)
)
Defendants,)
)
)
HOOMAN KARAMIAN, aka Nik Richie, aka)
Corbin Grimes; DIRTY WORLD, LLC, dba)
Thedirty.com)
)
Defendants-Appellants.

ORDER

Before: KENNEDY, SILER, and SUTTON, Circuit Judges.

The defendants in this defamation and invasion-of-privacy case claim they are immune from suit pursuant 47 U.S.C. § 230(c), a part of the Communications Decency Act of 1996 (“CDA”). They appeal the district court’s denial of their motion for summary judgment on grounds of immunity. The plaintiff moves to dismiss the appeal for lack of appellate jurisdiction. The defendants oppose the motion.

This court has jurisdiction in appeals from final orders and decisions of the district court. 28 U.S.C. § 1291. A decision is final if it disposes of all claims and parties on the merits and leaves nothing for the district court to do but execute the judgment. *Catlin v. United States*, 324 U.S. 229,

No. 12-5133

- 2 -

233 (1945). An order denying summary judgment does not dispose of all claims in the action and thus is not final for purposes of appeal under § 1291. The defendants, however, maintain that an order denying § 230 immunity is immediately appealable pursuant to the collateral order doctrine. Under the collateral order doctrine established by *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 546 (1949), “an order is appealable under Section 1291 if the order (1) conclusively determines a disputed issue; (2) resolves an issue separate from the merits of the action that is too important to be denied review; and (3) will be effectively unreviewable on appeal from a final judgment.” *United States ex rel. Pogue v. Diabetes Treatment Ctrs. of Am., Inc.*, 444 F.3d 462, 472 (6th Cir. 2006).

Assuming that the CDA does, in fact, offer providers of an interactive computer service immunity from suit, it is still necessary to determine if an immunity claim under the CDA is sufficiently important to warrant an immediate appeal. *See Digital Equipment Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 866 (1994). “The collateral order doctrine is best understood not as an exception to the ‘final decision’ rule laid down by Congress in § 1291, but as a ‘practical construction of it[.]’” *Id.* at 867 (citations omitted). Only some orders denying an asserted right to avoid the burdens of trial qualify for immediate review. “[I]t is not mere avoidance of a trial, but avoidance of a trial that would imperil a substantial public interest, that counts when asking whether an order is ‘effectively’ unreviewable if review is to be left until later.” *Will v. Hallock*, 546 U.S. 345, 353 (2006) (citation omitted).

Although the defendants have invoked their alleged right not to stand trial under the CDA, they have failed to demonstrate how a substantial public interest will be imperiled by delaying their appeal until after the district court enters a final order. *See Kelly v. Great Seneca Fin. Corp.*, 447 F.3d 944, 948 (6th Cir. 2006). “The Supreme Court did not say that denials of all forms of absolute immunity, regardless of the function that the invoking litigant served, were immediately appealable.”

No. 12-5133

- 3 -

Id. We are not persuaded that the purpose or function of the CDA will be imperiled by delaying an appeal in this particular case.

The motion to dismiss is **GRANTED**.

ENTERED BY ORDER OF THE COURT



Clerk