

United States Court of Appeals For the First Circuit

No. 20-1456

CONSERVATION LAW FOUNDATION, INC.

Plaintiff - Appellant

v.

EXXONMOBIL CORPORATION; EXXONMOBIL OIL CORPORATION;
EXXONMOBIL PIPELINE COMPANY

Defendants - Appellees

ORDER OF COURT

Entered: June 26, 2020
Pursuant to 1st Cir. R. 27.0(d)

Plaintiff-appellant Conservation Law Foundation, Inc. filed a notice of appeal (D.E. #108) in district court case No. 1:16-cv-11950-MLW (D. Mass.), challenging the district court's order (D.E. #106) granting the motion to stay. Because the order appealed from does not appear to be final or appealable on an interlocutory basis, this court does not appear have jurisdiction to review this appeal, absent certification pursuant to Fed. R. Civ. P. 54(b). See 28 U.S.C. §§ 1291, 1292; Beach TV Cable Co., Inc. v. Comcast of Florida/Georgia, LLC, 808 F.3d 1284, 1292 (11th Cir. 2015) (stating that the collateral-order doctrine cannot apply when "[t]he decision of whether to refer a case under the primary jurisdiction doctrine is tightly enmeshed with the underlying merits of the case and thus not completely separate from those merits"); Clear Communications, Inc. v. Southwestern Bell Tel. Co., 415 F.3d 1171, 1176 (10th Cir. 2005) (holding that stay order contemplating return to federal court did not place party effectively out of court).

The appellant is ordered to move for voluntary dismissal of the appeal pursuant to Fed. R. App. P. 42(b), or to show cause, in writing, why this appeal should not be dismissed for lack of jurisdiction. The failure to take action by **July 10, 2020**, will lead to dismissal of the appeal for lack of diligent prosecution. 1st Cir. R. 3.0(b).

By the Court:

Maria R. Hamilton, Clerk

cc:

Allan Kanner

Christopher Michael Kilian

Ian David Coghill

Deborah E. Barnard

Kannon K. Shanmugam

Jessica Ragosta Early

William Thomas Marks

Daniel J. Toal

Theodore V. Wells Jr.

Jamie D. Brooks

Donald Campbell Lockhart

Rayford A. Farquhar