

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-11974

Non-Argument Calendar

NICHOLAS HARDING,

Plaintiff-Appellant,

versus

GOOGLE LLC,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:23-cv-00321-BJD-JBT

Before WILSON, JORDAN, and NEWSOM, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Nicholas Harding appeals from the district court's order granting Google LLC's motion to compel arbitration and staying the case pending the completion of arbitration. The order also directed the parties to routinely file reports on the status of the arbitration proceedings.

An appeal may not be taken from an interlocutory order that compels arbitration and stays, rather than dismisses, the action. 9 U.S.C. § 16(b)(1)-(3); *see Am. Express Fin. Advisors, Inc. v. Makarewicz*, 122 F.3d 936, 939 & n.4 (11th Cir. 1997) (dismissing for lack of jurisdiction appeal of an order compelling arbitration, staying proceedings, and administratively closing the case); *Green Tree Fin. Corp.-Ala. v. Randolph*, 531 U.S. 79, 87 n.2 (2000) (noting that if the district court had entered a stay, rather than a dismissal, the order would not have been appealable, per 9 U.S.C. § 16(b)(1)). The district court's order here stayed, rather than dismissed, the case and expressly contemplated further proceedings. *Cf. Martinez v. Carnival Corp.*, 744 F.3d 1240, 1244 (11th Cir. 2014) (noting that administratively closing a case is not the same as dismissing a case and finding that order compelling arbitration was immediately appealable where it "[n]otably . . . did not stay the proceedings, nor did it contemplate any further action on this case").

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All pending motions are DENIED as moot. No petition for rehearing may be filed unless it complies with the timing and other requirements of 11th Cir. R. 40-3 and all other applicable rules.