

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1663

RANDALL PATRICK,

Plaintiff - Appellant,

v.

CITIBANK, N.A.,

Defendant - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Catherine C. Eagles, District Judge. (1:17-cv-00218-CCE-JLW)

Submitted: September 28, 2017

Decided: October 2, 2017

Before WILKINSON, MOTZ, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Randall Patrick, Appellant Pro Se. Cassandra Lauren Crawford, Donald Richard Pocock, NELSON MULLINS RILEY & SCARBOROUGH, LLP, Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

APPENDIX C, APP. 1 (1a)

PER CURIAM:

Randall Patrick seeks to appeal from the district court's order denying his motion to remand the case to the state court, denying as moot his motion to expedite a decision on his motion to remand, and granting Citibank's motion to stay the action and to compel arbitration. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). The order Patrick seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we deny leave to proceed in forma pauperis and dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

are inconsistent with the relevant statutes, and the plaintiff cannot defeat federal jurisdiction by a *post hoc* effort to disclaim federal causes of action. The motion to remand will be denied.

The motion to remand having been denied, the motion to expedite a decision on the motion to remand will be denied as moot.

The defendant has submitted evidence that the plaintiff and the defendant agreed to arbitrate the dispute at issue in this case. The plaintiff has not submitted any evidence in opposition to the motion to arbitrate, nor did the plaintiff file a brief opposing the motion. In his motion to remand the case to state court, the plaintiff appears to assert that defendant should be equitably estopped from seeking arbitration now because it never asked for arbitration during negotiations before suit was filed, that these pretrial negotiations constituted an arbitration and were unsuccessful, and that the motion to remand is not timely because it was not filed concomitantly with the notice of removal. *See* Doc. 10. He has submitted no legal authority for these propositions, and the Court is unaware of any legal basis supporting his arguments.

As the evidence is uncontroverted that the parties agreed to arbitrate the dispute at issue, the court so finds as a fact. The Court further concludes the motion to compel arbitration should be granted.

It is **ORDERED** that:

1. The plaintiff's motion to remand, Doc. 10 is **DENIED**.
2. The plaintiff's motion to expedite, Doc. 11, is **DENIED** as moot.

3. The defendant's motion to stay and compel arbitration, Doc. 6, is **GRANTED**, and this case is **STAYED** pending arbitration proceedings. Upon completion of those proceedings, any party may move to reopen for any appropriate purpose. In the absence of such a motion, the case will be closed and terminated on January 31, 2018.

This the 26th day of April, 2017.


UNITED STATES DISTRICT JUDGE