

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**
Case No.: 17-cv-22643 COOKE/GOODMAN

FEDERAL ELECTION COMMISSION,

Plaintiff,

v.

DAVID RIVERA,

Defendant.

NOTICE OF APPEAL

Defendant David Rivera respectfully files this notice of appeal to the United States Court of Appeals for the Eleventh Circuit from the final judgment entered on March 30, 2022. *See* [DE 177]. Rivera respectfully requests that the appeal be held in abeyance pending the outcome of his pending motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or to grant relief from the judgment pursuant to Fed. R. Civ. P. 60(b). *See* [DE 179]; Fed. R. App. P. 4(a)(4)(B)(i) (providing that a notice of appeal filed before the district court has disposed of any tolling motions becomes effective when the district court issues an order resolving the last remaining motion); *Williams v. Pettiford*, 238 F. App'x 459, 461 (11th Cir. 2007) (“A premature notice of appeal does not divest the district court of jurisdiction to rule upon a timely-filed Rule 59(e) motion.”); *Raghubir v. Taylor*, No. 20-12549-G, 2020 U.S. App. LEXIS 35011, at *1 (11th Cir. Nov. 4, 2020) (holding notice of appeal in abeyance pending district court’s ruling on Rule 59(e) motion); *Stansell v. Revolutionary Armed Forces of Columbia*, 771 F.3d 713, 745-46 (11th Cir. 2014) (“In 1993, Rule 4(a) was specifically amended in response to Griggs and now provides that a notice of appeal filed during the pendency of a Rule 59 motion is simply suspended.”); *Wilson v. Fla. Dep’t of Corr.*, No. 20-13558-F, 2021 U.S. App. LEXIS 9683, at *2-3 (11th Cir. Apr. 2, 2021); *see also*

Banister v. Davis, 140 S. Ct. 1698, 1700 (2020) (“A timely filed motion suspends the finality of the original judgment for purposes of appeal, and only the district court's disposition of the motion restores finality and starts the 30-day appeal clock. If an appeal follows, the ruling on the motion merges with the original determination into a single judgment.”) (“[I]f [appellant] timely submits a Rule 59(e) motion, there is no longer a final judgment to appeal from. Only the disposition of that motion restores the finality of the original judgment, thus starting the 30-day appeal clock.”) (internal citations omitted).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **April 28, 2022**, a copy of this document was furnished by electronic filing with the Clerk of the Court via CM/ECF, to:

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Respectfully submitted,

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