

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

LAWREN FREEMAN,

Plaintiff,

v.

Case No: 6:17-cv-938-Orl-31GJK

SMARTPAY LEASING, LLC,

Defendant.

ORDER

This matter comes before the Court on the Motion to Stay Pending Appeal (Doc. 27) filed by the Defendant, SmartPay Leasing, LLC (henceforth, “SmartPay”), and the response in opposition (Doc. 29) filed by the Plaintiff, Lawren Freeman (“Freeman”).

On July 12, 2017, the Court granted the parties’ joint motion (Doc. 13) to stay this case and refer it to arbitration. After that referral, a dispute arose between SmartPay and the arbitrator regarding the parties’ respective obligations to pay the arbitration fee. On October 19, the arbitrator closed the arbitration file due to non-payment of the fee. (Doc. 16-2). On Freeman’s motion, the Court vacated the referral order and reopened the litigation on January 18, 2018. (Doc. 24). SmartPay appealed that decision (Doc. 25) and now seeks to have the litigation stayed until that appeal is resolved.

Per the decision in *Blinco v. Green Tree Servicing, LLC*, 366 F.3d 1249, 1253 (11th Cir. 2004), a district court considering a motion to stay pending an appeal of a denial of a motion to compel arbitration “should stay the litigation so long as the appeal is non-frivolous.” In this case, the Court granted the motion to compel, then vacated it following SmartPay’s refusal to follow the arbitrator’s rulings, which derailed the arbitration. Though this was not precisely a denial of a

motion to compel arbitration, it is likely close enough so as to require the same result as in *Blinco*. And though the Court finds SmartPay's appeal to be misguided, the underlying facts are unusual enough that the appeal is not frivolous.

Accordingly, it is hereby

ORDERED that the Motion to Stay Pending Appeal (Doc. 27) is **GRANTED**, and this matter is **STAYED** pending resolution SmartPay's appeal of the January 18, 2018 order (Doc. 24). Beginning on June 1, 2018 and every 90 days thereafter, counsel for SmartPay shall file a brief status report regarding the appeal.

DONE and **ORDERED** in Chambers, Orlando, Florida on February 20, 2018.




GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party