IT IS ORDERED as set forth below:

Date: September 2, 2016

Paul W. Bonapfel
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: TYREE LESTER PATTERSON, Debtor.	CASE NO. 14-65877-PWB CHAPTER 7
TAMARA MILES OGIER, as Chapter 7 Trustee, Plaintiff, v. PRINCE K. DANIELS, Defendant.	ADVERSARY PROCEEDING NO. 16-5059-PWB

ORDER

The Defendant has filed a notice of appeal of two orders in this adversary proceeding: (1) the order denying his request to permit a non-attorney to represent him [Doc. 15] and (2) the order denying his motion to transfer venue of the proceeding to the Northern District of Illinois. [Doc. 17]. In conjunction with the appeal and pursuant to FED. R. BANKR. P. 8007(a)(1)(D) and (e), the Defendant has filed a motion to suspend the proceedings on the theory that "it would be unfair for the instant case to proceed in possibly the wrong venue and without representation of the Defendant's choice." [Doc. 22, ¶ 5].

"The filing of a proper notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the appellate court and divests the trial court of its control over those aspects of the case involved in the appeal." *In re Walker*, 515 F.3d 1204, 1211 (11th Cir. 2008) (*citing Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982)). Nevertheless, Rule 8007(e) of the Federal Rules of Bankruptcy Procedure permits a bankruptcy court, in its discretion, to suspend or order the continuation of other proceedings in the case or issue any other appropriate orders during the pendency of an appeal to protect the rights of all parties in interest.

The Defendant cites no basis for suspending this proceeding other than that the failure to do so would be "unfair." The Court concludes that the opposite is true – to suspend this proceeding while a meritless appeal pends would be unfair and inappropriate.

In order to divest the bankruptcy court's jurisdiction, an appeal must be "proper" and involve "aspects of the case involved in the appeal." *Walker*, 515 F.3d at 1211. The Debtor's appeal of two orders meets neither of these requirements.

In the first order, the Court denied the Defendant's request to permit a non-attorney to represent him in this adversary proceeding (the "Representation Order"). In the second order the Court denied the Defendant's request to transfer venue to the Northern District of Illinois (the "Venue Transfer Order").

The Representation Order and the Venue Transfer Order are interlocutory, not final, orders. 28 U.S.C. § 158(a); FED. R. BANKR. P. 8003, 8004. An appeal of an interlocutory order may be taken only with leave of the district court. 28 U.S.C. § 158(a)(3). In analyzing the propriety of granting leave to appeal an interlocutory bankruptcy order, courts generally utilize the same criteria used for certification of interlocutory orders under 28 U.S.C. § 1292(b). *In re Allied Holdings*, 376 B.R. 351, 357 (N.D. Ga. 2007). Three factors guide courts under § 1292(b): whether (1) the order involves a controlling question of law (2) as to which there is substantial ground for difference of opinion and (3) whether an immediate appeal from the order may materially advance the ultimate termination of the litigation. *Id*. at 357-58.

Put simply, the Court is confident that a district court would not grant leave to hear an appeal of either the Representation Order or the Venue Transfer Order because the law at issue in both is well-settled and is not determinative of the proceeding's ultimate outcome. *See McFarlin v. Conseco Servs.*, 381 F.3d 1251, 1257 (11th Cir. 2004) (quoting the Judicial Conference of the U.S. Courts' report proposing the addition of § 1292(b), "The appeal from interlocutory orders thus provided should and will be used only in exceptional cases where a decision of the appeal may avoid protracted and expensive litigation, ... where a question which would be dispositive of the litigation is raised and there is serious doubt as to how it should be decided.... It is not thought that district judges would grant the certificate in

ordinary litigation which could otherwise be promptly disposed of or that mere question as to the correctness of the ruling would prompt the granting of the certificate.").

Moreover, the Orders do not address in any respect the merits of the case. The Venue Transfer Order "merely involve[s] the selection or designation of the forum in which final decisions will be ultimately reached." *Dalton v. United States (In re Dalton)*, 733 F.2d 710, 714 (10th Cir. 1984). Regardless of the venue, two things are true: (1) the parties must engage in discovery and prepare for a trial on the merits and (2) the Defendant cannot be represented by a non-attorney. Suspension of the proceedings due to the meritless appeal only serves to delay resolution of this matter.

The Court declines to suspend this proceeding because the appeal has no merit and has no impact on its progress at this time. The Court has entered a Scheduling Order [Doc. 19] that sets forth various deadlines for conducting discovery. No trial date has been set. At the close of discovery, the Defendant may renew his motion to suspend the proceedings depending on the status of the appeal. Accordingly, it is

ORDERED that the motion to suspend proceedings [Doc. 22] is denied.

END OF ORDER

Distribution List

Allen P. Rosenfeld
Ogier Rothschild & Rosenfeld, PC
170 Mitchell St., S.W.
Atlanta, GA 30303-3424

Tamara Miles Ogier
Ogier Rothschild & Rosenfeld, PC
170 Mitchell St., S.W.
Atlanta, GA 30303-3424

Prince Daniels
4122 S. Vincennes Avenue
Unit 4S
Chicago, IL 60653