

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 17, 2025
Decided April 23, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 25-1418

IN RE: ETHIOPIAN AIRLINES FLIGHT ET 302 CRASH

JOSHUA M. BABU and EMILY C. BABU, Individually and
as Co-Personal Representatives of the Estate of JARED
BABU MWAZO, deceased,
Plaintiffs-Appellants,

v.

BOEING COMPANY,
Defendant,

and

CLIFFORD LAW OFFICES and COTCHETT, PITRE &
MCCARTHY, LLP,
Appellees.

Appeal from the United
States District Court for the
Northern District of Illinois,
Eastern Division.

No. 1:19-cv-02170

Jorge J. Alonso,
Judge.

ORDER

Joshua and Emily Babu, representatives of the estate of a child who died in an airline crash, have filed an interlocutory appeal. After receiving the appellants' jurisdictional memorandum, we dismiss the appeal.

The estate has been represented by a law firm (the Clifford Firm) that has represented most of the decedents' estates in this consolidated litigation. The Babus say they want to be represented by a different lawyer, and in 2022 the Clifford Firm moved to withdraw as their counsel, but the district judge deferred decision until a new lawyer for the Babus had filed an appearance. That did not occur until July 2024. While still representing the estate, the Clifford Firm proposed that a guardian ad litem be appointed for E.C.B., a minor child of decedents Jared Babu Mwazo and Mercy Ngami Ndivo. Joshua and Emily Babu oppose that request and, in the alternative, want any guardian to be a citizen of Kenya who will argue for the application of Kenyan law (even though the crash occurred in Ethiopia, and the substantive tort claims rest on decisions that Boeing made in the United States). That controversy, too, remains pending in the district court. Although the judge has indicated an intent to appoint a guardian ad litem, the judge has yet to do so.

Despite the lack of a final decision on the substantive claim—indeed, the lack of a final decision on any of the controverted issues—the Babus have appealed. They say that the district court's decisions can be appealed as collateral orders or as injunctions.

The latter argument is implausible. The judge has not enjoined anyone to do anything, or declined to issue an injunction. The judge's decisions (or non-decisions) could affect damages, but damages are legal rather than equitable remedies.

The Supreme Court held in *Richardson-Merrell Inc. v. Koller*, 472 U.S. 424 (1985), and *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368 (1981), that neither orders disqualifying lawyers nor orders declining to do so can be appealed before the final decision in the litigation. The Babus nonetheless rely on *Fidelity National Title Insurance Co. v. Intercounty National Title Insurance Co.*, 310 F.3d 537 (7th Cir. 2002), for the proposition that orders denying a lawyer's request to withdraw are immediately appealable. They ask us to extend *Fidelity National Title* to a situation in which a district judge defers acting on a request to withdraw until a new lawyer files an appearance. But *Fidelity National Title* does not establish the proposition for which the Babus cite it.

The question in *Fidelity National Title* was whether an order by a district court compelling a lawyer to provide services against his will, and without prospect of compensation, was appealable. We held that it is, explaining:

Because an order compelling a lawyer to work without prospect of compensation is unrelated to the merits of the dispute, cannot be rectified at the end of the case, and has a potential to cause significant hardship, we

join the second circuit in holding that the order is immediately appealable as a collateral order.

310 F.3d at 539.

In this suit, unlike *Fidelity National Title*, no one has been compelled to represent the Babus without prospect of compensation. As far as we can see, all of the issues they seek to present—concerning the identity of counsel, the appointment of a guardian, choice of law, and the availability of punitive damages—can be resolved by an appeal at the end of the case. The interlocutory appeal therefore is dismissed for want of jurisdiction.