

1 842 F.Supp. 1230, 1231 (N.D. Cal. 1994). A claim is ‘frivolous’ when it is without ‘basis in law
2 or fact,’ and ‘malicious’ when it is ‘filed with the intention or desire to harm another.’” *Knapp v.*
3 *Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013). A finding of frivolity in this context is equivalent to
4 finding a lack of good faith. *Id.* at 1110. A lack of good faith can be inferred where “plaintiffs
5 seek to exploit the court system solely for delay or to vex defendants.” *Vega v. JPMorgan Chase*
6 *Bank, N.A.*, 654 F.Supp.2d 1104, 1121 (E.D. Cal. 2009).

7 The Court does not find that Plaintiff takes the instant appeal in bad faith. This is not a
8 situation where “plaintiffs seek to exploit the court system solely for delay or to vex defendants.”
9 *Id.*

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff is entitled to proceed *in forma pauperis* in Appeal No. 19-16932, filed on
12 September 30, 2019;
- 13 2. This Order serves as notice to the parties and the United States Court of Appeals
14 for the Ninth Circuit of the finding that Plaintiff is entitled to proceed *in forma*
15 *pauperis* for this appeal; and
- 16 3. The Clerk of the Court is directed to serve a copy of this Order on Plaintiff and the
17 United States Court of Appeals for the Ninth Circuit.

18 IT IS SO ORDERED.

19 Dated: October 15, 2019

20 /s/ Eric P. Gray
21 UNITED STATES MAGISTRATE JUDGE